



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

Vol. 157

WASHINGTON, WEDNESDAY, MAY 25, 2011

No. 73—Part II

House of Representatives

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—Continued

Mr. WITTMAN. Mr. Chairman, I rise in strong opposition to this amendment. As we debate detainee transfer policies today, and we try to determine the appropriate path forward, a picture stands out in my mind from a recent trip to Afghanistan. It is the face of a young marine who had just been killed by insurgents in Kandahar and whose photo was recently displayed on his unit's "Hero Wall."

As I picture his face, I am reminded that the decisions we make here today directly impact our troops serving in Afghanistan and their families, particularly when we make decisions about detainee transfers.

We know that the reengagement rate for former detainees is approximately 25 percent, but percentages are not informative in and of themselves. It helps to understand the facts supporting them.

One fact we should keep in mind that is included in that 25 percent figure is Mullah Abdullah Zakir, internment serial No. 8 who was captured in Afghanistan in 2001, sent to Gitmo and released in 2007. Zakir is one of the most feared insurgents in Afghanistan and directs the Taliban's combat operations throughout the country.

The Acting CHAIR. The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman an additional 30 seconds.

Mr. WITTMAN. It should be no surprise then that he has been targeting U.S. forces in Helmand province and has been directly linked to the deaths of at least 11 marines.

This story highlights why it is time to strengthen the detainee transfer review process, not weaken it. It is time that Congress took a leadership role in shaping how transfers are negotiated

and determining whether they are appropriate. This amendment takes away the strength to make sure that we are doing the right thing.

It is time to move forward, not backward, and I hope you join me in opposing this amendment.

Mr. SMITH of Washington. I reserve the balance of my time.

Mr. McKEON. Mr. Chairman, at this time I am happy to yield the balance of my time to my friend and colleague, the gentleman from Virginia (Mr. FORBES).

The Acting CHAIR. The gentleman is recognized for 3 minutes.

Mr. FORBES. Mr. Chairman, we stood on this floor about a year ago when the minority was the majority, and the language they want to change now is the language they approved. In fact, the then-chairman of the Armed Services Committee, Mr. Skelton, said this: "... we are in a position to accept this motion. I just wish to point out that there is no difference between the Democrats and the Republicans when it comes to fighting terrorism. I agree with the motion."

But, Mr. Chairman, what a difference a year makes because there is not just some difference; there is a huge gap now between the Democrats and the Republicans on fighting terrorism. And I have never heard so many red herrings, the red herrings of all of these people who have been tried here. Very few of them were detained under the authorization to use military force. Most of them were arrested and detained based on law enforcement, a huge difference.

They raised the questions: Can we hold them here? Sure.

They asked: Can we get a conviction? Possibly.

But the real question is why would we want to bring them here to trial. There is no prosecutor who knows what he is talking about, no investigator who is going to walk in here today and

tell you that it is easier to convict one of these detainees by bringing them to the United States and trying them in an Article III court than it is to do it in a military tribunal.

And the reason is, they ask: Who wants it? I tell you who really wants it, the ACLU. Why do they want it? Because they don't want convictions. They have already said they want all of the detainees released. And they know the moment they hit U.S. soil, they will pick up a host of constitutional rights they don't now have. They know it will be harder to get conviction, and they also know this: that one of the trials that took place in AMF, the defendant was acquitted of over 200 different counts.

When, Mr. Chairman, is someone going to stand up for the rights of the victims of terror here who asked this question: When are we going to start getting prosecutions?

My good friend from New Jersey talked about the fact oh, we want to let our prosecutors make these decisions. We want to let them go forward unfettered. What he didn't point out to you was that was happening. The prosecutors, a special prosecutor working under the current law at that time had worked for over 18 months, over 56 motions. That prosecutor would have told you he would have had guilty pleas in 6 months, and this administration not only stopped him, not only took away his rights, but did away with the entire investigation and started from zero; and they have been 2½ years and haven't prosecuted.

Mr. Chairman, the question for us today is very, very simple. We have got military tribunals. Nobody is truly questioning the constitutionality of those military tribunals. The question for us is when are we going to prosecute them. The other question is let's keep the terrorists out of the United States and let's vote against this amendment.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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Mr. SMITH of Washington. Mr. Chairman, I yield myself the balance of my time.

The gentleman from Virginia is right, it would be easier to try them under military commissions. In fact, it would be easier not to try them at all. It would be easier just to hold them forever. Why bother with the trials. Why bother with the trials: because in over 200 years of history in this country, we do have a fair justice system and that does matter.

Military generals will tell you that Guantanamo Bay has been a major, major problem for them in the field, a major recruiting tool for our enemies because it undermines our values. Having a justice system that we can depend on matters. I trust everyone on that side would agree on that, that it is not just a matter of what is easiest to hold them. If that was the case, we wouldn't have courts at all; we wouldn't have military tribunals; we wouldn't have anything. We would just hold them. So it does matter.

I will also point out that, yes, the gentleman was acquitted of a whole bunch of charges. He was also convicted and sentenced to life in our Article III courts. So the system worked in that case. We have over 200 years of history with our Article III courts; and they have worked.

By the way, the Constitution, as ruled by the court, applies in Guantanamo Bay. Habeas corpus was attached. It does apply there. They don't suddenly get constitutional rights coming here that they didn't have before.

I will agree on one point: the scare campaign from last year certainly worked. People are afraid of the notion of bringing Guantanamo Bay inmates to this country. But they shouldn't be. As has been pointed out, over 300 of them, including Ramzi Yousef, the architect of the first attack on the World Trade Centers, is held here in the United States of America safely and without incident.

We are tossing aside 200 years of constitutional and judicial history for no good reason. That is not a good idea. Let's give the President the option he needs to bring terrorists to justice within our system of values. The thing about our system of values, it works. We need to stop implying that somehow our Constitution doesn't work to protect us. It absolutely does. And it has for over 200 years. I urge support for this amendment.

The Acting CHAIR (Mr. WOODALL). The question is on the amendment offered by the gentleman from Washington (Mr. SMITH).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. SMITH of Washington. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Washington will be postponed.

AMENDMENT NO. 43 OFFERED BY MR. BUCHANAN

The Acting CHAIR. It is now in order to consider amendment No. 43 printed in House Report 112-88.

Mr. BUCHANAN. Mr. Chairman, I have an amendment at the desk made in order by the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 461, after line 24, insert the following:
SEC. 1043. TRIAL OF FOREIGN TERRORISTS.

After the date of the enactment of this Act, any foreign national, who—

(1) engages or has engaged in conduct constituting an offense relating to a terrorist attack against persons or property in the United States or against any United States Government property or personnel outside the United States; and

(2) is subject to trial for that offense by a military commission under chapter 47A of title 10, United States Code; shall be tried for that offense only by a military commission under that chapter.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Florida (Mr. BUCHANAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. BUCHANAN. Mr. Chairman, my amendment requires foreign terrorists to be prosecuted and tried in military tribunals.

The current policy, you have the ability to choose between a civilian court and a military tribunal. What my amendment does is it is easier to convict in a military tribunal. It is easier to protect sensitive, classified information. Foreign terrorists can be imprisoned indefinitely. Foreign terrorists are not allowed the same constitutional opportunities as U.S. citizens; and military tribunals have been used since George Washington.

I commend the Obama administration for changing its mind and announcing it will send Khalid Sheikh Mohammed to military tribunals. Let's guard against this so that in the future other White Houses and administrations won't change their mind. This amendment makes it clear, a consistent policy moving forward in terms of prosecuting foreign terrorists.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from Washington is recognized for 5 minutes.

Mr. SMITH of Washington. I oppose this for many of the same reasons I support the previous amendment. This is simply expanding a bad idea.

I will point out that while it is true that it was contained in last year's National Defense Authorization Act, it is something that I, and a majority of Members on this side, never supported. So last year's law is not something that we wanted to see happen. There was a lot of other things in the National Defense Authorization Act

which we did support, so we were forced to accept this not because we liked it, but because that is the way the system works occasionally.

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This would simply expand that bad idea and deny an even larger segment of people access to Article 3 courts. And it's arguable whether or not it's constitutional. Because there's a little known fact about the Constitution: It doesn't just apply to U.S. citizens; it applies to persons in the United States. So once somebody from wherever they are is in the United States, the Constitution applies to them. And simply taking them out of the justice system and putting them in what I presume would have to be the military, since they are the ones that run our military commissions, I believe would violate the Constitution in this instance, taking away the rights from a person within the United States.

But beyond all that, it's just a bad idea for the same reasons that I stated earlier. Our United States Constitution works. It convicts criminal after criminal after criminal and puts them away for a very long period of time. Let's not take it off the table.

Even the majority party, as strongly as they feel about this area, did not include this particular provision in the bill that was before the Armed Services Committee. I think there was a good reason for that. I think we should strongly oppose this amendment.

With that, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. I thank the gentleman for yielding.

Mr. Chairman, I oppose this amendment for the reasons stated, but beyond that this is particularly badly done.

This says that anyone who engages or is engaged in a terrorist attack in the United States is subject to a military commission. Well, anyone arrested in the United States for anything is subject to the Constitution of the United States. The Constitution guarantees an Article 3 trial. Even if someone is accused of terrorism, if this amendment were adopted, you would have to have a trial in an Article 3 court to determine that he was guilty of a terrorist attack before you could then transfer him to the jurisdiction of a military tribunal to try him for that, because until a court convicts him of the act of terrorism, he's simply another criminal defendant and, even under the terms of this amendment, entitled to all the protections that the Constitution gives him.

Either the amendment is read, as it seems to say, that you first have to have an Article 3 trial to determine whether he engaged in conduct constituting a terrorist attack so you could then hand him over to the military tribunal, or it doesn't say that, in which case it's clearly unconstitutional.

So this amendment is either unconstitutional or absurd because if it's unconstitutional—well, it is—but if it

isn't unconstitutional, its constitutionality can only be saved by reading it to say first you have an Article 3 court, a regular court trial, to convict him of terrorism so that you can then, instead of sentencing him, send him to a military tribunal to do it all over again.

The amendment makes no sense. I urge its defeat.

Mr. BUCHANAN. I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Chairman, I yield myself the balance of my time.

I just want to restate the points that were made. I think Mr. NADLER and I both made the arguments that need to be made. This does go outside the Constitution. It is unnecessary. And it, again, further ties the hands of the President and the Department of Justice to adequately deal with the very real threat that we face from terrorism. It would tie that process up even worse. And I wish we would defeat this amendment and give the President and the Department of Justice the authority it needs to try people appropriately, convict them, and put them away and take the terrorists off the battlefield.

I oppose this amendment. I urge the body to do so as well.

I yield back the balance of my time.

Mr. BUCHANAN. Again, I would just remind the gentleman that the Obama administration did make the change in New York in terms of Mohammed, and I just think it's the right amendment in terms of moving forward, and I urge my colleagues to support the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. BUCHANAN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BUCHANAN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida will be postponed.

AMENDMENT NO. 47 OFFERED BY MRS. MALONEY

The Acting CHAIR. It is now in order to consider amendment No. 47 printed in House Report 112-88.

Mrs. MALONEY. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 507, line 21, insert after "department" the following: "that would reveal flight patterns, tactical techniques, or tactical procedures".

The Acting CHAIR. Pursuant to House Resolution 276, the gentlewoman from New York (Mrs. MALONEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Mrs. MALONEY. This amendment is about the need to continue to make information available to the public, to keep our uniformed military safe, and ensure tax dollars are not wasted on aircraft with serious performance and maintenance issues.

It would simply narrow section 1081 of the act under consideration, and this amendment would ensure the military cannot hide subpar maintenance of military aircraft or other preventable shortcomings from disclosure under the guise of keeping important tactical information from our enemies. It ensures an adequate balance between the Defense Department's appropriate need to protect tactical information while ensuring the public can learn, for example, when the military is not putting our pilots in the best maintained aircraft in the world.

Just ask the parents of Jeffrey Smith, with whom I have spoken, one of 45 pilots who died in noncombat accidents in Harrier jets. The Los Angeles Times' reporter Kevin Sack pored through military investigative records obtained under the Freedom of Information Act to show military investigators believe a small shard of plastic clogged the fuel line of Smith's jet as it tore down the runway, leading the jet to crash at the end of the runway. The investigative series used the military's investigative records to show other problems with the Harrier jet, eventually winning a Pulitzer Prize for national reporting. Such reporting does nothing to reveal tactical or strategic advantages to our adversaries, but it could save the lives of our pilots, and it goes a long way to ensure our airmen and women are given the very best equipment to protect our Nation.

This amendment simply allows effective public oversight. And yet H.R. 1540 would allow the military to exempt or hide exactly this kind of information. The exemption to the Freedom of Information Act in section 1081 is extremely broad and would block access to information of public interest unnecessarily.

As in the tragic death of Jeffrey Smith, some of this information is of important public interest. The public also has a vital interest in understanding how well the aircraft their taxpayer dollars buy are performing. The uniformed military also benefits from public scrutiny of complicated multibillion dollar weapons systems in which they trust their lives.

This amendment is supported by many good government groups, and my amendment makes a simple but critically important clarification that the information from the military flight operations quality assurance systems that is exempted is information that would reveal flight patterns, tactical techniques, or tactical procedures. My amendment would exempt the truly sensitive information that allows reconstruction of flights that could reveal detailed flight tactics and the parameters of aircraft flight envelopes to enemies that could adapt accordingly.

It appropriately narrows the exemption to apply particular criteria to strike the right balance between safeguarding military flights and tactics and the public's right to know if the equipment is faulty, as was in the case of the Harrier jets.

I reserve the balance of my time.

Mr. FORBES. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Virginia is recognized for 5 minutes.

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Mr. FORBES. Once again the gentle lady raises a couple of very good points. We are all concerned about transparency. And as the chairman of the Subcommittee on Readiness, I can tell you that I live every day examining and being concerned that we have our fleet in a ready state to defend this country.

But, Mr. Chairman, I'm also concerned about this: We fight oftentimes to keep our adversaries from gaining all the information that they try to gain about our military. We fight to protect our computers, and sometimes we don't succeed. But also at times we just have to step back and say we just give away way too much information.

And the gentle lady is right, there is a possibility—however remote it might be—that we could find something in this data that may save a life. That is a possibility, but the far more likely scenario is that we will give away crucial information that could jeopardize our pilots, jeopardize our fleet, and also jeopardize the men and women that they fly to protect. We could jeopardize disclosed fleet readiness rates, critical parts failure rates, and other sensitive logistics and sustainment data that we just shouldn't be giving out.

So, Mr. Chairman, while I wholeheartedly agree with the gentle lady's concern about transparency and readiness, I also realize that to run the greatest military in the world there are some pieces of information, some data points, that we don't want to make available to those who may use them against us. I think this is one of those, and I hope that we will defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. MALONEY. I appreciate the gentleman's sensitivity. I certainly share his concern in protecting data points that in any way would reveal information about our aircraft and ways that people could combat our aircraft. But the gentleman represents, I know, many military families, and I'm sure you know as I do many military people who have died in aircraft that had faulty situations. For example, the Harrier aircraft that had 45 crashes because of faulty equipment, that if the public and others had known about, the military I believe would have been brought to stop the use of this and to save their lives.

So I feel that we have the same goal. I certainly want to protect information that is very critical to our flight patterns and our military; but for information that is not such as that, but faulty equipment, that should be made available. And we feel that we have that balance in this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FORBES. Mr. Chairman, could I inquire as to the time remaining.

The Acting CHAIR. The gentleman has 3½ minutes remaining.

Mr. FORBES. Once again, I appreciate the gentlelady. And she is absolutely right, I represent a lot of military families. I just got back last week from talking to a lot of men and women in Afghanistan who are serving there; and I can tell you overwhelmingly, when you talk to those families, one of the things that came out just recently as we had the whole situation with the operation that killed bin Laden, over and over and over again those families were telling me the same thing—too many people are giving too much information and saying too much, and they're not protecting the people in our family who are fighting to defend this country.

And I would agree with the gentlelady that we need to be on top of this readiness issue, but it's not just our aircraft. It's our ships and the vessels that we have there. And I can assure her that our subcommittees on the Armed Services Committee, both the chairmen and the ranking members, are doing just that to make sure those vessels are safe, to make sure that information is available when it's needed, but at the same time, Mr. Chairman, to make sure that we're not giving out fleet readiness rates to people who could use them against us, critical parts failures to people who could use them against us, and other sensitive logistics and sustainment data which her amendment does not protect.

Mr. Chairman, once again, I hope we will defeat this amendment and protect this sensitive information.

I reserve the balance of my time.

Mrs. MALONEY. May I inquire as to the time remaining.

The Acting CHAIR. The gentlewoman has 30 seconds remaining.

Mrs. MALONEY. I support this amendment. Instead of blocking access to all of this information, a more reasonable approach is to allow the DOD to perform these missions to maintain a tactical and technical advantage and to maintain effective, efficient, and safe aircraft units and aircraft tactical information without unnecessarily withholding information about the safety—in this case of aircraft—that the public and the pilots and others have a right to know. So I support this amendment, and I urge my colleagues to likewise support it.

Mr. FORBES. Mr. Chairman, I just renew my opposition to the amendment and I hope we will defeat it.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mrs. MALONEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

AMENDMENT NO. 48 OFFERED BY MR. MACK

The Acting CHAIR. It is now in order to consider amendment No. 48 printed in House Report 112-88.

Mr. MACK. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title X add the following:

SEC. __. SUNKEN MILITARY CRAFT.

Section 1408(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 113 note) is amended—

(1) in subparagraph (A), by inserting “, that was” before “on military noncommercial service”; and

(2) in subparagraph (B), by inserting a comma before “that was owned or operated”.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Florida (Mr. MACK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. MACK. Mr. Chairman, the purpose of my amendment is a mere clarification of the Sunken Military Craft Act. The fundamental objective of the Sunken Military Craft Act was to protect sunken United States military vessels, aircraft and spacecraft. This technical correction will make clear that the term “sunken military craft” will only include vessels, warships, naval auxiliaries or other vessels on military, noncommercial service at the time they were sunk.

I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from New Jersey is recognized for 5 minutes.

Mr. ANDREWS. I thank my friend for offering the amendment.

We are inclined to oppose the amendment on the following grounds: in 2005, Congress enacted the Sunken Military Craft Act and the principal purpose of that law was to preserve U.S. sovereignty and Department of Defense sovereignty over sunken vessels and abandoned aircraft and the like for strategic and economic purposes, and also to protect the remains and property of those who may have perished on those sunken vessels.

It's my understanding that this amendment draws a distinction between such vessels that were in non-commercial service versus commercial

service. And although I think I understand the justification for that distinction, here is our concern with the consequence of that.

It is our understanding there is pending litigation between the nation of Spain and a private venture over the disposition of rights to a sunken vessel that at least at one time—I suppose the time it was sunk—may have had some claim in the United States. I don't know if that is the case. Our concern is that by taking statutory action here, we may be in some way interfering with the outcome of that litigation or the process of that litigation.

I would yield to my friend, the author of the amendment, to ask if that is his intention.

Mr. MACK. The amendment is clearly to clarify that we are actually talking about military craft as it is a military craft. In other words, if it's involved in commercial activity, then it wouldn't be regarded as military craft. So it's really to make the distinction, which is why the act was put in place the first time, that it's not for commercial craft—it may at one time have been—but it is for actual military craft when they are sunk.

Mr. ANDREWS. Reclaiming my time, I think the gentleman's distinction makes sense. We have spoken to the Navy about this, and the Navy's objection is predicated upon its concern that there could be an impact on the litigation that is pending that I made reference to and possibly claims of other sovereign nations in similar situations.

So, reluctantly, we would be inclined to oppose the amendment, but obviously be willing to discuss with the gentleman as time goes forward ways that perhaps our concerns could be addressed. So for present purposes, we would be in opposition to the amendment for the reasons that I stated.

I yield back the balance of my time.

Mr. MACK. I want to thank the gentleman for expressing his reservations.

I would tell the gentleman and this body that I think it's clear that the understanding of this act is to protect military craft that has sunk; but when that military craft is no longer involved in the military but now is used for commercial activities, then it's no longer a military craft.

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So the purpose of this amendment is to clarify this distinction.

With that, Mr. Chairman, this is a good amendment. I think the intent here is just to clarify what is military versus commercial. I hope that I can get the support of the Members.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. MACK).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by

the gentleman from Florida will be postponed.

AMENDMENT NO. 49 OFFERED BY MR. LANGEVIN
The Acting CHAIR. It is now in order to consider amendment No. 49 printed in House Report 112-88.

Mr. LANGEVIN. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

Subtitle J—Executive Cyberspace Coordination

SEC. 1099C. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended by striking subchapters II and III and inserting the following:

“SUBCHAPTER II—INFORMATION SECURITY

“§ 3551. Purposes

“The purposes of this subchapter are to—

“(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

“(2) recognize the highly networked nature of the current Federal computing environment and provide effective Governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

“(3) provide for development and maintenance of minimum controls required to protect Federal information and information infrastructure;

“(4) provide a mechanism for improved oversight of Federal agency information security programs;

“(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the Nation that are designed, built, and operated by the private sector; and

“(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

“§ 3552. Definitions

“(a) SECTION 3502 DEFINITIONS.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

“(b) ADDITIONAL DEFINITIONS.—In this subchapter:

“(1) The term ‘adequate security’ means security that complies with the regulations promulgated under section 3554 and the standards promulgated under section 3558.

“(2) The term ‘incident’ means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system, information infrastructure, or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

“(3) The term ‘information infrastructure’ means the underlying framework that information systems and assets rely on in processing, storing, or transmitting information electronically.

“(4) The term ‘information security’ means protecting information and information in-

frastructure from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

“(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

“(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

“(C) availability, which means ensuring timely and reliable access to and use of information; and

“(D) authentication, which means using digital credentials to assure the identity of users and validate access of such users.

“(5) The term ‘information technology’ has the meaning given that term in section 11101 of title 40.

“(6)(A) The term ‘national security system’ means any information infrastructure (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

“(i) the function, operation, or use of which—

“(I) involves intelligence activities;

“(II) involves cryptologic activities related to national security;

“(III) involves command and control of military forces;

“(IV) involves equipment that is an integral part of a weapon or weapons system; or

“(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

“(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

“(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

“§ 3553. National Office for Cyberspace

“(a) ESTABLISHMENT.—There is established within the Executive Office of the President an office to be known as the National Office for Cyberspace.

“(b) DIRECTOR.—

“(1) IN GENERAL.—There shall be at the head of the National Office for Cyberspace a Director, who shall be appointed by the President by and with the advice and consent of the Senate. The Director of the National Office for Cyberspace shall administer all functions designated to such Director under this subchapter and collaborate to the extent practicable with the heads of appropriate agencies, the private sector, and international partners. The Office shall serve as the principal office for coordinating issues relating to cyberspace, including achieving an assured, reliable, secure, and survivable information infrastructure and related capabilities for the Federal Government, while promoting national economic interests, security, and civil liberties.

“(2) BASIC PAY.—The Director of the National Office for Cyberspace shall be paid at the rate of basic pay for level III of the Executive Schedule.

“(c) STAFF.—The Director of the National Office for Cyberspace may appoint and fix the pay of additional personnel as the Director considers appropriate.

“(d) EXPERTS AND CONSULTANTS.—The Director of the National Office for Cyberspace may procure temporary and intermittent services under section 3109(b) of title 5.

“§ 3554. Federal Cybersecurity Practice Board

“(a) ESTABLISHMENT.—Within the National Office for Cyberspace, there shall be established a board to be known as the ‘Federal Cybersecurity Practice Board’ (in this section referred to as the ‘Board’).

