

bill won't come to a final vote, regardless of what is in it, until there are 60 Members of the Senate who want it to come to a final vote.

I wish to speak for a moment about don't ask, don't tell. Senator LEVIN has done an excellent job in the debate. I voted against the policy as a member of the Armed Services Committee in 1993, when it first came up. I was privileged to be an original cosponsor, with many others, of the legislation to repeal it this year, working with Senator LEVIN and others on the committee, including Senator COLLINS who, to her great credit, had the guts to join us because she believes don't ask, don't tell is un-American—my word—not fair and hurtful to military effectiveness.

More than 14,000 members of the military have been put out of the services since 1993 under don't ask, don't tell, not because they weren't good soldiers, sailors, marines or airmen, not because they violated any military code of conduct but only because of their private sexual orientation. That number is the equivalent of an entire division of warfighters we need in places such as Afghanistan and elsewhere around the world. It is also a waste of money to train those 14,000. Estimates are that taxpayers paid over \$600 million. We waste that by tossing them out, not because they are bad soldiers but because of their private sexual orientation.

I know some have said repealing don't ask, don't tell doesn't belong on this bill. Don't ask, don't tell was originally adopted as part of the Defense authorization bill. It is, frankly, the best and most logical place around which to repeal the policy. I know Senator LEVIN has talked about the process. There is a fundamental judgment that the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and those of us who have sponsored the amendment to repeal don't ask, don't tell have made, which is that it ought to go. It is un-American. It is inconsistent with our best values of equal opportunity, who can get the job done, not what one's private life is about. It is hurting our military. That judgment has been made.

The study being done at the Pentagon is to determine how to implement this best without intervening in military effectiveness. Then we put in the amendment which is in the bill. This provision, as Senator LEVIN has pointed out, doesn't go into effect until 60 days after the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff certify in writing that repeal of don't ask, don't tell is consistent with standards of military readiness, military effectiveness, unity, cohesion, recruiting, and retention. We couldn't ask for more in the way of due process. We don't direct the military exactly when and how and over what timeframe they actually go about pulling apart this unjust don't ask, don't tell policy.

It will be a close vote today. It would be a shame if we don't get the 60 votes. If Members are against don't ask, don't tell being repealed, vote against it when the amendment comes up. Submit an amendment to strike it. But don't stop the whole bill which is so important to our military. If for some reason we don't get the 60 votes today, Senator REED has made clear we are coming back, and we will do this in November or December. We have to pass this bill for all the reasons I have stated, for our military effectiveness when our troops are in combat. There will come a day before the end of this year when there will be a motion to strike the repeal of don't ask, don't tell. I don't think opponents of don't ask, don't tell have the votes to accomplish that. When that day comes, we will support our military and America's best values by ending this nonsensical, unfair policy.

In America, we judge people by whether they can get the job done, not by any quality about them personally. I think we will get this job done before the end of this year. I hope we can do it beginning this afternoon. But if we don't, we will come back.

I thank Senator LEVIN for his extraordinary leadership.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. All time has expired.

Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and was reassembled when called to order by the Presiding Officer (Mr. BEGICH.)

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The time between now and 2:30 p.m. will be equally divided.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 2½ minutes to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, we are at a critical juncture in proceeding to the National Defense Authorization Act. This bill is routinely taken up every year. I want to emphasize again, we are at the first step. This is just a motion to go forward to begin to debate the bill. I would hope we could at least summon sufficient votes to agree to talk about these critical issues.

This legislation contains important programs for our military. We have a military that is at war in Iraq and Afghanistan. They need equipment, and they need support. We have included changes for the quality of life of their families. One change, significantly, is to make the TRICARE system comparable to the new health care system

by allowing children who are up to 26 years old to stay on their parents' policies.

There are some controversial provisions and proposals. One is don't ask, don't tell. The other is the DREAM Act. First, the minority or anyone has the right to move an amendment to take out or change provisions with respect to don't ask, don't tell. I would disagree with that and oppose that, but that is something that can and will happen and will engender a very strong, positive debate. The other issue is the DREAM Act. I think that has a significant connection to this bill because that is one of the ways in which a youngster who came to the United States—not by his or her choice but because of a family choice—under 16 years of age who later joins the military, and who serves honorably, can be put on a path to eventually become a citizen. That has a strong nexus to this bill. But that issue has to be proposed on this legislation and voted for by a majority of Members.

So we are here simply to begin an important debate and discussion to support our men and women in uniform across the globe, and their families. To deny at least the initiation of such a debate seems to be exactly contrary to why we should be here, which is to support our military, to debate difficult issues, and then to take votes up and down to decide the policy of the United States.

With that, I urge all my colleagues to support this motion to proceed to the bill.

Mr. President, I yield any remaining time I have back to the chairman of the committee.

The PRESIDING OFFICER. Who yields time?

Time will be charged equally.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself just a minute and a half. I would ask that the Republicans have their speaker—if they are going to be using their time—to come immediately after me; otherwise, it would not be fair for us to be using up all of our time in advance.

Mr. President, this morning a number of Republican Senators stated they would support the current filibuster of this bill because they were afraid that if we take up the bill, we are going to have a closed process that would limit their ability to offer amendments. The majority leader has addressed this issue. He specifically said last Thursday that he is "willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible." He is very clear on this. He is not trying to prevent other amendments from being offered. However, there are not going to be any amendments, there is not going to be any opportunity to vote on any amendments unless we get 60 votes to overcome the current filibuster and proceed to the bill. It makes no sense for Senators to

block all amendments, which is what the effect will be if we do not end this filibuster, to deny consideration of this bill so we can consider amendments. It makes no sense to do that under the guise of wanting an open amendment process. We are not going to have any amendments unless we can get to this bill, unless we end this filibuster.

Amendments are appropriate. We have always had amendments on the Defense bill. The majority leader assures we are going to do that again, and I will do everything I can as chairman to make sure that is true. So the issue today is not whether there is going to be specific amendments in order; it is whether we are going to get to the bill so we can try to consider amendments to the Defense authorization bill. There are many amendments that should be considered, and I hope we do not continue this filibuster. I hope we can get 60 votes and do the important work of the Nation, which is to get a defense authorization bill passed after it has been considered.

I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes 50 seconds.

Mr. MCCAIN. Mr. President, this is, obviously, an important vote that is coming up. I repeat, I am not opposed in principle to bringing up the Defense bill and debating it, amending it, and voting on it. I am not opposed to having a full and informed debate on whether to repeal don't ask, don't tell and then allowing the Senate to legislate. What I am opposed to is bringing up the Defense bill now before the Defense Department has completed its survey because we need to know the views of the men and women who are serving in the military in uniform. Give them a chance to tell us their views. Whether you agree or disagree with the policy, whether you want to keep it or repeal it, the Senate should not be forced to make this decision now before we have heard from our troops. We have asked for their views, and we should wait to hear from them. All four service chiefs have said the same thing: Let's conduct the survey, let's get it done and then act on whether to repeal or not repeal.

There is one other aspect. This is a blatant political ploy in order to try to galvanize the political base of the other side, which is facing a losing election. That is why the majority leader said we would take up don't ask, don't tell, take up the DREAM Act, and then take up the issue of secret holds and then address the other issues after the election. I wonder why the majority leader would have those priorities—in other words, take up those that would be politically beneficial, galvanize his political base as far as the Hispanic community is concerned and the gay and lesbian community, and then take up the other issues after—after—the election is over in lameduck session.

This majority leader has filled up the tree and has not allowed debate 40 times—40 times—more than all the other majority leaders preceding him. Last year, the hate crimes bill was arranged in such a way that there were not amendments that could be proposed by my side of the aisle.

So let's vote against cloture. Let's sit down and try to reach some kind of an agreement. Let the men and women in the military be heard from. Let their leaders go to their men and women who are serving and tell them we have heard their input before we make this legislative change and stop the cynical manipulation of the men and women in the military in order to get votes on November 2.

Mr. President, I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, the Senate should have the opportunity to debate and amend this important bill. While the bill has many provisions I support, it also includes billions of dollars of earmarks and funding for the wars in Iraq and Afghanistan that will dig us deeper into debt without advancing our national security. I have a number of amendments to improve the bill, including one to require that future war funding be paid for, so it doesn't add to the deficit. I look forward to the opportunity to offer those amendments.

Mr. LEVIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes.

Mr. LEVIN. I yield the time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank Senator LEVIN.

I rise to oppose the filibuster of the National Defense Authorization Act and to say what is obvious—that this is a preelection campaign season. There are a lot of politics, partisan politics swirling around, everything going on here, including procedural matters such as those we are involved in right now. But there are two things I know and I believe, and I wish to express them about this vote coming up.

One is, we have to proceed to consider the National Defense Authorization Act. If we do not do it today, I hope we will do it as soon after as we can because our military needs it. They are in combat. Without this legislation passing, we will not have the authorization to increase compensation and benefits for the military and their families, we will not have authorization for critical military construction, we will not have authorization for acquisition of critical military equipment that our troops need to fight safely on our behalf and to remain what they are—the bravest, most effective fighting force in the world. So it may be today, it may not be today, but it is going to be sometime before the end of the year that we have to take up this bill. It is our national, constitutional, moral responsibility.

Second—and this is a controversial part, of course—I believe we have to repeal don't ask, don't tell, not only because it is not consistent with the American values of equal opportunity, of judging people by whether they can do a job or not, not by their nationality, their religion, their gender, their race, or their sexual orientation—can you do a job, and if you can do it, then you can get that job in America. We have thousands of Americans who are patriotic who want to serve who happen to be gay or lesbian, and we are telling them: You cannot. Not only that, we kicked out 14,000 of them in the last 17 years under don't ask, don't tell.

The PRESIDING OFFICER. The majority's time has expired.

Mr. LIEBERMAN. At some point, we are going to come to a vote on the bill and on don't ask, don't tell. I believe a majority of my colleagues in this Chamber—maybe more than that—are going to do what we need to do, which is to repeal don't ask, don't tell.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has approximately 2 minutes 45 seconds.

Mr. MCCAIN. I just wish to emphasize again the statements of the service chiefs.

GEN George Casey:

I remain convinced that it is critically important to get a better understanding of where our Soldiers and Families are on this issue, and what the impacts on readiness and unit cohesion might be, so that I can provide informed military advice to the President and the Congress. I also believe that repealing the law before the completion of the review will be seen by the men and women of the Army as a reversal of our commitment to hear their views before moving forward.

Admiral Roughead:

My concern is that legislative changes at this point, regardless of the precise language used, may cause confusion on the status of the law in the Fleet and disrupt the review process itself by leading Sailors to question whether their input matters.

General Conway:

I encourage the Congress to let the process the Secretary of Defense created to run its course.

General Schwartz:

I believe it is important, a matter of keeping faith with those currently serving in the Armed Forces, that the Secretary of Defense commissioned review be completed before there is any legislation to repeal the Don't Ask, Don't Tell law.

Let's listen to the people we place in charge of the men and women in the military. This is not the time to move forward on this issue, particularly with a political campaign at its highest.

I hope my colleagues will oppose the cloture vote and let's hear a statement in favor of the men and women serving in the military.

I yield the remainder of my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. McCONNELL. Mr. President, I indicated to the majority leader that I was going to propound a unanimous consent request at this time.

I ask unanimous consent that the Senate now proceed to the consideration of the Defense authorization bill; provided further that amendments be offered in an alternating fashion between this aisle and that; that the first 20 amendments offered be Defense-related amendments within the jurisdiction of the Armed Services Committee, with no amendment related to immigration in order during the first 20 amendments.

Before the Chair rules, this is an important bill and the Senate should consider the way we have done it every year. There are many controversial issues related to the underlying bill that need to be debated and voted on by the Senate. Our view is we should start work on the bill and tackle the relevant Defense issues before we divert into unrelated measures.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object. I pride myself in being a very patient person, and I will continue to be patient now. But during this Congress, we have had to overcome so many procedural roadblocks—not one, not two, but scores. We are now over a hundred. This is in keeping with what has gone on in this whole Congress. It is remarkable that we have been able to get as much done as we have, with all of the roadblocks that were thrown up.

This is an important bill. I recognize that. It is basically to take care of our military personnel. To have this consent agreement, written in the language it is written in, changes how we have done legislation for a long time.

We all know the ranking member of the Armed Services Committee has offered so many unrelated amendments to this bill. He is on record as having done so. His response to one dealing with transparency was: This is my only opportunity to do it.

For anyone to suggest that the Secretary of Defense is somehow anti-military—he is a person who supports the DREAM Act.

I appreciate the manner in which the Republican leader offered this. He gave me plenty of warning. We don't have surprises between the two of us.

I respectfully say this is changing the way we do business in the Senate, and I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 414, S. 3454, the National Defense Authorization Act for Fiscal Year 2011.

Harry Reid, Carl Levin, Tom Udall, Jack Reed, Barbara A. Mikulski, Jon Tester, Al Franken, Richard J. Durbin, Byron L. Dorgan, Jeanne Shaheen, Frank R. Lautenberg, Sheldon Whitehouse, Benjamin L. Cardin, Roland W. Burris, Jim Webb, Daniel K. Akaka, Bill Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, is it the sense of the Senate that debate on the motion to proceed to S. 3454, the Department of Defense authorization bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—56

|            |            |             |
|------------|------------|-------------|
| Akaka      | Franken    | Mikulski    |
| Baucus     | Gillibrand | Murray      |
| Bayh       | Goodwin    | Nelson (NE) |
| Begich     | Hagan      | Nelson (FL) |
| Bennet     | Harkin     | Reed        |
| Bingaman   | Inouye     | Rockefeller |
| Boxer      | Johnson    | Sanders     |
| Brown (OH) | Kaufman    | Schumer     |
| Burris     | Kerry      | Shaheen     |
| Cantwell   | Klobuchar  | Specter     |
| Cardin     | Kohl       | Stabenow    |
| Carper     | Landrieu   | Tester      |
| Casey      | Lautenberg | Udall (CO)  |
| Conrad     | Leahy      | Udall (NM)  |
| Dodd       | Levin      | Warner      |
| Dorgan     | Lieberman  | Webb        |
| Durbin     | McCaskill  | Whitehouse  |
| Feingold   | Menendez   | Wyden       |
| Feinstein  | Merkley    |             |

NAYS—43

|            |           |           |
|------------|-----------|-----------|
| Alexander  | DeMint    | McCain    |
| Barrasso   | Ensign    | McConnell |
| Bennett    | Enzi      | Pryor     |
| Bond       | Graham    | Reid      |
| Brown (MA) | Grassley  | Risch     |
| Brownback  | Gregg     | Roberts   |
| Bunning    | Hatch     | Sessions  |
| Burr       | Hutchison | Shelby    |
| Chambliss  | Inhofe    | Snowe     |
| Coburn     | Isakson   | Thune     |
| Cochran    | Johanns   | Vitter    |
| Collins    | Kyl       | Voinovich |
| Corker     | LeMieux   | Wicker    |
| Cornyn     | Lincoln   |           |
| Crapo      | Lugar     |           |

NOT VOTING—1

Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion to reconsider is entered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, for those who have been following this vote, this was an attempt to proceed to the Defense authorization bill. It is one of the most important bills we consider during the course of a year. Senator LEVIN of Michigan is chairman of the Armed Services Committee, and he was prepared to bring that bill to the floor.

