this legislation directly helps by bringing more physicians to places like eastern Washington by providing creative avenues for funding our graduate medical education. It also helps solve the longer-term problem of too few doctors in rural areas, because studies show that, when people do their residencies in the rural areas, they're more likely to practice in the rural areas.

I urge the support of this legislation, and I thank Mr. THOMPSON for joining me in introducing it.

RELUCTANT OPPOSITION TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF 2012

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, I rise in reluctant opposition to the National Defense Authorization Act of 2012, which we will be voting on today.

The bill does include provisions that are vital to our national defense, but it also includes provisions that present a false choice between our safety and our values.

Section 1021 would authorize the indefinite military detention of all terrorism suspects. Allowing the United States military to detain individuals, some of whom may be innocent, without charge or trial during this endless war on terrorism undermines our most defining principles as a Nation of individual freedom and justice for all.

Mr. Speaker, our civilian law enforcement agencies have proven themselves capable of apprehending, interrogating, and prosecuting terrorism suspects. In fact, civilian courts have overseen the successful prosecution of more than 400 terrorists—the military courts only six.

This Congress should not impose these law enforcement duties upon our troops. It is un-American and unconstitutional. We should reject the false choice between our short-term security and our long-term survival as the leader of the free world.

SUPPORT H.R. 1905, THE IRAN THREAT REDUCTION ACT

(Mr. WELCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELCH. I rise today in support of the Iran Threat Reduction Act.

Mr. Speaker, I believe in dialogue and I very much believe in diplomacy; but despite an unprecedented effort by President Obama in his speech to the Iranian people for outreach, the Iranian Government was unreciprocal in any kind of response. Instead, what we've seen is that they are pursuing the development of nuclear weapons full speed ahead. Last month, the International Atomic Energy Agency further confirmed in a report detailing efforts by the Iranian Government Iran's nuclear aspirations to acquire the skills needed to weaponize highly enriched uranium.

This is extremely dangerous. Iran has had a longstanding relationship with Hezbollah, which continues to condone violence as a political tactic; and Iran is continuing to be the major bulwark of support for the brutal crackdown by the Syrian Government on the democratic aspirations of its people.

I urge my colleagues to support the Iran Threat Reduction Act.

CONFERENCE REPORT ON H.R. 1540, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 493 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 493

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1540) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The previous question shall be considered as ordered on the conference report to its adoption without intervening motion except: (1) one hour of debate; and (2) one motion to recommit if applicable.

SEC. 2. It shall be in order at any time through the remainder of the first session of the One Hundred Twelfth Congress for the Speaker to entertain motions that the House suspend the rules, as though under clause 1(c) of rule XV, if the text of the measure proposed in a motion is made available to Members, Delegates, and the Resident Commissioner (including pursuant to clause 3 of rule XXIX) on the calendar day before consideration.

SEC. 3. On any legislative day of the first session of the One Hundred Twelfth Congress after December 16, 2011—

(a) the Journal of the proceedings of the previous day shall be considered as approved;

(b) the Chair may at any time declare the House adjourned to meet at a date and time, within the limits of clause 4, section 5, article I of the Constitution, to be announced by the Chair in declaring the adjournment; and

(c) bills and resolutions introduced during the period addressed by this section shall be numbered, listed in the Congressional Record, and when printed shall bear the date of introduction, but may be referred by the Speaker at a later time.

SEC. 4. On any legislative day of the second session of the One Hundred Twelfth Congress before January 17, 2012—

(a) the Speaker may dispense with organizational and legislative business;

(b) the Journal of the proceedings of the previous day shall be considered as approved if applicable; and

(c) the Chair at any time may declare the House adjourned to meet at a date and time, within the limits of clause 4, section 5, article I of the Constitution, to be announced by the Chair in declaring the adjournment.

SEC. 5. The Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by sections 3 and 4 as though under clause 8(a) of rule I.

□ 1240

The SPEAKER pro tempore (Mr. YODER). The gentleman from Utah is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. BISHOP of Utah. I ask unanimous consent that all Members may have 5 legislative days during which they may revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. BISHOP of Utah. Mr. Speaker, this resolution provides a standard conference report rule and other end-of-the-year housekeeping provisions.

H.R. 1540, the National Defense Authorization Act for 2012, has been considered in committee. It was debated on the House floor. It included 152 amendments made in order before passing this Chamber, and that was done in May with an overwhelming and bipartisan majority. It went through the Senate. And now we bring to you today a bipartisan conference report.

I have to commend the chairman of the Armed Services Committee, the gentleman from California (Mr. MCKEON), as well as the ranking member, the gentleman from Washington (Mr. SMITH), for truly continuing the tradition of bipartisanship and mutual cooperation in the Armed Services Committee and in this particular bill.

There are some times when Congress has a reputation of being somewhat contentious and partisan, sometimes deservedly so. However, I have been a member of the Armed Services Committee myself for several years, and I recognize that they clearly understand Article I of the Constitution, which requires a common defense of our country; and in that particular committee, partisanship really has been checked at the door regarding the product of the Armed Services Committee, which is this annual Defense authorization bill.

In its essence, I think the process has been good, the efforts have been good, and it has made a significant issue that we are bringing here to the floor ready to pass in its final version from the conference committee. There are significant underlying issues that I think we will talk about during the course of the discussion on the rule and perhaps on the bill as well, but those things, I think, will be handled as they appear at that particular time.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. I thank my friend from Utah for yielding the

time, and I yield myself such time as I may consume.

Mr. Speaker, it's been more than 10 years since the attacks of September 11. We have fought two wars and have engaged in military action in numerous other countries. Hundreds of thousands of people have died, and many more have been wounded. We have spent more than $1 trillion. Osama bin Laden is dead, and the Obama administration officials have declared that al Qaeda is ''operationally ineffective.''

Here at home, we've reformed our national government, compromised our civil liberties, spent billions on a surveillance state, and created a culture of paranoia in which, even in the last few days, a reality TV show about Muslim Americans is subjected to a campaign of hate and intolerance.

Before proceeding, let me commend the chairman and the ranking member of the relevant committee of jurisdiction that put this package together. I am fundamentally opposed to many aspects of it, but I am in tremendous agreement with their bipartisan efforts and the staffs of both of them and the other committee members for putting forth the effort to bring us to this point of discussion.

We should take this opportunity at this moment in our history to seriously and carefully deliberate our Nation's counterterrorism efforts. We ought to consider which policies are effective and which, in the end, only create more anti-American sentiment. We ought to consider which policies align with our national values and which, instead, undermine them. We ought to consider whether we should continue using the full thrust of the United States Armed Forces in country after country or whether a more nuanced approach might better serve our needs.

Unfortunately, the legislation before us does not attempt to answer these questions. Instead, it commits us to dive even further down the road of fear. It commits us to more war and more wasteful spending, and it commits us to ceding our freedoms and liberties on the mere suspicion of wrongdoing. This legislation erodes our society and our national security by militarizing our justice system and empowering the President to detain anyone in the United States, including American citizens, without charge or trial, without due process.

If this is going to continue to be the direction of our country, Mr. Speaker, we don't need a Democratic Party or a Republican Party or an Occupy Wall Street party or a Tea Party; we need a Mayflower party. If we are going to undermine the foundational principles of this great country, then we might as well sail away to someplace else.

This legislation establishes an authority for open-ended war anywhere in the world and against anyone. It commits us to seeing a ''terrorist'' in anyone who ever criticizes the United States in any country, including this one. The lack of definitions as to what constitutes ''substantial support'' and ''associated forces'' of al Qaeda and the Taliban mean that anyone could be accused of terrorism. Congress has not tried to curtail civil liberties like this since the McCarthy era; but here we are today, trying to return to an era of arbitrary justice, witch-hunts, and fearmongering.

While this measure includes an exemption for United States citizens, it does not protect them from indefinite detention. In one fell swoop, we have set up a situation where American citizens could have their Fourth, Fifth, Sixth, Seventh, and Eighth Amendment rights violated on mere suspicions. And by placing suspected terrorists solely in the hands of the military, these provisions deny civilian law enforcement the ability to conduct effective counterterrorism efforts.

The fact of the matter is that our law enforcement agencies and civilian courts have proven over and over again that they are more than capable of handling counterterrorism cases. I had the distinct privilege in this country of serving as a Federal judge shepherding cases and protecting the interests of the United States and vital security interests during that period of time. And in every one of those cases—some 11 over the period of 9¾ years—all of the defendants were found guilty, and that is before 2001.

More than 400 suspected terrorists have already been tried in the Federal courts of the United States of America. We should not break something that already works. The idea that the executive branch's current powers are inadequate to fight terrorism is proven false by 10 years of successful counterterrorism efforts. The idea that the President—any President—needs a whole new expansion of his—and I hope one day soon—her powers is just wrong.

Most national security experts, Democrats and Republicans, are telling us not to adopt this language. Many officials responsible for our homeland security are telling us not to adopt this language. A lot of our military leaders are telling us not to adopt this language, Mr. Speaker. This legislation goes too far.

□ 1250

We spend billions of dollars every year on counterterrorism, but we weaken those efforts by tossing aside our own system of justice. We tell the American public that we are fighting overseas in order to protect our freedoms, but then we pass legislation that undermines those very same freedoms here in the people's House and at home.

And we tell the rest of the world to emulate our democratic traditions and our rule of law, but we disregard those values in a mad rush to find out how we can pretend to be the toughest on terrorism.

We won't defeat terrorism by using the military to lock up innocent people for the rest of their lives on the mere suspicion of wrongdoing. We will not defeat terrorism by claiming the entire world as a battlefield. And we will not defeat terrorism by replacing our rule of law with reckless, uncontrolled, and unaccountable powers.

Mr. Speaker, we need to have a more considered debate about the best way to conduct our defense and counterterrorism policies. This bill contains over $600 billion in spending, runs to over 1,000 pages, and is coming to the floor less than 48 hours after it was filed.

While the detainee provisions in this legislation might have received the most attention in the last few days, there are plenty of other critical provisions that Members may have opinions about, and that's why on these kinds of measures we should have open rules.

I realize that I've said that Congress—and we are proving it at the end of this session—has a bad case of deadline-itis. But my friends in the Republican majority don't only have deadline-itis, they have deadline-ophila.

Yesterday we considered a poorly conceived extenders package that will harm the middle class and weaken our economy. Today we are considering controversial language in a defense bill that sets a dangerous precedent and will potentially harm the civil liberties of American citizens.

I appreciate that the Republican majority, many of whom are my friends, don't want their holiday season ruined by having to work. But that doesn't mean we have to ruin everyone else's holiday season by passing bad laws.

I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, the issues and accusations that were brought up by the gentleman from Florida will be something that we will address in the course of this debate, but I wish to do this in somewhat of a regular order. There are other issues, as he said, that are significant.

To address the first of those, I would like to yield 2 minutes to the gentleman from Arizona (Mr. QUAYLE).

Mr. QUAYLE. I thank the gentleman for yielding.

I rise in support of the rule and the conference report of the National Defense Authorization Act.

The NDAA includes a long-term reauthorization of the Small Business Innovation Research and Small Business Technology Transfer programs. I was proud to serve as a conferee for this important bill.

SBIR was originally signed into law by President Reagan and has been an effective tool supporting innovation among our small business community for nearly 30 years. Since its inception, this competitive grant program has enabled more than 100,000 research and development projects across the Nation and has helped spawn familiar companies such as Qualcomm, Sonicare, and Symantec.

Although this reauthorization of these programs isn't perfect, it improves them in a number of ways. It opens up the program for more small companies to participate. It increases

the emphasis on commercialization of new technologies. Finally, it significantly strengthens the data collection and oversight requirements of the programs.

In my hometown of Phoenix, we have a thriving tech community. By passing today's bill and providing long-term reauthorization, we will provide our small businesses the certainty they need to continue to innovate and grow and create jobs.

I would like to thank Chairman HALL and Chairman GRAVES for all of their work in ushering through this agreement.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased at this time to yield 2 minutes to my good friend, the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE of California. First let me thank the gentleman from Florida for yielding. He is a former member of the Intelligence Committee, and I just have to thank him for his tremendous leadership and for his opening statement which laid out many of the concerns that many of us have about this bill.

Mr. Speaker, I rise today in strong opposition to this very controversial bill that directly attacks the bedrock values of America. I'm talking about the constitutional guarantees of due process for those charged with crimes.

Now, against the wishes of President Obama; our Defense Secretary, Mr. Panetta; the Director of National Intelligence, Mr. Clapper; and FBI director, Mr. Mueller, this bill allows the Federal Government to seize suspected terrorists, including United States citizens, and hold them in indefinite detention.

Arresting citizens and holding them without trial violates the Fifth Amendment's due process guarantees. This bill fundamentally is un-American, and it threatens all of our liberties. We cannot allow those who seek to terrorize the American people to win by trashing the very civil liberties at the heart of our national identity. Giving up American ideals will not make us safer. This legislation undermines our national security and our democracy.

Mr. Speaker, I would like to enter into the RECORD this letter from 26 retired generals and admirals concerned about how the United States treats detainees. These veteran national security experts wrote this rare public letter denouncing the detention provisions.

I will conclude with the words of those honorable retired generals and flag officers who warned that this legislation ''both reduces the options available to our Commander in Chief to incapacitate terrorists and violates the rule of law, and would seriously undermine the safety of the American people.''

I ask my colleagues to defend the civil freedoms which we all cherish, to support our national security, to support our democracy, and to vote ''no'' on this very dangerous bill and this rule.

NOVEMBER 28, 2011.