“(b) MEMBERS.—The Board shall be chaired by the Director of the National Office for Cyberspace and consist of not more than 10 members, with at least one representative from—

“(1) the Office of Management and Budget;

“(2) civilian agencies;

“(3) the Department of Defense;

“(4) the Federal law enforcement community;

“(5) the Federal Chief Technology Office; and

“(6) such additional military and civilian agencies as the Director considers appropriate.

“(c) RESPONSIBILITIES.—

“(1) DEVELOPMENT OF POLICIES AND PROCEDURES.—Subject to the authority, direction, and control of the Director of the National Office for Cyberspace, the Board shall be responsible for developing and periodically updating information security policies and procedures relating to the matters described in paragraph (2). In developing such policies and procedures, the Board shall require that all matters addressed in the policies and procedures are consistent, to the maximum extent practicable and in accordance with applicable law, among the civilian, military, intelligence, and law enforcement communities.

“(2) SPECIFIC MATTERS COVERED IN POLICIES AND PROCEDURES.—

“(A) MINIMUM SECURITY CONTROLS.—The Board shall be responsible for developing and periodically updating information security policies and procedures relating to minimum security controls for information technology, in order to—

“(i) provide Governmentwide protection of Government-networked computers against common attacks; and

“(ii) provide agencywide protection against threats, vulnerabilities, and other risks to the information infrastructure within individual agencies.

“(B) MEASURES OF EFFECTIVENESS.—The Board shall be responsible for developing and periodically updating information security policies and procedures relating to measurements needed to assess the effectiveness of the minimum security controls referred to in subparagraph (A). Such measurements shall include a risk scoring system to evaluate risk to information security both Governmentwide and within contractors of the Federal Government.

“(C) PRODUCTS AND SERVICES.—The Board shall be responsible for developing and periodically updating information security policies, procedures, and minimum security standards relating to criteria for products and services to be used in agency information systems and information infrastructure that will meet the minimum security controls referred to in subparagraph (A). In carrying out this subparagraph, the Board shall act in consultation with the Office of Management and Budget and the General Services Administration.

“(D) REMEDIES.—The Board shall be responsible for developing and periodically updating information security policies and procedures relating to methods for providing remedies for security deficiencies identified in agency information infrastructure.

“(3) ADDITIONAL CONSIDERATIONS.—The Board shall also consider—

“(A) opportunities to engage with the international community to set policies, principles, training, standards, or guidelines for information security;

“(B) opportunities to work with agencies and industry partners to increase information sharing and policy coordination efforts in order to reduce vulnerabilities in the national information infrastructure; and

“(C) options necessary to encourage and maintain accountability of any agency, or senior agency official, for efforts to secure the information infrastructure of such agency.

“(4) RELATIONSHIP TO OTHER STANDARDS.—The policies and procedures developed under paragraph (1) are supplemental to the standards promulgated by the Director of the National Office for Cyberspace under section 3558.

“(5) RECOMMENDATIONS FOR REGULATIONS.—The Board shall be responsible for making recommendations to the Director of the National Office for Cyberspace on regulations to carry out the policies and procedures developed by the Board under paragraph (1).

“(d) REGULATIONS.—The Director of the National Office for Cyberspace, in consultation with the Director of the Office of Management and the Administrator of General Services, shall promulgate and periodically update regulations to carry out the policies and procedures developed by the Board under subsection (c).

“(e) ANNUAL REPORT.—The Director of the National Office for Cyberspace shall provide to Congress a report containing a summary of agency progress in implementing the regulations promulgated under this section as part of the annual report to Congress required under section 3555(a)(8).

“(f) NO DISCLOSURE BY BOARD REQUIRED.—The Board is not required to disclose under section 552 of title 5 information submitted by agencies to the Board regarding threats, vulnerabilities, and risks.

“§ 3555. Authority and functions of the Director of the National Office for Cyberspace

“(a) IN GENERAL.—The Director of the National Office for Cyberspace shall oversee agency information security policies and practices, including—

“(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 3558;

“(2) requiring agencies, consistent with the standards promulgated under section 3558 and other requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(A) information collected or maintained by or on behalf of an agency; or

“(B) information infrastructure used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

“(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

“(5) reviewing at least annually, and approving or disapproving, agency information

security programs required under section 3556(b);

“(6) coordinating information security policies and procedures of the Federal Government with related information resources management policies and procedures on the security and resiliency of cyberspace;

“(7) overseeing the operation of the Federal information security incident center required under section 3559;

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of audits required by section 3557;

“(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 3558;

“(C) significant deficiencies in agency information security practices;

“(D) planned remedial action to address such deficiencies; and

“(E) a summary of, and the views of the Director of the National Office for Cyberspace on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3);

“(9) coordinating the defense of information infrastructure operated by agencies in the case of a large-scale attack on information infrastructure, as determined by the Director;

“(10) establishing a national strategy not later than 120 days after the date of the enactment of this section;

“(11) coordinating information security training for Federal employees with the Office of Personnel Management;

“(12) ensuring the adequacy of protections for privacy and civil liberties in carrying out the responsibilities of the Director under this subchapter;

“(13) making recommendations that the Director determines are necessary to ensure risk-based security of the Federal information infrastructure and information infrastructure that is owned, operated, controlled, or licensed for use by, or on behalf of, the Department of Defense, a military department, or another element of the intelligence community to—

“(A) the Director of the Office of Management and Budget;

“(B) the head of an agency; or

“(C) to Congress with regard to the reprogramming of funds;

“(14) ensuring, in consultation with the Administrator of the Office of Information and Regulatory Affairs, that the efforts of agencies relating to the development of regulations, rules, requirements, or other actions applicable to the national information infrastructure are complementary;

“(15) when directed by the President, carrying out the responsibilities for national security and emergency preparedness communications described in section 706 of the Communications Act of 1934 (47 U.S.C. 606) to ensure integration and coordination; and

“(16) as assigned by the President, other duties relating to the security and resiliency of cyberspace.

“(b) RECRUITMENT PROGRAM.—Not later than 1 year after appointment, the Director of the National Office for Cyberspace shall establish a national program to conduct competitions and challenges that instruct United States students in cybersecurity education and computer literacy.

“(c) BUDGET OVERSIGHT AND REPORTING.—

(1) The head of each agency shall submit to the Director of the National Office for Cyber-

space a budget each year for the following fiscal year relating to the protection of information infrastructure for such agency, by a date determined by the Director that is before the submission of such budget by the head of the agency to the Office of Management and Budget.

“(2) The Director shall review and offer a non-binding approval or disapproval of each agency's annual budget to each such agency before the submission of such budget by the head of the agency to the Office of Management and Budget.

“(3) If the Director offers a non-binding disapproval of an agency's budget, the Director shall transmit recommendations to the head of such agency for strengthening its proposed budget with regard to the protection of such agency's information infrastructure.

“(4) Each budget submitted by the head of an agency pursuant to paragraph (1) shall include—

“(A) a review of any threats to information technology for such agency;

“(B) a plan to secure the information infrastructure for such agency based on threats to information technology, using the National Institute of Standards and Technology guidelines and recommendations;

“(C) a review of compliance by such agency with any previous year plan described in subparagraph (B); and

“(D) a report on the development of the credentialing process to enable secure authentication of identity and authorization for access to the information infrastructure of such agency.

“(5) The Director of the National Office for Cyberspace may recommend to the President monetary penalties or incentives necessary to encourage and maintain accountability of any agency, or senior agency official, for efforts to secure the information infrastructure of such agency.

“§ 3556. Agency responsibilities

“(a) IN GENERAL.—The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information infrastructure used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) the regulations promulgated under section 3554 and the information security standards promulgated under section 3558;

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(iii) ensuring the standards implemented for information infrastructure and national security systems under the agency head are complementary and uniform, to the extent practicable; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(2) ensure that senior agency officials provide information security for the information and information infrastructure that support the operations and assets under their control, including through—

“(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption,

modification, or destruction of such information or information infrastructure;

“(B) determining the levels of information security appropriate to protect such information and information infrastructure in accordance with regulations promulgated under section 3554 and standards promulgated under section 3558, for information security classifications and related requirements;

“(C) implementing policies and procedures to cost effectively reduce risks to an acceptable level; and

“(D) continuously testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to an agency official, designated as the ‘Chief Information Security Officer’, under the authority of the agency Chief Information Officer the responsibility to oversee agency information security and the authority to ensure and enforce compliance with the requirements imposed on the agency under this subchapter, including—

“(A) overseeing the establishment and maintenance of a security operations capability on an automated and continuous basis that can—

“(i) assess the state of compliance of all networks and systems with prescribed controls issued pursuant to section 3558 and report immediately any variance therefrom and, where appropriate and with the approval of the agency Chief Information Officer, shut down systems that are found to be non-compliant;

“(ii) detect, report, respond to, contain, and mitigate incidents that impair adequate security of the information and information infrastructure, in accordance with policy provided by the Director of the National Office for Cyberspace, in consultation with the Chief Information Officers Council, and guidance from the National Institute of Standards and Technology;

“(iii) collaborate with the National Office for Cyberspace and appropriate public and private sector security operations centers to address incidents that impact the security of information and information infrastructure that extend beyond the control of the agency; and

“(iv) not later than 24 hours after discovery of any incident described under subparagraph (A)(ii), unless otherwise directed by policy of the National Office for Cyberspace, provide notice to the appropriate security operations center, the National Cyber Investigative Joint Task Force, and the Inspector General of the agency;

“(B) developing, maintaining, and overseeing an agency wide information security program as required by subsection (b);

“(C) developing, maintaining, and overseeing information security policies, procedures, and control techniques to address all applicable requirements, including those issued under sections 3555 and 3558;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained and cleared personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines;

“(5) ensure that the Chief Information Security Officer, in coordination with other senior agency officials, reports biannually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions; and

“(6) ensure that the Chief Information Security Officer possesses necessary qualifications, including education, professional certifications, training, experience, and the security clearance required to administer the functions described under this subchapter; and has information security duties as the primary duty of that official.

“(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director of the National Office for Cyberspace under section 3555(a)(5), to provide information security for the information and information infrastructure that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) continuous automated technical monitoring of information infrastructure used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency to assure conformance with regulations promulgated under section 3554 and standards promulgated under section 3558;

“(2) testing of the effectiveness of security controls that are commensurate with risk (as defined by the National Institute of Standards and Technology and the National Office for Cyberspace) for agency information infrastructure;

“(3) policies and procedures that—

“(A) mitigate and remediate, to the extent practicable, information security vulnerabilities based on the risk posed to the agency;

“(B) cost effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system and information infrastructure;

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director of the National Office for Cyberspace, and information security standards promulgated under section 3558;

“(iii) minimally acceptable system configuration requirements, as determined by the Director of the National Office for Cyberspace; and

“(iv) any other applicable requirements, including—

“(I) standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(II) the policy of the Director of the National Office for Cyberspace;

“(III) the National Institute of Standards and Technology guidance; and

“(IV) the Chief Information Officers Council recommended approaches;

“(E) develop, maintain, and oversee information security policies, procedures, and control techniques to address all applicable requirements, including those issued under sections 3555 and 3558; and

“(F) ensure the oversight and training of personnel with significant responsibilities for information security with respect to such responsibilities;

“(4) ensuring that the agency has trained and cleared personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines;

“(5) to the extent practicable, automated and continuous technical monitoring for testing, and evaluation of the effectiveness and compliance of information security policies, procedures, and practices, including—

“(A) management, operational, and technical controls of every information infrastructure identified in the inventory required under section 3505(b); and

“(B) management, operational, and technical controls relied on for an evaluation under section 3556;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) to the extent practicable, continuous automated technical monitoring for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued by the Director of the National Office for Cyberspace, including—

“(A) mitigating risks associated with such incidents before substantial damage is done;

“(B) notifying and consulting with the appropriate security operations response center; and

“(C) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspectors General;

“(ii) the National Office for Cyberspace; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information infrastructure that support the operations and assets of the agency.

“(c) AGENCY REPORTING.—Each agency shall—

“(1) submit an annual report on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b) to—

“(A) the National Office for Cyberspace;

“(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(C) the Committee on Oversight and Government Reform of the House of Representatives;

“(D) other appropriate authorization and appropriations committees of Congress; and

“(E) the Comptroller General;

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management of this subchapter;

“(C) information technology management under this chapter;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31; and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the National Office for Cyberspace, shall include as part of the performance plan required under section 1115 of title 31 a description of the resources,

including budget, staffing, and training, that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (a)(2).

“(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§ 3557. Annual independent audit

“(a) IN GENERAL.—(1) Each year each agency shall have performed an independent audit of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each audit under this section shall include—

“(A) testing of the effectiveness of the information infrastructure of the agency for automated, continuous monitoring of the state of compliance of its information infrastructure with regulations promulgated under section 3554 and standards promulgated under section 3558 in a representative subset of—

“(i) the information infrastructure used or operated by the agency; and

“(ii) the information infrastructure used, operated, or supported on behalf of the agency by a contractor of the agency, a subcontractor (at any tier) of such contractor, or any other entity;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines;

“(C) separate assessments, as appropriate, regarding information security relating to national security systems; and

“(D) a conclusion regarding whether the information security controls of the agency are effective, including an identification of any significant deficiencies in such controls.

“(3) Each audit under this section shall be performed in accordance with applicable generally accepted Government auditing standards.

“(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978 or any other law, the annual audit required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the audit.

“(c) NATIONAL SECURITY SYSTEMS.—For each agency operating or exercising control of a national security system, that portion of the audit required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) EXISTING AUDITS.—The audit required by this section may be based in whole or in part on another audit relating to programs or practices of the applicable agency.

“(e) AGENCY REPORTING.—(1) Each year, not later than such date established by the Director of the National Office for Cyber-

space, the head of each agency shall submit to the Director the results of the audit required under this section.

“(2) To the extent an audit required under this section directly relates to a national security system, the results of the audit submitted to the Director of the National Office for Cyberspace shall contain only a summary and assessment of that portion of the audit directly relating to a national security system.

“(f) PROTECTION OF INFORMATION.—Agencies and auditors shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

“(g) NATIONAL OFFICE FOR CYBERSPACE REPORTS TO CONGRESS.—(1) The Director of the National Office for Cyberspace shall summarize the results of the audits conducted under this section in the annual report to Congress required under section 3555(a)(8).

“(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Audits and any other descriptions of information infrastructure under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

“(h) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and report to Congress on—

“(1) the adequacy and effectiveness of agency information security policies and practices; and

“(2) implementation of the requirements of this subchapter.

“(i) CONTRACTOR AUDITS.—Each year each contractor that operates, uses, or supports an information system or information infrastructure on behalf of an agency and each subcontractor of such contractor—

“(1) shall conduct an audit using an independent external auditor in accordance with subsection (a), including an assessment of compliance with the applicable requirements of this subchapter; and

“(2) shall submit the results of such audit to such agency not later than such date established by the Agency.

“§ 3558. Responsibilities for Federal information systems standards

“(a) REQUIREMENT TO PRESCRIBE STANDARDS.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

“(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

“(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

“(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

“(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

“(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3552(b), shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

“(b) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce under this section, if such standards—

“(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary; and

“(2) are otherwise consistent with policies and guidelines issued under section 3555.

“(c) REQUIREMENTS REGARDING DECISIONS BY THE SECRETARY.—

“(1) DEADLINE.—The decision regarding the promulgation of any standard by the Secretary of Commerce under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(2) NOTICE AND COMMENT.—A decision by the Secretary of Commerce to significantly modify, or not promulgate, a proposed standard submitted to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), shall be made after the public is given an opportunity to comment on the Secretary's proposed decision.

“§ 3559. Federal information security incident center

“(a) IN GENERAL.—The Director of the National Office for Cyberspace shall ensure the operation of a central Federal information security incident center to—

“(1) provide timely technical assistance to operators of agency information systems and information infrastructure regarding security incidents, including guidance on detecting and handling information security incidents;

“(2) compile and analyze information about incidents that threaten information security;

“(3) inform operators of agency information systems and information infrastructure about current and potential information security threats, and vulnerabilities; and

“(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

“(b) NATIONAL SECURITY SYSTEMS.—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems,

issued in accordance with law and as directed by the President.

“(C) REVIEW AND APPROVAL.—In coordination with the Administrator for Electronic Government and Information Technology, the Director of the National Office for Cyberspace shall review and approve the policies, procedures, and guidance established in this subchapter to ensure that the incident center has the capability to effectively and efficiently detect, correlate, respond to, contain, mitigate, and remediate incidents that impair the adequate security of the information systems and information infrastructure of more than one agency. To the extent practicable, the capability shall be continuous and technically automated.

“§ 3560. National security systems

“The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

“(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

“(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

“(3) complies with the requirements of this subchapter.”.

SEC. 1099D. INFORMATION SECURITY ACQUISITION REQUIREMENTS.

Chapter 113 of title 40, United States Code, is amended by adding at the end of subchapter II the following new section:

“§ 11319. Information security acquisition requirements.

“(a) PROHIBITION.—Notwithstanding any other provision of law, beginning one year after the date of the enactment of the Executive Cyberspace Coordination Act of 2011, no agency may enter into a contract, an order under a contract, or an interagency agreement for—

“(1) the collection, use, management, storage, or dissemination of information on behalf of the agency;

“(2) the use or operation of an information system or information infrastructure on behalf of the agency; or

“(3) information technology;

unless such contract, order, or agreement includes requirements to provide effective information security that supports the operations and assets under the control of the agency, in compliance with the policies, standards, and guidance developed under subsection (b), and otherwise ensures compliance with this section.

“(b) COORDINATION OF SECURE ACQUISITION POLICIES.—

“(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Director of the National Institute of Standards and Technology, the Director of the National Office for Cyberspace, and the Administrator of General Services, shall oversee the development and implementation of policies, standards, and guidance, including through revisions to the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation, to cost effectively enhance agency information security, including—

“(A) minimum information security requirements for agency procurement of information technology products and services; and

“(B) approaches for evaluating and mitigating significant supply chain security

risks associated with products or services to be acquired by agencies.

“(2) REPORT.—Not later than two years after the date of the enactment of the Executive Cyberspace Coordination Act of 2011, the Director of the Office of Management and Budget shall submit to Congress a report describing—

“(A) actions taken to improve the information security associated with the procurement of products and services by the Federal Government; and

“(B) plans for overseeing and coordinating efforts of agencies to use best practice approaches for cost-effectively purchasing more secure products and services.

“(c) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

“(1) REQUIREMENT FOR INITIAL VULNERABILITY ASSESSMENTS.—The Director of the Office of Management and Budget shall require each agency to conduct an initial vulnerability assessment for any major system and its significant items of supply prior to the development of the system. The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

“(A) identify vulnerabilities;

“(B) define exploitation potential;

“(C) examine the system’s potential effectiveness;

“(D) determine overall vulnerability; and

“(E) make recommendations for risk reduction.

“(2) SUBSEQUENT VULNERABILITY ASSESSMENTS.—

“(A) The Director shall require a subsequent vulnerability assessment of each major system and its significant items of supply within a program if the Director determines that circumstances warrant the issuance of an additional vulnerability assessment.

“(B) Upon the request of a congressional committee, the Director may require a subsequent vulnerability assessment of a particular major system and its significant items of supply within the program.

“(C) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in subparagraphs (A) through (E) of paragraph (1).

“(3) CONGRESSIONAL OVERSIGHT.—The Director shall provide to the appropriate congressional committees a copy of each vulnerability assessment conducted under paragraph (1) or (2) not later than 10 days after the date of the completion of such assessment.

“(d) DEFINITIONS.—In this section:

“(1) ITEM OF SUPPLY.—The term ‘item of supply’—

“(A) means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the major system, including a spare part or replenishment part; and

“(B) does not include packaging or labeling associated with shipment or identification of an item.

“(2) VULNERABILITY ASSESSMENT.—The term ‘vulnerability assessment’ means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.

“(3) MAJOR SYSTEM.—The term ‘major system’ has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).”.

SEC. 1099E. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS IN TITLE 44.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the matter relating to subchapters II and III and inserting the following:

“SUBCHAPTER II—INFORMATION SECURITY

“3551. Purposes.

“3552. Definitions.

“3553. National Office for Cyberspace.

“3554. Federal Cybersecurity Practice Board.

“3555. Authority and functions of the Director of the National Office for Cyberspace.

“3556. Agency responsibilities.

“3557. Annual independent audit.

“3558. Responsibilities for Federal information systems standards.

“3559. Federal information security incident center.

“3560. National security systems.”.

(b) TABLE OF SECTIONS IN TITLE 40.—The table of sections for chapter 113 of title 40, United States Code, is amended by inserting after the item relating to section 11318 the following new item:

“Sec. 11319. Information security acquisition requirements.”.

(c) OTHER REFERENCES.—

(1) Section 1001(c)(1)(A) of the Homeland Security Act of 2002 (6 U.S.C. 511(c)(1)(A)) is amended by striking “section 3532(3)” and inserting “section 3552(b)”.

(2) Section 2222(j)(6) of title 10, United States Code, is amended by striking “section 3542(b)(2)” and inserting “section 3552(b)”.

(3) Section 2223(c)(3) of title 10, United States Code, is amended, by striking “section 3542(b)(2)” and inserting “section 3552(b)”.

(4) Section 2315 of title 10, United States Code, is amended by striking “section 3542(b)(2)” and inserting “section 3552(b)”.

(5) Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(A) in subsections (a)(2) and (e)(5), by striking “section 3532(b)(2)” and inserting “section 3552(b)”;

(B) in subsection (e)(2), by striking “section 3532(1)” and inserting “section 3552(b)”;

(C) in subsections (c)(3) and (d)(1), by striking “section 11331 of title 40” and inserting “section 3558 of title 44”.

(6) Section 8(d)(1) of the Cyber Security Research and Development Act (15 U.S.C. 7406(d)(1)) is amended by striking “section 3534(b)” and inserting “section 3556(b)”.

(d) REPEAL.—

(1) Subchapter III of chapter 113 of title 40, United States Code, is repealed.

(2) The table of sections for chapter 113 of such title is amended by striking the matter relating to subchapter III.

(e) EXECUTIVE SCHEDULE PAY RATE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: “Director of the National Office for Cyberspace.”.

(f) MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL.—Section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) the Director of the National Office for Cyberspace;”.

SEC. 1099F. OFFICE OF THE CHIEF TECHNOLOGY OFFICER.

(a) ESTABLISHMENT AND STAFF.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Executive Office of the President an Office of the Federal Chief Technology Officer (in this section referred to as the “Office”).

(B) HEAD OF THE OFFICE.—

(1) FEDERAL CHIEF TECHNOLOGY OFFICER.—The President shall appoint a Federal Chief Technology Officer (in this section referred to as the “Federal CTO”) who shall be the head of the Office.

(ii) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Federal Chief Technology Officer.”.

(2) STAFF OF THE OFFICE.—The President may appoint additional staff members to the Office.

(b) DUTIES OF THE OFFICE.—The functions of the Federal CTO are the following:

(1) Undertake fact-gathering, analysis, and assessment of the Federal Government’s information technology infrastructures, information technology strategy, and use of information technology, and provide advice on such matters to the President, heads of Federal departments and agencies, and government chief information officers and chief technology officers.

(2) Lead an interagency effort, working with the chief technology and chief information officers of each of the Federal departments and agencies, to develop and implement a planning process to ensure that they use best-in-class technologies, share best practices, and improve the use of technology in support of Federal Government requirements.

(3) Advise the President on information technology considerations with regard to Federal budgets and with regard to general coordination of the research and development programs of the Federal Government for information technology-related matters.

(4) Promote technological innovation in the Federal Government, and encourage and oversee the adoption of robust cross-governmental architectures and standards-based information technologies, in support of effective operational and management policies, practices, and services across Federal departments and agencies and with the public and external entities.