There was an attempt made by the majority leader, Senator REID, to allow three amendments to be considered—three amendments which would be considered before other amendments on the bill. One of the amendments related to the don't ask, don't tell policy. There is a provision already in the bill which allows—after review by the Joint Chiefs of Staff, the President, and the Department of Defense—the possibility of removing that provision from our law. That was one of the amendments. The second amendment related to Senate procedure on secret holds. But the third amendment—and the one I rise to speak to—is the one which became the focal point of this last vote. That amendment related to a measure known as the DREAM Act.

Almost 10 years ago, I introduced this bill called the DREAM Act. The reason I introduced it was because I felt there was a serious injustice and unfairness going on in America. We have within our borders thousands of young people who were brought to the United States by their parents at an early age. I don't know what it was like in their homes, but there weren't many democratic votes when I was 5 years old as to where we were going for vacation. I went where I was told, and these children followed their parents to America. They came here and became part of America. We made certain they had an opportunity for an education and health care. We made certain they had an environment where they could grow up in this country, and for many of them, it was the only home they ever knew. But because they came to this country with undocumented parents, they were not legal. They were not documented. They couldn't be citizens.

That, to me, is a serious injustice. We do not, in this country, hold the crimes and misdeeds of parents against their children. What I have tried to do with the DREAM Act is to give these young people a chance—a chance to earn their way to legal status and become part of the only country they have ever known. The DREAM Act isn't easy. The DREAM Act says if you came here as a child, if you were raised in the United States, are of good moral character, with no criminal record, and you have graduated from high school, then we give you 6 years. In that 6-year period of time, you have a chance to do one of two things to become legal: No. 1, serve the United States of America in the military; and No. 2, complete 2 years of a college education. Then we will give you a chance to come off temporary status and become legal in

America. But you have to earn your way all the way through, subject to review, examination, and all the requirements that should be there before someone gets this chance of a lifetime.

Well, the Republican minority leader came to the floor before this vote and he offered a unanimous consent request—which Senator REID objected to—and here is what it said. Of all the amendments you can consider on the Defense authorization bill, you cannot consider any amendment that relates to immigration.

I know what that was about. The Senate knew what that was about. It was an attempt by the Republican side of the aisle to make certain the DREAM Act could never be called on the Defense authorization bill. They have made an empty argument on that side that this DREAM Act has nothing to do with the defense of the United States. It is an empty argument.

Mr. REID. Would my friend yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I ask my friend, through the Chair, is it not also true that under the terms of the DREAM Act, no one becomes a legal citizen, that they get a green card?

Mr. DURBIN. They reach legal status. They have to make application to go beyond it. In this situation, young people, undocumented in the United States, who want to voluntarily serve in our military, cannot do so. They are willing to risk their lives for America. Yet we say no.

The Secretary of Defense knows that is wrong. This morning, in a conversation I had with him in my office over the telephone, he reiterated what he had said to me before: These are the kind of young people we need in America's military—high school graduates from cultural traditions that respect the military; people who are going to make more diversity in our ranks. That is what we need. He knows, from a national defense perspective, these will be good recruits for our military and will distinguish themselves serving our country and coming up through the ranks.

That is what the DREAM Act offered to the Defense authorization bill. The Republican leadership and every Republican Senator said no.

Mr. REID. Will my friend yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I ask, through the Chair, are you telling the American people that the Secretary of Defense—a man chosen by the President of the United States, not only by this President but the last President—is in favor of our passing the DREAM Act? Is that what the Senator from Illinois is saying?

Mr. DURBIN. I would say to the Senator from Nevada exactly that. The Defense Department's fiscal year 2010–2012 strategic plan for the defense of America specifically includes the DREAM

Act as a means of meeting the strategic goal of shaping and maintaining a mission-ready, all-volunteer force.

In 2007, the Deputy Under Secretary of Defense at that time said the DREAM Act is very appealing because it would apply to the cream of the crop of students and be good for readiness. Over and over again, the Department of Defense has told us this is an opportunity for young people to serve your Nation, for America to be a safer place.

I wish to relate to my friend, the Senator from Nevada, a story I told him earlier. This young man came this morning to the U.S. Capitol from the city of New York. I say to the Presiding Officer, he lives in Brooklyn. His name is Cesar Vargas. Cesar Vargas came to the United States at the age of 5, brought here by his mom and dad from Mexico. He graduated from the regular public schools of New York and then went on to graduate from college. It was more difficult for him because he is undocumented. So he couldn't get any Federal aid to education—no Pell grants, no Federal student loans. But he made it and he graduated. He said to us this morning that after 9/11, because of his deep commitment to America, he tried to enlist in the Marine Corps. He said: I wanted to defend this country after we had been attacked by terrorists. He not only tried the Marine Corps, but he tried other branches as well and repeatedly he was turned down because Cesar Vargas is undocumented.

But his dream has not died. Now he is a third-year student at the City University of New York Law School. He speaks four languages. He said he is studying a fifth—Cantonese. He is an exceptionally gifted young man. Do you know what his ambition is? Once again, to join the Marine Corps—to be in the Judge Advocate General Corps to serve America, a country he dearly loves.

Because of this Republican decision—a procedural decision that says we can't consider the DREAM Act—we will not have a chance to vote on this important measure which would give Cesar Vargas and those like him a chance to volunteer to serve America. I would say to my friends and colleagues on both sides of the aisle, where is the justice in this decision? At least have the courage to let us bring this matter to the floor and stand and vote no. But to hide behind this procedural ruse—this unanimous consent request—is totally unfair. It is inconsistent with the spirit and the history of this Chamber, where we deliberate and debate and vote. But they ran and they hid behind this procedural decision.

Mr. REID. If the Senator will yield for a brief question.

Mr. DURBIN. I will be happy to yield for a quick question.

Mr. REID. I want everyone within the sound of my voice to understand how much I appreciate—and the thousands and thousands of other people who appreciate—Senator DURBIN's ad-

vocacy of this issue. I also want everyone else within the sound of my voice to know we are going to vote on the DREAM Act. It is just a question of time. This is so fair. That is all it is about, fairness—basic fairness.

I have to say to my friend from Illinois that I feel so bad. I have a stack of letters in my office that are the most heart-wrenching stories about these dreamers. They are dreamers. But I want them to understand this isn't the end of this. We are going to continue to move on it. We know we have been blocked procedurally, but this is the first time we have had our colleagues on the other side of the aisle stand and defy basic fairness on the DREAM Act. They have gone around telling people: Yes, we like it. We like it. But here was their chance. All we wanted to do was bring it to the floor, and they wouldn't even let us do that. They didn't have the courage to allow us to have a vote on this.

So I want my friend to know how deeply appreciative I am—and speaking for thousands and thousands of other people—for what he has done on this issue.

Mr. DURBIN. I thank the Senator from Nevada, the majority leader, and I will tell him and those following this debate—some who are in the Chamber, in the galleries, who I am sure are disappointed, if not heartbroken at this point. I mentioned Cesar Vargas, who is here, but Gaby Pacheco, and so many others who have worked so hard for this chance, for this day, and my promise to them is this: As long as I can stand behind this desk and grab this microphone and use my power as a Senator, I will be pushing for this DREAM Act. It is my highest priority. It is a matter of simple American justice, and I would hope the 11 Republicans who joined us last time will stop cowering in the shadows and come forward and join us in a bipartisan effort and not stop us procedurally from even debating and deliberating this critical issue.

For those who are so sad today, take heart. Tomorrow is another day, and we will be there to fight for you, and many others will join us. Don't give up your dream to be part of this great Nation.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Hawaii.

Mr. INOUE. Madam President, I wish to step back in history, if I may.

On December 7, 1941, something terrible happened in Hawaii—Pearl Harbor was bombed by the Japanese. Three weeks later, the Government of the United States declared that all Japanese Americans, citizens born in the United States or of Japanese ancestry, were to be considered enemy aliens. As a result, like these undocumented people, they could not put on the uniform of this land.

Well, I was 17 at that time, and naturally I resented this because I loved my country and I wanted to put on a uniform to show where my heart stood.

But we were denied. So we petitioned the government, and a year later they said: OK, if you wish to volunteer, go ahead.

Well, to make a long story short, the regiment I served in, made up of Japanese Americans, had the highest casualties in Europe but the most decorated in the history of the United States. I think the beneficiaries of the Senator from Illinois will do the same.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I know the Senator from Hawaii has to leave, but before he goes I just wish every American could have heard from a hero not of this body, of this Nation but of the world. Senator INOUE did more than swim against the tide in order to put on the uniform of his country. He had to fight his way into the Army. He then became a Medal of Honor winner. The highest honor—the Medal of Valor—that can be granted was awarded to Senator INOUE. He gave up more than just a few years of his life; he gave up part of his body for this country.

His eloquence and his passion for proper treatment of people who want to put on the uniform of this Nation is extraordinarily powerful. I only wish every American could have heard it. I thank him for that service and for that statement.

I also want to add a thank-you to the Senator from Illinois. I want to reinforce something he said by asking him a question. It had to do with that unanimous consent request to which he referred. The way this request was worded, even if—well, let me back up.

We have heard for 2 days objections from Republicans that there would be nonrelevant amendments that would be offered—which, of course, is permitted under our rules. As a matter of fact, the Senator from Arizona has on a number of occasions on this bill offered nonrelevant amendments. But even if that DREAM Act amendment of yours were modified so that it only related to young men and women who wanted to go into the Army to serve their country and the educational part of it, as important as it is, if that were left out—even if the amendment were designed so that it could be referred to the Armed Services Committee because it would be defense related, even if you could design an amendment like that, under this unanimous consent agreement no amendment related to immigration would be in order during those first amendments.

Is that not singling out immigration, saying, despite all of the protestations we heard here about wanting to make sure amendments were relevant—despite the history that is not required under the rule but that is the protestations we heard over the last few days, we want relevant amendments and the DREAM Act isn't relevant—under this unanimous consent request, even if the DREAM Act were modified so it might be within the jurisdiction of the Armed

Services Committee because it would be focused on service in the Armed Forces, under this request no amendment relating to immigration would be in order; is that correct?

Mr. DURBIN. I reply to the Senator from Michigan through the Chair and thank him for this question. Just as the door was closed on DAN INOUE of Hawaii when, as a Japanese American from Hawaii, he wanted to serve his country, the unanimous consent request from the Republican leader closed the door on anyone who wished to serve this country if it involved the issue of immigration. It had one intent: stop the DREAM Act, stop these young people from being given a chance to serve their nation. That is clearly the intent. Unfortunately, the partisan rollcall that followed is evidence that was the strategy.

Just as DAN INOUE prevailed and persisted and not only served his country admirably but with the highest level of valor, I am convinced that many of the young people who leave heartbroken today by this vote will get their chance someday, just as the Senator did, and they will serve this country with distinction and they will serve this Nation as the Senator has led us in the Senate.

Mr. BAUCUS. Madam President, what is the present parliamentary situation?

The PRESIDING OFFICER. The Senate is considering the motion to proceed to S. 3534.

Mr. BAUCUS. I ask to speak as in morning business, and I also ask unanimous consent the Senator from California, Mrs. BOXER, be recognized immediately after my remarks and she be recognized to speak for 15 minutes.

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

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the submission of S. Res. 636 are printed in today's RECORD under "Submitted Resolutions.")

Mrs. BOXER. Madam President, I rise to express my deep disappointment that we were unable to proceed to the Defense authorization bill.

I have been here a while, maybe I am wrong—I am searching my memory—I don't remember any time that we voted against proceeding to the Defense bill. I am going to go back. Certainly, in the time I have been here, I don't remember that.

It is a filibuster just to go to the Defense bill. It is perplexing to me because of some of what is in this bill—including funding for the defense health program to care for our military personnel and their families, including our wounded warriors. We know these wars in Iraq and Afghanistan have taken quite a toll on our military men and women, both in seen injuries and unseen injuries—injuries to the brain.

We know some incredible work is going on. I visited some of the research

universities that are finding better ways to treat our wounded warriors. They are finding better ways to treat terrible wounds that result from horrible burns to our brave men and women. Now is the time to put those new and better treatments into place and there is a filibuster and we cannot get to the bill.

We know there is a military pay raise in this bill for our servicemembers. Those voting no to proceed to this are stopping that.

This bill authorizes TRICARE coverage for eligible dependents up to age 26. In other words, just as we did in the Health Care Reform Act, in this bill we are saying if you are in the military and you have a child, you can keep them on your coverage until they are 26.

It provides \$3.4 billion for Mine Resistant Ambush Protected vehicles or MRAPs, which have proven highly successful in protecting our troops from improvised explosive devices, and it requires companies to certify for all DOD contracts valued over \$1 million that they are not engaged in any sanctionable activity under the Iran Sanctions Act of 1996. So we would make sure that the DOD, Department of Defense, is not involved in giving contracts to companies that are trading with Iran. This is so important, as we seek to sanction Iran for its reckless activity in moving toward a nuclear weapon.

In the bill the Republicans blocked is also a repeal of the military's don't ask, don't tell policy. The bill includes a provision stating that there will be no repeal of this policy until there is a certification from the Department of Defense that it will not have adverse consequences on our troops.

Some said: Oh, this is just ignoring the Department of Defense, ignoring the Secretary of Defense. Not at all. The way Chairman LEVIN put it together definitely has a check on it. So I do not understand a lot of my colleagues' claims that it is just a quick repeal with no checks and balances from the Secretary of Defense.

I will say it again, it is clear in there, and I will read the exact words, that there must be, as we repeal don't ask, don't tell, a certification from the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff that there will be no significant impact on "military readiness, military effectiveness, unit cohesion and recruiting and retention of the Armed Forces."