DEAR SENATOR: We are members of a nonpartisan group of forty retired generals and admirals concerned about U.S. policy regarding enemy prisoner treatment and detention.

We write to urge you to vote for Amendment 1107 to the National Defense Authorization Act which would strike all of the controversial detention provisions in sections 1031, 1032 and 1033 and, in their place, mandate a process for Congress to consider whether any detention legislation is needed.

As retired general and flag officers, we clearly do not make this request lightly. It is clear, however, that there is significant disagreement over the impact on our national security of these provisions. There should be no disagreement that legislation which both reduces the options available to our Commander-in-Chief to incapacitate terrorists and violates the rule of law would seriously undermine the safety of the American people.

We appreciate that our leaders are constantly striving to make America more secure, but in doing so, we must be careful not to overreact and overreach, resulting in policies that will do more harm than good. At the very least, the current detention provisions merit public debate and should not be agreed to behind closed doors and tucked into legislation as important as our national defense bill.

Sincerely,

General Joseph P. Hoar, USMC (Ret.); General Charles C. Krulak, USMC (Ret.); General David M. Maddox, USA (Ret.); General William G. T. Tuttle Jr., USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Lieutenant General Charles P. Otstott, USA (Ret.); Lieutenant General Harry E. Soyster (Ret.); Major General John Batiste, USA (Ret.); Major General Paul D. Eaton, USA (Ret.); Major General Eugene Fox, USA (Ret.); Rear Admiral Don Guter, USN (Ret.); Major General William L. Nash, USA (Ret.); Major General Thomas J. Romig, USA (Ret.); Major General Murray G. Sagsveen, USA (Ret.); Major General Walter L. Stewart, Jr., ARNG (Ret.); Major General, Antonio 'Tony' M. Taguba, USA (Ret.); Brigadier General John Adams, USA (Ret.); Brigadier General David M. Brahms, USMC (Ret.); Brigadier General James Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (Ret.); Brigadier General Gerald E. Galloway, USA (Ret.); Brigadier General Leif H. Hendrickson, USMC (Ret.); Brigadier General David R. Irvine, USA (Ret.); Brigadier General John H. Johns, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.).

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for generously yielding to me to offer a dissenting view of section 1021 of the underlying conference report.

This is the section referenced by the gentleman from Florida that specifically affirms that the President has the authority to deny due process to any American the government charges with ''substantially supporting al Qaeda, the Taliban or any associated forces,'' whatever that means.

Would ''substantial support'' of an ''associated force'' mean linking a Web site to a Web site that links to an al Qaeda site? We don't know. The question before us is: Do we really want to find out?

We're told not to worry, the bill explicitly states that nothing in it shall alter existing law. But wait—there is no existing law that gives the President the power to ignore the Bill of Rights and detain Americans without due process. There is only an assertion by the last two Presidents that this power is inherent in an open-ended and ill-defined war on terrorism. But it is a power not granted by any act of Congress until now.

What this bill says is, what Presidents have only asserted, Congress now affirms in statute.

We're told this merely pushes the question to the Supreme Court to decide if indefinite detainment is compatible with any remaining vestige of our Bill of Rights. Well, that's a good point if the court were the sole guardian of the Constitution. But it is not. If it were, there would be no reason to require every Member of Congress to swear to preserve, protect, and defend the Constitution. We are also its guardians.

And today we, who have sworn fealty to that Constitution, sit to consider a bill that affirms a power contained in no law and that has the full potential to crack the very foundation of American liberty.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to my good friend, the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, over 8 years since the start of the wars in Iraq and Afghanistan, we are still not properly addressing traumatic brain injury, also known as the signature injury of both wars.

□ 1300

I want to thank Chairman MCKEON, Ranking Member SMITH, all the chairmen of the subcommittees, as well as members of this committee who are moving forward on this issue. I wish we had the same compromise as we would have on other issues. I commend them for compromising. That's what our Forefathers talked about. I'm glad to see that the Defense Centers of Excellence for Psychological Health and Brain Injury will move oversight to the Army where there will be an increased efficiency and attention for our soldiers.

But there are still problems with screening and treating our troops. Recently, NPR ran an expose on how the Department of Defense has tested over 500,000 soldiers with a predeployment cognitive test, but has performed fewer than 3,000 tests postdeployment to actually compare the results and see if our troops were injured in theater.

The fiscal 2008 National Defense Authorization bill, bipartisanly supported, Public Law 110–181, required

predeployment and postdeployment screenings of a soldier's cognitive ability. Current policy is clearly violating the intent of the law. We must ensure that the same tool is used for pre- and postdeployment cognitive screenings. We can't gauge the cognitive health of our troops without comparing tests. Last year, my amendment to the NDAA for fiscal year 2011 to address this passed the House, but was not in the final bill. We need to correct this in the next year's Defense authorization before any more soldiers slip through the cracks. It has consequences within service; and when they get out of service, it has bigger consequences.

The Defense Department has raised concerns with the currently administered test, but has stated that it will not be able to select an alternative until 2015. That is not acceptable. The longer we wait, the longer our troops suffering from undiagnosed TBIs go untreated.

I am concerned that we are not providing proper oversight for those soldiers who could have been injured in theater before this policy took effect in 2010. Many of these soldiers remain on active duty, and we must ensure that they are tested and treated.

I fear we are doing a disservice to them and our Armed Forces by not addressing this problem in this bill, and I ask everyone to consider this. This is a critical, critical issue given little attention except by Mr. MCKEON and Mr. SMITH.

I ask that you do review that.

Mr. BISHOP of Utah. I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to my good friend from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this bill authorizes permanent warfare anywhere in the world. It gives the President unchecked power to pursue war. It diminishes the role of this Congress.

The Founders saw article I, section 8 of the Constitution, which places in the hands of Congress the war power as essential to a check and balance against executive abuse of power. This legislation diminishes Congress' role in that regard.

This legislation authorizes the military to indefinitely detain individuals without charge or trial, including the detention of U.S. citizens on U.S. soil.

In short, what this bill does is it takes a wrecking ball to the United States Constitution and gives enormous power to the government or the State. I want friends on both sides of the aisle to understand this. We're giving the State more power over individuals with this bill. It's the wrong direction.

Our children deserve a world without end, not a war without end. Our children deserve a world where they know that while their government will protect them, that it's not going to rule over them by invading their very thoughts and going, as the PATRIOT Act does, into their banking records or into their educational records.

We've got to keep the government out of people's lives and stop the government from getting more into war, which gives the government more control over people. This is a time we take a stand for the Constitution and a stand for a government which is smaller when it comes to matters of war.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

In the year we have been here discussing these things, we have talked a lot about budget problems that we have in this country. It is my contention that our budget is not just that we have been spending too much, but we have been spending on too much.

One of the things, though, that we should be spending on is, of course, military issues. Article I of the Constitution clearly states the defense of this country is a core constitutional responsibility, and for that there must be government workers who are required to do this. That is what it should, indeed, be.

Unfortunately, we have a President and an administration that has decided that there should be some financial restraints in this particular area. Indeed, it means reducing spending significantly on the military, not necessarily other areas. The result of this will be, as has been shown in testimony, that we will create an Army smaller than any Army we have had since World War II, a Navy at its smallest since World War I, and an Air Force that is smaller and older than at any time in this country. And to do that, there will at least be 100,000 uniformed jobs that will be cut, destroyed, and reduced.

There are some people who think that simply cutting a few soldiers, a few airmen, and a few sailors will be an easy solution to this issue. That is naive. It will not happen. What it means, though, is that, also, programs must be cut at the same time. We have acquisition which buys new materials for our soldiers, and we have sustainment which fixes it. That means in certain situations our maintenance and sustainment side will have even greater requirements of them because of the decisions the administration has foisted and we will be making in this and the appropriations bill to come later.

For example, the United States has owned air superiority ever since the Korean war, and we take it for granted. Yet the F–16s we fly to maintain that air superiority we were flying at 150 percent of their designed capacity when I was first elected to this Congress. And yet this is an administration that, even though we have that deficit, decided not to build any more F–22s and are delaying the F–35, which does produce, and put our air superiority in jeopardy. You have to have a plane for an Air Force, and you have to have a boat for a Navy. And they cost some kind of money.

In each case, we will have the oldest equipment. That means when men and women go into battle to defend this country, we are equipping them with the oldest products they will ever have to protect themselves, and that old stuff requires massive maintenance if you're really going to do that.

But what we are requiring to do in this particular budget, if we go along with the President's request for making bigger and bigger cuts in the defense of this country, is taking those civilian employees that make that maintenance effort, that do that sustainment, and that make that equipment last longer than they were designed to last, we are taking them out of the picture.

The end result for the massive cuts we are looking at in the military, both proposed by the Obama administration and if, in effect, they go into effect because of rescission by the failed supercommittee, will be anywhere between 100,000 and a half million civilian employees—and this vital function in this constitutional function—that will lose their jobs. And if you go to the worst case scenario, it may even be 1 million employees.

Now, I mention that specifically because we have heard often and often, where are the jobs bills. This House has passed a number of jobs bills to promote private sector growth. Yet at the same time, we now have a situation where, indeed, the right hand does not know what the left hand is doing. There are those out there who are going around saying that we have to pass—and they are pillorying this Congress for not passing much bigger and bigger spending to create more and more government jobs in areas which are questionable if we should be there in the first place. But at the same time we are being pilloried for not doing that. We are being presented by the left hand with a proposal that will actually cut existing civilian jobs in areas where we were constitutionally required to have them and to maintain them.

If we don't find that at least inconsistent—and mind-bogglingly inconsistent—it is one of our problems in not facing the reality. We are always told pass more government jobs. And at the same time, the same people who are demanding that are saying, okay, now in this area, cut more government jobs. There is no consistency with that. And the sad part is the left hand, the one that is defending this country with the needs of the military—which is our constitutional responsibility—those are the ones which are appropriate, and those are the jobs that are needed, and those are the jobs that are not being protected in the future.

We must make some decisions in Congress on what is significantly important to us, and this is an area in which we must make those decisions in the future. We must continue to talk about jobs; but we have to realize that if you want more jobs, you can't go

about cutting the jobs, and, unfortunately, this administration is trying to play both of those ends, and it is unfortunate.

I reserve the balance of my time.

□ 1310

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

After my good friend from Utah spoke, I guess I say, Wow. Last night I reminded him that military people are government workers also. And toward that end, when we talk about cuts and my friend talked about passing on spending, I'm curious. When $1 billion walks away in Iraq and nobody knows where it went, I'd ask my friend to tell those soldiers at Fort Bragg—where President and Mrs. Obama have spoken to them today—that are returning home why they were in Iraq and what is it that we protected by spending $1 trillion. Why is it we are sending money to corrupt governments? And somewhere along the lines I think we will come up with some answers—that we had enough money to spend, but we spent it on things that we should not have.

Mr. Speaker, I am very pleased to yield 2 minutes to my very good friend from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, for many American families, they will only be able to celebrate this holiday if they forget about the burdens of their daily lives. Some are about to lose their jobs, others are about to close their businesses for the last time; some are worried they can't pay for their health care, others are worried that they're next in the layoff line.

This Congress has an opportunity on this day to address those problems. Yesterday the House took action on a bill that, frankly, isn't going to go anywhere to address these problems, and today is the day we ought to act on a bill that will.

On January 1, everyone who earns wages in this country is facing a tax increase if this Congress doesn't act, a $1,000-a-year tax increase on the middle class. We should suspend that tax increase today.

Many people will lose their unemployment benefits. They will have no income, no check. And to those who say, well, they should go find a job, you should walk in the shoes of those who are in that predicament because here's what you would find: For every one job that's available in this country, there are four people looking for it. So failing to extend unemployment benefits is craven, in my opinion.

On the 1st of January, doctors who take care of our seniors—our grandmothers, our grandfathers, our disabled citizens—will see a 23 percent cut in what Medicaid pays them if we do not act by December 31.

Now, yesterday's bill was deficient in so many ways, but here's two of the real big ones:

First of all, it attached extraneous provisions about whether to build an oil pipeline. Some people are for it, others are not. It doesn't belong in that bill; and

Second, a large way the bill was paid for was to blame the unemployed and to say we're going to pay for what's in that bill by cutting their benefits. That's wrong.

The SPEAKER. The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield the gentleman an additional 30 seconds.

Mr. ANDREWS. What we ought to be saying is we can hold down the taxes on the middle class, we can fairly extend benefits for the unemployed, we can make sure our doctors will continue to see our seniors and our disabled people if we ask the hedge fund managers and the millionaires and the billionaires of this country to pay just a little bit more.

We will give the House an opportunity this afternoon to vote on that bill. That's the bill we should be considering. If we do, we can then proceed immediately with passing this badly needed defense bill.

Mr. BISHOP of Utah. Mr. Speaker, the gentleman from New Jersey is right, yesterday the House did act in a bipartisan way. Now it's up to the Senate to act—amend, change, anything except just sitting there and not taking action.

I am pleased to yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. I thank the gentleman for yielding.

Mr. Speaker, today I rise in support of section 1245 in the conference report to the NDAA that would require what we hope are crippling sanctions on the Central Bank of Iran. These provisions, offered as a bipartisan amendment in the other Chamber and approved by a unanimous vote, would severely limit the funding available for the Iranian regime to use in its pursuit of nuclear weapons. I have introduced similar legislation as a stand-alone bill here in Congress, and we also wrote a letter encouraging the conferees to accept this language. I am pleased that they did.

There is no silver bullet when it comes to stopping the Iranian regime from acquiring nuclear weapons, but if there is any sweet spot where we can make a difference, it is with the Central Bank of Iran. And so I am pleased that this provision is in the bill, and I would urge adoption of that section all the way through the process. And I hope that this signals our intent certainly to ensure that Iran does not obtain nuclear weapons.