(5) Establish cooperative public-private sector partnership initiatives to achieve knowledge of technologies available in the marketplace that can be used for improving governmental operations and information technology research and development activities.

(6) Gather timely and authoritative information concerning significant developments and trends in information technology, and in national priorities, both current and prospective, and analyze and interpret the information for the purpose of determining whether the developments and trends are likely to affect achievement of the priority goals of the Federal Government.

(7) Develop, review, revise, and recommend criteria for determining information technology activities warranting Federal support, and recommend Federal policies designed to advance the development and maintenance of effective and efficient information technology capabilities, including human resources, at all levels of government, academia, and industry, and the effective application of the capabilities to national needs.

(8) Any other functions and activities that the President may assign to the Federal CTO.

(c) POLICY PLANNING; ANALYSIS AND ADVICE.—The Office shall serve as a source of analysis and advice for the President and heads of Federal departments and agencies with respect to major policies, plans, and programs of the Federal Government in ac-

cordance with the functions described in subsection (b).

(d) COORDINATION OF THE OFFICE WITH OTHER ENTITIES.—

(1) FEDERAL CTO ON DOMESTIC POLICY COUNCIL.—The Federal CTO shall be a member of the Domestic Policy Council.

(2) FEDERAL CTO ON CYBER SECURITY PRACTICE BOARD.—The Federal CTO shall be a member of the Federal Cybersecurity Practice Board.

(3) OBTAIN INFORMATION FROM AGENCIES.—The Office may secure, directly from any department or agency of the United States, information necessary to enable the Federal CTO to carry out this section. On request of the Federal CTO, the head of the department or agency shall furnish the information to the Office, subject to any applicable limitations of Federal law.

(4) STAFF OF FEDERAL AGENCIES.—On request of the Federal CTO, to assist the Office in carrying out the duties of the Office, the head of any Federal department or agency may detail personnel, services, or facilities of the department or agency to the Office.

(e) ANNUAL REPORT.—

(1) PUBLICATION AND CONTENTS.—The Federal CTO shall publish, in the Federal Register and on a public Internet website of the Federal CTO, an annual report that includes the following:

(A) Information on programs to promote the development of technological innovations.

(B) Recommendations for the adoption of policies to encourage the generation of technological innovations.

(C) Information on the activities and accomplishments of the Office in the year covered by the report.

(2) SUBMISSION.—The Federal CTO shall submit each report under paragraph (1) to—

(A) the President;

(B) the Committee on Oversight and Government Reform of the House of Representatives;

(C) the Committee on Science and Technology of the House of Representatives; and

(D) the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 1099G. AUTHORITY OF SECRETARY.

(a) IN GENERAL.—The Secretary shall have primary authority, in consultation with the Director of the National Office for Cyberspace and the Federal Cyberspace Practice Board, in the executive branch of the Federal Government in creation, verification, and enforcement of measures with respect to the protection of critical information infrastructure, including promulgating risk-informed information security practices and standards applicable to critical information infrastructures that are not owned by or under the direct control of the Federal Government. The Secretary should consult with appropriate private sector entities, including private owners and operators of the affected infrastructure, to carry out this section.

(b) OTHER FEDERAL AGENCIES.—In establishing measures with respect to the protection of critical information infrastructure the Secretary shall—

(1) consult with the Secretary of Commerce, the Secretary of Defense, the National Institute of Standards and Technology, and other sector specific Federal regulatory agencies in exercising the authority referred to in subsection (a); and

(2) coordinate, through the Executive Office of the President, with sector specific Federal regulatory agencies, including the Federal Energy Regulatory Commission, in establishing enforcement mechanisms under the authority referred to in subsection (a).

(c) AUDITING AUTHORITY.—The Secretary may—

(1) conduct such audits as are necessary to ensure that appropriate measures are taken to secure critical information infrastructure;

(2) issue such subpoenas as are necessary to determine compliance with Federal regulatory requirements for securing critical information infrastructure; and

(3) authorize sector specific Federal regulatory agencies to undertake such audits.

(d) DEFINITIONS.—In this section:

(1) CRITICAL INFORMATION INFRASTRUCTURE.—The term “critical information infrastructure” means the electronic information and communications systems, software, and assets that control, protect, process, transmit, receive, program, or store information in any form, including data, voice, and video, relied upon by critical infrastructure, industrial control systems such as supervisory control and data acquisition systems, and programmable logic controllers. This shall also include such systems of the Federal Government.

(2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

SEC. 1099H. EFFECTIVE DATE.

(a) IN GENERAL.—Unless otherwise specified in this section, this subtitle (including the amendments made by this subtitle) shall take effect 30 days after the date of enactment of this Act.

(b) NATIONAL OFFICE FOR CYBERSPACE.—Section 3553 of title 44, United States Code, as added by section 1099C of this subtitle, shall take effect 180 days after the date of enactment of this Act.

(c) FEDERAL CYBERSECURITY PRACTICE BOARD.—Section 3554 of title 44, United States Code, as added by section 1099C of this subtitle, shall take effect one year after the date of enactment of this Act.

SEC. 1099I. FUNDING OFFSETTING REDUCTION.

Notwithstanding the amounts set forth in the funding tables in division D, the amount authorized to be appropriated in section 4301 for Operations and Maintenance, as specified in the corresponding funding table in division D, is hereby reduced by \$1,500,000,000.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Rhode Island (Mr. LANGEVIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island.

Mr. LANGEVIN. I rise today to urge my colleagues to join me in support of my amendment to help secure and protect our Nation from cyber attacks. My amendment would basically coordinate Federal information security policy by creating a National Office for Cyberspace, update our Federal information security management practices, and establish measures for the protection of critical infrastructure from cyber attacks.

Mr. Chairman, this amendment passed the House of Representatives last year without objection.

In the intervening year, the threats that we face in cyberspace have clearly multiplied. Three months ago, the director of the CIA told the Congress that the next Pearl Harbor could very well be a cyber attack. Shortly after, the Los Angeles Times reported on a computer hacker who, in a test of a southern California water system, took control of the equipment that added chemicals to the water. The article stated, “with a few mouse clicks, he could have rendered the water undrinkable for millions of homes.”

Mr. Chairman, my amendment would secure our government-owned IT networks against massive data breaches and attacks by implementing recommendations of the CSIS Commission on Cybersecurity, which I cochaired last year's committee work on Oversight and Government Reform and several recent White House proposals.

Mr. Chairman, my amendment focuses on coordination of efforts to secure our Federal networks, develop smarter cyber policies, and protect critical infrastructure like the power grid. It also establishes a Senate-confirmed National Cyberspace Office in the Executive Office of the President.

This amendment was included in the House-passed fiscal year 2011 National Defense Authorization Act and helped spark renewed action in Congress on this critical issue. Now, with so much underway in the executive branch and in the other Chamber, I believe it is critical for the House to once again take a stand on this issue and make the investments necessary to protect our networks in cyberspace.

I would note here that my offset is based on previous estimates of the cost of these provisions, which I firmly believe will actually be lowered once it is rescinded. However, even this cost is dwarfed by the tremendous cost of inaction, which, if a successful cyber attack were carried out on critical infrastructure, could result in hundreds of billions of dollars in losses.

Last year alone, researchers recorded 662 breaches at large companies or Federal agencies that left 16.2 million records exposed. Now, this data enabled cyber criminals to prey on citizens and companies with some estimates putting the cost of cyber threats to our economy at \$8 billion annually.

But these threats don't just come from criminals. It's believed that there are approximately 1.8 billion attacks on our government servers every month. And the cyber incidents have targeted some of the most sensitive national security data, potentially allowing a foreign intelligence agency to gain a "digital beachhead" on our classified and unclassified networks. A larger investment in the security of these networks, which has already been initiated at the direction of the White House, will yield huge efficiencies for our IT systems in the long run while protecting information critical to our security.

Traditionally, no matter how fractious the debate in Washington becomes, Mr. Chairman, we have put aside partisanship when it comes to protecting the American people.

Mr. Chairman, cyber attacks pose a clear and present danger to the national security of the United States, and this legislation takes significant steps toward stopping these threats.

I urge your support of this amendment to keep our Nation safe from cyber attacks.

With that, I reserve the balance of my time.

Mr. THORNBERRY. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. THORNBERRY. I thank the Chair.

Mr. Chairman, I oppose the amendment because I believe that this is the wrong bill and it's the wrong time to consider it.

But I should say that there is no one in this House who has more respect from both sides of the aisle on cyber issues than the gentleman from Rhode Island. He and I, I know, started working together on cyber issues as far back as 2003. We continue to work together in leading the Emerging Threats Subcommittee, as well as both of us being members of the Intelligence Committee. But the gentleman from Rhode Island has clearly been one of the country's leaders on cyber, as he mentioned, cochairing the CSIS Commission on Cyber, which was a very important contribution to the proposals and the urgency with which this issue must be dealt.

And so I would say that he and I are in total agreement on the importance of this issue and the necessity of this country and this government and this Congress taking action on cyber. I would say he and I are largely in agreement on the things that should be done.

But having said that, I must remind everyone that just a few days ago the White House sent to Congress a substantial list of proposals on what it believes should be done on cybersecurity. I think the thing that makes the most sense is for us to take a little time and look at what the White House proposed, look at what the gentleman from Rhode Island has proposed, and I think there are some other suggestions out there that need to be considered and need to be in the mix.

It is certainly true that some sort of organizational reform may be needed here. But if so, it extends far beyond the Department of Defense, and that is the subject of this bill, which is one of the reasons I believe that this is an inappropriate place to take up the wide-ranging proposals that the gentleman from Rhode Island has put before us today.

As a matter of fact, other than the FISMA language, which I think there is widespread agreement needs to be updated, other than that, most of this other language that the gentleman has proposed is outside the Department of Defense and, therefore, I would suggest is not appropriate for this bill.

The other thing I've got to mention is that the gentleman's amendment does come at a cost and the offset of the amendment is to reduce the O&M funds from the Department of Defense by \$1.5 billion. So, in effect, we are making the Department of Defense be the bill payer for the rest of the government to get its act together. And I think given our serious financial con-

straints in defense, given the appropriate equities involved, that that would be a mistake.

But I want to be clear that the gentleman from Rhode Island has been a, if not the, leader in the House on putting forward important proposals to improve our cybersecurity. I think his proposals definitely need to be seriously considered. But in this bill, it is inappropriate. And at this time, I also believe it would be premature.

With that, I reserve the balance of my time.

Mr. LANGEVIN. First of all, I want to thank the gentleman from Texas for his kind comments and supportive comments of the work I've done on cybersecurity. And likewise, I want to acknowledge his leadership and the cooperation that we've had on this issue and many others both on the Armed Services Committee and the House Intelligence Committee. I clearly respect the work the gentleman has done, his passion and hard work on protecting the Nation on cyber, and I look forward to our continued work together.

□ 2040

I would, of course, just respectfully disagree that we should hold off and actually take steps to act on this critical issue now. I have worked on, as the gentleman has noted, and have studied this issue for quite some time. I know that this is a moving target, moving faster than what we are prepared for right now in terms of how we are organized and how we are defending ourselves. We are too vulnerable. Our enemies are too aggressive and too far ahead. We need to get better organized and have a more effective response. This amendment would clearly get us further down the road in terms of where we need to be in terms of protecting ourselves.

With that, I would urge my colleagues to support it, and I yield back the balance of my time.

Mr. THORNBERRY. Mr. Chairman, I would just say that there are provisions in this bill related to cybersecurity. It is not as if we are doing nothing. Yet, as I noted in the comments I made in the general debate portion of this bill, there is much work ahead. I have no doubt the gentleman from Rhode Island, as well as the other Members interested in cyber, will be participating in that.

As I mentioned at the beginning, however, I believe this is not the proper bill nor the proper time to take up this very comprehensive, 55-page thoughtful amendment that the gentleman has offered.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Rhode Island (Mr. LANGEVIN).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. LANGEVIN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Rhode Island will be postponed.

AMENDMENT NO. 50 OFFERED BY MR. AMASH

The Acting CHAIR. It is now in order to consider amendment No. 50 printed in House Report 112–88.

Mr. AMASH. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike section 1034 (page 440, line 16 through page 441, line 21).

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Michigan (Mr. AMASH) and a Member opposed each will control 5 minutes.

Mr. McKEON. Mr. Chairman, I ask unanimous consent that the debate time for consideration of amendment No. 50 be expanded by 10 minutes and that such time shall be equally divided and controlled by the gentleman from Michigan and myself.

The Acting CHAIR. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. AMASH. Mr. Chair, my amendment is simple. It deletes section 1034, the new Authorization for Use of Military Force.

Section 1034 contains, perhaps, the broadest authorization for use of military force Congress has ever considered. In doing so, it essentially delegates nearly all of Congress' constitutional war powers to the President. It expands Congress' use of force to include "associated forces," a group the bill does not define. Under section 1034, associated forces don't need to be connected to 9/11. Associated forces don't need to have fought against the United States, and associated forces may even include American citizens.

There is no geographical limit to the authorization. Force may be used worldwide at the President's discretion. Please join me in opposing this broad, new AUMF. Please support amendment No. 50.

I reserve the balance of my time.

Mr. McKEON. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 10 minutes.

Mr. McKEON. Mr. Chairman, section 1034 of the National Defense Authorization Act would affirm the 2001 Authorization for Use of Military Force and the ability to go after terrorists who are part of or substantially supporting al Qaeda, the Taliban or associated forces.

I want to be very clear. This section does not alter the way the war on terror is currently being fought. Our members and staff have spent many weeks and months discussing the proposed text of section 1034 with Ranking Member SMITH, his staff, outside ex-

perts, and legal scholars. In the end, we decided to use the same interpretation used by the Obama administration so as not to create any confusion or any doubt as to the legal authorities our military is currently operating under.

That is my priority first and always—to ensure our troops have Congress' express affirmation that they are fighting the war and risking their lives in our defense on solid legal ground.

While courts have accepted the administration's position, this could change any day. I am not willing to take that chance when it comes to something as critical as defending the United States against terrorism. As former CIA Director Michael Hayden said in a letter to me this week, section 1034 "will send a powerful statement to those on whom we depend for our defense. Press on with our support. It also sends a powerful message to our adversaries in this conflict. The American people remain united in their resolve to see this through to success." I stand in strong opposition to this amendment.

I reserve the balance of my time.

Mr. AMASH. I yield 1½ minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise in strong support of this amendment, which strikes the dangerous, far-reaching section 1034 of this Defense bill.

I thank my colleague Mr. AMASH for his leadership and for working with all of us in a bipartisan fashion on this effort.

On September 14, 2011, which was 3 days after the horrific events of 9/11, the Authorization of Use of Force was brought to the floor. I voted against this because it was overly broad, and it amounted to a blank check to wage war at any time, anywhere and at any place.

It was the most difficult vote that I had cast because I was the only one to vote against this resolution, and I will always remember that sad evening when we returned from the National Cathedral memorial services for the victims and the families of 9/11. The entire country was angry and in mourning for the senseless loss of life and injuries resulting from such a brutal terrorist attack. There was very little debate on this resolution then, which took us to what has become the longest war in American history.

So let's be clear. Section 1034 goes even beyond that original authorization. It amounts to a declaration of war—without end, anywhere in the world, regardless of whether there is a danger to the United States. If the original authorization were a blank check, section 1034 would amount to an entire checkbook of blank checks.

This sweeping provision is dangerous. It should not be included in such a massive bill with, once again, little or no debate. It should be removed. I urge every Member of the House to consider carefully the ramifications of destroying the balance of powers that exist to

protect this democracy and our Nation. So I urge an aye vote on this amendment.

I want to thank Mr. AMASH, once again, for trying to strike this so that we can move in the right direction to really begin to end the longest war in American history.

Mr. McKEON. Mr. Chairman, I am happy to yield at this time 2 minutes to my friend and colleague, the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I rise in opposition to this amendment.

I have just five questions. I understand we've got people on both sides of this issue, and I respect them; but if we ask the five questions, I think we'd vote against this amendment.

The first one is this: Do we need to use military force against al Qaeda, the Taliban and the people who are supporting them, or don't we?

There are some in here, as they just talked about, who didn't support using military force at the beginning, and they don't support it now. I respect them. I just think we're not going to defeat these forces through our words or by ignoring them. I think the answer is clear. We need to use all the force that is necessary and appropriate to defeat them. This legislation does that.

Second: Should Congress write the language to authorize that or leave it solely to the executive and judicial branches? I think we ought to do it.

Third: Is this the right language? It is the exact same language that the executive has put forward and that the judiciary has put forward. We are marrying them.

Fourth: Does it go too far? It doesn't go too far. With all the red herrings that are there, if you go back and read the language, it clearly says it does not supersede or change the War Powers Act. The War Powers Act was violated then, and it is violated now with this language.

The final question, Mr. Chairman, is simple: Should we adopt this amendment? The answer is just as simple: not if we want to do everything necessary to defend and protect the United States of America against terrorist attacks.

□ 2050

Mr. AMASH. Recognizing that this new AUMF goes beyond the original AUMF, at this time I yield 1½ minutes to the distinguished gentleman from North Carolina (Mr. JONES).

(Mr. JONES asked and was given permission to revise and extend his remarks.)

Mr. JONES. Mr. Chairman, I rise today in support of striking section 1034.

I want to thank the gentleman from Michigan for this time. I was so concerned about this provision that I contacted a professor that I know very well, Jules Lobel, a noted constitutional professor at the University of Pittsburgh. And at my request, he has examined this provision and has provided me the following analysis. Again,

I cannot give all the analysis because of limited time, but I want to read this point to you:

“Section 1034 authorization for the President to use force against any group or individual that he determines is associated with al Qaeda or the Taliban is overbroad and could potentially permit a President to expansively use force against terrorist groups around the world. Under international law, you cannot kill someone anywhere in the world simply because of their association with an entity against which you are at war, although under certain circumstances, you can detain them, if captured. This authorization is too vague and expansive.”

I hope that my colleagues on both sides of the aisle will look at this very carefully and join us in trying to strike this provision. Again, I thank the gentleman from Michigan for this time.

Section 1034 is mixing up two different things—detention authority and the authorization to use force—and could therefore authorize something which the Administration has not yet claimed the power to do. The Administration’s March 13 filing in court recognized this distinction, and explicitly limited that filing to its authority to detain people at Guantanamo:

“This position is limited to the authority upon which the Government is relying to detain the persons now being held at Guantanamo Bay. It is not, at this point, meant to define the contours of authority for military operations generally, or detention in other contexts.”

But the new authorization, with the Chairman’s remarks, takes a government position that was “limited” to the authority to detain persons at Guantanamo, and uses it “to define the contours of authority for military operations generally”, which has potentially expansive and unforeseen consequences in the future. Congress should not be authorizing war against all groups vaguely “associated” with Al Qaeda anywhere in the world, even if, in certain circumstances we can detain persons captured in battle who are associated with the enemy, or persons who are detained by other nations and transferred to us.

Moreover, the Administration’s detention authority over persons detained at Guantanamo is subject to habeas review by federal courts. Therefore, a person who the government claims is “associated” with the enemy in such a manner as to justify detention, can challenge the government claim in court. However, a Presidential use of force against associated forces around the world would not likely be subject to judicial review, and therefore Congress could be authorizing essentially unfettered Executive discretion in using force against unnamed and undefined people or groups worldwide, under standards that the Administration has thus far not clearly defined.

Second, even were the provision limited to detention, it would still be problematic. The Obama Administration’s claim to detention authority is more limited in some respects than Bush Administration’s was, and that some judges of the D.C. Circuit would allow. But there remain disputes over the breadth of the government’s power to detain people as enemy combatants who are captured outside of any battlefield or are detained because they are “supporting” or “associated” with the

enemy. The Supreme Court has not yet decided these issues. This bill seems to affirm the Obama Administration’s and D.C. Circuit view, and apply it to detainees more generally, although it adds vagueness because the chairman says that “this affirmation is not intended to limit or alter the President’s existing authority pursuant to the AUMF”.

In sum, my main point is that section 1034 is flawed because it is codifies a detention-specific standard to apply to the use of force more generally, including the targeting people living in other nations, with potentially expansive and unforeseen consequences in the future.

Congress should be limiting the President’s authority to engage in this limitless, undefined war—not affirming and potentially expanding it.

Mr. McKEON. Mr. Chairman, at this time I would like to insert into the RECORD a letter from former Attorney General of the United States Michael B. Mukasey. Just one short thing. He says, “Your new legislation would not confer new powers, but rather would add order and rationality to what has been an improvisational exercise overseen by judges who do not have the fact-finding.”

MAY 20, 2011.

Hon. HOWARD P. “BUCK” McKEON,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The legislation you have proposed to update and clarify the Authorization for the Use of Military Force (“AUMF”), passed in September 2001 in the wake of the attacks on the United States that occurred that month, is both timely and constructive.

Since its passage, the AUMF has not been updated to reflect the evolving nature and origin of the Islamist threat against this country. Indeed, there are organizations, including the Pakistani Taliban, that are arguably not within its reach, and although we have fought and detained thousands of enemy fighters captured not only in Afghanistan and Iraq, but also in Somalia, Yemen and Pakistan, and continue to detain hundreds, the AUMF does not even refer to detention, let alone prescribe standards for detention. As a result of this inaction, we have simply allowed policy makers and judges to improvise how we deal with the evolving terrorist threat and how we treat those we encounter on the battlefield. The increased use of remotely piloted aircraft—drones—has allowed us to strike lethally, but because dead men tell no tales and records destroyed in drone attacks cannot be exploited, we may unconsciously be defaulting toward strategies that do not allow us to act as effectively as we might if we captured terrorists instead of killing them.

Your new legislation would not confer new powers, but rather would add order and rationality to what has been an improvisational exercise overseen by judges who do not have the fact-finding resources of Congress, or the accountability that comes from being responsible for protecting the national security.

I cannot for the life of me understand the opposition to this measure that is coming from people who profess to be concerned with civil liberties and the rule of law, and yet seem to prefer an improvisational arrangement that does not make us face up to the fact that we are detaining people. If anything, such a system creates the occasion for offloading our detention responsibility to countries that will treat detainees much less

humanely than we would, or killing instead of capturing, which can hardly be said to present a humane alternative or one governed by legal principles.

I would welcome the opportunity to provide whatever help and input I can.

Yours sincerely,

MICHAEL B. MUKASEY.

I yield 1 minute to my friend and colleague, the gentleman from Florida (Mr. WEST).

Mr. WEST. Mr. Chairman, I rise in opposition to this amendment. I think as we look across this Chamber, there are very few Members that have ever served on a 21st century battlefield, a 21st century battlefield that is comprised of nonstate, nonuniform belligerents who have no respect for borders or boundaries.

All this amendment in section 1034 says is that we affirm that we are engaged in an armed conflict. It has a very narrow definition. And it also looks at the global conflagration in which we are in. And it also addresses that we should be seeking to remove these belligerents off of the battlefield.

I have had the experience in 2003 in Iraq. I have had the experience for 2½ years in Afghanistan. And if we allow an amendment such as this to go forth, it would have precluded us from going in and killing the world’s number one terrorist, Osama bin Laden. And if this amendment is allowed to pass, then we will not be able to go after al-Awlaki and al Qaeda in the Arabian Peninsula. We will not be able to go after Mullah Omar, who is the head of the Taliban. We will not be able to go after Gulbuddin Hekmatyar, who is in charge of the Haqqani Islamic terrorist network. It would not allow us to go and deny this enemy sanctuary.

I want to say this one last thing. There are two West Point cadets that are interns that are serving with me. If we do not have the courage to affirm and declare there is an enemy, how can we send them onto the battlefield?