I think it is important to note what countries allow gays and lesbians to serve. How about 22 of our allies who have fought with our service men and women in Iraq and Afghanistan: Australia, Britain, Denmark, France, Italy, the Netherlands, Slovenia, Switzerland, Austria, Canada, Estonia, Germany, Lithuania, New Zealand, Spain, Belgium, the Czech Republic, Finland, Ireland, Luxemburg and Norway and Sweden. In addition, Israel and South

Africa also don't discriminate against gays and lesbians. I don't know who we end up with, but some of the countries I can find that still discriminate against gays and lesbians in the service are Iran, Pakistan, Cuba, North Korea, and Turkey.

For us to stand with Iran, for us to stand with Cuba, for us to stand with North Korea, Pakistan, and Turkey over Australia, Britain, Denmark, France, Italy, the Netherlands, Switzerland, Austria, Canada, Germany, et cetera—it just doesn't make sense.

The point is, because we are part of this coalition of 22 other nations, our service men and women are already fighting alongside gays and lesbians.

A majority of Americans think it is the right thing to do, to allow our qualified young men and women to serve regardless of their sexual orientation. According to a CNN poll conducted in May, 78 percent of Americans said they support allowing gays and lesbians to serve openly in the military—78 percent of Americans. We would be standing with them and we would be standing with our allies.

Don't ask, don't tell is hurting our military. It is costing our Nation—more than 14,000 service men and women have been discharged from the military under don't ask, don't tell. It has cost taxpayers between \$290 million and maybe up to more than a \$½ billion to replace servicemembers who were discharged under this policy.

I know many Americans have seen in their living rooms, on the TV, men and women who are our neighbors' kids, and our neighbors, who have been kicked out of the military even though they were stellar service men and women. It is most unfortunate that our friends on the other side are mischaracterizing what is in the bill.

We allowed them an amendment to strip that language, and they said, oh, well, if we pass this, then the military would be caught off guard. Not at all. The way it is written specifies that there must be a certification that a repeal would not be harmful to our military.

I am also terribly disappointed we will not have a chance to vote on the DREAM Act. The DREAM Act allows those students who have been here most of their lives an opportunity to earn legalized status if they met certain criteria. Those are kids who were brought over as kids, maybe a month or 2, or a year or 2, or 5 or 6 years old. They must have lived in the United States for 5 years. They must earn a high school diploma. After high school, they must complete 2 years of college or serve in the Armed Forces for 2 years. They must demonstrate strong moral character, and only those who pass these tests would be eligible to get on the pathway to legality. Sixty-five thousand young people a year graduate from high school, but they cannot join the military, or they cannot go to college, because of their immigrant status. It was not their fault they were

brought into the country by their parents. I want to tell you that our military has said—and I will quote retired Army LTC Margaret Stock. She said: "Potential DREAM Act beneficiaries are likely to be a military recruiter's dream candidates for enlistment."

Let me repeat that. The military itself has said, The DREAM Act will result in a military recruiter's dream, because some of these recruits are very good with foreign language skills, foreign cultural awareness, they are in short supply, and they would be excellent recruits.

Businesses support the DREAM Act. Our economic future is something we talk about every day around here. I read a U.S.C. study that said, if we finally begin a process where people who are here, who are hard working and caring, can stay here and come out of the shadows, it will create 25,000 jobs and increase the gross domestic product of my State and of the Nation.

That is why I have the San Jose Mercury News, home paper of the Silicon Valley, writing an editorial last week in favor of the DREAM Act, saying it will boost America's economic competitiveness. So here we have the time where we have something on the floor that is directly related to the military bill, because the military is saying it is a recruiter's dream, this DREAM Act, because they are going to have so many people lining up to join. We have Silicon Valley strongly supporting this, and I will tell you, the San Jose Mercury News said: "The high school dropout rate in this country terrifies business leaders, who fear that in the coming decades we will not produce enough college graduates with math and science ability."

That is why the Silicon Valley Leadership Group supports the DREAM Act. That is a group made up of Republicans, Independents, and Democrats. They wrote: DREAM Act students "deserve a chance, and the U.S. economy needs their knowledge and ability."

Companies such as Microsoft also support the DREAM Act. They wrote: "The DREAM Act rewards those who place high value on education, and on service to country."

Last week the president of the University of California, the chancellor of the California State university system, and the presidents of State universities in Arizona, Washington, Minnesota, Utah, and Washington wrote in support of the DREAM Act. They write in a letter: "In the current international economic competition, the U.S. needs all the talent it can acquire and these students represent an extraordinary resource for the country. The DREAM Act . . . is an economic imperative."

In closing, I want to talk about a couple of stories. I think this is very important. David graduated from high school with a 3.9 grade point average. He is studying international economics and Korean at UCLA. He has served as the leader of the UCLA marching band, and he spends his free time tutoring

high school students. After graduation, he hopes to enter the Air Force and some day politics. In many ways, he is a model college student and a leader in his community. But he was born in Korea. He came here when he was 9. His family spent 8 years trying to navigate their way to legalized status, only to find out that their sponsor had erred in filling out the paperwork.

So here sits David. He had nothing to do with all of this. Here is what he says:

I will not be able to put my name down on a job application because of my status. This country is throwing away talent every second . . . but the DREAM Act can bring thousands of students out of the shadows and allow them the opportunity to work for the country they truly love right now.

I would say these students such as David did not choose to come to this country. They were brought here by their parents. The reality is, they have grown up here. This is the only country they know. I am very disappointed that we are not voting on this important bill today. I hope we can take up the DREAM Act later this year. I believe it will truly strengthen our economy, our military, and our Nation.

The very last point I want to make as we wind up this Congress is, I am so pleased that we passed the Small Business Jobs Act last week. I traveled across California. I have met with so many small businesses, and I did a conference call with about 10 of those businesses, including the Los Angeles Baking Company, the Blue Bottle Coffee Company in Oakland, biofuels manufacturer Solazyme, Capstone Turbine in Chatsworth, U.S. Hybrid in Torrance, the Back on the Beach Café in Santa Monica, and the Santa Barbara Adventure Company. These are small businesses in my State that are very strong. They could not get access to credit to expand and hire. As a result of the work we did, they will be able to get that credit. I want to thank the two Republicans who crossed over to vote with us. It shows us that we can make progress when we work together, because this has to come ahead of politics.

I went to a company called Renova. Renova is helping to make California the hub of the clean energy economy. Vincent Battaglia, the owner there, told me he has been getting no help accessing the credit he needs. He called our legislation "the missing piece," the piece he has been waiting for.

Small businesses create 64 percent of our new jobs. That is what happened over the last 15 years. I believe this bill will help get them back on track. As they get back on track, our recovery will begin to have a little more energy behind it. Because it is very slow; it is agonizingly slow.

I wanted to state on the RECORD how much I appreciate the two Republicans—

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I thank you and I yield the floor.



The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the Senators from New Hampshire, Arizona, Kansas, and I be permitted to engage in a colloquy for half an hour.

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

SENATE PROCEEDINGS

Mr. ALEXANDER. On December 3, 1996, Senator Robert C. Byrd, the late Senator Byrd, who most of us think understood this body better than any Senator in its history, told the newly arriving U.S. Senators the following:

Good afternoon and welcome to the United States Senate Chamber. You are presently occupying what I consider to be hallowed ground.

Senator Byrd went on to say:

. . . as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

In his last testimony before the Senate Rules Committee before he died—this was in May of this year—Senator Byrd said:

Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights.

If I may add to that the last paragraph of a letter from Senator COBURN, which I ask unanimous consent to have printed in the RECORD.

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

(See exhibit 1.)

Mr. ALEXANDER. Senator COBURN writes:

Too many Americans are upset, even angry, that their voices are not being heard in Washington. The majority's abusive practice of suppressing debate undermines the Senate's debate traditions . . .

We could start out by complaining that the majority leader has cut off debate, cut off amendments at a record level. I have submitted evidence of that. But I think that would look to the American people like we are kindergartners in a sandbox. Because it is not the voice of the Senator from New Hampshire, or Tennessee, or Arizona, or Kansas that is so important. The voices of the people whom we are elected to represent are the important voices.

When 39 times in the last two Congresses the majority leader, through procedural tactics, says no to amendments, and no to debate, he is causing the Senate to deteriorate to a shadow of its former self, the kind of Senate that Senator Byrd thought was important, and the kind of Senate in which we want to serve.

Our goal is to represent the voices of the American people, to let their feelings, their anger, their hopes, all be represented here. That means we have to have a chance to offer amendments and have to have a chance to debate.

What that means is if we are successful in this election year, we are going to make sure that in the new Congress

we have that opportunity. We will make sure that these voices we hear across America are heard on the floor of the Senate. The Defense authorization bill, which is being debated today, is a perfect example of why I say the Senate is deteriorating to a shadow of its former self by closing off the voices of the American people and by denying their elected Senators an opportunity to have a full debate on the issues facing them.

Mr. GREGG. Would the Senator yield on that point?

Mr. ALEXANDER. Of course.

Mr. GREGG. Because I think the Senator has addressed a core issue of constitutional government. When the Founding Fathers got together in Philadelphia and created this extraordinary Nation called America, and built the Constitution upon which we were based, and upon which we govern, was it not their intent to create the Senate as a body different from the House of Representatives?

We understand in the House of Representatives amendments are not allowed if the Speaker does not want them. It is an autocracy over there. We know that. But was not it the intention of the Founding Fathers, as the Senator has pointed out, to give the American people a chance, through their Senators, to amend complex legislation? And has that not always been the tradition since the founding of our Nation? Did Washington not explain this rather accurately when he said, The Senate is the saucer into which the hot coffee is poured? The House boils the coffee, they get all charged up about an issue, they pass it without amendments, often without any debate. It comes over here, and the American people get to hear a little more subtly about the issue, a little more discussion about the issue. Specifically, they get to amend it and address the issue.

I know the Senator from Arizona is here. Maybe he will be able to tell us—I am sure he will—how many times we have had a bill as big as the Defense authorization bill on the floor, which is spending \$700 billion, and not had a chance to amend it. But was that not the purpose of the Founding Fathers, to make the Senate the place where there was debate and discussion and amendment? Has that not been basically cut off by the majority leader and the majority party's attitude that they do not want to take tough votes?

Mr. ALEXANDER. The Senator from Arizona was here when that was not the case, and the Senate functioned the way the Senate was supposed to function.

Mr. McCAIN. Could I make a couple of comments? One is, one of the things that has disappeared that I saw in the first years I was here in the Senate is the two leaders sitting down and perhaps coming to informal agreements that are then put into unanimous consent agreements to move forward.

The other aspect of this I wonder if my colleagues would care to comment

on. One of the reasons why we have these—the majority leader comes forward, as I believe he has 40 times, brings up a bill and then immediately fills up the tree—and to the uninitiated, obviously that means there will be no other amendments allowed through that kind of parliamentary procedure. A lot of times that is read by the Members saying, hey, there is going to be an amendment up that I do not want to have to vote on. I do not want to have to vote on it. So fill up the tree, have no other amendments allowed to be voted on.

It seems to me that we should have the courage to go ahead and vote. Time after time, when I have seen basically a shutout from amendments, I have said, look, I will agree to a time agreement. I am not going to filibuster it. Just give us 15 minutes either side and vote on it. But they do not want to take tough votes. I am not going to call it cowardice, but I cannot call it courage, that people will prevail and say, hey, let's fill up the tree so we can only get this done and we will not have to take a tough vote on whatever the issue is that seems to be attracting the attention of the American people.

I say to my colleague from New Hampshire, who will not be with us next January—

Mr. GREGG. I will be with you; I just will not physically be here.

Mr. McCAIN. I certainly do not in any way indicate that there is any physical ailment that will cause you not to be a Member of the Senate next January.

If the Senator from New Hampshire could provide us with the benefit of his experience in both the House and the Senate, and also maybe he would give us at some point his view of what we need to do to fix this gridlock we have over the economy. He has done it on numerous occasions, but it comes to my mind that perhaps the Senator from New Hampshire at some time would take an hour on the floor and say: Here is what I think we need to do. I think it would be valuable. I don't think there is anybody in the Senate today who has a better grasp for the budgetary issues we have to grapple with as we face an unprecedented situation of debt and deficit.

Perhaps after this election, it may be possible for us to sit down and be included in the agenda of the Senate. That is one of the things that has been a big change. It used to be that at least the majority leader, whichever party was in the majority, would come over and say: Here is our agenda. What is your agenda? What is your input? What do you want to see happen? Most of the time nowadays, we hear what is going to happen either through reading it in the media or when the majority leader comes to the floor and says: Here is what we will take up next. It does not lead to comity.

Mr. GREGG. Those are very generous and kind comments coming from a Senator who is of huge stature not only

in the Senate but in the country. I do hope to make some comments on that. It won't take me an hour because the answer is simple: Stop spending. That is pretty much the bottom line.

The point of the Senator from Tennessee and the Senator from Arizona on the issue of shutting down the amendment process is as critical to us getting better governance as anything. We can't have good governance if we don't have discussion and different ideas brought forward. Yet we are not allowed to do that any longer because the majority leader says: We will not allow any additional amendment or any discussion.

On budgetary issues, on the spending issue, independent of the Defense bill, I think one of the reasons we haven't done a budget this year is because the other side knows that if they bring the budget to the floor, they cannot shut down amendments. Amendments have to be allowed. Under the rules, we have to be able to amend the budget resolution. I don't think they want to do that. They couldn't fill the tree on the budget.

As a practical matter, this attempt to foreclose debate on core issues of public policy, such as the defense issue and spending, by shutting down the floor through filling the tree is undermining not only the Senate and its role but the whole constitutional process and the right of the people to be heard.

Mr. McCAIN. Doesn't it send a message to people who are having their budgets squeezed, having to make the most difficult decisions about their budget, that this body will function and continue to appropriate money for our functions without a budget of our own? What kind of a signal does that send to the American people? Doesn't that contribute to the disconnect and the frustration Americans feel and give rise to the tea party, which has had a seismic effect on the political landscape?

Mr. GREGG. Absolutely. More than that, it begs the question as to why is the majority party governing. If they are not willing to govern, what are they collecting their paychecks for? Governing means putting together a budget and deciding how to spend the money. They are not willing to do that.

Mr. McCAIN. One of the first decisions every family has to make is what is the budget, what are they going to be able to spend. We will be going out of session sometime here before the election without even a cursory effort at a budget.

Mr. GREGG. Absolutely.

Mr. ALEXANDER. Madam President, the Senator from Kansas is here. He served with distinction not only in the Senate but in the House of Representatives.

I wish to go back to the point Senator Byrd made. He said in his address to new Senators in 1996:

[A]s long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

What we are talking about here is not the importance so much of the voice of the Senator from Kansas or the voice of the Senator from New Hampshire but the voices of the American people. And they are being suppressed.