Mr. HASTINGS of Florida. Mr. Speaker, would you be so kind as to inform us as to the amount of time remaining on either side.

The SPEAKER. The gentleman from Florida has 10 minutes remaining. The gentleman from Utah has 18½ minutes remaining.

Mr. HASTINGS of Florida. Thank you very much, Mr. Speaker.

At this time, I am very pleased to yield 2 minutes to my friend, the distinguished woman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, this is a positive bill for our military families, and when we move to the bill I'm going to take an opportunity to address that. But while we're on the rule, I have to express my immense disappointment that still, to this day, we, as a Congress, will not even bring to the table, we won't even look at the fact that if a military servicewoman is raped and becomes pregnant, she does not have access to an abortion procedure. Mr. Speaker, this is really an outrage.

We say that we want to help our servicewomen. We say that we are finally starting to treat them as the warriors that they are, and yet I ask you: How many women have to fight and die for our country in order to have the same rights as women sitting in Federal prison?

This is a slap in the face to all military women. They volunteer to train, they volunteer to deploy and fight for our country, and we repay them by treating them as less worthy than prisoners.

Honoring women in our military means changing this policy and treating them with respect. Haven't they earned this? It's well past time to show them that they have.

Mr. BISHOP of Utah. I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

If we defeat the previous question, I will offer an amendment to the rule to provide that immediately after the House adopts this rule it will bring up the Middle Class Fairness and Putting America Back to Work Act of 2011, which extends middle class tax relief, unemployment benefits, and the Medicare reimbursement doc fix.

I ask unanimous consent to insert the text of the amendment in the RECORD along with extraneous material immediately prior to the vote on the previous question.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, at this time I am very pleased to yield 2 minutes to the distinguished gentlelady from California (Ms. HAHN).

Ms. HAHN. I thank my colleague from Florida for giving me this time.

I want to encourage my friends and colleagues on both sides to defeat the previous question so that we can work together to pass a clean extension of unemployment benefits and the payroll tax cut.

You know, yesterday the House Chaplain began the day with a reminder that the holidays are a time of hope. And it is in that spirit of hope that Congress should embrace and put aside some of the politics that have darkened our recent discussions.

□ 1320

Last night my Republican friends passed legislation that, however well intended, has no chance of passing in the Senate. It did not receive my vote because, like many of my fellow Democrats in the House and the Senate, I don't believe that we should be debating controversial issues as part of those extensions.

If you believe that building a pipeline through the United States is a good idea, let's have that debate. If you believe that the EPA shouldn't regulate emissions from certain industries and machines, let's have that debate.

However, those issues cloud the need for extending unemployment benefits to those who can't find work. And it clouds the benefits for American families that would get an extension of the payroll tax cuts.

I want to work with my Republican friends to get this done. I know I'm new around here, but I think that means putting aside these other issues to debate them on their own merits.

Let's work together in a spirit of hope, vote against the previous question, and let's come back to the table and do what needs to be done.

Mr. HASTINGS of Florida. I would advise my friend from Utah that I am going to be the last speaker if he is ready to close.

Mr. BISHOP of Utah. I am prepared to close as well.

I continue to reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time.

In the mad rush to get home for Christmas, we're delivering an early gift to those who criticize our country for failing to live up to our ideals.

With this legislation, we're undermining over 200 years of constitutional protections. We're returning American society to an age when an all-powerful executive can command unaccountable power over people's lives.

To codify in law the power of the President to indefinitely detain American citizens without charge or trial is an egregious affront to our Nation's system of justice. Franz Kafka wrote about it years ago, and it has been known as Kafkaesque.

Ten years after the attacks of September 11—10 years of war, of runaway defense spending, of the PATRIOT Act, torture, and extraordinary rendition—and we're still responding to the terrorist threat with a knee-jerk reaction, devoid of reason and common sense.

This legislation says that our law enforcement agencies do not work; that our judiciary, our court system does not work. This legislation says that the President can, alone, decide who is guilty or innocent.

I would remind my friends that Barack Obama may not be the President all the time. But no President should have untrammeled authority to determine innocence or guilt. It puts the lie to the judicial branch of our government and to the legislative branch of our government. This legislation goes too far.

If the Republican majority was serious about having this body carefully consider our Nation's defense policies, Members would have had more than 2 days to review the more than 1,000 pages covering $600 billion in spending.

I urge my colleagues to vote against this rule and the underlying legislation, and I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself the balance of my time.

This bill has gone through regular order as no other bill has. It went through its committee in regular order and was passed out in an overwhelmingly bipartisan vote, 60–1. It came on the floor with 152 amendments to be considered and was passed out with an overwhelming bipartisan vote. It went to the Senate, was passed out in an overwhelming bipartisan vote, and the conference report was signed by the conferees in a clear bipartisan effort.

This is one of those good bills that does authorize our military forces through fiscal year 2012, and it is significant.

But I would like, in closing, to talk about one of the issues that I think was brought up, and brought up with some exaggeration to the content of what is there that deals specifically with military detainees. I want this very clear because both Congressman MCKEON, who is the chairman of the committee, Congressman SMITH, who is the ranking member of the committee, spoke at length in Rules Committee on this specific issue. They were asked about the issue; they addressed the issue.

Let me make this very clear. Anything in this law that deals with detainees does not change in any way, shape, or form existing law. It does not deny anyone habeas corpus opportunities. That is not waived in any way, shape, or form.

Let me quote from Mr. SMITH, the ranking Democrat on the committee, when talking about different things, he simply said that there is the possibility of indefinite detention without a normal criminal charge, but even if you do that, which, once again, the President said he won't do, but even if you did that in certain isolated circumstances where it could be necessary under the law of war, even if you do that, habeas corpus still applies, which means you have to have a hearing in front of a Federal judge to make your case under the law for why you have the right to detain this person. And to do that, you have to show there is a connection to al Qaeda and the Taliban, and you have to show there is a threat that they present. So habeas corpus applies to everyone, whether they are a citizen, illegal alien, or a noncitizen. Habeas corpus still applies.

It is very clear in both sections 1021 and 1022 that protections for American citizens are clearly stated in there. In the Senate, they added, in 1021, the words:

Nothing in this section shall be construed to affect existing law or authorities relating to the detention of U.S. citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States.

In 1022 it makes it very clear, before somebody can be detained, there are two standards which must be met. First of all, there has to be association with an armed force that is in coordination and acting against the interests of the United States and, not just membership, they have to have participated in the course of planning or carrying out attacks or attempted attacks against the United States or its coalition partners.

You can't just go out and pick people off the streets. There has to be a standard. And everyone still gets habeas corpus rights in all of these events.

Let me quote again from the law, from the report, the bill that we are debating and discussing and voting:

''The requirement to detain a person in military custody under this section''—this power—''does not extend to citizens of the United States,'' which means you can't do this kind of detainment against a citizen or a lawful alien of the United States.

Only in this section, and in both sections, do you have to meet certain very restrictive criteria which are not different than what we are currently doing, which simply means in the past history of this United States, especially in some of our war times, there have been Presidents who we jokingly say used to throw people in jail who were opposed to them.

President Obama could still do that under existing statute, but he can't do it with this language in this particular bill. There are specifics that are set forth. There are specific protections written for American citizens, specific protections written for illegal aliens of the United States. It is only a very restricted authority and a very restricted power, and it doesn't affect habeas corpus. It doesn't change existing law.

In essence, those people who worked in the committee on this bill have done a yeoman's work in coming up with a good bill. Those people who worked in the conference did a yeoman's work in coming up with a good conference report.

This is a good rule, which is a standard conference report rule. And with the only exception that we still must be very careful that if we follow the administration's advice and cut our military spending too much, not only are we putting our military in jeopardy and our equipment in jeopardy, but we are destroying jobs, which is what we don't want to be doing in this particular time period.

I would urge everyone to vote for this rule, and I would urge everyone to vote for the underlying bill.

□ 1330

The material previously referred to by Mr. HASTINGS of Florida is as follows:

AN AMENDMENT TO H. RES. 493 OFFERED BY MR. HASTINGS OF FLORIDA

SEC. 6. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of a bill consisting of the text of the amendment printed in the Congressional Record dated December 13, 2011 pursuant to clause 8 of rule XVIII and numbered 1, which will bear the title ''to support the middle class and create jobs, and for other purposes''. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the Majority Leader and Minority Leader or their respective designees. After general debate the bill shall be considered for amendment under the five-minute rule. Each section of the bill shall be considered as read. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 7. Clause 1(c) of rule XIX shall not— apply to the consideration of the bill specified in section 6 of this resolution.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308–311), describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Republican majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BISHOP of Utah. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

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

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of adoption.

The vote was taken by electronic device, and there were—yeas 235, nays 173, not voting 25, as follows:

[Roll No. 925]

YEAS—235

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Austria
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Stearns
Stivers
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NAYS—173

Ackerman
Altmire
Andrews
Baca
Baldwin
Barrow
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney

Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters
Peterson
Pingree (ME)
Polis
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOT VOTING—25

Bachmann
Bass (CA)
Cardoza
Coble
Diaz-Balart
Filner
Frank (MA)
Giffords
Gohmert
Gutierrez
Holt
Kaptur
LaTourette
Lummis
McIntyre
Myrick
Paul
Pearce
Perlmutter
Price (NC)
Sanchez, Loretta
Shuler
Sullivan
Velázquez
Young (AK)

□ 1354

Mr. HEINRICH changed his vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 925, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. YODER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 245, noes 169, not voting 19, as follows:

[Roll No. 926]

AYES—245

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Andrews
Austria
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carney
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Emerson
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Hochul
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
Latta
Lewis (CA)
LoBiondo
Loebsack
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Perlmutter
Petri
Pitts
Platts
Poe (TX)
Pompeo
Price (GA)
Quayle
Rahall
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schilling
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOES—169

Ackerman
Altmire
Baca
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Holden
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters
Peterson
Pingree (ME)
Polis
Posey
Quigley
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOT VOTING—19

Bachmann
Coble
Diaz-Balart
Filner
Frank (MA)
Giffords
Gutierrez
Holt
Kaptur
Larson (CT)
LaTourette
McIntyre
Myrick
Paul
Price (NC)
Sanchez, Loretta
Shuler
Velázquez
Young (AK)

□ 1401

Ms. HOCHUL changed her vote from ''no'' to ''aye.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. LARSON of Connecticut, Mr. Speaker, on rollcall No. 926, I was unavoidably detained. Had I been present, I would have voted "no."

Mr. FILNER. Mr. Speaker, on rollcall 926, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "no."

□ 1410

Mr. MCKEON. Mr. Speaker, pursuant to House Resolution 493, I call up the conference report on the bill (H.R. 1540) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LUCAS). Pursuant to House Resolution 493, the conference report is considered read.

(For conference report and statement, see proceedings of the House of December 12, 2011, at page H8356.)

The SPEAKER pro tempore. The gentleman from California (Mr. MCKEON) and the gentleman from Washington (Mr. SMITH) each will control 30 minutes.

Mr. NADLER. Mr. Speaker, is the gentleman from Washington opposed to the conference report?

Mr. SMITH of Washington. No, I am not. I support the conference report.

Mr. NADLER. Mr. Speaker, I claim the time in opposition to the conference report.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXII, the gentleman from California (Mr. MCKEON),

the gentleman from Washington (Mr. SMITH), and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 1540.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of the Fiscal Year 2012 National Defense Authorization Act conference report. As you know, the NDAA is the key mechanism by which the Congress fulfills its primary constitutional responsibility to provide for the common defense, and this year will mark the 50th consecutive year we've completed our work. The NDAA passed the Armed Services Committee with a vote of 60–1. It passed the full House by a wide margin of 322–96. Likewise, the Senate adopted its version of the bill by a vote of 93–7. We negotiated every provision in the two bills and have delivered this conference report using regular order. This is a bipartisan product from start to finish, with a wide base of support.

Let me further assure Members that the bill's authorization levels have been reduced to comply with the Budget Control Act. The bill would bring the total authorized funding for the national defense to $554 billion for the base budget and $115.5 billion for overseas contingency operations. This represents a $19 billion reduction from last year's authorization.

Nonetheless, what makes our bill such an important piece of legislation are the vital authorities contained therein. Our bill provides for pay and benefits for our military and their families, as well as the authorities that they need to continue prosecuting the war on terrorism.

In addition, we include landmark pieces of legislation sanctioning the Central Bank of Iran and strengthening policies and procedures used to detain, interrogate, and prosecute al Qaeda, the Taliban, and affiliated groups, and those who substantially support them. However, I must be crystal clear on this point: the provisions do not extend any new authorities to detain U.S. citizens and explicitly exempt U.S. citizens from provisions related to military custody of terrorists.

The conference report covers many more critical issues, but I will close in the interest of time. However, before I do, I would like to thank my partner, the gentleman from Washington, ADAM SMITH, the ranking member on the committee.

I reserve the balance of my time.

Mr. SMITH of Washington. Mr. Speaker, I yield myself 3 minutes.

I, too, want to thank the chairman, Mr. MCKEON. We always say that our committee is the most bipartisan committee in Congress. We strongly believe that. Republicans and Democrats on that committee are committed to doing our job, which is to provide for the troops and make sure that our national security is protected in this country.

Mr. MCKEON was an excellent partner to work with. It's a model for what happens when you sit down and try to legislate together, and something that I think could be emulated by many more committees and on many more issues.