Mr. AMASH. Recognizing that Osama bin Laden was killed under the old AUMF, not the new broader language, I yield 1½ minutes to the distinguished ranking member of the House Armed Services Committee, the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. I think the gentleman from Virginia (Mr. FORBES) raises the right questions. And definitely, we do need to go after these folks militarily. Clearly, it would also be better if Congress spoke. But where I disagree with him is on the question of whether or not this goes too far and expands that authority. And I do very strongly disagree with the arguments of Mr. WEST from Florida.

The President does have the authority. He had the authority to do the bin Laden raid, as Mr. AMASH just pointed out, within the existing branch of authority. I do want to compliment the chairman of this committee for his hard work in working on this issue. I think it would be an important thing for the Armed Services Committee, for this Congress to speak on what the authorization of use of military force

should be beyond just linking it back to 9/11.

But when you put in associated forces, and when you don't have any end date, it does confer upon the President the potential for a great deal of power over a long period of time. And it is important to point out the President right now, forget the original AUMF, the President under just the interpretation of the Constitution and laws of this country absent of that has a great deal of authority.

Let's remember President Clinton was the first person to take a shot at Osama bin Laden back in 1998, when we launched cruise missiles at a compound where we thought he was in Afghanistan. There was no AUMF at that point. The President has fairly broad authorities conferred by the Constitution and the Court's interpretation of it to prosecute that war in the way that we want it to be done. The question is whether or not this language broadens that authority to the point where we all have to be concerned about the level of power that we are turning over to the Executive. That's really the balance we're trying to strike here.

Yes, Congress should speak. But Congress should also not speak in a way that gives the executive branch too broad authority. I believe the language in the bill goes too far in that direction, and therefore I support the amendment.

Mr. MCKEON. At this time, Mr. Chairman, I would like to insert another letter into the RECORD. This is from General Michael Hayden, former CIA director. I will quote just a part. "Those whom we have charged with protecting us need clarity in both their mission and in the legal underpinning that justifies it. This act does exactly that."

24 MAY 2011.

Hon. HOWARD P. MCKEON,
House of Representatives, Rayburn HOB, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to offer my support and, frankly, my thanks for the language in the National Defense Authorization Act that reaffirms and updates the language in the 2001 Authorization for Use of Military Force.

In 2007, speaking to the representatives of our European allies, I attempted to outline for them how we at the CIA—and, indeed, how we throughout the American security community—viewed our task operationally, ethically and legally: winning a conflict against al Qaeda and its affiliates, a conflict that was global in its scope and which therefore required us to take the fight to this enemy.

Two Presidents, the Congress and the Courts have affirmed that this is indeed true, but this is a different kind of conflict, against a non-state adversary, and there are those who would cloud this question and claim that the laws at armed conflict do not apply and that we should confine our response to other (e.g., law enforcement) models. As time has passed since 9-11, these arguments have become more commonplace and frankly more confusing to those on whom we depend for our safety.

Those whom we have charged with protecting us need clarity in both their mission

and in the legal underpinning that justifies it. This Act does exactly that, in unambiguous language, adding yet another Congressional sanction to Presidential statements that a state of armed conflict exists between the United States and al Qaeda, and its affiliates. The Act also reaffirms that activities routinely incident to such conflicts—like detention of enemy combatants for the duration of the conflict—are inherently justified.

This will send a powerful statement to those on whom we depend for our defense: "Press on with our support!" it also sends a powerful message to our adversaries in this conflict: "The American people remain united in their resolve to see this through to success."

Yours Sincerely,

MICHAEL V. HAYDEN

I yield 1 minute to the gentleman from Arkansas (Mr. GRIFFIN).

Mr. GRIFFIN of Arkansas. Mr. Chairman, I rise in opposition to this amendment. The U.S. has been detaining individuals pursuant to the Authorization for Use of Military Force which was passed by Congress, signed into law. We have been detaining those individuals for almost 10 years now. The U.S. Supreme Court has accepted that the AUMF provides the authority to detain these individuals. Congress, however, has never explicitly recognized this detention authority.

In a March 13, 2009 memo, the President stated that he has the authority to detain persons who planned, authorized, committed, or aided the terrorist acts that occurred on 9/11, and persons who harbored those responsible. It also stated that the President has the authority to detain persons who were part of or substantially supported the Taliban, al Qaeda, or associated forces.

The affirmation from Congress that section 1034 provides is essential to supporting the President's own interpretation of his detention authority, and will clarify for the courts the legal authority for the detention of these individuals. Congress has been silent for nearly 10 years, silent for too long on specifying the President's authority to detain these individuals.

The Acting CHAIR. The time of the gentleman has expired.

Mr. MCKEON. I yield the gentleman an additional 30 seconds.

Mr. GRIFFIN of Arkansas. Congress has left it to the courts to make wartime policy. The military relies on the same interpretation when deciding whom it can lawfully target or detain, and the military deserves a clear and concise interpretation from Congress. It is time that we give them this clear interpretation.

I urge my colleagues to join me in opposing this amendment.

Mr. AMASH. Mr. Chairman, may I inquire as to the time remaining?

The Acting CHAIR. The gentleman from Michigan has 4½ minutes remaining.

Mr. AMASH. I yield 1 minute to the distinguished gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, we support the authority of our President to relentlessly hunt down those who attacked us on 9/11 anywhere, at any time. But we do not support the right of this or any future President to wage war anywhere, at any time, and I believe that's what the underlying bill does.

The underlying bill says that you can engage in the current armed conflict against a nation that has substantially supported al Qaeda. There is a record that suggests that Iran has substantially supported al Qaeda in Iraq. I don't think the Members of this body think that we have the power to attack Iran without further congressional action.

There is evidence that Hezbollah has supported al Qaeda and similar organizations. I don't think the Members of this body think that we have the right to attack Lebanon and Hezbollah without further action of this Congress.

We should never relent in going after those who attacked us on 9/11, but we should never ignore the constitutional prerogative of this House and the Senate to engage in the declaration of war.

□ 2100

Mr. MCKEON. I reserve the balance of my time.

Mr. AMASH. Mr. Chair, I yield 2 minutes to the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. I thank the gentleman.

Mr. Chairman, I support this amendment to delete section 1034.

Section 1034 is the equivalent of a new declaration of war, but it contains no clear objective. No longer would we be seeking out those responsible for the attacks of September 11. In fact, all references to September 11 are removed. Instead, it merely affirms that the United States is at war. But it doesn't say why. It doesn't say what we are trying to achieve. It doesn't even mention an identifiable whom, with whom we are at war.

Unlike the 2001 AUMF, it does not contain any description of harm that has occurred or that we are seeking to prevent. How will anyone be able to declare success when the objective itself is so amorphous? How will we know when we have won the war?

Section 1034 expands the targets of military action from those responsible for the September 11 attacks to all members of al Qaeda, the Taliban and "associated forces" and those who "directly support associated forces." But "associated forces" is undefined and so is "directly support."

Does it mean providing a meal to a person who later becomes a suicide bomber, even though they are not affiliated with al Qaeda or the Taliban, and you had no means of knowing that they were a suicide bomber in the future? Does the President have unfettered discretion to take this country to war against any country or any group he deems associated with the Taliban? Under this section, it would seem so.

Mr. Chairman, we must not delegate such power to the President. Indeed, such a broad unlimited delegation is probably unconstitutional. We haven't considered this section in any committee as far as I know, and yet it could profoundly change the scope and duration of our military efforts.

Mr. Chairman, we should pass this amendment, scrap this provision, and send it back to committee to start all over again if we need a redefinition of the existing AUMF.

But this amendment must pass; this section must not pass. The President must not have the total discretion to take this country to war with anybody, at any time, under any circumstances, under his sole discretion.

Mr. McKEON. Mr. Chairman, I would like to insert at this time an editorial from the Los Angeles Times into the RECORD, and I will read just a little bit of it:

"The New York Times sees the term 'associated forces' as so vague that it could include 'anyone who doesn't like America, even if they are not connected in any way with the 2001 attacks. It could even apply to domestic threats.' That is an exaggerated, if not paranoid, characterization of the language."

[From the Los Angeles Times, May 17, 2011]
A WAR AGAINST ANYONE WHO DOESN'T LIKE
THE U.S.?

(By Michael McGough)

Language in a new defense bill could authorize the military "to pursue anyone suspected of terrorism, anywhere on earth, from now to the end of time." So says a New York Times editorial, but the issue is not so-clear cut.

New language contained in a defense bill does tweak the Authorization for Use of Military Force approved by Congress after 9/11, but it does so to shore up existing policies, not to license a broader war on terror.

What's the difference between the two documents?

The AUMF, as it's called, authorized the president to "use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons."

The House Defense Authorization bill says this: "As the United States nears the 10th anniversary of the attacks on September 11, 2001, the terrorist threat has evolved as a result of intense military and diplomatic pressure from the United States and its coalition partners. However, Al Qaeda, the Taliban, and associated forces still pose a grave threat to U.S. national security. The Authorization for Use of Military Force necessarily includes the authority to address the continuing and evolving threat posed by these groups."

The New York Times sees the term "associated forces" as so vague that it could include "anyone who doesn't like America, even if they are not connected in any way with the 2001 attacks. It could even apply to domestic threats." That is an exaggerated, if not paranoid, characterization of the language which seems designed to cover groups like Al Qaeda in the Arabian Peninsula.

There is one problematic section of the authorization: language saying that the presi-

dent has the authority "to detain certain belligerents until the termination of hostilities." This language is a significant departure from the AUMF, though it comports with President Obama's view of his authority to hold "the worst of the worst" indefinitely.

The real news about the language of the defense bill is that it codifies Obama's view of what he can do.

I reserve the balance of my time.

Mr. AMASH. In closing, Mr. Chair, make no mistake: the power we were asked to give the President is beyond the power Congress gave the President in the wake of the largest terrorist attack in our history. Support amendment No. 50 and turn back this broad delegation of Congress' constitutional authority.

I yield back the balance of my time.

Mr. McKEON. May I ask how much time remains?

The Acting CHAIR. The gentleman from California has 4 minutes remaining.

Mr. McKEON. Mr. Chairman, I yield the balance of my time to my friend and colleague, the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Mr. Chairman, there have clearly been a number of wild exaggerations and mischaracterizations about the effect of section 1034. If Members have any doubt about where the truth lies, I recommend you look at editorials in The Washington Post, the L. A. Times, The Wall Street Journal, all of which support modernizing and updating the authorization for the use of military force. They clearly debunk some of the wild accusations that have been made.

Let's take it back for just a second to the basics here. The current authorization for the use of military force passed this Congress on September 14, 2001. Now, smoke was still rising from the ruins of the Twin Towers in New York. The Taliban was still the Government of Afghanistan at that time. The Madrid train bombing, the London subway bombing, Indonesia nightclub bombing had yet to occur.

But Congress believed that action should be taken giving the President the authority to go after those who perpetrated 9/11, and the AUMF authorized the President to use all necessary and appropriate force against those whom he determines authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored them.

Now it is absolutely true, the gentleman from California (Ms. LEE) voted against that. I believe she was the only one. Everybody else supported that authorization, and that was a decade ago. It has not changed since then.

In the decade since, al Qaeda has changed. As a matter of fact, we have had testimony this year from the Director of the National Counterterrorism Center that the most serious threat to our homeland actually comes from al Qaeda in the Arabian Peninsula headquartered in Yemen. They are the most serious threat now. With the

death of Osama bin Laden, al Qaeda will change more. But yet the language that passed September 14, 2001, has not changed.

One article noted that it is increasingly strained and artificial to tie everything the military is doing back to 9/11, and yet that's what the lawyers have to do now. They have to tie it all back to those attacks of September 11, 2001. Doing so depends upon the court interpretation of those lawyers' arguments. That's what our national security authority is dependent on at the moment.

I believe it's clear we have got to update the authority. The question is: How do we update it?

Now, here is one option. The gentleman said you remove all reference to 9/11. Well, we could add a list of other dates. We could say Congress gives the President the authority to go after those who aided, abetted, or committed the attacks of September 25, 2009, and the attacks of May 1, 2010—Times Square bombing, by the way, and the first one was the underwear bombing in Detroit—and the attacks of October 29, 2010. That was the attempted toner cartridge bombing attack. Most of those, by the way, we think came from AQAP.

The point is I don't think it's a very good way to legislate, to put a bunch of dates in there of the various attacks and the President is authorized to go over who did those various attacks. That's not a good way to do it.

A much better approach is to take the exact arguments this administration is using in court to justify what it's doing right now and saying, yes, we will take that language. It makes it clear. It's what we are doing now, but Congress will do it this time rather than rely on court interpretations of what they are doing.

So, somebody might ask, well, why bother if that's what they are doing now? You know, why do you mess with it? Well, number one, it's less time with the lawyers straining and stretching language to fit back to the attacks of September 11. I would say, number two, nearly everybody in this House is concerned about our relevance in authorizing the use of military force in various engagements.

Now, are we going to sit back there and stick our heads in the sand while the courts do all our work for us, or are we going to take action to reflect what's really happened?

It's time to take action now.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. AMASH).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. McKEON. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

AMENDMENT NO. 53 OFFERED BY MR. CAMPBELL

The Acting CHAIR. It is now in order to consider amendment No. 53 printed in House Report 112-88.

Mr. CAMPBELL. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 548, after line 8, add the following new section:

SEC. 1115. TERMINATION OF HUMAN, SOCIAL, AND CULTURE BEHAVIOR (HSCB) MODELING PROGRAM.

Effective as of October 1, 2011, or the date of the enactment of this Act, whichever is later, the program of the Department of Defense commonly known as the Human, Social, and Culture Behavior (HSCB) Modeling Program is terminated.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from California (Mr. CAMPBELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

□ 2110

Mr. CAMPBELL. Mr. Chairman, we have a huge deficit. Everybody knows that. We have a terribly enormous debt. Everybody knows that. None other than the Secretary of Defense and the Secretary of State have said that our national debt is, in fact, a national security issue and we need to deal with it. And we are. We are reducing spending in a number of Departments in a number of areas. We're talking about reforming entitlement programs in order to save them. And we are asking lots of Departments and lots of areas to reduce waste and duplication and to operate more efficiently and do the things they are doing with less money.

There is no reason, Mr. Chairman, that we should not look for said duplication, said waste and ask the Department of Defense to do the same so that we can attack this deficit and this debt.

This amendment would terminate the Human Social and Cultural Behavior Modeling program at the Department of Defense. Now as kind of obtuse as the name of that program sounds, I'm actually not going to criticize the value of some of the information in the program of the Defense Department. The reason I'm offering this amendment to terminate this program is because it's entirely duplicative, because these things are done elsewhere and by other people, and we don't need to spend the millions and millions of dollars that we are currently in the Department of Defense on grant programs.

There are currently university research initiatives at the Army, Navy and the Department of the Air Force that are duplicative of this general Defense Department. There are Department events, university and industry research centers which conduct university research which can and do some of

this work and are totally duplicative of what this program does.

And I'm going to read you a list of things that this program does research on. And as I read you this list, think about how universities in the normal course of their business know this stuff, research this stuff, figure this stuff out, and we don't have to have a separate program to do it. Topography, that is part of this program, small business innovation, human behavior, socioeconomics, sociocultural response studies, engineering, globalization, population research, morality and values, and the quality of government, politics and education.

Now, these are all things I'm sure the Department of Defense needs to know to do their job, but they can get this information from any number of other programs currently in the Department of Defense or from universities that are doing this research on their own. This will save millions of dollars and help with one of the greatest national security threats we have, which is our deficit and our debt.

I reserve the balance of my time.

Mr. THORNBERRY. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. THORNBERRY. I yield myself such time as I may consume.

Mr. Chairman, I certainly appreciate the gentleman from California's commitment to deficit reduction, but I'm afraid that this particular amendment is short-sighted. In Afghanistan and elsewhere, more and more of what our troops are doing is living with, working with, and cooperating with the Afghans or the native peoples wherever they happen to be. Helping those peoples to defend themselves is far better and cheaper for us than having us defend them ourselves.

But a basic tenet to make that work is to understand the culture and the social dynamics of those various populations, which are different, of course, from one place to another. It is a basic tenet of counterinsurgency that you have to understand the population you are there to protect.

This program that the gentleman wants to eliminate is a significant research program to see if modeling that sort of social dynamics will work. And I would say to the gentleman that the Defense Science Board looked at this very program earlier this year and found that it was one of the emerging technologies where investment is likely to have the highest payoff—the highest payoff.

The report went further to say, consistent to some extent with what the gentleman was saying, that there is other work being done in this area. But the Defense Science Board found there is a major shortfall in the availability and maturity of these capabilities, and these simulations do not generalize to other environments and require further investment to make them useful for the next potential conflict.

So there is work being done in this area in a civilian context, but it does not automatically translate to the military context, and that is why the Defense Science Board says that this emerging technology is one investment likely to have the highest payoff.

And so the bottom line is that we need to pursue this to reduce the danger to our troops and to make sure that their work is more effective. This is a good investment by the Defense Science Board and I believe by other studies as well.

With that, I reserve the balance of my time.

Mr. CAMPBELL. May I inquire as to how much time I have remaining.

The Acting CHAIR. The gentleman has 2 minutes remaining.

Mr. CAMPBELL. I yield myself as much time as I may consume.

Mr. Chairman, I appreciate my colleague from Texas's remarks. Again, just to reiterate, I am not challenging the value or the use to the Department of Defense of some of the information. What I am challenging is whether we need an entirely separate program. We have been talking about the Department of Education, multiple programs in that Department that do the same thing, the Department of Energy, the Department of Agriculture. All kinds of Departments have duplicative programs because we built these things up over the years.

This is one of those programs. None other than the Heritage Foundation has identified this as a program that is entirely duplicative and that this work is and can be done and is being done through other DOD programs or for private research that doesn't have to be funded by DOD. And I think everyone here knows the Heritage Foundation is not exactly a bastion of anti-defense or weak on our national security.

So my argument here is that if we don't look at this sort of thing in every Department, including in the Department of Defense, we're never going to get a handle on this deficit. There is waste in Defense too. There is duplication in Defense too. And we need to start to begin to reduce it. I think this is a small step. I would ask for Members' support.

I yield back the balance of my time.

Mr. THORNBERRY. How much time remains for me?

The Acting CHAIR. The gentleman has 2½ minutes remaining.

Mr. THORNBERRY. Mr. Chairman, I would yield myself 30 seconds simply to say I understand the gentleman's argument. I would simply say the Defense Science Board has looked at this program, and it comes to a different conclusion. They believe this program has potentially the highest payoff, that it is unique and beyond what is happening in the civilian sector or other defense Departments. And that was February 2011 when the Defense Science Board report came out.

Mr. Chairman, I would yield the remaining time to the ranking member,

the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Chairman, I just want to rise to speak on this matter. This is a critically important issue. And I worked with Mr. THORNBERRY on this when I chaired the terrorism subcommittee and he was the ranking member of the subcommittee that has since been renamed and that he now chairs.

This is not duplicative. This is an area where, frankly, we weren't spending enough time early enough in Iraq or in Afghanistan to understand the people that we were working with and to get ourselves into a better position to turn over responsibility for security and governance in Iraq and Afghanistan as quickly as possible. We didn't understand what we were getting into because we didn't have the social and cultural awareness. We need to gain greater understanding in those areas.

And one particularly important aspect of this is as you gather the information, how do you compile it in such a way that's useful. That's what this modeling program is supposed to do. You can gather all kinds of information all over the place, but if nobody knows how to actually use that information, compile it, put it together and pick out what is most important to get the lessons learned out of that, then you're not getting the true benefit of the program, which is a big part of what this does. It uses updated technology and updated software to figure out how to find the patterns that are critical to helping us do our job.

So I would simply agree with the gentleman from Texas and urge a "no" vote on this amendment. It is a relatively small program that makes a very, very big difference and hopefully will save us money by keeping us out of conflicts that we would rather not get into and enabling us to do this working through the local populations by having a better understanding of them.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CAMPBELL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

□ 2120

AMENDMENT NO. 54 OFFERED BY MR. CAMPBELL

The Acting CHAIR. It is now in order to consider amendment No. 54 printed in House Report 112-88.

Mr. CAMPBELL. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 548, after line 8, add the following new section:

SEC. 1115. REDUCTION IN THE NUMBER OF CIVILIAN POSITIONS WITHIN THE DEPARTMENT OF DEFENSE.

(a) DEFINITIONS, ETC.—For purposes of this section—

(1) the term "Secretary" means the Secretary of Defense;

(2) the term "civilian position" means a position that is required to be filled by a civilian employee of the Department of Defense;

(3) the term "baseline number" means the number of civilian positions within the Department of Defense as of the last day of the fiscal year in which occurs the date of enactment of this Act; and

(4) the number of civilian positions within the Department of Defense as of any given date shall be determined and expressed on a full-time equivalent basis.

(b) REDUCTIONS.—The Secretary shall take appropriate measures to ensure that the total number of civilian positions within the Department of Defense does not exceed—

(1) at the end of the 1st fiscal year beginning after the date of enactment of this Act, the baseline number reduced by 1 percent;

(2) at the end of the 2nd fiscal year beginning after the date of enactment of this Act, the baseline number reduced by 2 percent;

(3) at the end of the 3rd fiscal year beginning after the date of enactment of this Act, the baseline number reduced by 3 percent;

(4) at the end of the 4th fiscal year beginning after the date of enactment of this Act, the baseline number reduced by 4 percent; and

(5) at the end of the 5th fiscal year beginning after the date of enactment of this Act, the baseline number reduced by 5 percent.

(c) RESTRICTION.—The Secretary shall take appropriate measures to ensure that no increase occurs in the procurement of personal services by contract by reason of the enactment of this section.

(d) REGULATIONS.—Any regulations necessary to carry out this section shall be prescribed by the Secretary.

(e) TERMINATION.—The provisions of this section shall terminate after the end of the 5th fiscal year beginning after the date of enactment of this Act.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from California (Mr. CAMPBELL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, as identified during the last amendment, we have debt, we have deficit, we need to look for things in the Department of Defense as well where we can look for efficiencies and expense reductions and still defend the country.

Currently in the Department of Defense, we have somewhere approaching 800,000 civilian employees. Let me repeat that. In the Department of Defense today, we have approximately 800,000 full-time, nonuniformed civilian employees. This does not include the roughly 1.5 million men and women in uniform, and it does not include all of the defense contractors. And I would love to tell you how many of those there are, but because we do not audit the Department of Defense, that information is not available so I don't know.

So we have 800,000 people not uniformed working in the Department of

Defense, not doing any of the stuff done by the contractors. Now, I could go through a long analysis of do we really need one nonuniformed person for every two uniformed people in the Department of Defense. Do we really need that many? But this amendment is very small in its scope and very small in what it intends to do.

All it says is let's reduce that 800,000 head count by 1 percent a year for the next 5 years. So all this amendment says is: Next year, can we accomplish the mission of the U.S. military in the Department of Defense without touching anything having to do with a single man or woman in uniform, but with 99 percent of the nonuniformed personnel that we currently have? Somehow, I do not believe that is going to devastate our ability to defend this country. It is 1 percent a year for the next 5 years.

So it is saying, 5 years from now, yes, we will have to do with 95 percent of the nonuniformed personnel. But I think that is something we can do and something, again, where we can begin to save some money and deal with our greatest national security threat, which is our debt.

I reserve the balance of my time.

Mr. FORBES. I rise to claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Virginia is recognized for 5 minutes.

Mr. FORBES. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank my friend from Virginia for yielding.

I am entirely sympathetic to my friend from California's view that it is probable, maybe even certain, the Defense Department could function with fewer civilian employees than it does right now. And I think the Secretary of Defense shares our conviction because he has frozen the number of civilian employees at FY 2010 levels.