The Senator from Kansas has seen Congress for a long time. What do we need to do to take the Senate back to the Senate that it should be?

Mr. ROBERTS. I appreciate the Senator bringing up the statements by our revered Senator Byrd. I remember when I first came to the Senate, he had, for lack of a better word, a lecture or maybe a sermon to us all about the comity of the Senate and why the Senate is different from the House. The standard example is that the House is where we pour a hot cup of coffee, and then it cools off in the Senate when we put the coffee in the saucer. And that is what we are supposed to do to protect the minority. Here is what Senator Byrd said in one of his last speeches before the Rules Committee before we lost Bob. His knowledge and love for this body were unmatched. He actually wrote the history of the Senate. He said he opposed cloture by a simple majority because "it would immediately destroy the uniqueness of this institution. The Senate is the only place in government where the rights of a numerical minority are so protected. A minority can be right and minority voices can certainly improve legislation."

Obviously, if we go down another road—and we have—I just heard the majority leader indicate this side of the aisle is guilty of obstructionism. I guess it is in the eye of the beholder.

I might remind my friend from Arizona that the bumper sticker from the distinguished State of New Hampshire is "Live Free or Die." I hope we live free, and I would hope that the distinguished Senator from New Hampshire would not take that literally, given the comments by the Senator from Arizona.

I came into public service in 1980, with my dear friend from New Hampshire. Other than some rather obstreperous incidents in regard to basketball, we have enjoyed a very good relationship. But there isn't anybody here who understands the budget process and how minority rights should be protected and how we should proceed other than JUDD GREGG. He has done an outstanding job. I know that once he leaves the Senate, he will be called upon to help us get out of this tremendous debt problem and to face the entitlements square-on.

Facts are stubborn things. I am not trying to put these facts on any individual. As the distinguished Senator from Tennessee has pointed out, what this really is about is the consent of the governed. That is what Madison was really interested in when he wrote about the Constitution. We want a strong Executive and certainly a House and a Senate to be responsive, but it is

to protect the consent of the governed. The governed, as everybody knows, is extremely upset. It is because their voice is not heard. Why is their voice not heard?

In the 110th Congress in the House of Representatives, only 1 percent of the bills were brought to the floor with open amendment rules—1 percent. Ninety-nine percent of the bills reached the Senate from the House with little or no input from the minority. As of March of 2010, the House was on track to shatter its record for closed amendment rules in the 111th Congress. That is the House.

I spent 16 years in the House. I can remember very well one particular incident where there was a real controversy over a seat in Indiana. The secretary of state of Indiana declared the winner. It came back to the House Administration Committee, went back out to Indiana, recounted. When the Democrat went ahead, they called it closed, and that was it. We walked out. We said the comity of the House had been destroyed.

We are close here in the Senate. In the 110th Congress, cloture was filed 133 times, 98 of which were filed the moment the question was raised on the floor. If that isn't obstructionism, I don't know what is. Over the last 22 years, the majority leader has filled the tree roughly three times per Congress on average. However, from January 2007 to April of 2010, the majority leader filled the tree 26 times. That is a 300-percent increase in filling the tree for the 110th and 111th Congress. These numbers do not reflect the additional times this has taken place in the 5 months since the numbers were submitted to the Rules Committee, including today, with DOD authorization. From the 103rd to the 109th Congress, rule XIV to bypass the committee was used on average 24 times per Congress. This was shattered in the 110th Congress when it was used 57 times. I go over these facts to show that in regard to the definition of obstructionism, it goes both ways. That is the rest of the story.

A little bit later, if the distinguished Senator from Tennessee has time, I would like to go over this sense-of-the-Senate resolution or legislation to be introduced by the junior Senator from New Mexico declaring the rules of the Senate unconstitutional in order to rewrite the rules to favor a simple majority to pass legislation. I would like to have a discussion with him at a future time.

I know the distinguished Senator from Utah has something to say as well.

Mr. ALEXANDER. The Senator from Utah has had a distinguished career in the Senate. His father did before him. He has an unusual perspective of this body. I wonder what his reflections might be upon Senator Byrd's thought about the importance of allowing Senators to reflect the voices of people in this country and when those voices are



cut off in the Senate, they are cut off at home.

Mr. BENNETT. Madam President, I thank the Senator from Tennessee for his reference to my service. I use as my example for why I am here to join this colloquy not my long service, because it hasn't been all that long by the terms of the Senate, but my experience today. I think what we experienced today on the floor is a demonstration of what happens.

I happen to be one—perhaps a minority on my side of the aisle—who is in favor of the DREAM Act. I want to be one who will vote for the DREAM Act. The Senator from Tennessee talks about people and their concern. While I was back in Utah over the weekend, I had a demonstration of very earnest young people show up in front of the Federal building to ask me to please vote for the DREAM Act. They had compelling stories. I was identifying with what they had to say.

I had to say to them: I won't get an opportunity to vote for the DREAM Act.

Yes, they said, you will have a vote on Tuesday on the DREAM Act.

No, the vote on Tuesday is not on the DREAM Act. The vote on Tuesday is on a motion to proceed to the Defense authorization bill that has been loaded down with amendments that prevent us from having an up-or-down vote on the DREAM Act itself.

They said: Well, the DREAM Act will be one of those amendments. The DREAM Act will be added to it.

Yes, it will be added to it. But will I have an opportunity to vote on an amendment to strip out the other stuff I don't like? No. I won't have the opportunity to do that. So this was the dilemma I explained to these young people. Some of them looked too young to vote, but I am sure they are old enough to vote. It is just that everybody looks a lot younger to me now than they used to.

I said: Here is the dilemma I have. By virtue of what the majority leader has done, he has created a parliamentary situation where, in order to vote as you want me to vote, as you express your voice to me, I have to vote opposite to what a large number of my other constituents want me to vote. I have to vote in favor of Federal funding for abortions in military hospitals. Some will say it will be private funding. Yes, but it will take place in a military hospital supported by Federal funding. I have never voted for Federal funding in any form for abortions. Now, in order to support the DREAM Act by the way the tree has been filled, by the way this thing has been put together, I have no choice. If I vote the way you want me to vote, I will offend a vast majority of my other constituents who don't want me to vote that way on the question of abortions in military hospitals. If I vote to proceed, I will be voting to act precipitously, in my view, with respect to the policy of don't ask, don't tell, which President Clinton signed into

law at the beginning of my service in the Senate.

I am perfectly willing to vote to repeal don't ask, don't tell if the military services complete their survey that tells us that is right and proper for military performance. But the majority wants to make that decision before they get the information from the military. So I have to cast a vote that I think is the wrong vote for the military in order to vote for the DREAM Act.

Well, they looked at me as if I were crazy.

Well, certainly you can separate these things and vote on each one on its own individual merits?

I had to say to them: No, I can't. The way this is being handled now in the Senate, I cannot vote on the merits of each of these individual items because the majority leader, exercising his right, has packaged them together—filled the tree—in such a fashion that makes it impossible for you to divide them and discuss each one on its own merits.

I was questioned by the press as I went in to lunch.

Senator, we thought you were in favor of the DREAM Act?

Yes, I am.

Well, then, aren't you going to vote for cloture on the Defense authorization bill?

Wait a minute, cloture on the Defense authorization bill becomes the key vote on an immigration issue? That is the situation we have come to as we get this kind of procedure. And it very clearly, as the Senator from Tennessee has made clear, says the voices of the people on the legislation in which they have an interest are not being heard because of this procedural activity. That is why I have joined in this colloquy to raise my voice in protest to the way this is being done.

Mr. ALEXANDER. Madam President, I thank the Senator from Utah.

Madam President, the point of our discussion is a very simple idea: This is a year above all years when there are voices in the country that seek to be heard. When through procedural means the majority suppresses those voices by suppressing their elected representatives, it only adds fuel to the fire.

Whatever the conditions after the election, I hope we Republicans come back with the notion that we intend to make sure this Senate functions with an unlimited right to amend and with an unlimited right to debate, so we can force consensus on issues and deal with jobs, deal with spending, deal with debt, and deal with the other issues that cause the American people to be turning out in droves this year in elections.

Mr. ROBERTS. I say to my friend from Tennessee, I want to ask him a question. Is it fair to characterize these attempts by the majority to change the rules—and that is what they want to do; I think it is a sense-of-the-Senate resolution in the Rules

Committee—to continue favoring them, even if their majority narrows after November, in the lameduck or what I call the Daffy Duck, the lameduck now, you could characterize that as an "arrogance of power." Those are pretty tough words, but that is the exact term used by then-Senator BIDEN in 2005 to describe a similar attempt to rewrite the rules to favor the majority at that time. So what goes around comes around.

Does the Senator from Tennessee find it as disconcerting as I do that the junior Senator from New Mexico has introduced a resolution declaring the rules of the Senate "unconstitutional" in order to rewrite the rules to favor a slimmer majority, i.e., one, one free throw. That is it.

Does any majority last forever? The answer to that is no. What goes around comes around. If the interpretation of the Constitution and the Senate rules of the junior Senator from New Mexico is accepted, I say to my friend from Tennessee, what is to prevent any majority of either party from rewriting the rules of the Senate whenever it suits them? Would such a practice not negate the whole point of having rules in the continuing body that is the Senate? Would this practice not make the Senate nearly identical to the House, where majority takes everything? Would this not neutralize the express purpose of the Senate to act as a check on the House and be directly 180 degrees opposed to what Senator Byrd was warning us about in regard to his last testimony before the Rules Committee in this distinguished body?

Again, my friend from Tennessee has hit the nail right on the head. We have a lot of challenges around here. People say "problems" or "crises." We have a lot of challenges. The only way you meet a challenge is to work together and to represent the consent of the governed. What we have here now is we do not have the consent of the governed. We do not have the opportunity.

I remember in the health care debate staying up until the wee hours of the morning in the HELP Committee, the Finance Committee. I did not get behind closed doors to write the bill that was actually written, but I had 11 amendments on rationing. All of them were defeated on a party-line vote. Trying to be a little clever by half, I introduced a Democratic amendment, one of Senator SCHUMER's amendments. It was defeated on a party-line vote. They did not even recognize it was Senator SCHUMER's—all on rationing.

One of the biggest controversial items you hear about throughout the country in regard to the health care debate is the rationing of health care, which is going on right now. There was no consent of the governed. It was "our way or no way." It did not have a chance. That is the biggest issue we face, and it seems to me it really reflects on this body and how we treat each other and, more importantly, how we treat the American people and why

we have such a fuss out there in the hinterlands.

I thank the distinguished Senator for taking this time. I think it is very valuable time. I hope we can lower the debate a little bit—a whole lot—and work together, as he has indicated, to meet the challenges we have before the country.

Mr. ALEXANDER. Madam President, I thank the distinguished Senator from Kansas for his thoughtful remarks. He is exactly right. The voices of the people are to be heard here. They can only be heard and their liberties protected if their elected officials have the right to express those voices through unlimited amendment and unlimited debate. When the majority leader closes that debate off and closes off those amendments a record number of times, that is closing off the voices of the American people.

As the Senator from Kansas said, the shoe can sometimes be on the other foot. Those who today are wanting to create a freight train running through the Senate as a freight train runs through the House may not be so eager to do that if the freight train turns out, after the election, to be the tea party express.

I thank the Presiding Officer and yield the floor.

## EXHIBIT 1

U.S. SENATE,

Washington, DC, September 21, 2010.

Hon. LAMAR ALEXANDER,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR ALEXANDER: The U.S. Senate once was considered “the world’s greatest deliberative body.” This no longer is the case as the Majority Leader commonly abuses Senate rules and traditions to prevent debate and obstruct other Senators from offering amendments to legislation.

As you know, historically, the cloture process authorized by Senate Rule XXII has been used sparingly. According to Senate Procedure and Practice, “Between 1917 and 1962, cloture was imposed only five times.” Fast forward 50 years later, a report by the Congressional Research Service (CRS), reveals a clear trend by the majority of limiting debate by immediately filing cloture on nearly all legislative questions.

Under Democrat control of the Senate, 219 cloture motions were filed in the 110th and 111th Congresses combined. Perhaps most troubling, 171 of these cloture motions were filed after the Senate had considered the legislative question for one day or less. In contrast, when the Republicans were in charge in the 108th and 109th Congresses, only 84 cloture motions were filed.

Additionally, the Majority Leader has regularly abused a procedure known as “filling the tree,” to exclude the minority from offering amendments to bills. According to CRS, he has employed this tactic 39 times on major pieces of legislation since the start of the 110th Congress. The result of this practice was the passage of legislation spending hundreds of billions in taxpayer dollars without members of the minority having the opportunity to raise issues of importance or to improve legislation. To put this number in perspective, this represents a drastic increase from the mere fifteen occasions former Majority Leader Frist “filled the tree” in 108th and 109th Congresses combined.

Majority Leader Reid’s use of “filling the tree” combined with filing cloture entirely preempts any input from the minority into legislation and destroys the two distinguishing characteristics of the Senate—the right to fully debate and amend legislation.

Too many Americans are upset, even angry, that their voices are not being heard in Washington. The majority’s abusive practice of suppressing debate undermines the Senate’s debate traditions as well as the cherished American rights of free speech and dissent. As a caucus, we should commit ourselves to ensuring a more open and deliberative process that protects the rights of every Senator to express the views of the taxpayers they were elected to represent.

Sincerely,

TOM A. COBURN, M.D.

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

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

Mr. FRANKEN. Mr. President, first of all, I ask unanimous consent that we not go into the quorum call.

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

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

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

Mr. FRANKEN. Mr. President, I rise to discuss two important issues we will not have the chance to debate because we are unable to take up the Defense authorization bill.

Let me start with the need for repeal of the discriminatory don’t ask, don’t tell policy. We are so close to making a historic accomplishment that I think we would be able to look back on with pride. It is also simply the right thing to do. This country is long past ready for it, and it is the right thing because the don’t ask, don’t tell policy has been costly for our military. Treating gays and lesbians unequally because of their sexual orientation just does not make sense to me. We should not be denying gay and lesbian Americans the ability to serve our Nation simply because of who they are. We should not make them lie in order to serve.

The Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, endorsed the repeal of don’t ask, don’t tell. He put it this way:

I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, personally, it comes down to integrity: theirs as individuals and ours as an institution.