So, thank you, BUCK. It's been great working with you on this. I think we've produced a good product.

I want to, upfront, address the issue that most people have focused on in the rule and elsewhere, and that is the issue surrounding detainee policy. I have never seen an issue that was more distorted in terms of what people have said is in the bill versus what is actually in the bill. Number one, habeas corpus is protected, not touched in this bill. Pursuant to court rulings, anyone picked up pursuant to the authorization for the use of military force, has habeas corpus rights. That is not touched categorically.

Now I understand that a lot of people have a problem with what is current law, and current law is something we've been debating ever since 9/11. Both the Bush administration and the Obama administration have taken the position that indefinite detention is an option. In two cases before the Supreme Court, the Hamdi case most notably, a U.S. citizen was briefly subject to indefinite detention. The Fourth Circuit Court upheld that right. That is current law. And I actually share some of the concerns amongst my colleagues about that current law.

But this bill doesn't affect that. We, in fact, make it clear in our category on military detention that it is not meant to apply to U.S. citizens or lawful resident aliens. Read the bill. It is in there. Nothing in this section shall apply to U.S. citizens or lawful resident aliens.

Now if you have a problem with indefinite detention, that is a problem with current law. Defeating this bill will not change that, won't change it at all. But I'll tell you what it will do. It will undermine the ability of our troops to do their job, to do what we've asked them to do. If we defeat this bill, we defeat a pay raise for the troops, we defeat MILCON projects for the troops, and we defeat endless support programs that are absolutely vital to their doing their jobs. And I don't think I need to remind this body that 100,000 of those troops are in harm's way in Afghanistan right now facing a determined enemy in the middle of a fight. It is not the time to cut off their support over an issue that isn't going to be fixed by this bill.

And let me emphasize that just one more time. Current law as interpreted by the Bush administration, the Obama administration, and the judiciary of this country creates the problems that everybody is talking about, not this bill. We put language in on detention policy because we think it's about time the legislative branch at least said something on the subject. But we are not the ones that created that problem.

I urge support for this bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Washington. I yield myself an additional 30 seconds.

One issue I want to address is the issue of military construction projects for Guam. There is some limiting language in this bill on that issue based on the fact that the Department of Defense is rethinking their posture in Asia between Okinawa, Guam, and other places. One thing I want to make clear is that Guam is a critically important part of our Asia presence. They have presence of our military there now. The language in the bill is not meant to cut off existing military construction projects or indeed other ones that may not be related to this. I want to make sure that that's clear.

With that, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself 5 minutes.

It's been a decade since the attacks of September 11, 2001. We are in danger of losing our most precious heritage, not because a band of thugs threatens our freedom, but because we are at risk of forgetting who we are and what makes the United States a truly great nation.

□ 1420

In the last 10 years, we have begun to let go of our freedoms, bit by bit, with each new executive order, court decision and, yes, act of Congress. The changes in this bill to the laws of detention have major implications for our fundamental rights. We should not be considering this as a rider to the Defense authorization bill. This should have been the subject of close scrutiny by the Judiciary Committee. The complex legal and constitutional issues should have been properly analyzed and the implications for our values carefully considered.

You will hear that this bill merely recodifies existing law; but many legal scholars tell us that it goes a great deal further than what the law now allows, that it codifies claims of executive power against our liberties that the courts have never confirmed. You will hear that it really won't affect U.S. citizens, although, again, there is credible legal authority that tells us just the opposite. You will hear that it doesn't really turn the military into a domestic police force, but that clearly isn't the case.

Most of all, you will hear that we must do this to be safe, when the opposite is true. We can never be safe without our liberties, and this bill continues the decade-long campaign to destroy those liberties.

This bill goes far beyond the authorization for the use of military force. That resolution authorized ''all necessary and appropriate force against those nations, organizations, or persons the President determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons.''

This bill is not limited to those responsible for the September 11 attacks and those who aided or harbored them. It includes anyone who ''substantially supported'' al Qaeda and the Taliban or ''associated forces that are engaged in hostilities against the United States or its coalition partners.'' It is not clear what is meant by ''substantially supported'' or what it takes to be ''associated'' with someone who ''substantially supported'' them. It refers to any ''belligerent act'' or someone who has ''directly supported such hostilities in aid of such enemy forces.'' It doesn't, as does our criminal law, say ''material support,'' so we really don't know whether that support could be merely a speech, or an article, or something else.

So let's not pretend that this is just the same as the AUMF. If it were, there would be no need to pass this law; we have it already. Courts, in reading legislation, operate on the very sensible assumption that Congress doesn't write surplus language, that it must have intended to do something. Here it is pretty clear that we are expanding the reach of the AUMF beyond the 9/11 perpetrators and those who aided and harbored them. Whoever it reaches—and we don't know—but whoever it reaches, the government would have the authority to lock them up without trial until ''the end of hostilities,'' which, given how broadly the AUMF has been used to justify actions far from Afghanistan, might mean forever.

And who will be taken out of the civilian justice system and imprisoned forever without a trial? The bill says anyone who ''is determined'' to be covered by the statute. It doesn't say determined by whom or what protections there are to ensure that an innocent person doesn't disappear into a military prison. That's not America.

We also need to be clear that the so-called ''Feinstein amendment'' does not really provide the protection its sponsor intended to provide. The Feinstein amendment says that ''nothing in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States.''

So what are ''existing law and authorities''? As former FBI Director William Sessions has recently written: ''The provision does not limit such detention authority to people captured on the battlefield. The reality is that current law on the scope of such executive authority is unsettled.'' Director Sessions goes on to point out that the two cases where the Supreme Court might have decided the question of detaining a U.S. citizen or a legal permanent resident, the U.S. claimed that the President had the authority—the administration claimed that the President had the authority to detain a suspected terrorist captured within the United States indefinitely without charge or trial.

In both these cases, Padilla and al-Mari, the government changed course and decided to try them in civilian courts in order to avoid a Supreme Court ruling on that question, and that question remains undetermined.

So when the Feinstein amendment references ''existing law,'' you should not assume that means that current law clearly deprives the President of this dangerous power. I hope it does, but it is still, legally, an open question. We should ensure that our liberty is protected and not leave that question to some future court, and we should certainly not enact a law codifying—and that's what this law does, it codifies, it puts into law terrifying claims of power made by Presidents but never approved by the courts or, until now, by the Congress. And that's the fundamental reason we should reject this bill.

We must take great care. Our liberties are too precious to be cast aside in times of peril and fear. We have the tools to deal with those who would attack us.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. NADLER. I yield myself an additional 30 seconds.

We do not need to do this. We should not do this. And because of this momentous challenge to one of the founding principles of the United States—that no person may be deprived of his liberty without due process of law—this bill must be rejected.

I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Texas, vice chairman of the committee, the chairman of the Subcommittee on Emerging Threats and Capabilities, and a member of the conference committee, Mr. THORNBERRY.

Mr. THORNBERRY. Mr. Speaker, I rise in support of this conference report. It is a broad-ranging conference report that affects everything from personnel policies to weapons systems to research and development across the Department of Defense and the military. And I especially commend Chairman MCKEON, Ranking Member SMITH, and all the staff who have worked all year to make this possible, but have worked especially hard in the last few days to make this conference report possible before the Congress adjourns.

There are a number of good, important provisions in this bill that strengthen our country's national security. But in light of the comments we have recently heard, Mr. Speaker, let me talk just a moment about this issue of detention.

You know, one can put into law ''the sun comes up,'' and if somebody comes and says, no, it doesn't, you can present all the evidence and you can present words that have clear meaning, and if somebody just wants to say, no, it doesn't, you at some level reach an impasse.

The two provisions related to detention in this bill, the words that have been put into the law, are very clear. One says it does not apply to U.S. citizens. It does not. Nothing here affects U.S. citizens. The other provision says that nothing in this section can be construed to affect existing law or authorities related to the detention of U.S. citizens.

Now, it seems to me there may well be people who are uncomfortable with the current law, and I understand that. And the proper thing to do is to introduce a bill and try to get that amended in some way to get it more to your liking. But to argue that this bill changes in some way the current law when the words say nothing in this section shall be construed to affect existing law or authorities is just not credible.

The provisions in this bill, Mr. Speaker, are a small step towards having this Congress back involved in making those detention decisions. I think it is the right small step, and it should be supported.

Mr. SMITH of Washington. I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a very important member of the Armed Services Committee.

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

Mr. ANDREWS. Mr. Speaker, I rise with profound respect for our Constitution and for my colleagues and friends who care deeply about the impact of this bill on that Constitution. It is because I have considered those issues that I would respectfully disagree with some of my colleagues and argue for the propriety and constitutionality of this bill.

I would deplore the idea that an American citizen or a permanent resident alien could be rounded up and put in a prison in the United States of America. This bill does not authorize that scenario. I would deplore a circumstance where any person—even a person who is not here under some permanent legal status—could be rounded up and put in a prison and only a military prison. That is not what this bill authorizes. It leaves open the option that such a person could be detained in a regular civilian prison or in a military prison.

I would reject completely the proposition that any person could be held in any facility—military or civilian—anywhere in our country indefinitely without the right to have the charges that are levied against them heard by some

neutral finder of fact. It is our interpretation that the habeas corpus provisions already extend to these individuals. That is to say that a nonresident or nonlegal person in the country who is held under such circumstances in fact has the right of habeas corpus. I think the law requires it. I think the Constitution demands it.

□ 1430

There is a legitimate difference of opinion as to whether or not that conclusion is correct. That is the state of present law. This bill does not amend present law in a way that I would like to see it amended by clarifying that right of habeas corpus, but it absolutely does not erode or reduce whatever protections exist under existing law.

So those who would share our view that the right of habeas must be clarified should work together to pass a statute that does just that, but we should not subvert this necessary and important bill.

I would urge a ''yes'' vote on the bill.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Judiciary Committee.

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

Mr. CONYERS. Members of the House of Representatives, this issue has never gone before the House Judiciary Committee—never.

I have a letter dated December 14 that says:

''There has been some debate over whether section 1021 of the National Defense Authorization Act merely restates existing law or would, for the first time, codify authority for the President to indefinitely detain, without charge, virtually anyone picked up in antiterrorism efforts, including United States citizens arrested on United States soil.

''Please find attached a letter from Judge William Sessions, a former Federal judge and former Director of the FBI under Presidents Reagan, Bush, and Clinton, explaining that current law on this point is unclear, and that enacting section 1021 of this act would dangerously expand the power for indefinite detention.''

I would like to place in the RECORD sundry correspondence, including the letter from Judge Sessions.

THE CONSTITUTION PROJECT,
Washington, DC, December 9, 2011.

DEAR REPRESENTATIVE MCKEON AND FELLOW CONFEREES, I am writing to you with grave concern over the National Defense Authorization Act of 2012 (NDAA). It is highly regrettable that the Senate passed the NDAA without first stripping it of dangerous provisions regarding the treatment of detainees. But it is not too late to act; as conferees, it is now your task to remove these harmful provisions before the NDAA becomes law. I strongly urge you to do so, and to preserve both our constitutional traditions and our most effective tools in the fight against terrorism.

If enacted, these detention provisions would for the first time codify authority for methods such as indefinite detention without charge and mandatory military detention, and would authorize their application—on the basis of suspicion alone—to virtually anyone picked up in antiterrorism efforts, including those arrested on U.S. soil. In effect, the U.S. military would become the judge, jury and jailer of terrorism suspects, to the exclusion of the FBI and other law enforcement agencies.

An astounding array of individuals from across the political spectrum opposes the over-militarization of our counterterrorism efforts, and for good reason. I have attached Beyond Guantanamo: A Bipartisan Declaration, organized by The Constitution Project and Human Rights First, in which I joined with over 140 additional former government officials and practitioners from across the political spectrum in explaining that federal courts are the most effective mechanism for trying terrorism cases, and that indefinite detention without charge runs afoul of our Constitution and would harm U.S. interests globally. As a former federal judge, former U.S. Attorney, and former director of the FBI, I myself can attest to the competence of our nation's law enforcement officers and civilian federal courts, as well as the urgency to preserve these tools for use in our counterterrorism efforts.

Secretary of Defense Leon Panetta similarly opposes this transfer of responsibility to the military. Indeed, virtually the entire national security establishment—including James Clapper, the director of national intelligence; Robert Mueller III, the director of the FBI; David Petraeus, the director of the CIA; White House Advisor for Counterterrorism John Brennan; Lisa Monaco, the assistant attorney general for national security; and Jeh Johnson, general counsel for the Department of Defense—has warned that further restricting the tools at our disposal to combat terrorism is not in the best interest of our national security. I implore you to heed their warning.

With regard specifically to Section 1031 from the Senate bill, some have argued that Section simply reiterates current law, and by doing so maintains the status quo. That is not the case. This very dangerous provision would authorize the President to subject any suspected terrorist who is captured within the United States—including U.S. citizens and U.S. persons—to indefinite detention without charge. The provision does not limit such detention authority to people captured on the battlefield. Importantly, although subsection (e) of this provision states that the provision should not be ''construed to affect existing law or authorities'' relating to detention of ''persons who are captured or arrested in the United States,'' the reality is that current law on the scope of such executive authority is unsettled.

In fact, on two occasions when this issue was on track to come before the U.S. Supreme Court, the executive branch changed course so as to avoid judicial review. Specifically, in both the Padilla case in 2005–06 (involving a U.S. citizen) and the al-Marri case in 2008–09 (involving a legal permanent U.S. resident), the U.S. government claimed that the President had the authority to detain a suspected terrorist captured within the United States indefinitely without charge or trial. In both instances, however, before the Supreme Court could hear the case and evaluate this claim, the Justice Department reversed course and charged the defendant with criminal offenses to be tried in civilian court. Thus, this extreme claim of executive detention authority for people captured within the United States has never been tested, and the state of the law at present is unclear. Passage of Section 1031 would explicitly provide this authority by statute for the first time, thereby clearly, and dangerously, expanding the power for indefinite detention.