Now, here is my concern with the gentleman's amendment. The gentleman's amendment makes it the law of the land that the correct number of civilian employees in the Department of Defense 5 years from now should be 40,000 persons, more or less, fewer than we have right now. I don't know if that is the right or the wrong number. And I would suggest, frankly, that none of us here know if that is the right or the wrong number.

The proper way to go about this, which the Secretary has in fact done, is to make an assessment of the needs of the Department and the functions that it serves and then to balance those needs against the three ways you can serve those needs. You can either have civilian employees perform the task, you can hire outside contractors to perform the task, or you can delegate the task to uniformed employees. By choosing an arbitrary number of 40,000 civilian employees fewer than what we

have right now, it seems to me that we don't know if that fits the size of the job we have; and if it doesn't fit the size of the job that we have, it necessitates an increase of contracts or an increase of duties for uniformed personnel, the consequences of which none of us, frankly, have the ability to know.

So I share the desire to properly fit the size of the civilian workforce to the job that has to be done. I just can't conclude with any degree of confidence that a workforce that is 40,000 persons fewer is the right fit. My concern is this would have the effect of shifting responsibilities to uniformed personnel when they have more urgent priorities to achieve.

I would urge a "no" vote.

Mr. CAMPBELL. Mr. Chairman, I appreciate my colleague's comments; and, frankly, I don't disagree that it is arbitrary. I would argue that perhaps how we got to this 800,000 was not by anybody doing a great deal of planning either, so perhaps that is arbitrary.

But, you know, if you want someone to start to be more efficient, you have to set some goals. You have to set some targets. This number has been growing, and growing steadily for years. Probably for decades, but it has certainly been growing for years. It has been unchecked. There has been no real review or evaluation of it.

What I am trying to do here, and I am not arguing that there is anything scientific to the 1 percent, but it is to say: Let's start to get this under control. Let's start to evaluate this. And you know what? If we need to reevaluate it, we can reevaluate it. But let's say to the Department of Defense: You know what? This is a lot of people. We think that you can get by with less.

I have talked to a number of uniformed personnel who believe a lot of these people actually get in their way, and they would much prefer that some of them were not there because they actually create a bureaucracy that interferes with the ability of the uniformed people to accomplish their mission.

So what this amendment is trying to do, it is saying: Let's get into this and let's set a target and let's see if we can't get there, and let's see if we can't save some money along the way.

I reserve the balance of my time.

Mr. FORBES. I yield myself such time as I may consume.

Mr. Chairman, it is a rare opportunity that you get to stand up and agree with two friends that you have on the floor, and the only thing we disagree with is the approach.

I would say to the gentleman from California that he is absolutely right. We do need to start this. We need to set those targets. But the great news is that the chairman and the ranking member have done just that in this bill, because of all of the agencies, of all of the departments that we look at across the government, the one that we absolutely cannot be arbitrary on, the

one that we cannot guess about, the target we cannot be off on is the Department of Defense. We have to be right there.

And what we realize is that you cannot do this by setting an arbitrary target and working backwards. That gets you huge problems, exposes us to huge risks. We have to do it the opposite way.

The first thing we have to do is we have to ascertain what the true risk assessment is, the threat assessment we have to this country, which we have not done because, quite honestly, it has been more budget driven than it has been threat assessment driven. But this bill moves us closer to doing that and finding out what that risk assessment is.

The second thing after we do that is we have to determine what does it take to meet that risk, and what do we risk exposing the country to if we don't do it.

The third thing is we have to find out where we are spending our money now and where that money is going, which we don't know. The gentleman is correct. We need to audit the DOD. That is where we are moving in this bill to do.

After we have done those three steps, then we can come back, and the Congress ought to be a part of this, of saying here is the target and the number of employees we think that you need to get that job done.

But, Mr. Chairman, I agree wholeheartedly with my good friend from New Jersey. This is not the right approach. It is a dangerous approach to arbitrarily look and say we are going to begin cutting these employees. We don't know what that will end up doing to the Department of Defense and to the defense of this country.

So I hope we will reject this amendment, but continue along the line of what the gentleman has talked about, and make sure that we are moving toward defending this country in the most efficient way possible.

I reserve the balance of my time.

Mr. CAMPBELL. Mr. Chairman, I appreciate both gentlemen's comments and their remarks and their tone and their tenor. I respectfully disagree because I think that, again, not a single uniformed person is being affected. This has nothing to do with that. I think 1 percent at least sends a message and is a start. And it is difficult to argue that it is going to devastate anything. I would ask support on the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FORBES. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CAMPBELL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

□ 2130

It is now in order to consider amendment No. 55 printed in House Report 112-88.

AMENDMENT NO. 56 OFFERED BY MR. CHAFFETZ

The Acting CHAIR. It is now in order to consider amendment No. 56 printed in House Report 112-88.

Mr. CHAFFETZ. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

SEC. 1217. SAFE WITHDRAWAL OF UNITED STATES GROUND FORCES FROM AFGHANISTAN.

(a) COMMENCEMENT OF WITHDRAWAL.—Except as provided in subsection (b), the Secretary of Defense, in consultation with military commanders and the Government of Afghanistan, shall commence a safe, responsible, and phased withdrawal of units and members of the Army and Marine Corps deployed in Afghanistan and military contractors operating in Afghanistan and funded using amounts appropriated to the Department of Defense.

(b) RETENTION OF FORCES FOR COUNTER-TERRORISM OPERATIONS.—The Secretary of Defense may continue to deploy units and members of the Army and Marine Corps in Afghanistan, and military contractors supporting such forces, to conduct small, targeted counter-terrorism operations.

(c) WITHDRAWAL PLAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the plan for implementing the withdrawal of United States ground forces, military equipment, and military contractors supporting such forces from Afghanistan as safely and quickly as possible pursuant to subsection (a). The Secretary shall submit additional reports on the progress of implementing the plan every 180 days thereafter.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Utah (Mr. CHAFFETZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah.

Mr. CHAFFETZ. Mr. Chairman, I would like to yield 2½ minutes to the gentleman from Vermont (Mr. WELCH), and I ask unanimous consent that he be allowed to control that time.

The Acting CHAIR. Without objection, the gentleman from Vermont will control the time.

There was no objection.

Mr. WELCH. I thank the gentleman from Utah.

Members of the Committee, a test of a great democracy is its capacity to make the grave decision to send its citizens to war. Such a decision was made after the attack on September 11 of 2001. It was a bipartisan decision. It was made for the right reasons at the right time and for the right result.

Al Qaeda was in Afghanistan. Osama bin Laden planned and executed the 9/11 mission from Afghanistan. And we

sent our soldiers to war. Vermont soldiers and soldiers from all around the country sacrificed bravely and served well.

But an equally grave challenge and test for a democracy is whether once that machinery of war has been put in gear, when circumstances change as the national security requires, can that democracy amend its decision, amend its policy as conditions have changed?

We are at that moment today. It is a bipartisan question that faces us all. And the amendment that Mr. CHAFFETZ and I offer suggests that the policy that we are now pursuing, nation building in Afghanistan, is no longer the policy that is either financially sustainable nor in our best national security interests.

There are three reasons: number one, the threat of al Qaeda has diminished in Afghanistan; the threat of terrorism in the world has not. This is not a nation state-centered threat. It is dispersed and decentralized. Mr. CHAFFETZ and I say let us have a decentralized and dispersed response.

The tactics that were so successful in eliminating Osama bin Laden, excellent and coordinated intelligence and excellent and fierce special forces, was successful. Mr. CHAFFETZ and I, in our amendment, believe it is time for America to move from nation-state building to counterterrorism.

Second, the situation in Afghanistan with an unreliable partner, incredible corruption that has been going from bad to worse, does not allow our military or our taxpayers to have any confidence that that nation-building strategy can be successful.

So we call upon Congress to face this grave national security question from the perspective of is it time to change.

The Acting CHAIR. The time of the gentleman has expired.

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from New Jersey is recognized for 5 minutes.

Mr. ANDREWS. Mr. Chairman, at this time I would like to yield 1½ minutes to the gentleman from Colorado (Mr. COFFMAN).

Mr. COFFMAN of Colorado. I thank the gentleman from New Jersey.

Somebody asked me, as an Iraq war veteran, if I had learned any lessons from that war, and I said, Yes, never do it again.

But I volunteered for Iraq because I believed that once we were involved in the fight that we had to reasonably finish that job. And my concern about Afghanistan is the fact that we are pretty far down this road. We know that the President's going to reduce the conventional footprint in July of this year. The President has already stated, as Commander in Chief, that he expects Afghan security forces to take operational control by 2014.

And let me tell you something that I think we're not thinking about tonight, and that is, as a United States

Marine Corps civil affairs officer working in Iraq, part of my job was to convince Iraqis to cooperate and to side with us, knowing that if we left expeditiously before the situation stabilized that they would be killed. And my counterparts, doing the same job in Afghanistan that I did in Iraq, have that challenge of convincing the people, the civilian population, to cooperate and to side with us. And if, in fact, we do an expeditious withdrawal and revert to counterterrorism, there will be many lives lost unnecessarily due to our conduct here tonight.

Mr. CHAFFETZ. Mr. Chairman, I yield myself 2 minutes.

I appreciate Mr. WELCH for doing this in a bipartisan way.

This amendment does a couple of basic things: one, it says we are going to withdraw our troops. It's trying to bring our troops home. Nobody should be disappointed in that. That in many ways is victory.

But, number two, it does give the President and the Secretary of Defense the flexibility to conduct counterterrorism activities.

The reality in today's world is that terrorism is real. There are people that want to kill and destroy the United States of America. And the death of Osama bin Laden, unfortunately, has not put an end to that. In many ways, it is a global war on terror.

We've had 10 years of great success; and what this amendment does, in my opinion, is recognize the success that our troops have had over the last 10 years, the longest war in the history of the United States of America.

Unfortunately, terrorism is not confined to the boundaries of just Afghanistan. We have to have the very best intelligence, both human and electronic. And when we have intelligence that shows that there is a clear and present danger to the United States of America, our special forces need to take out that threat. That requires deadly force. But that does not necessarily require a hundred thousand of our men and women serving in Afghanistan in what I believe has expanded into mission creep that is just allowing people to participate in nation building.

I feel for the people of Afghanistan. They have lived for more than 30 years in war. It is a difficult, difficult situation. But we have the very best fighting force in the world. If we're going to use those men and women and that fighting force in the right way, then we're going to have to deal with it differently.

We should be proud of the fact that bringing our troops home is not putting our tail between our legs. It is victory. It is success. And we will continue to fight the fight.

But it's global in nature. It's time to bring our troops home. Give the President and the Secretary the flexibility to take out the threat as it arrives in Afghanistan, and that's why I think this amendment is so important.

I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to my friend from Virginia (Mr. WITTMAN).

Mr. WITTMAN. Thank you, Mr. Chairman.

I want to remind folks that we've learned some lessons through these years of conflict. I want to remind folks of what General Petraeus has learned through that process and knowing that counterterrorism has not been successful in the long term in getting us to where we need to be strategically in these areas and that the counterinsurgency strategy has worked. What we are seeing in Afghanistan is just that. Let's make sure that we're allowing that to work.

When I was there recently, we've seen what's happening. We are training the Afghans to be able to take over their country, to make sure that they're going to be successful in maintaining order in that country; making sure that, as we have pushed terrorists out, those terrorists stay out. That is a long-term successful strategy—to secure, hold, build, and transition. Let's make sure that we allow that to happen.

It's critical that we don't make an arbitrary transition to another strategy that we've seen in the past hasn't worked. And all of us want to make sure that we are getting our troops out of there.

□ 2140

But we also want to make sure that those sacrifices are not in vain. And we can go back and forth about what the end result is, but the end result is that we want to make sure that we're successful there in the long term.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CHAFFETZ. Mr. Chairman, may I inquire as to how much time I have remaining?

The Acting CHAIR. The gentleman has 30 seconds remaining.

Mr. CHAFFETZ. Mr. Chairman, we need to understand that we don't need to treat Afghanistan any different than we do the rest of the world. The reality is we have the very best fighting force in the world. We have been highly successful, but let's understand that bringing our troops home is something we should all be proud of.

What we are failing to do right now, what this administration is failing to do—nobody has ever defined success, nobody has ever defined success. Let's bring our troops home. We are doing this in a bipartisan way. It's a reasonable and balanced approach to say, in counterterrorism, let's fight the terrorism that's out there, but let's also bring our troops home.

May God bless the troops, and may God bless the United States of America. I appreciate the opportunity to present this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ANDREWS. Mr. Chairman, may I inquire as to how much time we have remaining on our side?

The Acting CHAIR. The gentleman has 2½ minutes remaining.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the distinguished ranking member of the full committee, my friend, Mr. SMITH.

Mr. SMITH of Washington. I want to thank the Members who offered this amendment. I too support a drawdown in Afghanistan. I want to see us get to the point where we can bring our troops home, and I think we're making progress in that direction, but there are two things that I do want to correct. One, it's a little bit of a myth that no one has ever defined success. Success has been defined by the President clearly. We want a government in Afghanistan that can stand so that the Taliban and al Qaeda do not come back to power. That is success—when we are confident that that government can stand and we can draw down so that we don't go right back to where we were before 9/11. That is what we are trying to accomplish.

And the second thing is, we all want to transition to a lesser mission, to be able to bring our troops home, and counterterrorism is the focus. We would not, however, have been able to run the mission against bin Laden that we did if we didn't have the broader support in Afghanistan. If we pull out and think that we can run a counterterrorism mission with a government that is collapsing around us and that does not support us, then we kid ourselves. That's why it is so important, as Mr. COFFMAN said so well, to make sure that we complete the mission and we have a government that can stand so that we can begin to responsibly draw down. I think it's important we draw down, but we have to do so in a responsible way.

Mr. ANDREWS. Mr. Chairman, I yield the balance of my time to my friend from Virginia (Mr. FORBES).

Mr. FORBES. I thank my friend from New Jersey.

A week ago today I was in Afghanistan, and Mr. Chairman, I can tell you that if you listen to our troops there, if you talk to our general, they don't want us to pull the rug out from under them.

Years ago, there were a group of planes that were lost off the coast of Florida and they were heading back toward the coastline and they lost their communications. Everything within them kept telling them turn around, turn around, you're heading in the wrong direction. Unfortunately, right before they reached the shoreline they did turn around and they ended up going back out to sea and getting lost.

We have a timetable of 2014 that both our troops and the Afghans are working together to make that 2014 deadline. The last thing we want to do is pull that rug out from them now. And I know the temptation to say let's quit, we've put a lot of investment in there, it's too hard, let's turn around, but we need to be cautious that we don't do it too quickly because Afghan-

istan is different than the rest of the world, because the two greatest dangers we face in the world today are Iran getting nuclear weapons and extremists taking over nuclear weapons in Pakistan. Afghanistan is the bridge that could connect both of those.

It's important, Mr. Chairman, that we not quit. Ask our troops. We have invested too much in lives, time, and money. Let's not turn back now. Let's get the job done—2014 is going to be here soon enough.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Utah (Mr. CHAFFETZ).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. CHAFFETZ. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Utah will be postponed.

AMENDMENT NO. 59 OFFERED BY MR. ROHRABACHER

The Acting CHAIR. It is now in order to consider amendment No. 59 printed in House Report 112-88.

Mr. ROHRABACHER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of subtitle C of title XII of division A of the bill, add the following:

SEC. 12xx. AUTHORITY TO REMOVE SATELLITES AND RELATED COMPONENTS FROM THE UNITED STATES MUNITIONS LIST.

(a) **AUTHORITY.**—Except as provided in subsection (b) and subject to subsection (d), the President is authorized to remove satellites and related components from the United States Munitions List, consistent with the procedures in section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

(b) **EXCEPTION.**—The authority of subsection (a) may not be exercised with respect to any satellite or related component that may, directly or indirectly, be transferred to, or launched into outer space by—

(1) the People's Republic of China, including restrictions contained in the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), and the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65); or

(2) Burma, North Korea, Pakistan, or Venezuela or any country that is a state sponsor of terrorism.

(c) **DEFINITIONS.**—In this section—

(1) the term "state sponsor of terrorism" means any country the government of which the Secretary of State determines has repeatedly provided support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or any other provision of law; and

(2) the term "United States Munitions List" means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

(d) **EFFECTIVE DATE.**—The President may not exercise the authority provided in this

section before the date that is 90 days after the date of the enactment of this Act.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from California (Mr. ROHRABACHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, my amendment focuses on an issue that reflects a concern not only for our national security, but also for the prosperity of our country. I would like to thank the chairman and ranking member for agreeing to discuss this important issue with me tonight as part of my time. And I do intend at the end of this discussion, which should be considered a colloquy, my intent is to withdraw my amendment.

What we are talking about is an important issue. We are talking about the President's authority to move satellites and related components from the U.S. Munitions List to the Commerce Control List. And this may sound rather bureaucratic, but it means whether or not there is going to be the transfer and sale of technology that we have developed with billions of dollars of Federal investment that is very important to our technology and the jobs in California, but also very important to our national security if these technologies would be put into the wrong hands.

We have heard expert witness testimony that current regulations are harmful to national security, cost American jobs, and encourage other nations to develop competing technologies. Since Congress placed these items on the U.S. Munitions List—meaning satellites and these other technologies that we're referring to today—our worldwide market share for the manufacture of satellites and components has dropped dramatically.

It has been widely reported that while U.S. firms accounted for 73 percent of the world market for commercial satellites in 1998, that figure has since dropped below 30 percent. Global satellite manufacturers often pursue alternate ITAR-free sources, especially for commodity components and related items, simply to eliminate any risks associated with licensing delays, even if the export license is likely to be approved by U.S. regulators.

The U.S. regulatory environment has particularly affected small U.S. satellite suppliers, which lack the organizational structure, staff, and marketing resources to offset the added burden of export control barriers in such a close, competitive climate in this high-tech business.

Current U.S. satellite export controls are not slowing foreign space capabilities, but encouraging them. Foreign manufacturers now market ITAR-free satellites, and we are encouraging non-U.S. satellite research and development with the controls that are in place. But the national security concerns that led Congress to create the

current regulatory wall are still in place, and yet there are significant concerns existing regarding China, Iran, North Korea, Venezuela, and other terrorist-supporting states. We must continue to prohibit the transfer of these technologies to these nations, and we must prohibit U.S. satellite sales, I believe, to China. We especially must not permit U.S. satellites to be launched on Chinese rockets.

Last year, the House endorsed the removal of satellites and components from the Munitions List, but it was clearly stated that there was an exception barring any transfers to generous nations and allowing no launches of American satellites on Chinese rockets. That should remain our position.

At this time, I would yield several minutes to Mr. MCKEON, the chairman of the Armed Services Committee.

Mr. MCKEON. I thank the gentleman for yielding.

Mr. Chairman, may I inquire as to how much time is remaining?

The Acting CHAIR. The gentleman from California has 1 minute remaining.

Mr. MCKEON. I thank the gentleman for yielding. There has been no Member of Congress more active in promoting the space enterprise than my friend, Mr. ROHRBACHER. He has also been a leader in ensuring U.S. space technology is not transferred to China. We share the same belief that a strong space industrial base is in the national security and economic interests of the United States, and that there is an opportunity to revise U.S. satellite export control policy. However, space technology is a U.S. technological crown jewel. Any revisions to our satellite export control policy must account for the national security risks of removing satellites and related components from the United States Munitions List.

The Defense Department has begun a risk assessment and about 2 weeks ago provided Congress with an interim report, but their work is not yet complete. The interim report suggests that some satellite components could be removed from the U.S. Munitions List without posing an unacceptable security risk, but it also concludes that several components are critical to U.S. national security and should remain on the U.S. Munitions List.

Before making significant changes in legislation, I would prefer that the committee do its due diligence. We need to allow the department to finish its risk assessment and conduct oversight hearings and briefings on this issue.

The Acting CHAIR. The time of the gentleman has expired.

Mr. SMITH of Washington. Mr. Chairman, I will claim the time in opposition. I am not opposed, but I am happy to yield 30 seconds of that time to Mr. MCKEON to finish his statement.

The Acting CHAIR. Without objection, the gentleman from Washington is recognized for 5 minutes.

There was no objection.

Mr. SMITH of Washington. I yield 30 seconds to the gentleman from California.

Mr. MCKEON. I am committed to working with the gentleman from California and my ranking member to review our Nation's satellite export control policies and identify policy recommendations that would facilitate greater export opportunities for our aerospace companies while also preserving our national security.

□ 2150

Mr. SMITH of Washington. I yield myself such time as I may consume.

As I mentioned, I'm not opposed to this amendment. In fact, I would support Mr. ROHRBACHER's amendment. I understand the concerns of the chairman, but there is one point that I really want to make clear in this.

Throughout this whole process, well over, gosh, I guess it's been 12 years now since we passed this restriction, there has always been this notion that somehow we have to wait in order to be extra cautious—as if there is no risk in waiting. And that is where I think we are completely wrong. Absolutely. There is a risk in selling technology that could wind up in the wrong hands. And in the world we live in today, that's a risk we have to live with and attempt to manage.

But what has never been properly understood in this body, and particularly on the Armed Services Committee, is the risk of excessive restrictions on U.S. companies' ability to export technology. And it is a risk precisely to our national security. It is not just a matter of jobs or business or the economy. This isn't national security versus economic strength.

One of our great strengths as a Nation in terms of our defense is the superiority of our technology companies. We have companies here in the U.S. that we can rely on to give us the best equipment, the best technology to protect us. But, as Mr. ROHRBACHER pointed out, we are losing that edge. We are ceasing to be the leaders in critical areas of technology, and nowhere is this more painfully clear than in the area of satellites. We have lost over 40 percent market share during that period to our competitors.

When I was in Europe visiting some satellite companies 2 years ago, I came across an advertisement, something that was being put out in the trade papers by a European satellite company for an ITAR-free satellite. Well, what is an ITAR-free satellite? It's a satellite that has not one single U.S. component in it. Why? Because if it were ITAR-free, they could much more freely export it and much, much more easily be competitive in selling that satellite technology. We were blocking out all U.S. companies from anything that goes into a satellite. And trust me, I've seen satellites. There is a heck of a lot that goes into them.

Our companies are being severely disadvantaged, and that is undermining

our ability to get access to those companies to build technologies we need to defend ourselves. Inaction is not the safe and correct course here.

We have the evidence we need. I believe we need to go forward. And Mr. ROHRBACHER's amendment makes sure that we're not selling this to China and other places we don't want to, but it does free up our companies to begin to compete before it's too late, before we lose that edge.

Now, we've got the interim report. We don't have the final report. We've analyzed this thing for a long period of time. I personally don't think we need to wait for the final report. But I will be optimistic that we will get that final report between now and when we go to conference. And we'll get something done on this critical issue—critical not just for U.S. companies, though certainly jobs and economic strength are matters of national security, but also critical for national security, itself, to make sure that U.S. companies can maintain the leadership role to help provide for our defense, to help work with our Defense Department as they do.

So I would hope that we would adopt this. I know Mr. ROHRBACHER is planning on withdrawing it, but I hope we continue to work on this issue.

Mr. ROHRBACHER. Will the gentleman yield?

Mr. SMITH of Washington. I yield to the gentleman from California.

Mr. ROHRBACHER. I agree with the gentleman's assessment.

Out of respect for the judgment of the chairman and his desire to make sure that the full interim report that the Congress has on this issue is studied and that the Defense Department finishes that report, I am willing to withdraw my amendment, but I agree with the points that you've made. I have great respect for the chairman and his care and concern about the safety of our country.