But as I said, this is not just about the right thing to do. The country is ready for it, and the military is ready for it. Things have changed since 1993. The country is now way ahead of us on this issue. A Washington Post/ABC News poll in February 2010 showed that 75 percent of Americans believe gay and lesbian Americans should be able to serve openly in the U.S. military—75 percent. There is almost nothing we can get 75 percent of the country to agree on these days. The country has been steadily moving in this direction for some time. In 1993, 44 percent of

those surveyed favored this. It was up to 62 percent in 2001. And now we are at 75 percent. Multiple other polls reinforce this result. The country is way past being ready for this change, and so is the military.

Do we need to think carefully about how to implement repeal? Yes. That is why the Pentagon is undertaking a comprehensive review of how to implement the repeal. But is there any reason to think unit cohesion or military readiness is going to be negatively affected? No. There is simply no reason to think that. In fact, let’s look to the military’s own thinking on this question. A recent article in Joint Force Quarterly concluded that “there is no scientific evidence to support the claim that unit cohesion will be negatively affected if homosexuals serve openly.” No scientific evidence.

Let me also briefly tell you about my experience. Before I was a Senator, I did a number of USO tours over the years. On each tour, I was more and more impressed with the men and women of the military. This was between 1999 and 2006. I did seven tours. The last 4 years, I was in Iraq and Afghanistan and Kuwait. I would go with a very eclectic tour of guys and women: the Dallas Cowboys Cheerleaders, country western artists, almost all of whom are very rightwing, and we love each other because we went on these tours.

Let me tell you about one show I did. I am not going to say what base it was. I do not want to get anybody in trouble. We did a 4-hour show. This was the fourth year we did this with the sergeant major of the Army. We did a 4-hour show because we found out the troops loved the show because it was a little bit of home. During the show, I would—I was kind of the cohost with a beautiful woman named Leeann Tweeden, and we would do comedy routines, we would introduce music, and we would introduce the cheerleaders.

I would go out and do a monologue. This is something I would do and had done for a number of years. I would go out and I would say: You know, I have done now seven USO tours, and every year I am just more and more impressed with the military, except for one thing I don’t get. It is this whole don’t ask, don’t tell policy.

Now, it was about 28 degrees where I was talking, and there were maybe a couple thousand troops. Most of them were standing, some were in the bleachers. This was like 3 hours into the show, but they were just loving the show.

I said: But there’s one thing I don’t understand. It is this don’t ask, don’t tell policy. We all know that brave gay men and women have served in our country’s uniform throughout its history, and yet we have this policy. Take, for example, General Smith.

I then pointed to the commander of the base.

I said: Now, here is one of the bravest men ever in the history of our country

to don our Nation's uniform in battle, and yet he is one of the gayest men I have ever met.

And they started laughing and cheering.

I said: Now, why should General Smith have to stay in the closet when he is such a great leader? General Smith, stand up and wave.

He got up and waved, and everyone cheered. And in the bleachers there was a group of women soldiers who cheered extra loudly and waved at him, and he waved back at them.

At the very end of the show, we sang "American Soldier" by Toby Keith.

I don't know if you know that song. It is a beautiful song. I will always remember while doing the USO tours seeing soldiers with their arms around each other crying and singing: I don't do it for the money. I've got bills that I can't pay.

At the end of the show, the general came up and gave me this beautiful frame with an American flag that had flown over the base. He gave it to every member of our troop. When he gave it to me, he said, "Al, keep telling those don't ask don't tell jokes. I think you may have some fans up there." And he pointed at those women. Later, those women came up to me and said, "We are gay." And I think everybody knew it.

This was in 2006 when it was really hard for the military to recruit people, so they gave waivers out at that time. They gave waivers—moral waivers. They gave waivers for people who didn't do as well in school or didn't graduate from school. I swear, if you asked every man and woman on that base: Who would you rather have standing to your right and left, that gay man or that gay woman who has been serving with you for the last year or somebody who comes in here with a moral waiver—and many of those troops who had moral waivers served very honorably and bravely—or someone with a cognitive waiver—and many of those flourished in the military—they would say: I want that gay soldier, that lesbian soldier, who I know has been on my right and on my left.

All gay and lesbian servicemembers want is to be able to serve. Instead, people are getting kicked out of the military—people who don't need any kind of conduct waiver, people who don't need standards lowered for them in order to serve, people who are patriotic and courageous and who have vital, irreplaceable skills.

What is more, the evidence is clear from other countries that have allowed gay and lesbian citizens to serve openly in their military—and SUSAN COLLINS spoke about this today. That evidence says this will not be a problem. Ask the Israelis, ask the Canadians, and ask the British. They have all successfully implemented open service.

But it is not only that the military is ready for this change; don't ask, don't tell is just costly for the military. Thousands of willing and capable

Americans with needed skills have been kicked out of the military because of this foolish policy—and this policy alone. These are soldiers, airmen, and sailors in whom we have invested time and training. We cannot afford to lose dedicated personnel with critical skills when we are engaged in two wars.

On top of that, do we want our military officers spending valuable time and resources investigating and kicking troops out of the military for being gay?

The argument offered by some opponents is that this legislation goes back on the promise to take into account the comprehensive review being conducted by the Pentagon, but that is just a canard.

Let me remind you what Secretary Gates said about the review when he testified before the Armed Services Committee back in February. Secretary Gates said:

I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.

Not whether, but how. That process is going forward, and the provision in this bill repealing the flawed don't ask, don't tell policy does nothing to interfere with the Pentagon's process. All the provision does is repeal the existing law. It does not tell the Department of Defense how to implement the repeal.

What is more, the repeal itself doesn't even go into effect until after the Pentagon's comprehensive review is complete and the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff have certified that the Department of Defense has prepared the necessary policies and regulations for implementation. They must also certify that the implementation is consistent with military readiness and effectiveness, unit cohesion, and recruiting and retention.

To be honest, I am not fully satisfied with that compromise. I wanted a moratorium on discharges. But that is the compromise, and it doesn't undercut the Pentagon's review in any way.

Don't ask, don't tell makes no sense. It is foolish, it is unjust, and we must end it. The country is ready, the military is ready, and it is the right thing to do. I urge all of my colleagues to stand for equality and for common sense and to stand for our troops. It is long past time to end don't ask, don't tell. We will be proud that we did.

Let me turn to the DREAM Act, which also would have come up if we had been able to get cloture and move to the Defense authorization bill.

Minnesota is what it is today because we welcomed immigrants with open arms. We welcomed the Swedes, who first tilled our fields and built our railroads. We welcomed the Norwegians, who thrived in our lumber industry and founded choirs that remain the best in the world today. We welcomed the Danes, who made our State a leader in

dairy farming. We welcomed the Germans, the Finns, the Poles, and the Czechs.

In fact, from the time we were admitted to the Union in 1858 until 1890, no less than one-third of Minnesotans were born abroad. Today, most of the people we welcome don't come from Europe. They don't speak Swedish or German. They speak Spanish or Hmong or Somali, and they are not one-third of our population. Just 7 percent of Minnesotans were born abroad. So there are far fewer immigrants in Minnesota by percentage. Mr. President, let me tell you, these folks work just as hard and they show just as much promise.

I rise to speak in support of the DREAM Act because just by passing this law we can do something remarkable to help those Minnesotans—at least some of them. This is a group of young people who were brought here by their parents. They were raised as Americans and, for the most part, speak English just like you and I. But because their parents made a mistake, because their parents broke the law and entered the country illegally, or overstayed a visa, these kids are stuck. They can't go to college. They can't get jobs. They can't join our military. They are out of luck, and our society is going to pay for it.

The DREAM Act would allow these students to reenter society, to come out of the shadows of society to study or to serve in our country's military.

I want to put faces to the young people of Minnesota who would benefit from the DREAM Act. I am going to change their names to protect their identity.

There is a young man named Daniel. Daniel came to the United States from Colombia when he was 8. He grew up in the suburbs, and he ran varsity track and cross-country for his high school. Since he couldn't get a driver's license, he took a 2-hour bus ride every day just to get to classes at Normandale Community College. In his second year, Daniel's father died, leaving Daniel and his mother without any income.

Daniel almost dropped out, but he didn't. Instead, he became the first member of his family to graduate from college, with dual associate degrees in education and computer science—both with honors. Daniel is now at the University of Minnesota. He is trying to get his bachelor's degree. But since he can't work, he can't afford to attend school full time. So every semester, Daniel saves up all of his money to take just one class. He is completing his bachelor's one class at a time.

There is another remarkable young Minnesotan, Javier, who came to this country at the age of 15. He enrolled in St. Paul High School and quickly learned English, and by his senior year was taking advanced placement and college courses and volunteering at the State capitol. He even started to like the weather in Minnesota.

Today, Javier is an elected leader of student government at a college in our

State. He has become a role model not just for immigrants but for all his fellow students. Javier wants to dedicate his career to improving our educational system. But because of the decision his parents made, he can't.

I get letters from students like these all the time. Many of them are just as talented, and they all ask me for the same thing: the opportunity to work hard for this country. Let me repeat that: They only ask for the opportunity to work hard for this country.

Another young woman wrote me to ask:

We do not want welfare or any money. We are not asking for immunity to the law. We are only asking for a chance to come out to the light and live like any other person.

There are a lot of reasons we should help them. The first reason is that it is the smart thing to do. Some of my colleagues have stood here and said they couldn't believe the DREAM Act might be included in the Defense authorization bill.

In fact, the Defense Department has supported the DREAM Act since the Bush administration. This bill is actually a part of our Nation's strategic defense plan—hence, the Defense authorization bill. It will incentivize and reward students to wear our Nation's uniform, and our Nation will be safer because of it.

Here is another reason this is smart. We don't want kids like Javier doing dishes. We don't want kids like Daniel taking 10 years to get their bachelor's degree. We want them studying, contributing to our economy, and serving in our military. But there is a far more important reason we should pass the DREAM Act, and that is because it is the right thing to do.

Mr. President, there is a passage in Leviticus—a book that appears in both the Old Testament and the Torah—which I think is appropriate. Leviticus is a book of laws. It is said to describe God's covenant with the Israelites. This is chapter 19, verse 33:

When the foreigner resides with you in your land, you shall not oppress the foreigner. The foreigner who resides with you shall be to you as the citizen among you; you shall love the foreigner as yourself, for you were foreigners in the land of Egypt.

Mr. President, these are children, and we need to help them. They have learned in our schools, they have played with our kids, and they want to serve our country. We just need to give them a chance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. WYDEN. Mr. President, it is clear from the debate on the Defense bill and the vote that was held a bit ago that this is a partisan time for our Nation. I come to the floor this afternoon to talk about an issue that is not at all partisan; that is, the question of doing public business in public.

When you say those words—"doing public business in public"—people are almost flabbergasted when they are

told that, regrettably, much of the important decisionmaking in the Senate is not done with that level of public accountability and public transparency. That is because of what are known as secret holds where one Senator—just one—in a completely anonymous fashion, can block a bill or a nomination from even coming to light, from even being heard in the Senate.

For years now, there has been a bipartisan effort to change this procedure, to require that all Senators be held accountable. Senator GRASSLEY and I have been involved in this effort in a bipartisan way for over a dozen years—for a dozen years—trying every way we could. We established the principle that the Senate would do public business in public, and if a Senator wanted to object to a bill or a nomination, they would have to be publicly accountable.

For years now, the defenders of secrecy, the defenders of a system without transparency and accountability look for one dodge or another. But our bipartisan group—on the other side of the aisle, Senator GRASSLEY, of course, the champion, Senator COLLINS, Senator INHOFE, a very significant bipartisan group; over on our side of the aisle, and particularly appreciative, is Senator MCCASKILL, who has done such hard work on the principle of establishing open accountability; my colleague from the Pacific Northwest, Senator MURRAY, an influential member of the Rules Committee, want this level of public accountability. It has been a big bipartisan group, and we seek to finally change this procedure through an amendment that would have been possible under the Defense authorization bill.

It was said in the course of this discussion that a bipartisan effort to end secret holds through an amendment to the Defense authorization bill is "a corruption of the process and procedures of the Senate if ever there was one." I believe the use of secret holds and not a bipartisan effort to end them is the real corruption of the procedures of the Senate.

Secret holds cannot be found anywhere in the U.S. Constitution or anywhere in the Senate rules. We have had a considerable debate over the last few months about the Constitution, our reverence for this sacred document. Secret holds are nowhere in the Constitution and nowhere in the Senate rules. Yet in this Congress alone, they have been used to block what seems to be dozens of qualified nominees. I point out, this has gone on for years and years on both sides of the aisle. That is the point Senator GRASSLEY and I have emphasized for over a decade: that this is an area of abuse where we have seen both sides of the aisle use the secret processes to the detriment of the public interest.

The real corruption of the process, in my view, is the way secret holds have been used to block the Senate from acting on numerous nominations and

pieces of legislation without any accountability to the public. That is why I believe it ought to be possible to debate a bipartisan amendment, to do public business in public to end these secret holds.

The reason it needs to be done now is because past efforts to ban these secret procedures have been blocked from getting a vote. This has happened five times in just the past few months.

In the course of the debate as well, there was a discussion about what our bipartisan effort—to do public business in public—has to do with national security. The answer is: a great deal.

For example, earlier this year, one of our colleagues secretly placed a blanket hold on 70 nominations to critical positions in the Federal Government that were pending before the Senate. These nominations included nominees to positions in the Defense Department and the State Department. The Senator who secretly held up those 70 nominees said he was doing it to address national security concerns.

Let me repeat that. We had 70 nominees under a blanket hold being held up from even an open debate to address national security concerns.

It turned out that this particular Senator was concerned about a dispute about the Defense Department's contracting practices and an earmark for a counterterrorism center in the Senator's home State. This one example shows that secret holds have been used, and certainly the question of whether they have been abused, to hold up dozens of qualified nominees over defense and national security issues.

This is only one example. Even today, there is at least one nominee for a national security position whose nomination is secretly being held up. No one knows who has the hold or why it has been placed.

I come back to the connection, first, that changing these Senate procedures so public business is done in public is fundamental to all the operations of the Senate and certainly our accountability to the American people. But it has a direct link because of the examples I have cited this afternoon to the future of national security policy in our country.

The continued use of secret holds is an abuse of secrecy by the Senate, and there is no better time to end this undemocratic process than through an amendment to the Defense bill. With colleagues on both sides of the aisle determined, finally, to get this done, I believe we will get it done when we get an open debate.

Our democracy and our national security are weakened when secrecy is abused. I very much appreciate the opportunity this afternoon to highlight a number of key points in this discussion. First, this has absolutely nothing to do with partisanship. Second, it is absolutely key to the fundamental accountability of the Senate to the American people to end this process of secrecy and of all Senators held accountable. Finally, this has a direct

connection to matters of national security because in so many instances, these secret holds have kept appointments to key national security positions from being open to debate and scrutiny in the Senate.