I firmly believe that the United States can best preserve its national security by maintaining the use of proven law enforcement methods and our well-tested traditional criminal justice system to combat terrorism. By contrast, enacting the NDAA without first removing the current detainee provisions could pose a genuine threat to our national security and would represent a sweeping and unnecessary departure from our constitutional tradition.

I therefore urge you, as conferees, to strip these dangerous detainee provisions from the NDAA. Thank you for your consideration.

Sincerely,

WILLIAM S. SESSIONS.

OCTOBER 7, 2011.

Hon. HARRY REID,
Majority Leader, U.S. Capitol, Washington, DC.

DEAR SENATOR REID: We are members of a nonpartisan group of retired generals and admirals who believe that U.S. counterterrorism policies are strongest when they adhere to the rule of law and American values. As such, we write to applaud your leadership in ensuring that the detainee provisions (Section 1031–1033) in the Senate Armed Services Committee's reported version of the Fiscal Year 2012 National Defense Authorization Act do not move forward.

If passed, we believe these provisions would reshape our counterterrorism policies in ways that would undermine our national security and transform our armed forces into judge, jury and jailor for foreign terrorism suspects. The military's mission is to prosecute wars, not terrorists. The bill would expand the military's mission to detain and try a large category of future foreign terror suspects, which falls outside the military's core competence and erodes faith in the judicial process. It would also authorize the indefinite detention without trial of terrorism suspects, including American citizens captured on U.S. soil—a policy that is contrary to the very American values needed to win this fight.

As retired military leaders, we believe in the importance of the underlying bill to sustain the strength of our Armed Services. For that reason, we have been advocating against these provisions, and agree with your statement that our nation: must maintain the capability and flexibility to effectively apply the full range of tools at our disposal to combat terrorism. This includes the use of our criminal justice system, which has accumulated an impressive record of success in bringing terrorists to justice. Limitations on that flexibility, or on the availability of critical counterterrorism tools, would significantly threaten our national security.

With your commitments this week, you took an important step to avert those threats.

Sincerely,

General Joseph P. Hoar, USMC (Ret.); General Charles C. Krulak, USMC (Ret.); General David M. Maddox, USA (Ret.); General Merrill A. McPeak, USAF (Ret.); General William G. T. Tuttle Jr., USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Vice Admiral Lee F. Gunn, USN (Ret.); Lieutenant General Arlen D. Jameson, USAF (Ret.); Lieutenant General Charles Otstott, USA (Ret.); Lieutenant General Harry E. Soyster, USA (Ret.); Major General Eugene Fox, USA (Ret.); Rear Admiral Don Guter, USN (Ret.); Rear Admiral John D. Hutson, USN (Ret.); Major General Melvyn S.

Montano, USAF (Ret.); Major General William L. Nash, USA (Ret.); Major General Thomas J. Romig, USA (Ret.); Major General Antonio 'Tony' M. Taguba, USA (Ret.); Brigadier General John Adams, USA (Ret.); Brigadier General James Cullen, USA (Ret.); Brigadier General David R. Irvine, USA (Ret.); Brigadier General John H. Johns, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.).

THE SECRETARY OF DEFENSE,
Washington, DC, November 15, 2011.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write to express the Department of Defense's principal concerns with the latest version of detainee-related language you are considering including in the National Defense Authorization Act (NDAA) for Fiscal Year 2012. We understand the Senate Armed Services Committee is planning to consider this language later today.

We greatly appreciate your willingness to listen to the concerns expressed by our national security professionals on the version of the NDAA bill reported by the Senate Armed Services Committee in June. I am convinced we all want the same result—flexibility for our national security professionals in the field to detain, interrogate, and prosecute suspected terrorists. The Department has substantial concerns, however, about the revised text, which my staff has just received within the last few hours.

Section 1032. We recognize your efforts to address some of our objections to section 1032. However, it continues to be the case that any advantages to the Department of Defense in particular and our national security in general in section 1032 of requiring that certain individuals be held by the military are, at best, unclear. This provision restrains the Executive Branch's options to utilize, in a swift and flexible fashion, all the counterterrorism tools that are now legally available.

Moreover, the failure of the revised text to clarify that section 1032 applies to individuals captured abroad, as we have urged, may needlessly complicate efforts by frontline law enforcement professionals to collect critical intelligence concerning operations and activities within the United States.

Next, the revised language adds a new qualifier to ''associated force''—''that acts in coordination with or pursuant to the direction of al-Qaeda.'' In our view, this new language unnecessarily complicates our ability to interpret and implement this section.

Further, the new version of section 1032 makes it more apparent that there is an intent to extend the certification requirements of section 1033 to those covered by section 1032 that we may want to transfer to a third country. In other words, the certification requirement that currently applies only to Guantanamo detainees would permanently extend to a whole new category of future captures. This imposes a whole new restraint on the flexibility we need to continue to pursue our counterterrorism efforts.

Section 1033. We are troubled that section 1033 remains essentially unchanged from the prior draft, and that none of the Administration's concerns or suggestions for this provision have been adopted. We appreciate that revised section 1033 removes language that would have made these restrictions permanent, and instead extended them through Fiscal Year 2012 only. As a practical matter, however, limiting the duration of the restrictions to the next fiscal year only will have little impact if Congress simply continues to insert these restrictions into legislation on an annual basis without ever revisiting the substance of the legislation. As national security officials in this Department and elsewhere have explained, transfer restrictions such as those outlined in section 1033 are largely unworkable and pose unnecessary obstacles to transfers that would advance our national security interests.

Section 1035. Finally, section 1035 shifts to the Department of Defense responsibility for what has previously been a consensus-driven interagency process that was informed by the advice and views of counterterrorism professionals from across the Government. We see no compelling reason—and certainly none has been expressed in our discussions to date—to upset a collaborative, interagency approach that has served our national security so well over the past few years.

I hope we can reach agreement on these important national security issues, and, as always, my staff is available to work with the Committee on these and other matters.

Sincerely,

LEON PANETTA.

DIRECTOR OF NATIONAL INTELLIGENCE,
Washington, DC.

Hon. DIANNE FEINSTEIN,
Chairmen, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: I am writing in response to your letter requesting my views on the effect that the detention provisions in the National Defense Authorization Act for Fiscal Year 2012 could have on the ability of the Intelligence Community to gather counterterrorism information. In my view, some of these provisions could limit the effectiveness of our intelligence and law enforcement professionals at a time when we need the utmost flexibility to defend the nation from terrorist threats. The Executive Branch should have maximum flexibility in these areas, consistent with our law and values, rather than face limitations on our options to acquire intelligence information. As stated in the November 17, 2011, Statement of Administration Policy for S. 1867, ''[a]ny bill that challenges or constrains the President's critical authorities to collect intelligence, incapacitate dangerous terrorists, and protect the nation would prompt the President's senior advisers to recommend a veto.''

Our principal objective upon the capture of a potential terrorist is to obtain intelligence information and to prevent future attacks, yet the provision that mandates military custody for a certain class of terrorism suspects could restrict the ability of our nation's intelligence professionals to acquire valuable intelligence and prevent future terrorist attacks. The best method for securing vital intelligence from suspected terrorists varies depending on the facts and circumstances of each case. In the years since September 11, 2001, the Intelligence Community has worked successfully with our military and law enforcement partners to gather vital intelligence in a wide variety of circumstances at home and abroad and I am concerned that some of these provisions will make it more difficult to continue to have these successes in the future.

Taken together, the various detention provisions, even with the proposed waivers, would introduce unnecessary rigidity at a time when our intelligence, military, and law enforcement professionals are working more closely than ever to defend our nation effectively and quickly from terrorist attacks. These limitations could deny our nation the ability to respond flexibly and appropriately to unfolding events—including the capture of terrorism suspects—and restrict a process that currently encourages intelligence collection through the preservation of all lawful avenues of detention and interrogation.

Our intelligence professionals are best served when they have the greatest flexibility to collect intelligence from suspected terrorists. I am concerned that the detention provisions in the National Defense Authorization Act could reduce this flexibility.

Sincerely,

JAMES R. CLAPPER.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, Nov. 28, 2011.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express concerns regarding the impact of certain aspects of the current version of Section 1032 of the National Defense Authorization Act for Fiscal Year 2012. Because the proposed legislation applies to certain persons detained in the United States, the legislation may adversely impact our ability to continue ongoing international terrorism investigations before or after arrest, derive intelligence from those investigations, and may raise extraneous issues in any future prosecution of a person covered by Section 1032.

The legislation as currently proposed raises two principal concerns. First, by establishing a presumption of military detention for covered individuals within the United States, the legislation introduces a substantial element of uncertainty as to what procedures are to be followed in the course of a terrorism investigation in the United States. Even before the decision to arrest is made, the question of whether a Secretary of Defense waiver is necessary for the investigation to proceed will inject uncertainty as to the appropriate course for further investigation up to and beyond the moment when the determination is made that there is probable cause for an arrest.

Section 1032 may be read to divest the FBI and other domestic law enforcement agencies of jurisdiction to continue to investigate those persons who are known to fall within the mandatory strictures of section 1032, absent the Secretary's waiver. The legislation may call into question the FBI's continued use or scope of its criminal investigative or national security authorities in further investigation of the subject. The legislation may restrict the FBI from using the grand jury to gather records relating to the covered person's communication or financial records, or to subpoena witnesses having information on the matter. Absent a statutory basis for further domestic investigation, Section 1032 may be interpreted by the courts as foreclosing the FBI from conducting any further investigation of the covered individual or his associates.

Second, the legislation as currently drafted will inhibit our ability to convince covered arrestees to cooperate immediately, and provide critical intelligence. The legislation introduces a substantial element of uncertainty as to what procedures are to be followed at perhaps the most critical time in the development of an investigation against a covered person. Over the past decade we have had numerous arrestees, several of whom would arguably have been covered by the statute, who have provided important intelligence immediately after they have been arrested, and in some instances for days and weeks thereafter. In the context of the arrest, they have been persuaded that it was in their best interests to provide essential information while the information was current and useful to the arresting authorities.

Nonetheless, at this crucial juncture, in order for the arresting agents to proceed to

obtain the desired cooperation, the statute requires that a waiver be obtained from the Secretary of Defense, in consultation with the Secretary of State and the Director of National Intelligence, with certification by the Secretary to Congress that the waiver was in the national security interests of the United States. The proposed statute acknowledges that this is a significant point in an ongoing investigation. It provides that surveillance and intelligence gathering on the arrestee's associates should not be interrupted. Likewise, the statute provides that an ongoing interrogation session should not be interrupted.

These limited exceptions, however, fail to recognize the reality of a counterterrorism investigation. Building rapport with, and convincing a covered individual to cooperate once arrested, is a delicate and time sensitive skill that transcends any one interrogation session. It requires coordination with other aspects of the investigation. Coordination with the prosecutor's office is also often an essential component of obtaining a defendant's cooperation. To halt this process while the Secretary of Defense undertakes the mandated consultation, and the required certification is drafted and provided to Congress, would set back our efforts to develop intelligence from the subject.

We appreciate that Congress has sought to address our concerns in the latest version of the bill, but believe that the legislation as currently drafted remains problematic for the reasons set forth above. We respectfully ask that you take into account these concerns as Congress continues to consider Section 1032.

Sincerely,

ROBERT S. MUELLER III,
Director.

I know you gentlemen have studied this in the Armed Services Committee; but I've got a letter from the former head of the FBI and Judge Williams Sessions, and another letter from 23 generals and admirals saying the same thing. I know you're very learned people and very conscientious, but, please, when the heads of the FBI, Republicans, judges, all tell you that you're doing the wrong thing, what does it take for us to vote this down; because this provision allows, for the first time, we codify a court decision that will now make it okay to lock up U.S. citizens for terrorism.

This is what it says, Mr. Chairman.

I will read it again:

''There has been some debate''——

Mr. SMITH of Washington. Will the gentleman yield for a point of clarification?

That person——

Mr. CONYERS. Will the gentleman let me recognize him on his own time? I only have 3 minutes.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CONYERS. I would like to remind my colleagues that provisions within the conference report impact our civil liberties and should have been referred to the Judiciary Committee for review. The conference report dangerously expands existing authorizations pertaining to individuals detained by the United States government and the military.

First, Section 1021 grants broad discretionary authority that could permit the indefinite detention of United States citizens, areas of law that should have been referred to the Judiciary Committee.

Secondly, Section 1021 is not the current law of the land and instead is new and dangerously extensive detention authority that has its origins in case law that never involved questions of whether American citizens could be indefinitely detained.

Third, Section 1022 violates due process by permitting indefinite military detention without charge or trial.

Next, the conference report ignores the concerns of members of our intelligence community, domestic law enforcement, and former generals who have opposed these provisions because they would undermine the ability of the government to interrogate and prosecute suspected terrorists.

Lastly, the conference report displaces the legal expertise necessary for trying successful terrorism cases.

First, Section 1021 grants broad discretionary authority that could permit the indefinite detention of United States citizens. The indeterminate breadth of conference report provides little or no protection against the indefinite detention of United States citizens. In addition, it threatens our constitutional protections and civil liberties.