I would, at this point, ask unanimous consent to withdraw my amendment.

The Acting CHAIR. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT NO. 60 OFFERED BY MR. POLIS

The Acting CHAIR. It is now in order to consider amendment No. 60 printed in House Report 112-88.

Mr. POLIS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XII, add the following new section:

SEC. 12. REDUCTION IN END STRENGTH LEVEL OF MEMBERS OF THE UNITED STATES ARMED FORCES ASSIGNED TO PERMANENT DUTY IN EUROPE AND CORRESPONDING GENERAL END STRENGTH REDUCTIONS.

(a) EUROPEAN END STRENGTH LEVEL.—Effective September 30, 2012, the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Europe may not exceed a permanent ceiling of 30,000 in any fiscal year.

(b) **EXCLUSION OF CERTAIN MEMBERS.**—For purposes of this section, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Europe:

(1) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

(2) Members performing duties in Europe for more than 179 days under a military-to-military contact program under section 168 of title 10, United States Code.

(c) **EXCEPTIONS; WAIVER.**—This section shall not apply in the event of a declaration of war or an armed attack on any European member nation of the North Atlantic Treaty Organization. The President may waive operation of this section if the President declares an emergency and immediately informs the Congress of the waiver and the reasons therefor.

(d) **REPEAL OF SUPERCEDED END STRENGTH LIMITATION.**—Section 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) is repealed.

(e) **CONFORMING CHANGES TO OVERALL END STRENGTH LEVELS.**—

(1) **END STRENGTHS FOR ACTIVE FORCES FOR FISCAL YEAR 2012.**—Notwithstanding section 401, the Armed Forces are authorized strengths for active duty personnel as of September 30, 2012, as follows:

- (A) The Army, 556,600.
- (B) The Navy, 325,239.
- (C) The Marine Corps, 202,000.
- (D) The Air Force, 328,800.

(2) **CONTINUATION OF REDUCTIONS IN SUBSEQUENT FISCAL YEARS.**—For each of fiscal years 2013 through 2016, the end strength numbers shall be reduced by an additional 10,000 a year, as follows:

- (A) 5,400 a year from the Army.
- (B) 4,000 a year from the Air Force.
- (C) 500 a year from the Navy.
- (D) 100 a year from the Marine Corps.

(3) **REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.**—Section 691(b) of title 10, United States Code, as amended by section 402, is amended by striking paragraphs (1) through (4) and inserting the following new paragraphs:

- “(1) For the Army, 535,000.
- “(2) For the Navy, 323,239.
- “(3) For the Marine Corps, 201,600.
- “(4) For the Air Force, 312,800.”

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Colorado (Mr. POLIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado for 5 minutes.

Mr. POLIS. Thank you, Mr. Chairman.

Given our looming fiscal crisis and record deficits, it's critical that we look at smart spending cuts in a responsible way that doesn't hurt our national security—in fact, the budget deficit and our huge national debt are a threat to national security by making us economically beholden to foreign powers—and I propose an amendment that would do just that.

My amendment would get most of the 80,000 troops, U.S. troops, out of Europe where they're no longer needed. We will save over \$1 billion. My amendment would reduce the total amount of troops stationed in Europe to 30,000 troops from 80,000, which would not affect the troops being used in our wars in the Middle East. That's estimated to be about 12,000 to 15,000 of those troops.

We would also leave ample troops to be part of NATO joint exercises and fulfill our obligations to our European allies.

My amendment would allow the Department of Defense to save money by closing bases across Europe that are simply no longer needed. They have no strategic rationale. By pulling some of our troops out of Europe and closing these bases, we can save money and reduce our redundant military force. My amendment would gradually cut the 50,000 troops from our force in Europe, would save over \$1.3 billion over 10 years, reduce overall troop levels in phases so we can responsibly draw down the troops without impacting those who are currently deployed.

On top of the savings by reducing troop level, my amendment allows us to close bases across Europe that are, frankly, relics from World War II and the Cold War and currently serve no strategic purpose for our country. The need for these bases was understandable in the shadow of the threat of the Nazis and when Europe was rebuilding from the devastation from World War II. The presence of the troops was understandable when we faced the menace of the Soviet Union. What is the justification for our ongoing presence now? U.S. taxpayers did not sign up to defend Europe from a nonexistent threat forever at our own expense when we can't afford it.

These bases cost U.S. taxpayers millions upon millions of dollars. On top of that, they're often unpopular with local people in the countries we're protecting. I don't understand why we're wasting so much money to maintain bases where they aren't needed, aren't wanted, and don't fulfill any of our strategic objectives.

Our European allies, Madam Chair, are some of the richest countries in the world. So why are we subsidizing their defense spending? Our European allies have enjoyed a free ride on the American dime for years now. The average American spends over \$2,500 on defense; the average European \$500. If Europe, itself, has made the decision it can afford to spend less on defense, shouldn't we be confident that we can spend less on their defense as well?

Now, I understand that many of the troops in Europe support the operations in Iraq and Afghanistan, and personally, while I hope this won't be an issue soon as we begin to withdraw our troops from Iraq and Afghanistan, my amendment leaves in place enough troops to fully support the ongoing operations even at their current levels in Iraq and Afghanistan.

My amendment does not weaken our commitment to NATO. With modern technology, we can move troops and weapons quickly across the globe. We fulfill our responsibilities with troops stationed at NATO headquarters and fully participate in joint exercises.

My amendment also allows for a war emergency if, for instance, there was really a reason to station troops in Europe. If our European allies were at-

tacked, my amendment allows the President to waive the requirements of the bill.

It's time to think about our priorities in defense spending. We're not under threat, Madam Chair, from the Nazis. We're not under threat, Madam Chair, from the Soviets. We are under threat from a global terrorist threat that is a stateless menace. And, in fact, less of that menace emanates from Europe than it does from Asia and Africa. Maintaining a network of bases across Europe is simply not a sane response to the terrorist threat, nor is it fiscally responsible.

These cuts are based on the recommendations of the Sustainable Defense Task Force, a bipartisan project organized by Congressman FRANK, Congressman PAUL, and Congressman JONES, as well as Senator WYDEN. The Sustainable Defense Task Force brought together defense experts across the ideological spectrum and proposed commonsense recommendations for saving taxpayer money and improving our national security.

I urge a “yes” vote on my amendment, Madam Chair.

I reserve the balance of my time.

Mr. TURNER. I claim the time in opposition.

The Acting CHAIR (Ms. FOXX). The gentleman from Ohio is recognized for 5 minutes.

Mr. TURNER. The gentleman is correct that this is a time of deficits and concerns about spending, but he is not correct that this doesn't hurt our national security.

He also states that our troops in Europe are not needed, and that is absolutely not the case. Those troops that are there not only protect us and our European allies, but they also are essential to the operations that we're supporting around the globe, including the important operations in Afghanistan and in Iraq.

□ 2200

He claims this amendment will save money, but in fact, this will increase our costs as we look to how we serve our allies, how we initiate our ongoing operations in Afghanistan and Iraq, and how we support our men and women in uniform.

The essential problem with this amendment is that it's arbitrary. Our troop strengths are based on extensive studies. There are whole books written about how you look to assessing threats, how you look to our overall assets, how you support the capabilities that we have in supporting our national defense. These are just arbitrary numbers that have been picked as to our withdrawal from Europe.

But it goes further.

Besides having the great effect of reducing the reassurance of our allies in the region, this amendment goes further and sets troop limits from 2013 through 2016. It requires that 10,000 of our troops be reduced in end strength numbers a year, and it goes on to say

that 5,400 of them are to come from the Army, that 4,000 a year are to come from the Air Force, 500 a year from the Navy, 100 from the Marine Corps. There certainly is not a decreasing threat in our national security; yet there will be decreasing troops, not just those who are in Europe. This means that we will have increased dwell time and an increased greater burden upon the troops who are serving.

As we look to these numbers again being arbitrary, you have to wonder: How was it determined that 5,400 would come from the Army and 4,000 would come from the Air Force and 500 from the Navy? This has no correlation not only to the threat but even to the assets and the capabilities that we need. I think everyone knows that our troops that we have in Europe serve our full national security and are not there for the reasons of defending Europe.

As the gentleman stated, the other thing that is important is that this is something knowable. I mean, you could pick up a Quadrennial Defense Review or threat assessments, from which our troop strengths are based, not these arbitrary numbers from this amendment which would restrict our ability to respond, greatly impact our national security and would certainly not save money.

I reserve the balance of my time.

Mr. POLIS. I would like to inquire as to how much time remains on both sides.

The Acting CHAIR. The gentleman from Colorado has 1 minute remaining. The gentleman from Ohio has 3½ minutes remaining.

Mr. POLIS. Madam Chair, these specific suggestions that are based on the Sustainable Defense Task Force may not be a book, but it is 30-pages' long, and, without objection, I would like to submit its "Executive Summary" for the RECORD.

The Acting CHAIR. The gentleman's request will be covered under general leave.

PARLIAMENTARY INQUIRY

Mr. POLIS. Parliamentary inquiry, Madam Chair.

The Acting CHAIR. The gentleman will state his parliamentary inquiry.

Mr. POLIS. Would the Chair specify the definition of her last statement.

The Acting CHAIR. All Members were given authority to insert such material by an order of the House.

EXECUTIVE SUMMARY

DEBT, DEFICITS, AND DEFENSE: A WAY FORWARD
[Report of the Sustainable Defense Task Force, 11 June 2010]

At a time of growing concern over federal deficits, it is essential that all elements of the federal budget be subjected to careful scrutiny. The Pentagon budget should be no exception. As Secretary of Defense Robert Gates noted in a recent speech, paraphrasing President Dwight D. Eisenhower, "The United States should spend as much as necessary on national defense, but not one penny more."

This report presents a series of options which, taken together, could save up to \$960 billion between 2011 and 2020. The proposals

cover the full range of Pentagon expenditures—procurement, research and development, personnel, operations and maintenance, and infrastructure. Some involve changes in our military posture and force structure; others are more limited in scope, focusing on outdated, wasteful, and ineffective systems that have long been the subject of criticism by congressional research agencies and others. Taken together or in part, they could make a significant contribution to any deficit reduction plan.

There is no doubt that defense expenditure has contributed significantly to our current fiscal burden. This is true even aside from war costs. Today, annual discretionary spending is \$583 billion above the level set in 2001. Overall, the rise in defense spending accounts for almost 65% of this increase. Non-war defense spending is responsible for 37%. These portions are much greater than any other category of discretionary spending. The savings options that we have developed focus mostly on the "base" portion of the Pentagon budget, excluding expenditures slated to support overseas contingency operations. Those that would affect such operations are pegged explicitly to progress in concluding today's wars.

Our recommendations fall in 6 areas: Strategic forces; Conventional force structure; Procurement, research, and development; Personnel costs; Reform of DoD maintenance and supply systems; Command, support, and infrastructure expenditures.

In developing its options, the Task Force has used a set of criteria to identify savings that could be achieved without compromising the essential security of the United States. We have focused especially on:

Department of Defense programs that are based on unreliable or unproven technologies;

Missions that exhibit a poor cost-benefit payoff and capabilities that fail the test of cost-effectiveness or that possess a very limited utility;

Assets and capabilities that mismatch or substantially over-match current and emerging military challenges, and

Opportunities for providing needed capabilities and assets at lower cost via management reforms.

Table ES-1 (page vi) provides an overview of the savings options we propose. Not all the contributors endorse all the options, but all agree they offer genuine possibilities for resource savings and deserve serious consideration. They are described in more detail below.

The option set could be implemented in whole or part. As an integrated set, it would entail:

Reducing the US nuclear arsenal to 1000 warheads deployed on 160 Minuteman missiles and seven nuclear submarines.

Curtailling nuclear weapons research and the planned modernization of the nuclear weapons infrastructure;

Curtailling national missile defense efforts; A reduction of approximately 200,000 military personnel, yielding a peacetime US military active-duty end-strength of approximately 1.3 million;

Capping routine peacetime US military presence in Europe at 35,000 and in Asia at 65,000, including afloat;

Reducing the size of the US Navy from its current strength of 287 battle force ships and 10 naval air wings to a future posture of 230 ships and 8 air wings;

Rolling back the number of US Army active-component brigade combat teams from the current 45 to between 39 and 41;

Retiring four of the 27 US Marine Corps infantry battalions along with a portion of the additional units that the Corps employs to constitute air-land task forces;

Retiring three US Air Force tactical fighter wings;

Ending or delaying procurement of a number of military systems—the F-35 Joint Strike Fighter, MV-22 Osprey, KC-X Aerial Refueling Tanker, and the Expeditionary Fighting Vehicle—and fielding less expensive alternatives;

Reducing base budget spending on R&D by \$5 billion annually;

Resetting the calculation of military compensation and reforming the provision of military health care;

Implementing a variety of measures aiming to achieve new efficiencies in DoD's supply and equipment maintenance systems; and

Setting a cost reduction imperative for command, support, and infrastructure expenditures.

SUSTAINABLE DEFENSE TASK FORCE OPTIONS

Strategic capabilities

Our options in this area would save nearly \$195 billion during the next decade. The United States should act now to accelerate the drawdown of nuclear weapons to a level of 1,000 warheads deployed on seven Ohio-class submarines and 160 Minuteman missiles. This is more than enough to ensure deterrence. Shifting to a nuclear "dyad" of land- and sea-based missiles would provide an optimal balance between efficiency and flexibility.

Missile defense efforts should be curtailed to focus on those systems and those missions most likely to succeed and provide real protection for our troops in the field. And we should roll back nuclear weapons research and limit efforts to modernize the weapon infrastructure. This best accords with a reduced emphasis on nuclear weapons, the smaller arsenal, and the general trend of arms control efforts.

Conventional force structure

No other nation or likely combination of nations comes close to matching US conventional warfare capabilities. Our options in this area seek to match conventional force capabilities more closely with the actual requirements of defense and deterrence. These are the tasks most appropriate to the armed forces and most essential to the nation. Focusing on them helps ensure that our investments are cost-effective. Our options on conventional forces would save the United States almost \$395 billion from 2011–2020.

Ground forces: We propose capping routine US military presence in Europe at 35,000 personnel and in Asia at 65,000 troops, and then reducing some force structure accordingly. We can rely on our incomparable capacities for rapid deployment to flexibly send more troops and assets to these regions if and when needed.

We also propose rolling back the recent growth in the Army and Marine Corps as progress in winding-down our Iraq and Afghanistan commitments allows. This option views future conduct of protracted, large-scale counterinsurgency campaigns by the United States as strategically unwise and largely avoidable. Certainly, there are better, more cost-effective ways to fight terrorism.

Air forces: The experience of the United States in recent conventional wars, including the first two months of the Iraq conflict, show that we can safely reduce our tactical air power—both Air Force and Navy. The capacity of the US military to deliver weapons by plane or missile substantially over-matches existing and emerging threats. And the gap continues to grow. Also, entirely new capabilities, notably remotely piloted vehicles, are joining our air fleets in growing numbers. This option envisions a future air

attack capability comprising between 1,600 and 1,750 Air Force, Navy, and Marine Corps fighter-attack aircraft and bombers in combat squadrons. Remotely-piloted vehicles would be additional.

Sea power: We can reduce the size of our Navy from the current fleet of 287 battle force ships to 230, although this will require using our naval power differently. Included in this fleet would be nine aircraft carriers. This option would keep fewer of our war ships permanently “on station,” partly by having them operate in smaller groups. It would put greater emphasis on surging naval power as needed. The firepower of our naval assets has grown dramatically during the past 20 years. In this light, the smaller fleet that we propose can meet America’s warfighting needs. The reduction in fleet size also reflects a smaller contingent of nuclear ballistic missile submarines, as proposed in the section on strategic capabilities.

Procurement

Regarding procurement, our options for saving \$88.7 billion from 2011–2020 focus mostly on canceling or reducing systems with long histories of trouble and cost growth, such as the MV-22 Osprey and the Expeditionary Fighting Vehicle. These embody all that is wrong with the acquisition process. We also include the option of canceling the F-35 Lightning and replacing it, for the time being, with advanced versions of aircraft already in service. Development of the F-35 is rapidly going the way of the F-22 Raptor: late, over cost, and less capable than promised. However, even if this aircraft performed according to specifications, it would not be needed in order for us to defeat current and emerging challengers. America’s air forces are today the best in the world by a wide margin—not principally due to our technology, but instead due to the combination of technology, skill, training, morale, support, and coordination.

Research and development

Research and development has experienced more spending growth since 2001 than any other major DoD appropriation category. Today it stands at \$80 billion annually—33% above the Cold War peak in real terms. And yet, today, we face no competitor in military technology comparable to the Soviet Union. We seem increasingly in a race with ourselves. The results have been uneven in terms of producing affordable capabilities that serve the needs of war fighters, however. Individual efforts by the armed services and defense agencies are too often disjointed and seemingly at odds with each other. In our view, DoD needs to exercise more discipline in this area and Congress needs to exercise more oversight. Our modest proposal is that DoD set clearer priorities and seek \$5 billion in savings per year or \$50 billion during the coming decade.

Command, support, and infrastructure

We propose that DoD seek more than \$100 billion in savings over the next decade in the areas of command, infrastructure, maintenance, supply, and other forms of support. The Congressional Budget Office and the Government Accountability Office have both outlined a variety of measures to achieve savings in these areas by means of streamlining, consolidation, and privatization. Additionally, the reductions we have proposed in force structure and procurement will reduce the demand on support services and infrastructure (albeit not proportionately). The goal we have set for savings in these areas is only 15% as much as what we propose for force structure and procurement. This much should be easily in DoD’s reach.

Personnel costs

Cost growth in military compensation and health care is a serious and increasing con-

cern of military planners and leaders. Over the past decade personnel costs rose by more than 50% in real terms, while health care costs rose 100%. Secretary of Defense Gates recently described the problem as “eating the Defense Department alive.”

The Quadrennial Review of Military Compensation has proposed that we recalibrate how military pay raises are set and that we increase health care fees and co-pays for some former military personnel between the ages of 38 and 65. The estimate for potential savings from such measures is \$120 billion over the decade, assuming gradual implementation as the wars wind-down. In our opinion, however, these options involve more than matters of simple economics. They can only go forward as part of a broader program of change.

We are a nation at war and these measures affect those who are making the greatest sacrifice. We have a responsibility to them and, thus, great care is due. If the rise in personnel costs has been extraordinary, so have been the demands placed on our military personnel. It is not simply war that bears down on them, but also the way we have conducted it. Some force utilization policies have been unwise and some personnel policies have been both unwise and unfair.

If cost growth in this area is to be addressed, it must be addressed as part of a compact that relieves our military personnel of the undue burdens of routine “stop loss” orders and long, repeated war rotations. Compensation levels for those fighting overseas must be protected and health care for the injured improved. Finally, we must accept that if we are to deploy 175,000 active-duty troops to war (as we do today), then we cannot also maintain another 142,000 troops overseas doing other jobs. Fiscal realities and proper treatment of our military personnel demand that we make choices.

SYSTEMIC CHANGE

The savings options we have outlined promise to provide immediate fiscal relief. They would help to bring the goal of meaningful deficit reduction within reach.

Nonetheless, they remain ad hoc steps. For the longer term, putting America’s defense establishment on a more sustainable path depends on our willingness to:

Rethink our national security commitments and goals to ensure that they focus clearly on what concerns us the most and what we most need in the realm of security;

Reset our national security strategy so that it reflects a cost-effective balance among the security instruments at our disposal and also uses those instruments in cost-effective ways; and

Reform our system of producing defense assets so that it is more likely to provide what we truly need at an affordable cost.

Reform efforts

With regard to the third of these systemic goals, there is today renewed interest in reforming the ways we produce and sustain military power. However, those efforts have not yet gone far enough to assuredly deliver the type and degree of change needed. Among the tasks ahead, several imperatives stand out:

Audit the Pentagon: Today, DoD is one of only a few federal agencies that cannot pass the test of an independent auditor. This means that DoD cannot accurately track its assets—a condition that not only opens the door to waste and fraud, but also makes it difficult to gauge progress in other areas of reform, including acquisition. DoD has been under obligation to get its books in order for 20 years, but has enjoyed the benefit of special dispensations and rolling deadlines: Most recently, a new deadline of September 2017 for audit readiness. Given current and

emerging fiscal pressures, this is too generous. Moreover, strong incentives for compliance are lacking.

Determine mission costs: Beyond accurately accounting for its assets, the Pentagon needs to provide cost estimates for its core missions and activities, as suggested in 2001 by the Hart-Rudman Commission on National Security. Lawmakers might ask, How much of the defense dollar do we presently invest in counterterrorism, counterproliferation, the defense of Europe, or nuclear deterrence? At present, no one really knows. And until we do know, it will be difficult to make fully rational decisions about the allocation of defense resources.

Strengthen acquisition reform: The finding by the Government Accountability Office that major weapons programs are suffering \$300 billion in cost overruns has sparked renewed interest in acquisition reform. Defense Secretary Gates and the Obama administration have promised to vigorously pursue such reforms. Congress has responded with the Weapons Systems Acquisition Reform Act of 2009. However, the Act needs to be strengthened if it is to substantially deliver on its promise. It creates the position of Director of Independent Cost Assessment, but there needs to be a mechanism for reconciling differences between the Director’s estimates and those of the Pentagon. With regard to competition requirements, it gives DoD too easy recourse to invoking waivers. The bar must be set higher. And there needs to be a simple prohibition on giving an outside contractor responsibility for evaluating the work or managing the contract of any entity with which that contractor is linked.

OTHER OPTION SETS

We include in our report two other sets of savings options that reflect different perspectives. Table ES-2 summarizes options developed in 2009 by the Task Force for a Unified Security Budget. These are part of its ongoing efforts to rebalance our security investments, which presently are weighted too heavily to the military side.

Table ES-3 presents a set of options developed by scholars of the Cato Institute. It suggests the budget implications of a shift in US global strategy to a stance of “Offshore Balancing” or what the authors call a “strategy of restraint.”

The reductions in military spending summarized in Table ES-3 reflect a security strategy that aims to bring force from the sea to defeat and deter enemies, rather than keeping troops ashore in semi-permanent presence missions or in long-term policing roles.

Mr. POLIS. Madam Chair, even Donald Rumsfeld believes it is time to change this policy.

In his recent book, he wrote, “Of the quarter million troops deployed abroad in 2001, more than 100,000 were in Europe, the vast majority stationed in Germany . . . Those deployments were obviously not taking into account the 21st century reality that Germany was now one of the wealthier nations in Europe . . . I believed our troops had to do more than serve as symbols of security blankets for wealthy allied nations.”

Madam Chair, experts across the ideological spectrum agree that the time is right for these smart cuts that will improve our national security, allow us to fulfill all our obligations to NATO, as well as include the 10,000 to 15,000 troops that experts say are necessary

to fully support operations at our current levels in the Middle East and Africa.

Again, I express my own personal desire that less is needed in that regard, and it seems to be our direction; but even at those current levels, we would fully support those operations. This is a smart cut, one of the easier ones we could go to. It improves our national security, and I urge a "yes" vote.

I yield back the balance of my time.

Mr. TURNER. Madam Chair, I yield 1½ minutes to the gentleman from Texas (Mr. THORNBERRY).

Mr. THORNBERRY. Madam Chair, it is true that the Department of Defense ought to always be examining where we have troops deployed around the world, and that is appropriate for them. It is not appropriate, however, for us to arbitrarily tell them that they will have 30,000 troops in Europe, X number of troops in Asia and so forth.

I think that it is important to emphasize that among the important functions that our troops in Europe perform are joint training—building partnership with our European partners. Just a few weeks ago, I was at the NATO SOF Training facility where European allies train with our Special Operations Forces before they have to actually be engaged in the battlefield in Afghanistan and elsewhere. That sort of joint training is made possible because our troops are there.