At the end of the day, there are a lot of issues we face in the Senate that are hard to explain, that are complicated, and they are hard for folks to follow at home. What is not hard to explain is why it is so important to do public business in public.

At a time when the American people are certainly voicing considerable skepticism about the ways of Washington, this is a chance to show the American people that the Senate is listening to them, that we share their commitment to open government, to doing public business in public. I hope the Senate will be able to change this offensive, antidemocratic procedure that has been used way too long to keep the American people from seeing the way the Senate operates.

I look forward to our colleagues on both sides of the aisle having the debate on ending secret holds, doing public business in public. I believe that when we get that vote, we will get a resounding vote to finally close this dark chapter in the way the Senate does business and bring some sunshine to the decisionmaking process in the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. MENENDEZ. Madam President, I rise to talk about the vote we had a little while ago and the need to go to the Defense authorization bill. To me it is unconscionable that, at a time in which the Nation is at war, our Republican colleagues would vote lockstep, in uniformity, to oppose going to the Defense authorization bill—for whatever the reasons are, even though I do not find the reasons to be valid.

I think it is very clear that the majority leader said there would be a host of amendments that would be offered once we went to the bill and disposed of a few particular amendments that the majority leader was going to offer, that are in every way germane to the Defense authorization bill, more germane than the amendments that have been offered in the past on extraneous matters by those who oppose proceeding to the bill. They thought it was fitting and appropriate to offer it on the Defense authorization bill. Yet, when you have amendments that go to the very heart of how you recruit individuals for the Armed Forces and how you allow individuals to serve in the Armed Forces, that is not germane? Ridiculous.

What this is all about is an attempt once again to use the power of the minority to obstruct the process of making sure this Congress is moving forward and meeting its obligations to the American people, and in this particular case to the Nation's collective security. Because someone does not like an amendment to be offered doesn't mean they should use their power simply to obstruct the whole process of considering the Defense authorization bill. Clearly they would have the opportunity to vote against any amendment they believed was not, in their view, in line with their views or in the national interest, but certainly not to stop the process.

What is it? I looked at Senator MCCONNELL's consent offer. It is interesting. His consent offer basically said you have to do a whole bunch of amendments before you can do anything related to immigration. First of all, the DREAM Act is in total focus on recruiting in the United States. What does it say? It says young people who, by no fault of their own, no choice of their own, were brought to this country and do not have a legal status here, and are willing to fight and maybe die for their country—because this is the country they know, this is the country they believe is theirs, and they are willing to join the Armed Forces of the United States and serve with honor and distinction and risk their lives in defense of the country—if they did all of that, then a couple of years down the line they would have a shot at becoming a permanent resident of the United States, but their service to the Nation would precede that.

Even those who say on the campaign trail “we are for the DREAM Act,” even those who are cosponsors and say “no, we are for the DREAM Act,” could not cast a vote to allow us to go to the Defense authorization bill—which is much bigger than that—and then ultimately permit an up-or-down vote on several of those amendments before we got to a whole host of other amendments that Members are going to be able to offer, under the guise, under the cloak of saying, “Oh, no, we opposed it because we were not going to have our opportunity, our say,” when clearly the majority leader said there would be a whole host of amendments offered and clearly when amendments have been offered in the past under Democratic majority and Democratic rule. So the precedent there is that this particular bill has always had a wide range of amendments—the hypocrisy of saying no, you can't have an “immigration amendment” even though that amendment deals with recruiting people into the Armed Forces of this country.

The bottom line is we have had bill after bill debated in this Senate having nothing to do with immigration and the other side of the aisle has come forward with all types of amendments, immigration related, of all sorts. Whether it was a bill about jobs and

the economy, whether it was a bill about health care, it doesn't matter—motherhood and apple pie—we had immigration amendments.

Yet, when we have the opportunity to bolster the armed services of the country and those who are willing to risk their lives to defend the country, we are told, oh, no, that is inappropriate. That clearly is so transparent that I hope the Nation understands, and particularly in communities that were looking for the opportunity of the DREAM Act, to have a vote on it, it is understood.

It is pretty amazing to me when I go to Walter Reed, and I have been there in the past, or when I visited some of our troops in my travels abroad and see young men and women there who are not citizens of the United States yet. It is pretty amazing to me when I go to Walter Reed and see them with both of their legs blown off in support of the country they call their own, wearing the uniform of the United States, that people question whether they love this country and are willing to serve it. They rejoice when, after their service, they get to take an oath and become citizens of this country. These are sacrifices which the few have been called upon to make for the many who do not have to go. There is a small universe who have gone to defend this Nation compared to the large universe of all of us as Americans who get defended by the men and women in uniform—it is a small percentage of America. Yet, many of that percentage who wear the uniform and risk their lives cannot call themselves a citizen. They are permanent residents of the United States. They aspire to become citizens. But they are not able to serve the country they call home.

It is fundamentally wrong, in my mind, to simply not allow a vote. Yet not one Republican was willing to come forth and vote to proceed to a debate and to consider amendments on the Defense authorization bill simply because of an ideological view they hold as it relates to the first two amendments that would have been up in a long line of amendments. Imagine if Democrats had lockstep voted against the Defense authorization bill at a time of war—imagine.

I see the majority leader moved to change his vote in order to be in a position to reconsider. I hope we will have that opportunity. I hope there will be some enlightenment into understanding that there will be plenty of opportunities for all amendments. There will be a robust debate. There will be the opportunity for up-or-down votes on the amendments on both the DREAM Act—which, as I have said, is about giving those young people an opportunity to serve their country, either educationally and/or in the armed services of the country, and to have to do so and perform before they get any relief—and, at the same time, to let many already in the service of their country and performing valiantly and

risking their life and limb be able to do so without hiding their own person, who they are. Then we will go on to all the other amendments.

It is amazing to me that we have a lockstep vote to stop us from proceeding to this legislation. I hope all those communities and others who both care about the defense of the Nation and those who believe in the dignity of an individual who is serving their country, who believe in the opportunity to serve their country, will rise and their voices will say no more filibustering, no more obstruction, no more “no’s,” it is time to say yes to our country, it is time to say yes to our defense, it is time to say yes to those individuals willing to serve.

Many others may not be willing to serve and we respect their choices. But let’s not stop those who are willing to serve, willing to wear the uniform of the United States, willing to risk their lives, willing to defend their country. The vote that was taken sends all the wrong messages. It is, in fact, a shame.

I hope we will have an opportunity another time and that the lights of some people will be able to turn on and we will have an opportunity to make sure we move to a Defense authorization bill. As the Nation is in the midst of winding down one war and is fully engaged in another war, I hope we will have the opportunity for those who want to serve their country to be able to do so and earn their way, in the process in serving to have an opportunity to fully call America home, and for those who are serving already, gallantly, who are serving with distinction and courage and honor, not to have to hide who they are. That is what is at stake. That is why it was so important to move forward and that is why today’s vote is one that is shameful, hopefully one we can turn around.

Mr. KYL. Madam President, I had hoped we could begin consideration of the annual National Defense Authorization Act, NDAA, today but, hopefully, we will consider it as our first business when we reconvene after the election.

I filed three amendments that deserve serious consideration by the Senate, two of them dealing with the New START treaty. It is important to deal with these amendments before consideration of the treaty.

Amendments Nos. 4636 and 4638 deal with modernization of the U.S. nuclear deterrent, which is directly related to the reductions called for by the treaty; and, the Bilateral Consultative Commission, of which much has been written concerning the implications for the Senate’s prerogatives in the treaty making function. Amendment No. 4637 deals with a matter of great concern, China’s reckless disregard for the international nonproliferation regime. I will ask that the article, “NSG Makes Little Headway at Meeting” from the Arms Control Association Web site be printed in the RECORD.

Regarding amendments Nos. 4636 and 4638, I will first briefly discuss amend-

ment No. 4636 concerning START and modernization of the U.S. nuclear deterrent. In section 1251 of the fiscal year 2010 National Defense Authorization Act, the administration was required to provide a comprehensive plan for the nuclear weapons stockpile, nuclear weapons complex and delivery platforms. The report—hereinafter the 1251 Plan—was delivered to the Senate with the new START treaty on May 13, 2010.

While the 1251 Plan identified certain administration proposals to maintain and modernize our nuclear deterrent, it became quickly apparent that the plan, prepared on a tight schedule, did not provide a fully detailed picture of what is needed to modernize the U.S. nuclear deterrent and how much it will cost. Of course, additional decisions and revised budget estimates will continue to be made over the next decade of the 1251 Plan’s scope. That is why the 1251 Plan and the corresponding budget will require regular updating—a point often repeated by the Directors of the national nuclear weapons laboratories.

As Dr. George Miller, Director of Lawrence Livermore National Laboratory, testified:

It is important to note that the nature of NNSA’s work requires program flexibility because technical issues arise in the stockpile and requirements evolve. The scope of work and budgets will need to be correspondingly adjusted. Annual updates . . . could provide a mechanism to outline the program’s funding requirements and projections.

My amendment No. 4636 codifies that recommendation and resolves the issues of evolving requirements and costs by requiring the President to provide a detailed update to the 1251 Plan report annually, for the duration of the new START treaty, describing revisions or adjustments to the plan as well as progress on satisfying the requirements of section 1251. Reductions in the nuclear force posture are tied to the submission of that update. As the Secretary of Defense has stated, there are 7 years to implement the treaty reductions; thus, a 1-year notice-and-wait requirement should not cause any difficulty.

Additionally, the unbiased input of the directors of the NNSA laboratories and facilities will accompany the report as validation that adequate resources are being provided by the administration in support of sustainment and modernization activities. This is quite similar to the annual stockpile assessments as those familiar with that process will recognize.

This amendment fosters improved project management, a detailed commitment to sustaining the U.S. nuclear deterrent, and reflects strong bipartisan support for nuclear weapon complex modernization.

I appreciate the broad support expressed for modernization. As Secretary Gates stated in his October 2008 Carnegie Endowment speech:

[t]o be blunt, there is absolutely no way we can maintain a credible deterrent and reduce

the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Concerning amendment No. 4638, the purpose is equally clear: to maintain the role of the Senate in treaty making. The Bilateral Consultative Commission authority is very broad. As Jack Goldsmith and Jeremy Rabkin observed in an August 4 Washington Post op-ed piece, “New START Treaty could erode Senate’s foreign policy role”:

This treaty . . . does, however, create a Bilateral Consultative Commission with power to approve ‘additional measures as may be necessary to improve the viability and effectiveness of the treaty.’ The U.S. and Russian executive branches can implement these measures and thus amend U.S. treaty obligations—without returning to the U.S. Senate or the Russian Duma.

The time to deal with this concern is now. The Lugar Resolution of Ratification approved by the Senate Foreign Relations Committee makes a genuine effort to address concerns; I hope to work with the ranking member to further improve his Resolution. But more can and should be done in binding legislative language, such as my amendment. These provisions are essential if we are interested in protecting the Senate’s constitutional role and our missile defense and conventional prompt global strike capabilities.

As Messrs. Goldsmith and Rabkin observed:

If the administration does have a problem with them, the Senate should worry—about the commission’s power to limit missile defense, the executive’s attempt to limit the Senate’s constitutional role in the treaty process, or both.

I am pleased to have the support of Senator SESSIONS, the ranking member on the Senate Judiciary Committee and a senior member of the Senate Armed Services Committee, who has cosponsored this amendment. I ask unanimous consent that the Goldsmith-Rabkin article be printed in the RECORD in addition to the article from the Arms Control Association.

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

[From Arms Control Association]  
NSG MAKES LITTLE HEADWAY AT MEETING  
(By Daniel Horner)

The Nuclear Suppliers Group (NSG) last month concluded its annual plenary meeting with little apparent progress on two high-profile issues, the potential sale of two reactors from China to Pakistan and the adoption of more-stringent rules for sensitive nuclear exports.

The Chinese-Pakistani deal was not on the formal agenda for the meeting in Christchurch, New Zealand, but sources from participating governments said the matter was discussed.

The group’s June 25 public statement at the end of the meeting does not specifically mention the discussions, but it says that the NSG “took note of briefings on developments concerning non-NSG states. It agreed on the value of ongoing consultation and transparency.”

The planned Chinese sale is an issue for the NSG because the group’s guidelines do not



allow the sale of nuclear goods such as reactors and fuel to countries that do not accept International Atomic Energy Agency (IAEA) safeguards on all their nuclear facilities. Pakistan does not have these so-called full-scope safeguards.

When China joined the NSG in 2004, it had already built a power reactor at Pakistan's Chashma site. It claimed at the time that, under the NSG's "grandfather" provisions, it was entitled to build a second reactor, on the grounds that the second project was covered in its existing agreement with Pakistan. According to several accounts, the group agreed that the second reactor would be allowable under the grandfather provision but that subsequent power reactor sales would not.

In the weeks before the June 21–25 Christchurch meeting, the U.S. government said the sale of reactors beyond Chashma-1 and -2 would be "inconsistent with NSG guidelines and China's commitments to the NSG." (See ACT, June 2010.)

In its public statements, China has responded to questions about the deal in general terms. At a June 24 press conference, Foreign Ministry spokesman Qin Gang said, "China and Pakistan, following the principle of equality and mutual benefit, have been cooperating on nuclear energy for civilian use. Our cooperation is consistent with the two countries' respective international obligations, entirely for peaceful purpose[s] and subject to IAEA safeguard[s] and supervision."

It is not clear what additional information China provided at the Christchurch meeting. According to a European diplomat, the discussion was "not confrontational."

#### CLARIFICATION SOUGHT

In a June 30 e-mail to Arms Control Today, a U.S. Department of State official said, "We are still waiting for more information from China to clarify China's intended cooperation with Pakistan, in light of China's NSG commitments."

According to the official, "The United States has reiterated concern that the transfer of new reactors at Chasma appears to extend beyond cooperation that was 'grandfathered' when China was approved for membership in the NSG. If not covered by the grandfather clause, such cooperation would require a specific exception approved by consensus of the NSG."

In 2008 the NSG, led by the United States, granted an exemption making India eligible to receive nuclear exports from NSG members. Like Pakistan, India does not have full-scope safeguards.

The NSG, which currently has 46 members, operates by consensus. It is not a formal organization, and its export guidelines are non-binding. Before the 2008 NSG exemption, Russia made and carried out deals with India for reactors and fuel, justifying them on the basis of interpretations of the NSG guidelines that other members considered overly expansive.