I would like to know why an amendment to exempt American citizens from indefinite military detention failed in the Senate. If we were concerned about preserving the civil liberties and constitutional protections for American citizens, why did it fail? In addition, if existing laws prohibit this, why did we not specify this in the bill? Although supporters of this bill continue to claim that this bill would not expand detention authority inside of the U.S., that is just not the case.

There are too many questions that affect our civil liberties in the conference report that should have been referred to the Judiciary Committee for review and clarification. For example, Section 1021 is broad in its definition of ''hostilities'', what constitutes ''directly supporting hostilities in aid of enemy forces,'' and does not address the question of when or how do we determine ''the end of hostilities.''

Former FBI Director under Reagan, Bush, and Clinton and former Judge, Williams S. Sessions, recently wrote to the conferees explaining that ''This very dangerous provision would authorize the President to subject any suspected terrorist who is captured within the United States—including U.S. citizens and U.S. persons—to indefinite detention without charge. The provision does not limit such detention authority to people captured on the battlefield. Importantly, although subsection (e) of this provision states that the provision should not be 'construed to affect existing law or authorities' relating to detention of persons who are captured or arrested in the United States,' the reality is that current law on the scope of such executive authority is unsettled.''

With so much ambiguity, this bill could authorize detention—into perpetuity—United States citizens who in some instances—such as making statements protected under the First Amendment—could arguably be considered subject to indefinite detention under this provision.

In addition, Section 1021 does not expressly address whether U.S. citizens or lawful resident aliens may be determined as ''covered persons'' subject to detention under the section. Although the conference report includes the amendment offered by Senator FEINSTEIN, the conference report leaves definitions that are very broad of who can be detained without charge or trial.

Secondly, let me remind my colleagues that Section 1021 is not the current law of the land. The definition in Section 1021 was used by the Obama Administration to continue to detain indefinitely without charge or trial detainees at Guantanamo Bay, GITMO. This definition was used in court cases dealing with GITMO detainees, NOT American citizens. Thus, the question is whether this Congress wants the same GITMO detainee standard applied to American citizens? Do you want our government treating American citizens that way?

Section 1021 states that ''Nothing in the section shall be construed to affect existing law or authorities relating to the detention of United States citizens, lawful resident aliens of the United States or any other persons who are captured or arrested in the United States.'' This does not mean that American citizens are protected.

I am very troubled today to have learned that when an amendment came up in the Senate to address these protections for American citizens, members of the Senate stated that they would want room in the law for an American citizen to fall under this new and broad definition.

No one at GITMO is an American citizen and the only cases that deal with this type of indefinite detention without charge or trial are GITMO detainee cases. So there is no good law out there.

Thus, if existing laws do impact the civil liberties of American citizens, then we need to be changing those laws instead of codifying them.

Thirdly, the conference report violates due process and rejects our American values. The United States Constitution grants specific due process rights to citizens that guarantee they will be charged and brought to trial in the event they are apprehended by law enforcement. However, Section 1022 militarizes our justice system and could allow United States citizens to be detained by the military without charge or trail.

We take an oath every Congress to uphold the Constitution and to guard its values and protections for American citizens. Earlier this year, members of this body stood before the American people and read the Constitution. Yet I must inquire whether that was theatrics or did we intend to follow through with our obligation? The broad definitions in 1022 could include American citizens under indefinite military detention, and thus must be opposed if we are to be protectors of the Constitution.

Next, this Congress has ignored the concerns of our national intelligence community. Changes into Section 1022 will undermine the ability of the government to interrogate and prosecute suspected terrorists.

The Secretary of Defense, Leon Panetta, Director of the FBI, Robert Mueller, Director of National Intelligence, James Clapper, CIA professionals, along with dozens of retired generals and professional interrogators have rejected this proposal because it is a militarization of our justice system and some have stated that these provisions are unwise and unworkable.

Members of the House claim that out of respect for our military we need to pass this authorization. However, passing this bill ignores

their concerns and will negatively impact operations that preserve our national security. Under the provisions of the conference report, intelligence and domestic law enforcement would lose authority to take further action with terrorist suspects in U.S. custody absent a wavier from the President—which still thwarts the information gathering that is crucial at that time of arrest.

This provision in the conference report will cause controversy and chaos in handling terrorism investigations. Tying the hands of our intelligence and law enforcement professionals would also cause unnecessary delays in justice.

These provisions also harm our national security by threatening the global reputation of the United States. Under President Obama, the image of the United States has been restored as well as the rule of law. However, the conference report rejects our national values of democracy, due process, and justice by authorizing the military's role in domestic law enforcement.

Lastly, the conference report displaces the legal expertise necessary for trying successful terrorism cases. A bi-partisan alliance of our national defense and intelligence community—including retired generals—have spoken out against provisions in Section 1022 that provide for military commissions to conduct terrorism trials.

The military has not even completed 3 percent of the case load that the Justice Department has completed. Military tribunals have completed six terrorism cases, compared to the Justice Department's case load of close to 400 cases with a 90 percent conviction rate to go along with that. To date, there is no record of any federal court unable to convict a terrorist.

This is not a responsibility the military wants, therefore Congress should not insist on the use of military tribunals in order to sound tougher on terrorists. We should not treat terrorists like warriors. Federal courts and our Justice Department can deliver harsher sentences and are better equipped to handle such cases. In addition, Article III Judges and the Department of Justice are more versed in the body of law that covers such cases.

I was also disappointed that the conference report failed to adopt Senate-passed language proposed by Senators MERKLEY, PAUL, and LEE calling for expedited transition of responsibility for military and security operations in Afghanistan to the Afghan government.

Specifically, this amendment would have required the President to devise and submit to Congress a plan to expedite the drawdown of U.S. combat troops in Afghanistan and accelerate the transfer of security authority to Afghan authorities.

The conference report amended the amendment's language to change the focus from drawing down our troop footprint to empowering and building up the Afghan security forces. While a worthy goal unto itself, this language changed the focus of the amendment and undermined the the message expressed by the entire Senate through the Merkley Amendment. Including this provision would have sent an important message about our country's commitment to bringing the war in Afghanistan to a responsible end. It is unfortunate that the report does not reflect a position supported by a majority of the American people.

I also support efforts to enhance the ability of Customs & Border Protection to prevent counterfeit goods from being imported into the United States. However, Section 8 of this bill will disrupt the flow of genuine brand name products into the United States.

This is true because many of the goods which CBP inspectors view with suspicion are in fact genuine goods, lawfully moving in distribution streams parallel to the authorized distributors. These transactions are desirable because they provide U.S. consumers with price competition and wider distribution of brand name products.

However, the existence of these transactions is often under attack by trademark and copyright owners who actively seek to control resale pricing and downstream distribution of the products they have already sold into commerce. Section 8 will give anti-competitive companies a new tool by giving them confidential information about competing parallel imports at their times of arrival, while they are still detained by CBP and unavailable to the importer, and without giving the importer an opportunity to prove its goods are genuine, and without even giving notice to the importer that its information has been shared with a competitor seeking to prevent its lawful transaction.

This problem could be minimized if Section 8 is limited to goods raising national security concerns or purchases by the military. I believe that is the intent of this provision of the Department of Defense Appropriation bill.

This problem could also be minimized if this bill or CBP would adopt the safeguards which the Administration proposes be included in the Customs Reauthorization Act. This would be appropriate since Section 8 provides that it sunsets when the Customs Reauthorization is adopted. The safeguards include a requirement that the Secretary find there is a need for disclosing confidential information, and that CBP provide the importer with notice and an opportunity to respond before any confidential information is released to other private parties.

For some reason, we are adopting this provision in anticipation of a more thoughtful approach in the Customs Reauthorization Act. This is not a wise or needed course of action. CBP today can provide redacted samples to IP owners and very often that is sufficient to determine if they are genuine or counterfeit.

CBP today keeps suspicious goods out of U.S. commerce while it determines if they are genuine. The safeguards proposed by the administration will not put suspicious goods into commerce nor delay the final determination of CBP because there is an existing 30-day requirement that is not altered by any proposed legislation.

We must not be willing to compromise our civil liberties and American values for the false sense of enhancing security. I urge members to vote no on the Conference report and do what is right for America, its people, and the rule of law.

Mr. McKEON. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Maryland, the chairman of the Subcommittee on Tactical Air and Land Forces and a member of the conference committee, Mr. BARTLETT.

Mr. BARTLETT. I rise in support of the conference report for the National Defense Authorization Act for fiscal year 2012. This is the 50th consecutive conference report for the National Defense Authorization Act.

I have the honor of serving as the chairman of the Tactical Air and Land Forces Subcommittee of our Armed Services Committee. Under the full committee leadership of Chairman McKEON and Ranking Member SMITH, the support of SILVESTRE REYES, our subcommittee's ranking member, and a superb staff, ours is truly a bipartisan effort.

Consideration of this conference report comes at a critical period for our Nation and our military. World events and the Nation's fiscal circumstances have challenged our government's will and capacity to constructively address the enormity of the challenges we face. We need to develop a new national military strategy that better reflects the current and projected threat and fiscal environment. This is needed to facilitate full and balanced consideration of force structure and equipment investment plans and programs.

Our first priority and immediate requirement is to fully support our personnel serving overseas in Afghanistan and the many other countries where we have asked them to serve under the daily, constant threat to their personal survival. This conference report properly reflects this immediate requirement.

The National Defense Authorization Act Conference Report authorizes an additional $325 million for National Guard and Reserve equipment unfunded requirements; $3 billion is provided to support urgent operational needs and to counter improvised explosive device activities; $2.7 billion is provided to support Mine Resistant Ambush Protected Vehicle modernization and survivability enhancements; and $2.4 billion is provided for Army and Marine Corps Tactical Wheeled Vehicles, including $155 million for development of the Joint Light Tactical Vehicle.

To meet projected future needs, an additional $255 million is provided to support the Abrams Tank industrial base and National Guard tank modernization, increasing the request of 21 to 70 tank upgrades, avoiding a production break in the tank upgrade program; $8.5 billion is provided for F–35 multiservice aircraft; $3.2 billion is provided for 40 aircraft in two models of F–18 aircraft; $2.4 billion is provided for V–22 Ospreys for the Marine Corps and the Air Force; and multiyear procurement is authorized for various models of Army and Navy H–60 helicopters.

I urge all of my colleagues to support this conference report.

Mr. SMITH of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, the ranking member on the Air and Land Subcommittee, Mr. REYES.

Mr. REYES. I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in support of the Fiscal Year 2012 National Defense Authorization Act. This bill represents months of hard work by Members on both sides of the aisle. And I especially wanted to thank my friend and chairman, Mr. MCKEON, and Ranking Member SMITH, as well as my chairman, ROSCOE BARTLETT, for the inclusive work that was done in this legislation.

It is important to note what this bill does not include. During conference negotiations, unnecessary provisions limiting the work of military chaplains were dropped. Now the bill will allow the repeal of Don't Ask, Don't Tell to proceed so that troops who defend our values will have protections that they have fought to defend.

Working with the White House, our committee achieved a final compromise on detainees that does not grant broad new authority for the detention of U.S. citizens and does not establish a new authority for indefinite detention of terrorists. The bill strikes a reasonable balance between protecting our Nation from terrorists like those who attacked our Nation on September the 11th and protecting our American values. It demonstrates that we do not need to sacrifice our civil liberties to be safe.

Finally, I urge Members to support this legislation because it also includes a pay raise for our troops and provides funds for the care needed to recover from the wounds of war. The bill improves access to mental health care for members of the National Guard and Reserves, and the bill also expands and improves laws dealing with sexual assault and harassment.

I ask all Members to vote for this very important piece of legislation.

Mr. NADLER. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. JOHNSON).

Mr. JOHNSON of Georgia. Mr. Speaker, I have a unique position in Congress in that I serve both on the House Armed Services Committee and the House Judiciary Committee. The House Armed Services Committee is charged with the responsibility of protecting the security of America from external threats. The Judiciary Committee is charged with the awesome responsibility of protecting the rights of Americans to live freely and protecting that from internal threats.

□ 1440

I know that my service on the Armed Services Committee has been good, and I appreciate the bipartisanship with which our chairman and the ranking member addressed the issues for keeping America safe from external threat. I must commend you for, at very difficult times, in reaching this particular product.

However, I rise in opposition to this defense authorization bill reached in conference committee because it does disturb the rights that Americans have come to enjoy under our Constitution.

We have sworn to uphold our Constitution of the United States of America regardless of which committee you serve on. Yet we're about to give our seal of approval to a bill that gives the military the authority to hold American citizens captured abroad on suspicion of terrorism, and to hold them indefinitely without trial.

This is a codification of an unfortunate Supreme Court ruling that is wrong, and it gives that ruling statutory legitimacy.

Mr. Speaker, we must reject indefinite detention of Americans and defend the Constitution. An American arrested abroad could be subject to indefinite detention abroad, and that's wrong. No matter how you spin it, it's wrong. It's unjust, it's Orwellian, and it's not who we are.

As Americans, we don't put Americans in jail indefinitely without trial no matter how heinous the accusations against them. This is not what we are about. This is not who we are. It's against our values as Americans, and for this reason, I cannot support the bill.

The bill also makes the military, not civilian law enforcement authorities, responsible for custody and prosecution in the military courts of foreign terrorist suspects apprehended within the United States. This provision disrespects and demoralizes our law enforcement officers and prosecutors who are responsible for protecting our national security using the United States criminal justice system and process, which has been effectively used repeatedly to investigate, arrest, prosecute, and incarcerate for long stints individuals who are convicted of terrorism.