As the gentleman from Ohio mentioned, direct support of our deployments in Iraq, Afghanistan, Libya incredibly simplifies, or makes easier, our deployments for logistics and other transportation needs when we are able to base things in Europe and go from there rather than having to come all the way from the United States.

Madam Chair, I think we need to remind ourselves that, since 1945, when the U.S. has had substantial troop numbers in Europe, there has not been another general European war. Yet millions upon millions of people died in previous years because of those general European wars.

The other key point is that this amendment decreases end strength over a period of 5 years. That has real consequences for real soldiers and marines and sailors and airmen all across the world. As the gentleman mentioned, it means they are going to have to spend more time in deployments.

Mr. TURNER. Madam Chair, I yield 1 minute to the gentleman from Colorado (Mr. COFFMAN).

Mr. COFFMAN of Colorado. I thank the gentleman from Ohio for yielding.

I also thank the gentleman from Colorado for raising this issue and particularly for questioning our military forward-basing in Europe. I think it's certainly time to do that. I'm not sure about the 30,000 number, but I question whether our NATO allies are dedicating the appropriate percentage, in terms of their budgets, towards maintaining defense and not becoming far too reliant upon the United States.

Where I differ in the amendment is with this arbitrary reduction of 10,000 a year for 5 years. The Secretary of Defense, I think, has thoughtfully put forward a plan that would, based on conditions, reduce the United States Army's end strength by 27,000 in FY 2015–2016; and the United States Marine Corps is somewhere between 15,000 and 20,000, in that same fiscal year, based on conditions. So I certainly oppose the amendment.

The Acting CHAIR. The gentleman from Ohio has 1 minute remaining.

Mr. TURNER. Madam Chair, I would like to point out again that these are arbitrary numbers. Our troops in Europe pose an important asset for all of our operations in the protection of national security, including, as has been stated, training troops that go into Afghanistan and Iraq.

This amendment would not save money. It would, in fact, increase our overall cost. It also includes an arbitrary reduction in our overall end strength that would have a negative impact on our national security.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Colorado (Mr. POLIS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. POLIS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado will be postponed.

AMENDMENT NO. 61 OFFERED BY MR. CONYERS

The Acting CHAIR. It is now in order to consider amendment No. 61 printed in House Report 112–88.

Mr. CONYERS. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title XII, add the following new section:

SEC. 12 . . . PROHIBITION ON UNITED STATES GROUND COMBAT PRESENCE IN LIBYA.

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for the purpose of—

(1) deploying members of the United States Armed Forces on to the ground of Libya for the purposes of engaging in ground combat operations, unless the purpose of such deployment is limited solely to rescuing members of the United States Armed Forces from imminent danger;

(2) awarding a contract to a private security contractor to conduct any activity on the ground of Libya; or

(3) otherwise establishing or maintaining any presence of members of the United States Armed Forces or private security contractors on the ground of Libya, unless the purpose of such presence is limited solely to rescuing members of the United States Armed Forces from imminent danger.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Michigan (Mr. CONYERS) and a

Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

□ 2210

Mr. CONYERS. Madam Chair, I rise in support of my amendment, which would prevent funds authorized in the National Defense Authorization Act from being used to fund any type of ground combat operations in Libyan territory. My amendment would simply codify the policy endorsed by our President and the international community, and thereby ensure that our involvement in Libya remains limited in scope. I am proud to report that this amendment enjoys the support of 16 bipartisan cosponsors.

My proposal would prevent funds from being used to deploy, establish, or maintain a presence of members of the armed services or private security contractors on the ground in Libya. It also contains an exception that would allow for the rescue of members of the Armed Forces participating in the NATO no-fly zone operation.

I yield 1½ minutes to the distinguished gentlelady from California (Ms. LEE).

Ms. LEE. Madam Chairman, let me thank the gentleman for yielding and for his leadership. This is such an important amendment, such an important debate. No one in this House would ever defend the deplorable actions of Colonel Qadhafi and the decades he has spent repressing the Libyan people. But no one should fail to recognize that the actions we have taken in Libya since March 19 amount to a war. Missile strikes, naval attacks, bombing of strategic military targets, all of these actions would be a declaration of war if a foreign country launched such attacks on our soil.

Congress should have debated this prior to any military actions in Libya. While some of us can disagree as to whether or not we should be involved in a military action in Libya, we can all agree that we should prevent mission creep or any military expansion to include combat troops on the ground in Libya.

This simple amendment does exactly that by codifying the President's commitment, as Mr. CONYERS just said, to not put troops on the ground in Libya. So I urge a strong "yes" vote on this amendment. I thank the gentleman for his leadership.

Mr. WITTMAN. Madam Chairman, although I am not opposed to the amendment, I request time in opposition.

The Acting CHAIR. Without objection, the gentleman from Virginia is recognized for 5 minutes.

There was no objection.

Mr. WITTMAN. I yield myself such time as I may consume.

We are certainly in agreement with the intention of this amendment, by requiring appropriations not be authorized for operations on the ground there in Libya. We believe that preventing

these funds purposely puts in place Congress as a decision-maker. We believe that that is critical in this situation, and we believe that it's very appropriate that Congress assume its role in decision-making involving U.S. conflict in Libya.

I think that we all know that decisions are difficult with these sorts of conflicts and that Congress does have a very specific role in this effort. So we want to make sure that that's preserved. Certainly this amendment does that. So we are in agreement with the amendment.

I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, how much time have I remaining?

The Acting CHAIR. The gentleman from Michigan has 2¼ minutes remaining.

Mr. CONYERS. I yield as much time as she may consume to the gentlelady from California, the head of the Progressive Caucus for so many years, Ms. LYNN WOOLSEY.

Ms. WOOLSEY. I thank the gentleman from Michigan for yielding time to me.

Madam Chair, more than 2 months after the military campaign in Libya began, it's time to start defining its parameters and its limitations. Most importantly, we must provide assurance that this will not mushroom into a full blown ground war and military occupation. That's why I am proud to cosponsor the amendment offered by my friend from Michigan.

Are two wars not enough? We can't keep doing this. Our military is at a breaking point. The American people's patience is wearing thin. They know the costs in life and tender coming from these wars that we have in Iraq and in Afghanistan; and now what we're doing in Libya comes from important domestic programs right here at home. They don't want to replay Iraq and Afghanistan in Libya.

In fact, we all know that it's time to bring our troops home out of Afghanistan and Iraq, and it is time to engage in smart security for diplomacy, where human and economic assistance are used instead of bombs and weapons, costing us pennies on the dollar. No more wars, no boots on the ground in Libya, and as much as we can do to take care of our business here at home.

Mr. CONYERS. I thank the gentlelady. The time has come for Congress to once again exercise its constitutional authority to place boundaries on the use of our military forces overseas and clearly state that this conflict in Libya will not escalate into an expensive occupation that could strain our resources and harm our national security interests.

I beg the Members of this House to give favorable consideration to our amendment.

Mr. WITTMAN. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. CONYERS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

AMENDMENT NO. 62 OFFERED BY MR. FLAKE

The Acting CHAIR. It is now in order to consider amendment No. 62 printed in House Report 112-88.

Mr. FLAKE. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of section 1433, relating to the Mission Force Enhancement Transfer Fund, add the following new subsection:

(h) ELIMINATION OF REMAINING FUNDS.—The amount otherwise authorized to be appropriated for the Mission Force Enhancement Transfer Fund for fiscal year 2012, as specified in the funding table in section 4501, is reduced by \$348,256,000, which represents the amount of funds not needed to carry out projects identified in H.R. 1540 of the 112th Congress, as reported by the Committee on Armed Services of the House of Representatives.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. This amendment would simply eliminate funding for the Mission Force Enhancement Transfer Fund, which amounts to more than \$348 million. The fund was created in this bill in order to ensure that additional funding remain available for the Secretary of Defense to transfer, if he needed to, to other accounts to "mitigate unfunded requirements" according to the committee report. The report also contains a list of seven priorities that the Secretary can transfer these funds in support of.

I am not sure about this concept myself, particularly in this budget climate, of providing the Pentagon an authorization that essentially amounts to a blank check for a couple of hundred million dollars. It's my understanding that the committee identified \$1 billion in savings in the underlying bill and created the fund using these savings. It's also my understanding, however, that during the full committee markup more than \$650 million of that money was moved out of this fund by members of the committee seeking to increase funding for their own priorities in the bill.

□ 2220

I understand that Members want to retain the ability to move money around to areas they feel are underfunded and that should receive additional funding. However, if the committee was able to identify \$1 billion in

savings, I think it ought to put that savings toward decreasing the underlying, or, I am sorry, the cost of the underlying bill. We have to make tough choices all around in this budget, and Americans across the country are making tough choices with their budget.

But to identify a billion dollars in savings, then to move it into a new fund and then allow Members to designate their own priorities and take 650, I am just not sure what this is all about.

There are some concerns out there, there was a news article a couple of days ago that said that some people think this is some kind of slush fund designed to provide Members with a pot of money from which they can transfer money to fund their own projects. This would be similar to the earmarking culture that we have had around here, a culture that hopefully has ended and that we can move beyond. So I hope this is not what we are seeing here.

I have two amendments that will be considered later, I believe in the en bloc portion, that will seek for more transparency moving ahead to see how these funds are actually used and awarded.

I reserve the balance of my time.

Mr. McKEON. Madam Chair, I rise in strong opposition to Mr. FLAKE's amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McKEON. I yield myself such time as I may consume.

The gentleman from Arizona's amendment would eliminate resources for the Mission Force Enhancement Transfer Fund. I commend Mr. FLAKE for taking a serious issue, namely, deficit reduction. However, his amendment could do serious harm to our national security. I believe the Mission Force Enhancement Transfer Fund can be an important tool for the Defense Department to help keep America safe.

We set this fund up at the start of the process so that we wouldn't be tied to the President's budget request so that we could, the members of the committee that have the expertise, move the funding around to more important items. Resources from this fund will be used to power programs vital to our homeland defense such as Navy shipbuilding, strike aircraft, and ballistic missile defense, systems that the members of the Armed Services Committee agreed were not sufficiently funded by the President's budget. As you know, there are no earmarks in this bill.

We have worked very hard to move away from the system that you worked so hard to eliminate, and we have done a great job on that. But we do not feel bound by the President's request that we will just be a rubberstamp committee to just do what he expects us to do.

Madam Chair, I must repeat my concerns about stripping money from our troops and sending it back to the

Treasury. I know how important deficit reduction is. We do need to focus on that, but we have stressed very strongly, we will look at everything that the Pentagon spends, we will go through it with a fine-tooth comb, but the money we save we know we will put to areas that the Quadrennial Defense Review and our independent panel showed that we need just to bring us up to what our defense should have been 20 years ago.

I strongly oppose any amendment that would reduce the defense top line. And while I support Mr. FLAKE, as we all endeavor to get our spending under control, I must oppose this amendment, as it would strip our fighting force of the tools they need to get the job done and to keep America safe.

I reserve the balance of my time.

Mr. FLAKE. May I inquire as to how much time remains?

The Acting CHAIR. The gentleman from Arizona has 2½ minutes remaining.

Mr. FLAKE. I appreciate the gentleman's efforts to get rid of earmarks. I do have some concern about this. The guidance from the HASC, from the committee, says that the request may not direct funds to, or any funds with or to, any entity or locality.

It's been the practice in the past that when Members get their earmarks in a bill, they will take a victory lap, put out a press release. I have seen one of these already, and it says funding for a nonprofit charitable foundation, Technology Ventures Corporation, TVC, to help expand innovation in New Mexico's emerging satellite industry. This names both an entity and a locality. And this is a Member who got a particular request.

Mr. McKEON. Will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from California.

Mr. McKEON. This is on page 692, "Merit-Based or Competitive Decisions. A decision to commit, obligate, or expend funds referred to in the second sentence of subsection (a) with or to a specific entity shall

"(1) be based on merit-based selection procedures in accordance with the requirements of" the company's sections and

"(2) comply with other applicable provisions of law."

And if we find any Member pressuring the Department of Defense to use any funds other than to comply with competitive merit-based solutions, we will go after them. We have a strong oversight committee that will do this.

Mr. FLAKE. I appreciate the Member's commitment on that, and I appreciate also—I believe they are accepting the amendments that I have offered later, which would set up a process whereby we can see how these funds were actually disposed of, and that will help a great deal. I appreciate the chairman working on that.

I would just say, in closing, this amendment specifically is to save the

money that is still left in that account. If the concern is not to give the President the ability to direct all of these funds or the Secretary of Defense, then this accomplishes it. There is \$350 million left in this account. Let's apply that to pay down the debt and deficit.

That's what this amendment actually does. It takes the remaining money that has not been designated in that fund and applies it to deficit reduction. So that's what this amendment does, and I would appreciate support for it.

I thank the chairman for his comments, and I thank the chairman for his commitment to get away from this earmark culture.

I yield back the balance of my time.

Mr. McKEON. I yield 1 minute to my friend and colleague, the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Madam Chairman, I am always reluctant to oppose my good friend from Arizona, even when he is wrong, and he is dead wrong tonight.

As you heard him mention, there was a billion dollar savings. If that billion dollars hadn't been there, he would have been telling us all, can't you find \$100 million, can't you find \$200 million? But they find \$1 billion, and no good deed goes unpunished.

And, basically, Madam Chairman, the purpose of this fund is to make sure we are doing the tough choices. And he is right; these Members look every day at the priorities we need for the Department of Defense.

Let me just tell you one of those, shipbuilding. You and I today are living in a world for the first time where the Chinese have more ships in their Navy than we have in our Navy. The independent panel says we need 346 ships in our fleet, the Navy says 313, but their plan doesn't even get us there.

And so I am proud of the fact that we come together and say let's find savings in one area so we can put them in priorities such as shipbuilding. We ought not to cut these funds. It will be a disincentive for the Department of Defense to find those savings in the future.

Mr. McKEON. Madam Chairman, may I ask how much time remains?

The Acting CHAIR. The gentleman from California has 2 minutes remaining.

Mr. McKEON. I yield 1½ minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Thank you, Mr. Chairman. I have to say that I understand the importance of trying to control spending in this government, and I am very much thankful to the gentleman from Arizona to be wanting to do that.

The concern that we have is that when you take a look at where we are in terms of our military right now, we have some very big problems. Just standing back away from it and looking at it for a little bit, if you say, how many troops do we have, how many ships do we have, how many aircraft do

we have, and you compare where we are today with where we were 20 years ago, in 1990, we have half of what we had in 1990.

So we have reduced our military in half. We have the same number of ships today as what we had in 1916.

Now, one of the reasons for paying attention to earmarks was so that we would pay more attention to doing a good job of oversight. This committee has really worked hard at oversight. We have identified areas where we think the Pentagon was wrong, where the President was wrong, and we have taken that money out. Now we are going to be punished for taking it out by having it taken away.

The point of the matter is we are re-directing the money, but we are allowing a certain amount of flexibility. The places where this money has got to be spent are, first, ballistic and cruise missile defense. This is a very, very big deal for the Navy. The Chinese have very high-speed cruise missiles. We have to be able to defend against them.

□ 2230

Navy shipbuilding, we have already talked about that. We have the same number of ships as we had in 1916.

The Acting CHAIR. The time of the gentleman has expired.

The gentleman from California has 30 seconds remaining.

Mr. McKEON. In the time I've been in Congress, as the gentleman said, our military has basically been cut in half, and yet we are fighting two wars and half of a third. And Ronald Reagan said that during his lifetime he never saw us get into a war that we were overprepared for. We cut back after every war. This is the first time I have seen us trying to cut back during wartime.

I ask that we defeat the gentleman's amendment. As well intended as it is, we need the money for the defense of this Nation.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. FLAKE. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona will be postponed.

AMENDMENT NO. 63 OFFERED BY MR. ELLISON

The Acting CHAIR. It is now in order to consider amendment No. 63 printed in House Report 112-88.

Mr. ELLISON. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 616, strike line 18 and all that follows through line 13 on page 617.

The Acting CHAIR. Pursuant to House Resolution 276, the gentleman from Minnesota (Mr. ELLISON) and a

Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. ELLISON. Madam Chair, I rise to offer an amendment that will cut \$150 million in unnecessary defense funding.

Congress must reassess our budgetary priorities. We should not be in the business of needlessly increasing defense spending while simultaneously cutting spending for critical services that Americans depend upon. Without my amendment, Congress will needlessly approve \$150 million for the LHA 7 amphibious warship program. Now, let me be clear. I'm not against such a program in its own right, but I am against authorizing this funding for FY12 because the Government Accountability Office and the Armed Services Subcommittee on Seapower said we shouldn't do it. And they have very good reasons for coming to that conclusion.

First of all, according to the Government Accountability Office report, which I have in my hand and I intend to submit into the RECORD, these funds won't even be used in fiscal year 2012. The report states that contractor delays and labor shortages "will likely have implications on the ability of the shipbuilder to start construction of LHA 7 as currently planned."

If we do not authorize these funds, our national security will not be harmed. The GAO reports that FY11 funds already appropriated will be sufficient to cover the costs of the program and expenses for LHA 7 in FY12. As the report makes clear, and I quote again, Madam Chair, "most of the construction costs for LHA 7 will not be incurred until fiscal year 2013."

Given the GAO's recommendation, the Armed Services Subcommittee on Seapower did the right thing. They cut funding for the LHA 7. However, that funding was reinstated in the full committee. Given that the funds will not even be able to be used in FY12 due to contractor delays, why was \$150 million reinstated in the full committee? Well, I can tell you that a Republican gentleman from Mississippi sits on the Armed Services Committee, and he represents a district on the coast with a very large shipbuilder in it.

Let's review momentarily. At a time when Congress is cutting critical heating assistance programs, education, and health care, why should it authorize defense spending for work that military contractors aren't even prepared to do?

Without my amendment, Congress is set to increase funding for the LHA 7 warship at a time when we are slashing critical domestic spending programs that Americans count on.

This is a commonsense amendment, Madam Chair, and it follows that the GAO and the Armed Services Subcommittee on Seapower said we should do. We should cut \$150 million for the LHA 7 warship program. I'll leave it to you and your imagination as to why

the funding was reinstated at the full committee.

I urge my colleagues to reassess our budgetary priorities and authorize funds for when they can actually be used. Spending should not be authorized prematurely, especially when Congress is cutting other critical programs.

LHA REPLACEMENT, SHIPBUILDING AND CONVERSION (SCN), FISCAL YEAR 2012—LINE 3041

PROGRAM OVERVIEW

The LHA program will provide the functional replacement for the LHA 1 Class ships which are reaching the end of their extended service lives. The program is to ensure that the amphibious fleet remains capable of Expeditionary Warfare well into the 21st century and provide for an affordable and sustainable amphibious ship development program. LHA 6, the lead ship, was authorized in fiscal year 2007. Fabrication of LHA 6 started in January 2008 and it is currently scheduled for delivery in October 2013. The Navy requested funding for the first follow-on ship, LHA 7, in its fiscal year 2011 budget request and requested an additional \$2018.7 million in fiscal year 2012 to fully fund the ship. The Navy awarded an advance procurement contract for LHA 7 in June 2010, and planned to award the construction contract in November 2010.

(Dollars in millions)

| | Fiscal year | | |
|---------------------------|-------------|---------|-----------|
| | 2010 | 2011 | 2012 |
| Funding/Request | \$169.5 | \$942.8 | \$2,018.7 |
| Potential Reduction | | | \$2,018.7 |

Source for Funding/Request: Department of the Navy Fiscal Year 2012 Budget Estimates for Shipbuilding and Conversion programs (P-1); Department of Defense and Full-Year Continuing Appropriations Act, 2011, Pub. L. No. 112-10.

REASON FOR REDUCTION

The Navy's fiscal year 2012 shipbuilding and conversion budget request for LHA 7 could be reduced by \$2018.7 million because the funds are premature to program needs. The Navy expected to award a contract for construction of LHA 7 in November 2010—at the start of fiscal year 2011—but the contract award has been delayed and is unlikely to occur until fiscal year 2012. While the Navy currently plans to begin construction of LHA 7 in May 2012, it is likely that construction will be delayed. Ongoing shipyard labor shortages have resulted in schedule delays on LHA 6 and will likely have implications on the ability of the shipbuilder to start construction of LHA 7 as currently planned. Given the delay in contract award and the likelihood that the start of construction may slip, the program will not need the majority of funding until fiscal year 2013. Fiscal year 2011 funding will be available in fiscal year 2012 to ensure that the shipbuilder can purchase materials necessary to meet its build schedule—activities originally scheduled to take place in fiscal year 2011. The National Defense Authorization Act for Fiscal Year 2011 authorized the Navy to split funding for LHA 7 construction over fiscal years 2011 and 2012. Should Congress choose to take the suggested action, LHA may need multiyear contracting authority that includes fiscal year 2013.

The Navy anticipated awarding a contract for LHA 7 construction in November 2010—at the start of fiscal year 2011. To date, the Navy has not yet awarded a contract—a delay of at least five months. According to the Navy, it received the shipbuilder's proposal in April 2011. The program office reported that they would like to award the contract by the end of fiscal year 2011—5

months or less after receiving the shipbuilder's proposal—but acknowledged that they would most likely award a contract in fiscal year 2012. By comparison, the construction contract for LHA 6 was not awarded until over 14 months after receiving the contractor's proposal. Program officials believe that the construction contract for LHA 7 will take less time to negotiate than the lead ship. However, even if the Navy reduced the time to award to 7 months, half the time required to negotiate the LHA 6 contract, the award would still occur in November 2011—in fiscal year 2012 and a full year later than planned.

Further, it is likely that the start of construction for LHA 7 will be delayed past its current estimated date of May 2012 due to ongoing shipyard labor shortages. Delivery of LHA 6 has been delayed twice primarily as a result of labor issues. The most recent delay, announced in the fiscal year 2012 budget, pushed delivery of the ship from April to October 2013. Program officials reported that the shipyard is currently drawing down labor, but will have to increase labor resources to meet the increased shipyard demand starting in fiscal year 2013. However, the shipbuilder may have difficulty effectively increasing labor resources to meet the needs of Navy programs. In addition to the LHA class, construction of LPD 26 and LPD 27 is expected to begin in late 2011 and 2012. The program office acknowledged that the construction start date for LHA 7 may slip past its current estimate, and some Navy estimates put construction start in early 2013. The actual construction start date will be negotiated as part of the LHA contract award.

Since activities originally planned to take place in 2011 will most likely occur in 2012, 2011 funding should be sufficient for the program through 2012.

PROGRAM OFFICE COMMENTS

The Navy indicated that it strongly disagrees with GAO's assessment of the LHA(R) program and the proposed reduction of fiscal year 2012 funding. The Navy believes it can award the contract by the end of this fiscal year, in August or September 2011. According to the Navy, construction will start as currently planned in May 2012, as it has worked with the contractor to mitigate construction schedule risk by using the advance procurement funds to buy long lead time materials. According to the Navy, a reduction to fiscal year 2012 funding would impact the program's ability to procure required Contractor Furnished Equipment, disrupt the ship's engineering and production schedule and cause significant disruption in the industrial base. The Navy believes there is significant risk that fiscal year 2011 funds would not cover required expenditures if the second increment of funds were not appropriated until fiscal year 2013. According to the Navy, failure to procure government furnished equipment systems as planned will negatively affect the unit cost of these systems for LHA 7 and other platforms. The Navy also states that the entire shipbuilding plan for fiscal year 2013 and later years would be impacted by a delay of LHA 7 funding.