#### ENRICHMENT AND REPROCESSING

A long-standing issue for the NSG has been its effort to adopt a more rigorous standard for exports relating to uranium enrichment and spent fuel reprocessing. Since 2004, the group has been discussing a new, so-called criteria-based set of guidelines for enrichment and reprocessing transfers, under which recipients of these proliferation-sensitive exports would have to meet a list of preset requirements. The list drafted by the group includes adherence to the nuclear Non-proliferation Treaty, full-scope safeguards, and an additional protocol, which gives the IAEA enhanced inspection authority. However, the NSG members have not been able to overcome certain states' objections to the

proposal. Current NSG guidelines simply call for members to exercise "restraint" with respect to enrichment and reprocessing exports.

At the end of 2008, the suppliers appeared to be close to an agreement (see ACT, December 2008), but since then they have not been able to reach consensus. According to the Christchurch public statement, "Participating Governments agreed to continue considering ways to further strengthen guidelines dealing with the transfer of enrichment and reprocessing technologies."

In a June 27 e-mail to Arms Control Today, the European diplomat said that "while progress was made there was no consensus" on the matter. Before the meeting, observers said the main objections were coming from South Africa and Turkey. The diplomat declined to identify the sources of the objections at the meeting but said, "The delegations which have had difficulties in the past continue to have problems."

Meanwhile, at their June 25–26 meeting in Muskoka, Canada, the Group of Eight (G-8) industrialized countries extended their policy to adopt on a national basis the proposed NSG guidelines on enrichment and reprocessing transfers. The leaders of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States said in their summit communiqué, "We reiterate our commitment as found in paragraph 8 of the L'Aquila Statement on Non-Proliferation."

Paragraph 8 of the L'Aquila statement, issued at the July 2009 G-8 summit in Italy, said the eight countries would implement as "national policy" for a year the draft NSG guidelines on enrichment and reprocessing and urged the NSG "to accelerate its work and swiftly reach consensus this year to allow for global implementation of a strengthened mechanism on transfers of enrichment and reprocessing facilities, equipment, and technology."

[From the Washington Post, Aug. 4, 2010]

#### NEW START TREATY COULD ERODE SENATE'S FOREIGN POLICY ROLE

(By Jack Goldsmith and Jeremy Rabkin)

Critics of the new Strategic Arms Reduction Treaty (START) warn that it may endanger the United States' capacity to go forward with missile defense. But the treaty, Senate consideration of which has been pushed back to the fall, raises another concern. Consent to it as it stands will further erode the Senate's constitutional role in American foreign policy.

This treaty does not constrain future development of missile defense (except in a few limited ways). It does, however, create a Bilateral Consultative Commission with power to approve "additional measures as may be necessary to improve the viability and effectiveness of the treaty." The U.S. and Russian executive branches can implement these measures and thus amend U.S. treaty obligations—without returning to the U.S. Senate or the Russian Duma.

Could the commission constrain missile defense? It is empowered to "resolve questions related to the applicability of provisions of the Treaty to a new kind of strategic offensive arm." The treaty's preamble recognizes "the interrelationship between strategic offensive arms and strategic defensive arms." The commission might have jurisdiction over missile defense through this interrelationship. Russia has already warned that it might withdraw from the treaty if the United States develops missile defenses. Limits on missile defense systems thus might be "necessary to improve the viability and effectiveness of the Treaty."

Supporters say the treaty allows the commission to make only changes that, in the

words of one State Department official, "do not affect substantive rights or obligations under the Treaty." This assurance provides little comfort. New START does not explain what counts as a "substantive right," and the commission, which is given very broad power to interpret the treaty, will itself decide the issue.

It is true that the amendment procedure contemplated in the new treaty is similar to one in the original START and that amendment procedures of this sort have been embedded in arms control agreements for decades. Also, the president has long exercised an independent authority to make new international agreements that implement treaties. Why should the Senate care about this issue now?

One reason is that as treaty delegations of this sort have expanded, and as more authority for making international agreements is transferred to the executive branch and international organizations, the cumulative effect of these arrangements becomes increasingly hard to square with the Senate's constitutional role in the treaty-making process and, more generally, with separation of powers.

Some courts have begun to give credence to this concern. In 2006, the federal appellate court for the District of Columbia declined to implement the "adjustments" that an international organization had made to an environmental treaty even though the political branches agreed to the adjustment process. The court noted the "significant debate over the constitutionality of assigning law-making functions to international bodies" and held that treating the treaty adjustments as law "would raise serious constitutional questions in light of the nondelegation doctrine, numerous constitutional procedural requirements for making law, and the separation of powers."

Another reason is that courts often look to the practice between the branches of government in determining constitutional limits. If the Senate continually acquiesces in delegating international lawmaking to the president and international organizations, courts are unlikely to protect senatorial power in the end. Moreover, arms control treaties such as New START rarely come before courts.

In short, only the Senate can protect its constitutional prerogatives.

One way for the Senate to do this would be to condition its consent to the treaty on an interpretive "understanding" that the commission's amendment power extend only to technical treaty matters and not to limitations on missile defense. Understandings of this sort are common in U.S. treaties. The Senate could also condition consent to the treaty on a requirement that it be notified about deliberations of this commission.

Such provisions would preserve the commission's core authority while constraining it in ways that eliminate the most serious constitutional objections. They would also lay down a marker about the Senate's role in this context.

The State Department insists that "there were no secret deals made in connection with the New START Treaty; not on missile defense or any other issue." If that is true, the administration should have no problem with minor Senate tweaks of this sort. If the administration does have a problem with them, the Senate should worry—about the commission's power to limit missile defense, the executive's attempt to limit the Senate's constitutional role in the treaty process, or both.

Mr. DODD. Madam President, I rise today to express my profound disappointment that we were unable to

proceed to the Defense authorization bill. First and foremost, this is an important bill that provides our men and women in uniform with the resources they so desperately require while they bravely fight overseas. Day in and day out they make sacrifices to keep us safe, and the fact that we were unable to proceed to a bill that provides them not only with the equipment they need, but also provides for their families, is extremely disheartening.

Not only does this bill provide necessary requirements for our armed services, but it also contains landmark legislation that would finally lead to the repeal of don't ask, don't tell. Today, my colleagues and I, had a historic opportunity to put a stop to this discriminatory policy, and the fact that the Republicans blocked the bill from being debated is discouraging. The current policy actively discourages a significant portion of our population that is willing, capable, and able from serving in our military at a time when our Nation is at war and needs our best and brightest to serve. We owe it to the gay and lesbian community to repeal this law. I am confident that today's military is ready for this change, and most importantly, it is the right thing to do.

Since 1993, when don't ask, don't tell was implemented, over 14,000 men and women have been discharged from the service at a cost of over \$600 million to the American taxpayer. These gay and lesbian service members, who are proud to serve in our military, and are often serving in critical specialties, are being denied the opportunity to fight based solely on their sexual orientation. We cannot afford to continue to discharge these brave soldiers in whom we have invested time, resources, and training. We cannot afford this policy monetarily, but most importantly, we cannot afford this policy because it negatively affects our national defense.

It has been estimated that approximately 48,000 gay and lesbians are currently serving in today's military. That means that there are 48,000 men and women who on a daily basis are being forced to lie about who they are so they can continue to serve their Nation proudly. These are patriotic Americans who are willing to put their lives on the line in defense of our country but are unable to do so openly, simply because of who they are. Gay and lesbian service members fight, and die, alongside their fellow troops. It is time we stop asking them to live a lie.

I have travelled overseas many times and have met with our troops—all kinds of men and women—first generation Americans and those with a long family history of service, members of every race and religion, and, yes, gays and lesbians. No matter what their religious background, nationality, or sexual orientation they are all unmistakably proud to be serving the United States of America. It makes no sense to me why we would deny that right to serve to any American who is brave enough to answer the call of duty.

As we forge ahead in the coming weeks, I urge my colleagues to fully repeal don't ask, don't tell. The time to do so is now; we can afford to wait no longer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. UDALL of Colorado. Madam President, like many Americans, I am frustrated with the gridlock in the Senate, and I am very concerned by our dysfunctionality, witnessed once again here today. When we were asked to lead on critical issues facing our men and women in uniform, our troops—also tied to our national security and our international leadership in the 21st century—the Senate has once again taken a pass, has once again let politics obstruct our progress.

Coloradans sent me here to lead, like they sent the Presiding Officer here from her great State of North Carolina, and to find solutions to problems however vexing. I, for one, am increasingly tired of the partisan wrangling that begets each and every issue.

This debate, like so many others we have attempted to have, was derailed by obstructionism before it even began. Now, I realize some will say they scuttled this critical Defense bill in part because the majority leader announced he expected to have a vote on the DREAM Act, which, by the way, would allow young, undocumented immigrants a chance to attend college and serve in our military. They were brought here to this country through no decision they made as very young people.

But I have to tell you, I think it was about more than just that. In my humble opinion, the issues mattered far less than the politics. There has been a concerted effort to prevent or stall debate on nearly every major bill this year, and, sadly, a bill dealing with our troops is not free from the same tactics.

There is no reason we should not have a debate on any issue, let alone a vote, and the DREAM Act is no exception. I know the Presiding Officer and I joined the Senate at the same time. We heard about how the Senate is the world's greatest deliberative body. If you do not deliberate, what does that make us?

I also know that repeal of don't ask, don't tell is a contentious subject, and it has also been used as an excuse to sink this very important bill. But, I have to tell you, I think this is an outdated, discriminatory policy that undermines the strength of our military and the basic fairness upon which our great Nation was built. At a time when

we are fighting two wars, we need every skilled servicemember we have: airmen, mechanics, translators, and all the many other specialties our military serve in.

Unlike what some on the other side of the aisle have claimed, the language in this bill repealing don't ask, don't tell respects the Pentagon's timeline and gives our military leaders flexibility to implement repeal in a way that tracks with military standards and guidelines. As Admiral Mullen testified before the Senate Armed Services Committee—the Presiding Officer remembers what a powerful day that was—he said repealing don't ask, don't tell is the "right thing to do."

Unfortunately, political debate and disagreement has prevented us from having this important discussion on how best to support our troops, plus thwarted a serious discussion about numerous pressing national security issues. I am disappointed in the partisanship, but I have to tell you, I am even more disappointed in the disservice to the men and women in uniform that today's inaction has caused.

Our American citizens, our constituents, our friends and neighbors face difficult decisions in their lives every day, but many here in Washington bristle at the notion that they face hard choices. They say taking votes on certain issues will be too difficult, that the politics are too tough, or that they cannot stomach the thought of losing. But Americans have not run away from hard decisions in the past. What about us? This place is a forum—or it should be a forum—where we can work together.

But, today, with the Senate blocking this bill, I fear our national security and our troops will suffer. Every year for nearly a half century—I think accurately put, 49 years consecutively—Congress has taken up and passed a bill that renews, in some cases reforms, and in other cases replaces our defense policies.

This Defense authorization bill, like all those that came before it—the previous 49 Defense authorization bills—is critically important. It provides funding for operations in Afghanistan and Iraq. It supports our servicemembers who keep America safe by including fair pay and benefits for our men and women in uniform.

Preventing this debate keeps us from pushing forward with this bill's provisions to enhance our military's readiness, improve our servicemembers' training, and upgrade equipment and resources to succeed in combat. We are also leaving behind provisions in the bill to strengthen our nonproliferation programs and enable the reduction of our nuclear weapons stockpile while ensuring the stockpile has continued reliability.

We are foregoing the crucial opportunity—I know the Presiding Officer has believed this is very important as well—to increase the Pentagon's use of alternative energy technologies and

fuels to improve the Department's efficiency and energy security.

The bill also includes so many important provisions for the health and resiliency—both mental and physical—of our servicemembers and their families. Specifically, it includes a provision I authored extending health insurance for military families, enabling the children of Active-Duty servicemembers and retirees to stay on their parents' plans until the age of 26—similar to what we did in the Health Care Reform Act for the civilian sector. Importantly, the bill provides improved care for our wounded servicemembers and their families.

As part of a longer term effort to treat both the physical and the unseen mental wounds of war, I have been reviewing the Army's report on Health Promotion, Risk Reduction, and Suicide Prevention, which was published earlier this summer. One passage particularly struck me:

In just six years, Soldiers experience the equivalent of a lifetime when compared to their civilian counterparts.

In other words, at the age of 24, the average soldier has moved multiple times, been deployed around the world, married and had children, seen death, had financial and relationship problems, is responsible for dozens of soldiers, and gets paid less than \$40,000 a year.

The lives of average soldiers bear no resemblance whatsoever to ours. Their sacrifices are far beyond what many of us can imagine, and we have demanded so much of them for so long. That is why I have continued to focus my efforts on how we can help our brave service men and women suffering from mental wounds when they come home. Fort Carson in Colorado has had its share of difficulties addressing the needs of our soldiers, but we are seeing real progress. I am particularly proud of what Fort Carson has been doing in the way of providing behavioral health care to soldiers not just when they get back home but also while they are still on the battlefield.

That is the essence of Fort Carson's Mobile Behavioral Health Teams, which embed credentialed behavioral health providers within a brigade combat team, both during deployment and in garrison. Language I authored in this bill encourages the Army to replicate this successful program to help facilitate early identification and treatment of behavioral health problems.

The bad news, again, is that this provision—and so many important provisions in this bill—will not be debated today. It appears election year partisanship has prevailed over the responsibility and the need to provide for our men and women in uniform as they fight two wars.

Having said that, I do remain optimistic about our future, and I am committed to working toward a new kind of politics, where we find consensus amidst disagreement. I know Ameri-

cans want their leaders to tackle challenging problems and resolve the tough issues. That is what America does. That is what Americans do. That is what we were hired to do. So in that spirit, I will continue to reach out to all my colleagues who wish to find common ground and call on others to let this debate move forward in the coming weeks so support for our troops is not held back any longer. Americans sent us here to do no less.

Madam President, I thank you for your attention. I thank you for your service on the Armed Services Committee alongside me. With that, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. REID. Mr. President, I just completed a visit with the Republican leader. There will be no more rollcall votes tonight.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, ever since an act of horrific violence on a bright blue morning 9 years ago, our Nation has been at war. At home and abroad, this war has tested our Nation, tested our military strength and our diplomatic skill, tested our resilience and our courage. Over the last few months, I fear our Nation has been in danger of failing one of these tests, a failure that would threaten our safety and the freedoms we hold so dear.