Imagine you're an FBI agent or a Federal prosecutor with a tremendous record finding, arresting, convicting, locking up terrorists. Now you're told to step aside so that the military can do your job for you. The military is a machine of war, not a law enforcement agency.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. NADLER. I yield the gentleman an additional minute.

Mr. JOHNSON of Georgia. Thank you.

That's why the Director of National Intelligence, the Director of the FBI, the Director of the CIA, the head of the Justice Department's National Security division, and the Secretary of Defense himself oppose this provision.

More than 400 terrorists have been convicted in our civilian courts. Only a handful of cases have been brought before military tribunals, and not all of them have been successful.

If it ain't broke, ladies and gentlemen, don't fix it.

Terrorism is a crime, and our law enforcement authorities, our prosecutors, our judges are more than up to the task. This bill ties the hands of law enforcement, militarizes counterterrorism on our own soil, and makes us less safe.

Mr. Speaker, our constituents sent us here to provide for the common defense, yes, but they also sent us here to safeguard their liberty.

So I ask my colleagues to think long and hard about this vote, and I ask the staffers watching this on C–SPAN to think long and hard before making their recommendations. Reject indefinite detention, empower civilian law enforcement, and defend the Constitution.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Missouri, the chairman of the Subcommittee on Seapower and Protection Forces and a member of the conference committee, Mr. AKIN.

Mr. AKIN. Thank you, Mr. Chairman.

I think that perhaps before we give the report on the status of seapower, I would make the comment that if this sequestration goes through, which people are talking about, it gravely influences the ability of our country to protect itself, and it hollows out our force. As it is, if that were to go through, we would have the smallest Navy or a Navy smaller than we had in the year 1916.

However, this particular authorization bill has some good aspects. One of the things it does is support the construction of 10 new ships in the budget request. The bill also is going to require a competitive acquisition strategy for the main engine of the next-generation bomber. That's a place we've gotten in trouble before. It allows the retirement of six B–1 aircraft but still maintains the requirement for 36 aircraft for the next 2 years.

It provides the recommended force from the Air Force of the strategic airlift of 301 aircraft comprised of C–17s and C–5s. It also requires the GAO to conduct an annual review on the new tanker program which the military has just entered into.

I would be remiss if I didn't call our attention to a historic pattern that has occurred all through America's past. That is, in times of peace, we keep cutting defense and cutting defense, and then some war comes up and we don't have what we need, and we sacrifice a lot of lives and money. We also give ourselves fewer political possibilities because we are not prepared.

We are rapidly approaching that same mistake once again in our history with the danger of the sequestration. We've already taken almost a 10 percent cut in defense, $450 billion. As a Navy guy, what that means is 45 aircraft carriers. That's how much we've cut. We only have 11 in the Navy. You're not supposed to lose them or sink them. This would be the equivalent of cutting 45 aircraft carriers. That's before sequestration. We must be careful.

Mr. SMITH of Washington. I yield 2 minutes to the gentlelady from California, the ranking member of the Personnel Subcommittee, Mrs. DAVIS.

Mrs. DAVIS of California. Mr. Speaker, I rise today in support of the National Defense Authorization Act for Fiscal Year 2012.

As the ranking member of the Military Personnel Subcommittee, I am pleased that this bill includes a number of provisions that continues our commitment to our men and women in uniform as well as their dedicated families.

First, I want to thank my chairman, JOE WILSON, for his support and assistance. I would also like to recognize Chairman MCKEON and Ranking Member SMITH for their leadership.

I urge my colleagues to vote for this conference report as it supports our military and their families who have faced the stress and the strains of a decade at war.

The conference report includes a 1.6 percent pay raise for our troops. And it will also require the Department of Defense to enhance suicide prevention programs. It allows servicemembers to designate any individual, regardless of their relationship, to direct how their remains are treated.

This bill will also allow service Secretaries to permit members to participate in an apprenticeship program that provides employment skills training. It makes significant enhancements to the sexual assault and harassment policies of the DOD, such as requiring full-time sexual assault coordinators and victim advocates, ensuring access to legal assistance, and allowing for the consideration of a permanent change of station.

And, finally, H.R. 1540 will ensure future TRICARE prime enrollment fees are tied to increases in military retired pay cost of living adjustments.

The bill before us continues to recognize the sacrifices of those who serve our Nation in uniform. I urge my colleagues to support this bill.

□ 1450

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlelady from Guam (Ms. BORDALLO).

Ms. BORDALLO. I wish to thank Ranking Member SMITH for his support for Guam, and I thank the gentleman from New York (Mr. NADLER) for yielding.

Mr. Speaker, I rise in strong opposition to H.R. 1540, the conference report accompanying the National Defense Authorization Act for Fiscal Year 2012. If I were able to vote on the final passage of this legislation, I would vote against this bill.

The bill completely ignores the important efforts that this administration has taken to better posture our military forces in the Pacific. Furthermore, we undercut efforts, significant efforts, by Prime Minister Noda, in Japan, in trying to achieve progress with the development of a Futenma replacement facility.

I am deeply concerned about this bill because there is constant talk in this Chamber about recognizing the importance of the Asia-Pacific region, and now we are going in the opposite direction. People discuss their concerns about the potential threats posed by both China and North Korea. Yet when this country and this administration ask the Congress to act in our best national interest to realign forces in the Pacific, we blink. We are all talk and no action on this very important issue. I understand the budget realities that we currently face; but we must make the necessary hard choices and investments now, or it will cost more money and time in the long run.

That said, it is important for our partners in Japan to continue the progress they are making to begin the construction of a replacement facility for Futenma in northern Okinawa. It is important for Prime Minister Noda to continue to show leadership and present an environmental impact statement to the Governor of Okinawa by the end of this year. In addition, we must have further progress toward the permitting of a landfill so that we can finally move forward with this realignment. Right or wrong, the patience of those in the Senate has run out, and it is important to have more action and less rhetoric in Okinawa.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. NADLER. I yield the gentlelady an additional 30 seconds.

Ms. BORDALLO. The cuts to infrastructure funding on Guam are simply punitive, and they fly in the face of the unified action by both the House and Senate appropriators. This Congress has uniformly stated that infrastructure improvements are needed on Guam to sustain any type of additional military presence. Yet once again, our rhetoric does not match our words.

I will continue to work to make sure that we get funding to address critical infrastructure needs. As such, I urge all of my colleagues to vote ''no'' on this legislation.

Mr. MCKEON. Mr. Speaker, I yield myself 1 minute to engage in a colloquy with my friend from Louisiana (Mr. LANDRY).

Mr. LANDRY. Will the gentleman yield?

Mr. MCKEON. I yield to the gentleman from Louisiana.

Mr. LANDRY. Mr. Speaker, I rise today in order to fulfill my constitutional duty of ensuring that the liberties and freedoms are protected of the men and women that this bill authorizes to fight for. The protections bestowed on U.S. citizens are the ones that I am concerned with the most.

The question now upon us is whether or not the NDAA impacts the rights of a U.S. citizen to receive due process to challenge the legality of detention by the executive before an article III court.

Mr. MCKEON. This conference report does no such thing. It in no way affects the rights of U.S. citizens.

Mr. LANDRY. My concern is that when the writ is suspended, the government is entirely free of judicial oversight.

So do we agree that no section of the NDAA purports to suspend the writ of habeas corpus?

Mr. MCKEON. I agree completely.

Mr. LANDRY. Do you agree that, as the Supreme Court has held, ''a state of war is not a blank check for the President when it comes to the rights of our citizens''?

Mr. MCKEON. I do.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MCKEON. I yield myself an additional 15 seconds.

Mr. LANDRY. Will the chairman assure me that together we will work with the committee to further clarify the language contained in this bill in order to ensure that the clear and precise language which protects the constitutional rights of American citizens is protected?

Mr. MCKEON. I do, and I will be happy to work with you to that end.

Mr. LANDRY. Thank you, Mr. Chairman.

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

Mr. SMITH of Washington. Mr. Speaker, I yield 1 minute to the gentlelady from Massachusetts (Ms. TSONGAS).

Ms. TSONGAS. Mr. Speaker, I rise in support of the National Defense Authorization Act that is before us today.

I want to thank Chairman MCKEON, Ranking Member SMITH, and all the members of the Armed Services Committee who have worked to ensure that significant protections for our servicemembers are included in this year's bill, particularly for those who are survivors of military sexual trauma.

I also want to highlight the inclusion of a long-term reauthorization of the Small Business Innovation Research program. It is the government's most effective research and development program, creating jobs and fostering innovation in Massachusetts and across the country; and it plays a critical role in the Department of Defense.

The bill before us today ensures that the SBIR program retains its proper focus on true small businesses—creating a platform for needed job growth while guaranteeing that our Armed Forces continue to have access to the best technology available.

I urge its passage.

Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from South Carolina, the chairman of the Subcommittee on Military Personnel, Mr. WILSON.

Mr. WILSON of South Carolina. Thank you, Chairman MCKEON, for your commitment to military servicemembers, family members, and veterans.

Before I begin, I want to commend Vice Chairman MAC THORNBERRY for his clarification of the detainee issue, which is that the issue does not apply to U.S. citizens. This is directed at al Qaeda—illegal enemy combatants—not at U.S. citizens.

The military personnel provisions of H.R. 1540 provide new and important authorities to support the men and women in uniform and their families. Some of the more important personnel provisions contained in the conference agreement are: a 1.6 percent increase in military basic pay; a revised policy for measuring and reporting unit operations tempo and personnel tempo, especially when we must continue our resolve for victory in the current mission requirements.

Another initiative important to my constituents is the reform of the military recruiting system to include graduates of home schooling and virtual schools. I see military service as opportunity and fulfilling, and these are extraordinary patriots who deserve the opportunity to serve.

The conference agreement would make the chief of the National Guard Bureau a member of the Joint Chiefs of Staff. Furthermore, the agreement clarifies the legal authority for the oversight of Arlington National Cemetery, a national shrine for veterans.

I believe this bill is also strong in the multiple provisions dealing with sexual assault; and it provides new authority, such as temporary early retirement, to ease the impact of future military personnel reductions.

I urge all of my colleagues to support the conference report.

Mr. SMITH of Washington. Mr. Speaker, may I inquire as to how much time each side has remaining.

The SPEAKER pro tempore. The gentleman from Washington has 10 minutes remaining. The gentleman from California has 8¼ minutes remaining. The gentleman from New York has 4 minutes remaining.

Mr. SMITH of Washington. With that, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN), ranking member on the Emerging Threats Subcommittee.

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

□ 1500

Mr. LANGEVIN. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of H.R. 1540, the 2012 National Defense Authorization Act.

I would like to begin by thanking Chairman MCKEON, Ranking Member SMITH, and my subcommittee chairman, Mr. THORNBERRY, for their leadership and commitment to keeping our Nation safe and protecting our servicemembers. As a conferee, I was proud to join them in signing the conference report Monday night, and I am even more proud of our excellent staff that completed a full conference in a record 1 week's time.

As ranking member of the Emerging Threats Subcommittee, I am especially pleased with the inclusion of significant funding for special operations forces, the full reauthorization of the SBIR program to support our job-creating small businesses, and also the inclusion of important cyberprotections to prevent future incidents similar to WikiLeaks.

This bill will also ensure the long-term strength of programs critical to our naval dominance and strategic posture, such as the purchase of two new Virginia class submarines, fully funding the development of the Ohio replacement submarine, and continuing work on the first Zumwalt DDG–1000 destroyer.

Further, the conference committee successfully removed damaging language that would have ended efforts by DOD to procure clean alternative fuel technology in order to break our dependence on foreign oil and reduce our carbon footprint, which DOD officials have stated are both high risks to our national security.

Finally, while I'm concerned that we were unable to remove some harmful measures requiring that terrorist detainees be held in military custody, provisions included in this bill help address concerns about potential detention of U.S. citizens in military custody and the flexibility of counterterrorism efforts by the FBI.

In closing, this legislation supports the incredible sacrifices that our brave men and women in uniform make for our country every day and provides critical resources to carry out vital national security projects.

With that, I am proud to serve on the House Armed Services Committee and to serve with Chairman MCKEON and Ranking Member SMITH. I commend them for the great work they have done in producing a good bill, and I appreciate the staff for their great work as well.

Mr. NADLER. Mr. Speaker, I continue to reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the gentleman from Virginia will control the time of the gentleman from California.

There was no objection.

Mr. WITTMAN. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from Ohio, the chairman of the Subcommittee on Strategic Forces and member of the conference committee, Mr. TURNER.

Mr. TURNER of Ohio. Mr. Speaker, I join my colleagues in speaking in favor of passage of the conference report on the FY12 NDAA.

As chairman of the Strategic Forces Subcommittee, I would like to walk through some of the key provisions of the conference report.

This conference report imposes checks on the administration's plans for nuclear reductions by requiring assessments of those reductions from the STRATCOM commander before any nuclear weapons reductions are made. It also requires the administration to disclose its plans for future reductions and reasserts congressional oversight of the Nation's nuclear war plan.

Concerning the proposed LightSquared network, we have retained House and Senate provisions that will ensure that the FCC will not be able to give final approval to that network unless it resolves concerns about impacts to our national security. Recent press reports indicate that, per new test results, LightSquared's proposed network continues to create unacceptable interference to DOD GPS systems.

I would also like to thank Chairman HAL ROGERS and Chairman RODNEY FRELINGHUYSEN for their support of the NNSA vital nuclear weapons programs.

And I would also like to discuss an issue that is important to our men and women in uniform, impacts our Air Force's readiness, and forces servicemembers to choose between their service to their Nation and their families. This is the issue of military child custody.