GAO RESPONSE

Although the Navy believes it can award a construction contract for LHA 7 within four to five months, past experiences negotiating contracts with the shipbuilder have taken considerably longer. As we stated previously, the LHA 6 contract was awarded 14 months after the Navy received the initial proposal from the shipbuilder. While the Navy indicates that it has mitigated construction schedule risk by procuring long lead time materials, there is still significant risk of construction delays associated with ongoing

labor shortages and a projected increase in shipyard demand starting in fiscal year 2013 due to construction on multiple ship programs. The shipbuilder has been unable to effectively manage labor resources on LHA 6. Ongoing labor shortages increase the risk that the shipbuilder will remain unable to meet increased shipyard demand in fiscal year 2013, which increases the likelihood that construction start of LHA 7 will also be delayed.

In its comments, the Navy indicated concerns about having enough funding to acquire equipment and materials for LHA 7. However, program officials previously reported to GAO that fiscal year 2011 funding will cover materials and that the program was waiting for the construction contract award before placing some orders for materials. The program has already received \$169.5 million in advance procurement money to acquire long lead time materials, and received \$942.8 million in fiscal year 2011.

The program can use this money to purchase materials as planned. Most of the construction costs for LHA 7 will not be incurred until fiscal year 2013. Accordingly, the fiscal year 2012 budget request could be reduced by \$2018.7 million.

At this time, I would yield 1 minute to the ranking member on the Armed Services Committee, Mr. ADAM SMITH.

Mr. SMITH of Washington. Madam Chair, I support the gentleman's amendment. I think it's really important to understand what's going on here. The gentleman is absolutely correct. The original purpose for this money, it was \$200 million, it was determined to no longer be valid for all the reasons that were stated. They couldn't spend the money. But we had \$200 million floating around, and they hate to give back \$200 million in the Defense Committee, so they grabbed \$150 million of it and simply designated it, broadly speaking, to shipbuilding. We do this a lot. Mr. FLAKE spoke about this in the other amendment. And I understand there are Members who are concerned about the top line within the defense budget and holding it.

I think it's important where we spend the money. We have to have a reason to spend it. We just have to say, well, there's \$150 million. We would kind of like to have it because who knows? We might need it at some point.

We can't afford that in our current deficit environment, to simply set aside \$150 million. I know we're going to talk about shipbuilding. I heard about it a little bit before. Yes, we have fewer ships than we had in 1916. I would submit that our Navy today is vastly more capable than our Navy back in 1916 because our sheer numbers of ships is not the only factor that matters. It kind of matters what their capabilities are.

The Acting CHAIR. The time of the gentleman has expired.

Mr. ELLISON. I yield the gentleman an additional 30 seconds.

Mr. SMITH of Washington. Throughout the bill—and we have an amendment coming up after this that is the same sort of thing. There is a lot of money in the defense budget that gets

appropriated, and then for whatever reason we find out we can't actually build what it was intended for, and then we just hold on to the money because we might use it later. That is not an efficient way to spend money.

And I'm sorry. The deficit does matter to our national security. As has been quoted earlier, the Chairman of the Joint Chiefs of Staff said that our deficit, in fact, is the number one threat to our national security. So we have to save money where we can. Clearly, this is a place where we can save money.

I urge support for the gentleman's amendment.

The Acting CHAIR. The time of the gentleman from Minnesota has expired.

Mr. PALAZZO. Madam Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Mississippi is recognized for 5 minutes.

Mr. PALAZZO. I yield myself such time as I may consume.

Madam Chair, I rise in opposition to the gentleman from Minnesota's amendment. Put simply, the gentleman's amendment would further delay the funding of a ship that our Navy and Marine Corps wants and needs.

LHA 7 is a part of the next generation of large deck amphibious assault ships, just similar to the USS *Kearsarge*, which just returned after an 8½-month-long deployment to where they participated in strikes in Libya and humanitarian assistance and other missions. This *America* class amphibious assault ship will be serving our country and providing a vital mission capability for years to come.

The President's very own 2012 budget request included \$2 billion for the second year of incremental funding for LHA 7. Previous Congresses have supported this ship and her procurement, and further delays to this funding are opposed by this administration, the Navy, the Marine Corps, and the House Armed Services Committee.

My colleague mentioned, by the way, the GAO report. The Navy strongly disagrees with the GAO report that the gentleman has pointed to. The Navy has the shipbuilder's proposal in hand and at this point is working to complete negotiations to get this ship under contract this year, which may happen as soon as August.

The Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps have all endorsed a minimum naval fleet of 313 ships, of which 33 of those ships are going to be amphibious in nature. If the gentleman's amendment were to become law, the contract for this amphibious ship could be delayed. The ship's delivery to the fleet would be delayed, and the overall cost of the ship would go up.

It seems to me, as a Member of Congress, that we need to support programs and policies that enable our men and women in uniform to get the best possible equipment at the lowest cost

to the taxpayer. The gentleman's amendment does just the opposite.

This amendment also jeopardizes American jobs. Nearly 3,500 shipbuilders depend on the ship for work. Cuts to this ship's funding, delays in contracting, and political gamesmanship put these jobs at risk.

□ 2240

Furthermore, the gentleman's amendment provides absolutely no cost savings. It just forces the Navy to budget more for the ship next year, and overall it increases the cost to the taxpayer. This amendment does not just delay LHA-7; this amendment potentially delays our next aircraft carrier, our next submarine, and our next destroyer.

Finally, the gentleman's amendment is not good for the taxpayer, and it is not good for the Navy or the Marine Corps. Previous Congresses have endorsed the procurement of this ship, the administration and the Navy have endorsed the procurement of this ship, and American jobs depend on the procurement of this ship.

I urge my colleagues in the House to vote "no" on this amendment.

Madam Chair, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN), the chairman of the Seapower and Expeditionary Forces Subcommittee.

Mr. AKIN. As the chairman of the Seapower Subcommittee, we have taken a good look at LHA-7, and this is an absolutely essential ship. Nobody is arguing that point. It is a large deck amphib assault.

What has happened, though, is that the Marine Corps decided that they wanted to put a well deck in the original design, which has caused some additional negotiations and slowed things down a little bit. But the point of this amendment is to strip \$150 million away from this project. That is a very big problem. It is a big problem because next year we have got an aircraft carrier to build, a nuclear-powered submarine, and a destroyer, and this money needs to come from the budget this year in order to keep the LHA-7 on track.

As we have talked about earlier this evening, we are in a bad position in terms of number of ships in the Navy. LHA-7 is critical, it is important, and stripping \$150 million does tend to threaten the project, or at least push it off, and then you have to try and fund it in a year when we don't have the funds because we are building a bunch of other ships. So what this does is it guarantees that LHA-7 is going to proceed, but we have to allow enough time for the negotiations.

Mr. ELLISON. Madam Chair, will the gentleman yield for a question?

Mr. AKIN. No, I don't yield.

The Acting CHAIR. The gentleman from Missouri controls the time.

Mr. AKIN. The point of the matter is that LHA-7 has to go forward, and we have to make sure that we have the

funding. As soon as the negotiations are finished between the Navy and the contractor, then we can move ahead on this project. So the \$150 million is important. The exact timing of when it is going to be spent is in question, but the necessity to have the money is not in doubt. That is why we oppose this amendment.

Mr. ELLISON. Would the gentleman yield now for a question?

The Acting CHAIR. The time of the gentleman from Missouri has expired.

The gentleman from Mississippi has 30 seconds remaining.

Mr. PALAZZO. Madam Chair, I would like to yield the 30 seconds to the gentleman from Virginia (Mr. WITTMAN).

Mr. WITTMAN. Madam Chair, I just want to emphasize the need for our amphibious ships. The requirement, the national requirement is 38 ships. The Marine Corps says they can live with 33. We have 28 today.

Mr. ELLISON. Will the gentleman yield?

Mr. WITTMAN. No, I will not yield.

Mr. ELLISON. Will the gentleman yield for a question?

Mr. WITTMAN. The requirement is 33. We have 28.

Mr. ELLISON. Will the gentleman yield for a question, Madam Chair?

Mr. WITTMAN. The math is very, very simple. It is a specific need.

Mr. ELLISON. Madam Chair, will the gentleman yield?

The Acting CHAIR. The gentleman from Virginia controls the time.

Mr. WITTMAN. We have to make sure that we meet that need. Our Marine Corps travels around the world needing this ship capability. It is critical to this Nation, critical to our defense. This must be funded today.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. ELLISON).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. ELLISON. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Minnesota will be postponed.

AMENDMENT NO. 64 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 64 printed in House Report 112-88.

Ms. LORETTA SANCHEZ of California. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 708, after line 12, insert the following:
SEC. 1699F-1. BUDGET REDUCTION FOR GROUND-BASED MIDCOURSE DEFENSE SYSTEM.

Notwithstanding the amounts set forth in the funding tables in division D, the amount authorized to be appropriated in section 201 for research, development, test, and evaluation, Defense-Wide, as specified in the cor-

responding funding table in division D, is hereby reduced by \$100,000,000, with the amount of the reduction to be derived from Line 084 Ground-Based Midcourse Defense Segment, PE 0603882C, as set forth in the table under section 4201.

The Acting CHAIR. Pursuant to House Resolution 276, the gentlewoman from California (Ms. LORETTA SANCHEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. LORETTA SANCHEZ of California. I yield myself such time as I may consume.

Madam Chair, this Congress' number one responsibility is to defend and protect our Nation. As we all know, the United States faces incredible threats within and from abroad, and it is the responsibility of the House Armed Services Committee to assess the threats that we face and to look at the limited resources we have and to allocate them in the most effective way we can.

So in the full committee mark, my Republican colleagues increased the funding of the Ground-based Midcourse Defense system by \$100 million. My amendment would simply take out that \$100 million and give it towards savings for our country to bring down the deficit.

We Democrats support progress on homeland missile defense. We want to see that the technology is proven and reliable, and that it is cost effective. However, additional funds for the GMD are not needed and would be wasteful. The head of the Missile Defense Agency, the director, General O'Reilly, has stated that he does not need the increase in these funds for fiscal year 2012. In fact, in front of the Senate Armed Services Committee at a hearing on April 15, he said: "Right now, sir, I've got the funding I need to address this problem," meaning some of the failure problems we have, "because I've stopped my production line. My production line was stopped not to save money. It is solely driven by what we need to confirm the design works before we go back into production."

So additional funding is not needed, and aside from the GAO saying that Congress should reduce by over \$400 million the budget for this, I am only talking about the \$100 million that in that hearing the General said we don't need it.

Why don't we need it? Because the last two intercept test flights of this system did not work. They failed. And so the agency has gone back to do systems testing. They don't want to produce if it is not working. In fact, they have said that we must fly, i.e. it must work, before we buy.

So, the fiscal year 2011 appropriations has allowed the MDA to focus on resolving the technical challenges from the failed test, and we will proceed with planned projects and avoid delays. Now is the time to get it right. We don't want to build something that

just isn't working. I hope that my colleagues will understand that this money is not needed at this time.

I reserve the balance of my time.

Mr. TURNER. Madam Chair, I claim the time in opposition.

The Acting CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. TURNER. This amendment has been previously debated in committee and was defeated and should be defeated here. There are three reasons why this amendment should be defeated.

This is a program that has had past cuts that have endangered the program. These are dollars that are needed, and the threat that we have is increasing. The Ground-based Midcourse Defense system is the only missile defense system that we have that currently protects the American people from long-range ballistic missile threats, a threat that is increasing.

This is a program that has had successive cuts in the past. In fiscal year 2010, the administration slashed GMD by 35 percent or \$445 million in the same year that program had setbacks. This year's fiscal year 2012 request cuts GMD by 14 percent, or \$185 million. The Department's 5-year spending projection cuts Ground-based Missile Defense by an additional billion, or nearly 20 percent. This is a program that is having setbacks, but it is the only program that we have. We can't cut it and expect to fix it. We can't cut it and expect it get it right.

□ 2250

We can't cut it and expect it to be a system that we can depend on on growing threats.

Now, General O'Reilly has testified that he needs four additional ground-based interceptors and an additional 150 to 200 million would be needed for another flight testing and more ground testing. In fact, he just testified today in front of the Senate Appropriations Committee that proposed cuts could threaten the program and set it back by an additional year.

Secretary Gates has testified repeatedly that if we look to the growing threats from North Korea and Iran, these are threats that must be responded to. Our only system to do that is this ground-based missile defense system. We should not cut it. We did not cut it in committee, and we should not cut it here.

I reserve the balance of my time.

Ms. LORETTA SANCHEZ of California. Madam Chair, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS), who also sits on our committee.

Mr. ANDREWS. Madam Chairwoman, as we meet tonight in support of the Sanchez amendment, we have 30 ground-based interceptors at Fort Greely and at Vandenberg. We have an *Aegis* Array at sea. We have other radar protections for this country. And we have an effort to give \$100 million to a military leader who said the following

in April when he was talking about what he needed, referring to Senator LEVIN in the Senate, "Right now, sir, I've got the funding I need to address the problem of the FTG-06 failure because I've stopped my production line. That was not to save any money. It was solely driven by the need to confirm the design works before we go back into production."

Let's not give a military leader \$100 million he didn't ask for, for something that doesn't work yet, that isn't needed to defend the country.

Vote for the Sanchez amendment.

Mr. TURNER. I yield 2 minutes to the gentleman from Colorado (Mr. LAMBORN).

Mr. LAMBORN. Madam Chair, I oppose this amendment and consider it harmful to our Nation's defense.

We already know President Obama is no fan of missile defense based on his budget priorities. He cut this same program, Ground Based Midcourse Defense, by \$445 million in fiscal year 2010. His request for 2012 cuts this program by another \$185 million.

Remember, this program is the only defense we have against an intercontinental ballistic missile fired by a rogue country or a terrorist group. On top of Obama's cuts, this amendment would cut another \$100 million. All we have today is a couple of dozen interceptors on the west coast. We have nothing on the east coast. We should be adding money, not slashing it.

The general in charge of the Missile Defense Agency said in April in a hearing before our subcommittee that he wants more money than what the President requested for testing and additional interceptors. The Secretary of Defense said in January we have underestimated the threat from North Korea from its missile and nuclear programs. The Director of National Intelligence said in February that Iran's missile technology could be used for ICBMs.

Now is not the time to slash our only defense for intercontinental threats from countries like North Korea or Iran. The threat is real. The consequences would be devastating. We must reject this reckless amendment.

The Acting CHAIR. The gentlewoman from California has 30 seconds remaining.

Ms. LORETTA SANCHEZ of California. Madam Chair, I yield the balance of my time to the ranking member of the Armed Forces Committee, the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Madam Chair, this is a very frustrating debate because nobody's questioning the importance of missile defense. There is \$1.1 billion in this bill precisely for this missile defense.

The reason that funds have been cut for this program isn't because it's less of a priority; it's because the program wasn't working as it was intended.

As I have discussed earlier, this happens frequently in the Defense Department. We don't get a program up to

where it's supposed to be. We are appropriating money, authorizing money, in this bill that cannot be spent not because we simply want to cut it because we don't have a priority but because it isn't working at the pace that we expected it to be. We are giving \$100 million that isn't needed even to continue the program. We need to be more fiscally responsible with our money.

We support this program. We support \$1.1 billion.

The Acting CHAIR. The time of the gentleman has expired.

Mr. TURNER. Madam Chair, I yield the balance of my time to the gentleman from Arizona (Mr. FRANKS).

The Acting CHAIR. The gentleman from Arizona is recognized for 1½ minutes.

Mr. FRANKS of Arizona. Madam Chair, I would just seek to put this in some kind of perspective.

Ever since mankind took up arms against his fellow human beings, there has always been an offensive weapon met with some type of defensive weapon. The spear brought the shield. The artillery brought armed battle tanks. And now we face the world's most dangerous weapons in the history of mankind in the form of intercontinental ballistic missiles armed with nuclear warheads that in a blinding flash could kill hundreds of thousands of people in a city. Or over our Nation's continent, an Exo-atmospheric blast could perhaps over time, through destroying our electric infrastructure, kill tens of millions of people. And the only system that we have to defend ourselves against that type of weapon is our Ground Based Midcourse Defense System. And this amendment seeks to cut that another \$100 million on top of the cuts that the administration has constantly done throughout its tenure.

Madam Chair, I would just suggest to you that that is the height of irresponsibility. The fact is when two airplanes hit two buildings, it cost this economy \$2 trillion. This is not the way to have priorities for a budget. Our primary duty in this body is to make sure that we protect the lives and the constitutional rights of Americans, and we must protect our ability to stop intercontinental nuclear-armed missiles. This is the only system that we have to do it.

Vote down this amendment.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. LORETTA SANCHEZ of California. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. The Chair understands that the proponents of remain-

ing amendments through amendment No. 97 will not individually offer their amendments.

AMENDMENT NO. 100 OFFERED BY MS. EDWARDS

The Acting CHAIR. It is now in order to consider amendment No. 100 printed in House Report 112-88.

Ms. EDWARDS. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 762, line 3, strike "and" and insert the following:

"(3) analyzes the impact of the action on local businesses, neighborhoods, and local governments; and".

Page 762, line 4, strike "(3)" and insert "(4)".

The Acting CHAIR. Pursuant to House Resolution 276, the gentlewoman from Maryland (Ms. EDWARDS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Maryland.

Ms. EDWARDS. Thank you, Madam Chair, and thank you to the chairman and the ranking member.

I represent the Fourth Congressional District of Maryland, which is home to Joint Base Andrews. Joint Base Andrews is home to Air Force One, the 11th Wing, and the 113th Wing that supports air sovereignty over the Mid-Atlantic region, including the National Capital region.

Currently, 15,000 personnel work at Joint Base Andrews, including 7,000 active duty servicemembers. When the 2005 BRAC process is complete, an additional 3,000 personnel will work at Joint Base Andrews, bringing the total to 18,000 personnel. Unfortunately, when considering shifting resources, the commission did not account for changes outside the gate required to deliver increased personnel to the installation.

□ 2300

And I refer to the activity at Joint Base Andrews as one of many examples across the country of these significant BRAC impacts on local infrastructure.

The underlying bill goes a long way toward correcting significant transportation infrastructure impacts related to installation realignment. My amendment clarifies that if a significant transportation impact will occur as a result of a realignment action, the action may not be taken unless and until the Secretary analyzes the potential impact of the action on local businesses, neighborhoods, and local government. These can sometimes be quite significant and unaccounted for.

My amendment keeps with the spirit of the bill, addressing transportation infrastructure, and simply ensures that our constituents and local congressional districts will have the assurance that their livelihoods are kept in mind when realignment activities are taken.

A GAO study published in 2009 found that BRAC growth will result in increased traffic in communities ranging

from very large metropolitan areas to small communities, further congesting roads. This has certainly been the case in my community. According to a Department of Defense Office of Economic Adjustment survey, 17 of 18 BRAC growth communities identified transportation as one of their top challenges. The priority is most clear for us around Joint Base Andrews. Traffic entering and exiting the installation contributes to regional congestion, resulting in the average Washington metropolitan region driver wasting almost 70 hours in traffic per year not just at Andrews, but throughout the region.

The Federal Government has provided very limited direct assistance to help communities address BRAC transportation impacts, and State and local governments have adopted strategies to expedite projects within the time frame allowed by BRAC. In years past, this has happened through the earmark process, a process that is no longer available. In other areas, the Department of Defense's Defense Access Roads program has certified transportation projects for funding at three affected communities.

OEA has also provided planning grants and funded traffic studies and local planning positions. And while Federal highway and transit programs can be used for many BRAC-related transportation needs, dedicated funds are not available. Instead, BRAC-related transportation projects must compete with other proposed transportation projects in a given State or community.

By 2009, communities that identified funding for about only \$500 million of the estimated \$2 billion needed to address their near-term project needs. In fact, some States and local governments have adopted strategies to expedite highway projects, such as prioritizing short-term high-impact projects because the time frames for completing BRAC personnel moves are much shorter than the time frames for such projects.

While legislation mandates that BRAC growth be completed by 2011, major highway and transit projects typically take anywhere from 9 to 19 years to complete, and near-term transportation projects to address these challenges could cost about \$2 billion, of which \$1.1 billion is related to projects solely in the Washington metropolitan area.

BRAC-related transportation infrastructure costs are subject to a number of uncertainties. According to the GAO, and I quote: "Not all potential projects are included in the estimate. Military staffing levels at some growth installations are in flux, and location decisions of military and civilian personnel have not yet been made. And preexisting, nonmilitary community growth makes a direct link between transportation projects to military growth very difficult."

To complete some critical projects before BRAC growth occurs, State and

local officials are reprioritizing planned projects and implementing those projects that can be completed quickly. GAO, in fact, cited projects from Maryland to Texas and all across the country where the States prioritized certain lower cost intersection projects to improve traffic. This takes away from other planned priorities that States may have had on the books.

The Acting CHAIR. The time of the gentlewoman has expired.

Ms. EDWARDS. I ask for consideration of the amendment.

Mr. MCKEON. Madam Chair, I claim the time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. MCKEON. When I conclude my remarks, Madam Chair, this will conclude our work for the day. We will come in and, my understanding is, start at 10 in the morning. We have seven more amendments to address in the morning plus four en bloc amendments.

I would just like to, at this time, thank all of those Members who have participated. Especially I want to thank Ranking Member SMITH and all of our staff. They have put in long, hard hours and great work. I think we have come out with, so far, a very good bill. I look forward to finishing it up tomorrow morning.

Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Maryland (Ms. EDWARDS).

The amendment was agreed to.

Mr. MCKEON. Madam Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORBERRY) having assumed the chair, Ms. FOXX, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1540) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for fiscal year 2012, and for other purposes, had come to no resolution thereon.

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HOURLY MEETING ON TOMORROW

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE MAYORS OF THE NORTHERN MARIANAS

(Mr. SABLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABLAN. Mr. Speaker, in the Northern Mariana Islands, modern-day mayors represent a proud tradition that dates back thousands of years to the maga'lahi who led families, clans, and villages of ancient Chamorro society. These individuals, and their forebears, represent an enduring line of local self-government in our islands. They deserve recognition for the important role they have filled, particularly during the return to local self-government after World War II, which was essential to regaining and preserving our cultural identity. This process began soon after American troops freed our islands in the 1944 Battle for Saipan.

Chamorro and Carolinian survivors of the war elected a high chief, roughly the equivalent of a mayor, in their first exercise of American democracy. The mayor in those days served in a role now customarily identified with the office of the governor. Today, mayors are charged with more traditional responsibilities such as administering government programs, public services, and appropriations in their respective municipalities.

Please join me in honoring the past and present mayors of the Commonwealth of the Northern Mariana Islands, who have contributed greatly to the quality of life in our community.

Mr. Speaker, in the Northern Mariana Islands, the modern-day mayors of our far-flung community represent the democratic embodiment of a proud tradition of local leadership that dates back thousands of years to the maga 'lahi who led families, clans, and villages in ancient Chamorro society. These individuals, and their forebears, represent the most enduring line of local government in our islands and merit recognition for the important roles they have filled historically, and particularly during the return to local self-government during the past 65 years.

Over 3,500 years ago, the Mariana Islands were first discovered by intrepid sailors from elsewhere in Asia. They organized a society at harmony with nature on our islands that thrived for millennia. Beginning in the early 1500s, however, with the arrival of Ferdinand Magellan, the Marianas lost their independence to successive colonizing forces from all corners of the globe. Spanish forces were followed in the Northern Marianas by Germans, then by the Japanese, and finally—under a United Nations trusteeship—by the United States, until the people of our islands were given the opportunity for self-determination and voted overwhelmingly to adopt a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

During these four centuries of colonialism, our ancestors were told where they could live or not live, their traditional latte stone homes were destroyed, they were forced to adopt foreign customs and religions, and their populations were decimated by foreign diseases