At issue is a plan to build an Islamic community center a few blocks away from the site of the attack on the World Trade Center and the larger question of whether our Nation will embrace diversity or choose a path of division. This is not just a question of doing the right thing, although it is that. It is not just a question of preserving the values that have made our Nation a beacon of freedom across the globe, although it is certainly that too. This is also a question of whether we will make our Nation safer by focusing on and extinguishing the flames of hatred that spawned the 9/11 attacks or, on the other hand, add fuel to the fire that threatens us.

There should be little doubt that religious intolerance has no place in a nation built on the idea, as Thomas Jefferson once wrote, "that our civil rights have no dependence on our religious opinions." Our history is filled with moments in which we struggle to

live up to that notion, in which Roman Catholics or Mormons or Jews or others found themselves beset by religious intolerance and wondering if the ideals set forth by our Founding Fathers would hold.

So it is in this case. American Muslims have built homes, raised families, and run successful businesses in communities across our country. They have been drawn here because of the belief, as one prominent member of Michigan's Arab-American community recently wrote, "that there is room in America for all cultural and religious backgrounds."

Well, that is the America in which they chose to build their lives. It is the America we aspire to be, that we claim to be. We should ask ourselves, if we would not object to a church or synagogue at that location in Manhattan, how can we object to a Muslim place of worship and remain true to our most fundamental principles?

Upholding the promise of our founding values should be reason enough to resist anti-Muslim sentiment. But there are equally powerful reasons that rely not on values but on simple common sense. The war that began on September 11, 2001, is not only a war against terrorists but a war to isolate those terrorists from broader Muslim society. We have seen time and time again that when we stray from our values, it is not just a moral failure but a national security failure. Our troops work every day to keep weapons out of the hands of al-Qaida and its terrorists. Yet, by indulging in intolerance, we hand al-Qaida a powerful propaganda weapon, one to use to stoke hatred of us and to recruit the terrorists who threaten our troops abroad and our citizens at home. We have already seen in Afghanistan how anger can spawn anger and hatred and can inspire hatred.

By threatening to burn holy texts or by holding an entire faith as somehow responsible for the actions of its most fanatic members, Osama bin Laden and his kind are given precisely the kind of clash of civilizations they so desperately seek to create.

I was heartened by the words of Mayor Michael Bloomberg, who said:

We would be untrue to the best part of ourselves—and who we are as New Yorkers and Americans—if we said "no" to a mosque in Lower Manhattan.

I am also encouraged by the religious leaders of many faiths across our country who have stood up and said:

We support the rights of all Americans to worship in their chosen place, through a climate of respect, dignity and peace.

I am encouraged by the words of our commander in Afghanistan, GEN David Petraeus, who powerfully pointed out that the acts of religious intolerance are "precisely the kind of action the Taliban uses" to direct hatred at our brave troops.

I am encouraged by the words of our President:

This is America and our commitment to religious freedom must be unshakeable.

I am heartened, too, by the reaction in my home State, which is home to a large, thriving, and valued community of Muslim Americans. The Grand Rapids Press has editorialized that “[a] Manhattan mosque would be a powerful statement that the terrorists did not—and cannot—win.” A columnist in the Detroit News wrote:

Ground zero would seem to be the perfect place to demonstrate that religious tolerance is why so many flocked to our shores in the first place, and remains a key block in the foundation of our freedom.

A Detroit Free Press editorial reads:

It's not just about this being a mosque, but about the religious freedom that we all hold dear, and that was such a critical part of this country's founding.

Michigan civil and religious leaders of many faiths and backgrounds have invoked our most closely held beliefs and called on the Nation to speak and act in harmony with those beliefs. The power of those beliefs represents a powerful tool against the hatred that inspired 9/11.

The founding principles of our Nation call on us to stand with voices of tolerance and reason. Those who have given their all in the defense of those principles would surely hope that we would resist the calls to hatred and violence. Our moral authority depends on that. Preservation of the freedom that defines us depends on that. Our safety depends on that. I commend those who have spoken for tolerance and diversity, who have resisted anger and intolerance, and who in doing so have upheld our most important values and have made our Nation safer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. FRANKEN. Mr. President, I ask unanimous consent to speak for up to 6 minutes as in morning business.

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

#### WORLD ALZHEIMER'S DAY

Mr. FRANKEN. Mr. President, I rise today to honor the Minnesotans and their families affected by Alzheimer's disease and recognize September 21 as World Alzheimer's Day. Today, over 94,000 Minnesotans and 5 million Americans are living with Alzheimer's disease. These are epidemic numbers, and the toll on our families and communities is devastating. Alzheimer's is the seventh leading cause of death and costs our Nation \$172 billion a year.

But today, on World Alzheimer's Day, we have reason to be hopeful. On this day, Alzheimer's is getting the attention it deserves. Take the first ever Alzheimer's Breakthrough Ride as an

example. For the last 66 days, Alzheimer's researchers from across the country biked hundreds of miles to spread awareness about Alzheimer's. Today, these researchers arrived in Washington to demand that the fight against Alzheimer's be made a national priority.

I am proud to say that among the researchers on the ride is Minnesota doctor Michael Walters of the University of Minnesota's Grossman Center for Memory Research and Care. Dr. Walters rode from Madison, WI, to Chicago, IL, to raise awareness about Alzheimer's. He is here in Washington to demand that we in Congress provide the funding needed to make real progress against this disease. And we need real progress. After decades of research, there is still no effective treatment and no way to prevent or cure Alzheimer's. That is why my colleague from Maryland, Senator MIKULSKI, has put forth a bill to make Alzheimer's research a national priority. S. 1492, the Alzheimer's Breakthrough Act, would dramatically increase funding for Alzheimer's research at the National Institutes of Health. Under this bill, the NIH would also focus on prevention and early detection of the disease—two understudied areas that could drastically improve the health of millions of Americans. That is why I am proud to have cosponsored the Alzheimer's Breakthrough Act.

The bill puts us one step closer to finding a cure and gives hope to families affected by Alzheimer's. One such family is the Shapiros of Edina, MN. In 2006, Alan Shapiro was diagnosed with Alzheimer's disease. Alan's father, uncle, and grandfather have all died of Alzheimer's, and Alan's brother Robert is currently living with the disease as well. Right now, Alan is in the midstage of his disease and needs round-the-clock supervision. His wife Carol spends her days caring for him so they can continue to live at home together. In addition to caregiving, Carol also takes care of all the things Alan used to do, such as maintaining the house. While Carol is involved with local sport groups, she struggles just to stay afloat.

Like the Shapiros, many families affected by Alzheimer's will tell you that their needs are not being met. It is not always clear where to turn for help. Sometimes a doctor can tell you about a clinical trial or a friend can offer to do the grocery shopping, but unfortunately it is never really enough. Families such as the Shapiros need help planning for the future, they need help navigating complicated insurance policies, and they need help finding high-quality, long-term care services and respite care. Fortunately for families in need of this kind of help, there is a Federal law called the Older Americans Act. The Older Americans Act provides seniors and families affected by Alzheimer's with tools to create a long-term care plan, and it can help caregivers, such as Carol Shapiro, find serv-

ices for their loved ones. For example, in Minnesota, the Older Americans Act funds the Senior Linkage Line. Families can call the line and get information about services for people with Alzheimer's available in their community.

Because of limited funding, even resources such as the Senior Linkage Line are not always well known or able to serve everyone who needs them the most. That is why it is important to take a close look at the Older Americans Act when it is up for reauthorization next year. It is critical that the Older Americans Act receive robust funding so families affected by Alzheimer's know about the resources that are available to them. It is also important that we strengthen the law to ensure that people with Alzheimer's have access to high-quality, long-term care services and that States have the resources to protect people with Alzheimer's who receive care at home.

Today, on World Alzheimer's Day, I am committed to making support for families affected by Alzheimer's a national priority. As a member of the HELP Committee and the Special Committee on Aging, I will be fighting for the needs of Minnesotans affected by Alzheimer's disease during the reauthorization of the Older Americans Act. I will be a strong supporter of Alzheimer's research so real progress can be made to stop this disease. I urge my colleagues to do the same. I ask that they take this important day to remember the families, such as the Shapiros, living in their home States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### IN PRAISE OF MICHELLE O'NEILL

Mr. KAUFMAN. Mr. President, I rise again to honor one of our Nation's great Federal employees. As my colleagues know, I have been coming to the floor since last May to deliver a series of weekly speeches recognizing Federal employees' contributions to this country in some small way. When I was appointed to the Senate, I saw this as an opportunity to draw attention to the important work performed each day by some of America's hardest workers. They work for all of us. They choose careers in public service not because they will be paid more, because they will not, or because it is an easy job, because it certainly is not; they do it for love of their country and for a sense of duty. They do it because there are inherently government tasks we as a nation expect to be performed and because every one of us deserves the most highly skilled and hardest working public servants to carry them out.

I have been honoring great Federal employees from this desk for the past 16 months. It has been one of the highlights of my time in the Senate. Now I rise to honor a great Federal employee

for the last time. I am proud to share that my honoree today is my 100th great Federal employee, a talented individual who spent two decades reducing trade barriers for American goods.

Michelle O'Neill has served as Deputy Under Secretary of Commerce for International Trade since 2005. In this role, Michelle supervises the day-to-day operations of the International Trade Administration, or ITA. The ITA has over 2,400 employees and an operating budget of over \$400 million. Its mission is to promote American exports and ensure fair access to overseas markets for our businesses.

Michelle, who holds a bachelor's degree from Sweet Briar College in Virginia and a master's degree from the Lyndon B. Johnson School of Public Affairs at the University of Texas, first came to the Department of Commerce in 1983 as an intern. Over the course of her career, she has served under 5 administrations and 11 Secretaries of Commerce. She has traveled to over 40 countries to carry out her work.

From a family with a long history of public service, Michelle knew very early that she wanted to pursue a career in government. Born on a military base, Michelle has said that "public service is part of my DNA; I have always found helping others, being part of something bigger than myself, to be very rewarding." Throughout her career at the ITA, she has done just that—helping Americans trade fairly across borders and pursue commerce, which has always been a vehicle for achieving the American dream. Michelle has consistently placed her work above her own advancement and taken risks for the sake of carrying out the ITA's core mission.

Michelle served overseas from 1995 to 1998 as the commercial attache to our mission to the Organization for Economic Cooperation and Development, OECD. Before that assignment, she worked as executive assistant to the Deputy Under Secretary for International Trade—the position Michelle now holds. In 1995, she served as a Brookings legislative fellow with the Ways and Means Subcommittee on Trade in the House of Representatives and from 1990 to 1991 was detailed to the Office of Policy Development in the White House.

One of her major achievements at the ITA has been resolving a major China market access barrier, for which she won the Department's Silver Medal. She also has been praised for her role in developing an online portal for government export assistance, called [export.gov](http://export.gov). Michelle was also awarded the William A. Jump Award for exemplary service in public administration. This June, she was honored as Outstanding Woman of the Year by the Association of Women in International Trade.

Today, Michelle is part of the ITA's leadership team. The American people are fortunate to have her talents and experience at work for them. She joins

the 99 other outstanding public servants whom I have honored weekly throughout my term. Together, they are my 100 great Federal employees—not that these are all the great employees, but I think you see a mosaic which represents all of our Federal employees.

I hope to come to the floor next week to speak about a special group of outstanding Federal employees, but this week's honoree, Michelle O'Neill, is the final individual whose story I will share in this series. I hope my colleagues in the Senate and all Americans will join me in thanking her and all those who work at the International Trade Administration for their service to our Nation. They are all truly great Federal employees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

#### MORNING BUSINESS

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

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

#### U.S. PUBLIC HEALTH SERVICE

Mr. INOUE. Mr. President, on August 5, 2010, I was presented with the flag of the United States Public Health Service by the Commissioned Officers Association, COA, of the U.S. Public Health Service, PHS, and its affiliated PHS Commissioned Officers Foundation. The Public Health Service Commissioned Corps is one of our Nation's seven uniformed services. When the COA was kind enough to present me with their Health Leader of the Year Award several weeks ago, it was noted that, while I had the flags of the five armed services displayed in my office on Capitol Hill, there was no PHS flag to complete the display.

The first thing I noticed when presented with the PHS flag was its color—a bright yellow field with dark blue crest and inscription. The PHS flag reveals the history of our Nation's Public Health Service. The Public Health Service traces its origins to 1798 with the passage of an "Act for the Relief of Sick and Disabled Seamen." The economic survival of our young country was almost totally dependent on maritime commerce and this law was aimed at protecting the health of merchant seaman, without whose labors the young nation would not long survive, much less prosper.

Medical quarantine of ships found to be carriers of disease was an essential

tool in protecting the commercial interests of the United States. The PHS flag is the same yellow color as the maritime "quebec" signal flag which is the international signal for a ship under quarantine.

Emblazoned on the yellow field of the PHS flag is a crossed "fouled" anchor and caduceus. The fouled anchor—an anchor wrapped by its chain and thus unusable—is the symbol of a ship or sailor in distress. Interestingly, the caduceus in the PHS crest is the mark of Hermes, the Greek god of commerce—later the Roman god Mercury—and consists of a staff with two entwined serpents. The caduceus, emblem of commerce, is often confused with the ancient Greek Rod of Asclepius—a staff entwined by a single serpent—which represents the healing arts.

So the crest of the Public Health Service signifies the importance of protecting the Nation's commercial interests by ensuring we have a healthy workforce. This is as critical to the United States today as it was in 1798—and we are faced in the 21st century with perhaps more threats to the health of our workforce than ever before.

Leadership in the protection of our Nation's public health originates within the Public Health Service whose origins can be traced to that 1798 law passed by Congress. And leadership within the Public Health Service is embodied by the Office of the Surgeon General and the officers of the PHS Commissioned Corps. These uniformed health professionals are essential defenders of our national security which is dependent on a healthy population—the bedrock upon which is built our commerce and our national defense.

We all owe these PHS Commissioned Corps officers our support for their often unheralded efforts in protecting and promoting the Nation's security. I am proud to honor their service by displaying the PHS flag in my personal office on Capitol Hill.

#### DEFENSE TRADE COOPERATION TREATIES

Mr. FEINGOLD. Mr. President, today, the Senate Foreign Relations Committee approved the Defense Trade Cooperation Treaties with the U.K. and Australia and their implementing legislation. These treaties would exempt these two countries—two of our most important allies—from our arms export licensing regime.

Though I am confident our allies will use these treaties as intended, I am very concerned that these treaties may make it easier for arms dealers to divert weapons to illicit purposes. The Government Accountability Office has reported that diversion of weapons from the United States, including through the U.K. and Australia, is a major source of weapons for countries of concern to the U.S., including Iran. It has also documented how arms smugglers have relied on previous licensing exemption regimes as a cover