A short time after becoming a member of the House Armed Services Committee, I was struck to learn that this country's judicial system was using a servicemember's deployment against them when making child custody determinations. Just to be clear, we're asking an all-volunteer force, which consists of less than 1 percent of our population, to engage in the longest conflict in our Nation's history, endure more deployments than any other generation in our history, and do so at the peril of losing custody of their children upon return.

Recognizing this unconscionable injustice, the House Armed Services Committee has included language in the past five National Defense Authorization Acts to provide servicemembers a uniform standard of protection. This provision has also made it through the House Veterans' Affairs Committee.

Unfortunately, despite overwhelming bipartisan support in the House and the support of the Department of Defense, the Senate has once again failed our servicemembers and their families. It appears that they are operating on false information.

This provision should pass the House, and we are going to continue to stand for our servicemembers.

Mr. SMITH of Washington. Mr. Speaker, I am pleased to yield 1½ minutes to the gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. I thank the ranking member, and I thank the members of this committee.

This is a very tough decision. But in the midst of welcoming home many of our troops, I believe it is important to look at aspects of this legislation that have been corrected and aspects that have been enhanced.

Let me thank the members of the committee for the enhancement of the small business technology and the efforts on research and development. Let me thank them for the response on sexual assault and harassment policies that have been improved, as well as the improvement of the military pay for our military families and soldiers, and the enhanced resources that have been

put in to help our soldiers return to the workplace.

But I am concerned. And as I have reviewed this, let me specifically yield to the gentleman from Washington, the ranking member, and ask a question on detention, about which I think so many are concerned.

It is my understanding, along with present law, that this has been vetted, the language of detention and the response to civilians, American civilians and legal aliens have been vetted to be in sync with the Constitution, due process, and the right to habeas corpus if individuals are detained.

Mr. SMITH of Washington. Yes. That was a huge priority for me in the conference committee. We worked hard to make sure that that happened, and we absolutely protect those rights.

Ms. JACKSON LEE of Texas. And I believe also that Congress has the privilege to be notified if someone is detained and has the ability to both intervene or interact with the executive, the President, on the particularly unique circumstances of a U.S. citizen being detained as a person that may be involved in terrorist acts.

I thank the gentleman and would argue the point that this is a difficult call but that this bill has value because it improves the law on the question of detention and compliance with the Constitution. It also improves the lives of our soldiers and families.

I support the legislation.

Mr. WITTMAN. Mr. Speaker, I yield 1 minute to my friend and colleague, the gentleman from Illinois, a member of the conference committee, Mr. SCHILLING.

Mr. SCHILLING. I rise today in support of the NDAA conference agreement. First I want to thank Chairman MCKEON and Ranking Member SMITH for shepherding this bill through the committee and through the Armed Services Committee and for really doing a great job for our brave men and women.

This marks the 50th year of the NDAA passing, and it is truly an example of bipartisan cooperation for the good of our country. I appreciate the opportunity I have had, serving on this important conference. And I believe that what we have put together is a great framework that is fiscally responsible and supportive of our troops and national security.

Included in this bill were provisions that would help support our military organic base, including arsenals like the one I represent in Rock Island. I am proud to represent this national treasure found within the Department of Defense. The Rock Island Arsenal and its 8,600 employees have worked hard for our country.

One of the provisions that was included in the NDAA allows our Army industrial facilities to enter into private-public partnerships under section 4544. This provision does away with the cap on these partnerships and ends the sunset date.

I urge strong support and passage of the bill.

□ 1510

Mr. SMITH of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. I thank the gentleman for yielding.

Mr. Speaker, in a few minutes I will offer a motion to recommit that would strike a misguided provision in the conference report that would exempt Tricare network providers from our labor protection laws.

Section 715 of this conference report excludes the Tricare network health care providers from being considered subcontractors for purposes of any law. Section 715 is nothing but an attempt to override pending litigation and longstanding civil rights law under Executive Order 11246 of 1965, section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans Readjustment Assistance Act of 1974.

The civil rights protections contained in these laws have existed for decades, and they've served to protect millions of workers from race, sex, and other forms of illegal discrimination. Large Federal contractors are simply required to have an affirmative action plan to ensure that minority groups are not being discriminated against and that the Department of Labor reviews the records. The law currently exempts employers with fewer than 50 employees who do not meet minimum contract value requirements.

The health care industry employed approximately 16 million workers in 2009. Hospitals and similar entities employ tens of thousands of minorities, women, veterans and low-wage workers, groups that historically and currently depend on the basic assurances of fair treatment. The health care industry is the largest growing sector of employment in this country.

Veterans would be especially hard hit under this change in the law. There are close to 900,000 unemployed veterans in America right now. Despite their unique experience and leadership skills, wounded warriors and veterans often struggle to find meaningful employment in the civilian sector. That's why Congress passed laws, enforced by the Department of Labor, to protect the brave men and women who have served our country.

The Office of Federal Contract Compliance ensures that Federal contractors and subcontractors do not discriminate against our veterans, and instead take steps to recruit, to hire, to train, and to promote qualified protected veterans.

Tricare providers, the very people who provide health care to our Nation's veterans, are arguing that they should be exempt from adhering to the very regulations that were passed to protect our veterans. This action would gravely undermine our efforts to employ veterans. These large government health care contractors should not be exempted from civil rights responsibilities that apply to all other similarly situated contractors or subcontractors.

Section 715 is a brazen attempt by large health care industries to overturn pending litigation and exempt themselves from civil rights scrutiny. Congress should vote against weakening these laws, and I urge my colleagues to join with me and support my motion to recommit the conference report.

Mr. WITTMAN. Mr. Speaker, I yield 1½ minutes to my friend and colleague, the gentleman from Missouri, the chairman of the Small Business Committee and a member of the conference committee, Mr. GRAVES.

Mr. GRAVES of Missouri. Mr. Speaker, I rise in support of the conference report on H.R. 1540.

Included in this bill is a long-term reauthorization of the Small Business Innovative Research program. This program sets aside Federal research and development dollars for small businesses that have cutting-edge ideas and promising research that the government needs. The SBIR program fosters innovation while giving a boost to our Nation's best job creators.

Today, I am pleased to say that the House and Senate have come together on a compromise that will give certainty to our small businesses and make important reforms to the program. I want to thank Chairman MCKEON and Ranking Member SMITH for including this bipartisan deal in the National Defense Authorization Act conference report, and I would also like to thank the ranking member of the Small Business Committee, Ms. VELÁZQUEZ, for her very important contributions to this debate, as well as the chairman and ranking member of the Science Committee, Mr. HALL and Ms. JOHNSON, who have also been partners in this effort. And, of course, all of the staff on the various committees who have worked very hard on this. They deserve a lot of credit for their hard work.

I encourage my colleagues to support the conference report and the thousands of small businesses and jobs that benefit from the SBIR program.

The SPEAKER pro tempore. The gentleman from Virginia has 3¾ minutes remaining. The gentleman from Washington has 3½ minutes remaining. The gentleman from New York has 4 minutes remaining.

Mr. NADLER. Mr. Speaker, I will reserve until it is time to close.

Mr. SMITH of Washington. I am also going to reserve until it is time to close. We are down to our last speaker.

Mr. WITTMAN. Mr. Speaker, I would tell my colleagues I am prepared to close.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 4 minutes.

Mr. NADLER. Mr. Speaker, we are told, and this seems to be one of the

principle issues in the debate today, that this bill, with reference to the detention and security provisions, merely codifies existing law. Some of us say no, it doesn't codify existing law; it codifies claims of power by the last two administrations that have not been confirmed by the courts—by some courts, but not by the Supreme Court. Rather terrifying claims of power, claims of the right to put Americans in jail indefinitely without a trial even in the United States.

Now, I can cite specifics here. The text, for example, says very specifically that Congress affirms the authority of the President, includes the authority for the Armed Forces of the United States to detain covered persons pending disposition under the law of war, and then expands the definition of covered persons to people not implicated or supporting or harboring people implicated in 9/11 for the first time.

And then we have a provision that says nothing in this section is intended to limit or expand the authority of the President or the scope of the authorization for use of military force.

Well, that directly contradicts what I just read, which is a very specific provision. And since the rules of statutory construction always say that the specific controls the general, this provision, frankly, insofar as it contradicts the first, is meaningless. It provides no protection whatsoever. The same is true of the Feinstein amendment, for similar reasons.

Now, we have disagreement we heard on the floor today, but that reflects the disagreement in the country at large. We have many law enforcement people, many legal scholars disagree on what this language means. The President's chief counterterrorism advisor, John Brennan, said that the bill mandates military custody for a certain class of terrorism suspects, and since it would apply to individuals inside the U.S.—which we have heard denied on the floor but the President's counterterrorism advisor thinks it does—it would be inconsistent with the fundamental principle that our military does not patrol our streets.

And we have many generals, including a former Commandant of the Marine Corps, saying that this is a terrible expansion and change of existing law.

Now the fact of whether it simply codifies existing law or further restricts our liberties in unprecedented ways is unclear. That my friends here can say it only codifies existing law, and I can say and all of these other people—experts, legal experts, military people, counterterrorism experts—can say it goes way beyond existing law, shows why it is dangerous to have this kind of provision affecting fundamental rights and civil liberties in a defense authorization bill which is admirable in many other ways.

The Armed Services Committee is not the proper place to consider questions of civil liberties and legal rights, and certainly not a conference report. All these questions should have been considered in hearings. The Judiciary Committee in both Houses, frankly, should have held hearings. We should have called in the counterterrorism experts, we should have called in the legal scholars, we should have called in the statutory scholars and asked: What does this provision mean? How should it be changed? Does this provision contradict that provision, and what does it really mean? Does it go beyond existing law, and, if so, how can we change that?

In legislation like this, there should be hearings and testimony and proper debate and consideration.

Now, we can still fix this. If we defeat this bill now, we can then take this provision out of the bill, and pass the bill without this provision in a couple of days. We are going to be here. There is no reason we shouldn't do that. And then next year—which is only a couple of weeks away—give proper consideration to these detention provisions if people feel a need to pass them. We should not do such fundamental changes on the fly in a conference report with one hour of debate, no proper committee consideration, no public hearings, and considerable disagreement among scholars and judges and counterterrorism experts and military experts as to what this language means and what it does.

The true answer is that nobody on this floor can be 100 percent certain what this does. And when you are dealing with our fundamental liberties, that should say don't pass it. So I urge my colleagues to defeat the bill. We can then take this out of the bill, take the bill up on the floor again in a couple of days, and that's the safe way to safeguard our liberties and to do what we have to do for our military security.

I yield back the balance of my time.

□ 1520

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

The SPEAKER pro tempore. The gentleman is recognized for 3½ minutes.

Mr. SMITH of Washington. First of all, let me say we had hearings on this last February and March. We had language in our bill which we passed in May. This issue has been thoroughly debated. Now, I've heard a couple of times that the Judiciary Committee has not heard this issue. This has been going on for 10 years under both Democratic and Republican control. I don't know why the Judiciary Committee has not chosen to have hearings on this issue, but that's hardly our fault. We have. We've had endless discussions on this. It has, in fact, been debated.

And let me also say that I am very concerned about these very issues. On our committee, I have been one of the strongest voices of concern. I support closing Guantanamo. I know a lot of people don't. I think we should have all of the suspects here in the U.S. and that we should try them. I also strongly believe that the criminal justice system has to be part of how we combat al Qaeda. I have heard the argument. People say, this is a war, not a criminal matter. Why are we bothering with things like article III courts? I disagree with that and have spoken out publicly and strongly and in many cases even when popular support has been on the other side of issues like closing of Guantanamo.

I care deeply about this issue; and from the very start, I fought hard to protect precisely the things Mr. NADLER is referencing. I fought hard in the conference committee to make sure they were protected, and they were.

Now the argument is we don't know exactly what it means; so, therefore, we should do nothing. It is very true that law is unsettled. That, again, has nothing to do with this bill. There are court cases ongoing; there are habeas corpus cases continuously happening as a result of Guantanamo; and it's being interpreted by courts and also by the executive branch. I want to make it also clear that the judiciary and the executive branch would always rather that we do nothing. They would always rather forget that we are supposed to be a coequal branch of government, but we are.

After 10 years and after countless hearings, the legislative branch should say something about this. And what we said we said very, very carefully to simply codify what the executive branch and the judiciary have said about the AUMF and to make absolutely clear—and this language is not ambiguous—that military custody in the U.S. does not apply to U.S. citizens and does not apply to lawful resident aliens.

Again, the problems that people have—and I share some of them—are with existing law, not with this bill. Defeat this bill, and it won't change a piece of that existing law that we've heard about and that we should all be concerned about. But defeat this bill, and it will make it very difficult for our troops to get the support they need.

Now, I've been around this process long enough to know that there ain't no guarantee of fixing anything. And if we defeat this bill, our troops will be left to wonder if they're going to get that pay raise, if those military support projects are going to get built, if our troops are going to get the support they need. And I don't know the answer to that question.

So there's a ton of very, very good stuff in this bill that supports our troops, that addresses Members' concerns on issues like sexual assault within the military and a whole host of others. We need to support this bill to support our troops.

And the issues that folks are concerned about on detention, again, that is existing law. Whether this bill passes or not, those controversies will continue.

This is an excellent piece of legislation, well-crafted and worked hard by a lot of folks. It deserves an overwhelming ''yes'' vote.

With that, I urge passage and I yield back the balance of my time.

Mr. WITTMAN. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Virginia is recognized for 3¾ minutes.

Mr. WITTMAN. I want to thank our conferees and the members of the Armed Services Committee once again, and I want to thank our staff directors, Bob Simmons and Paul Arcangeli.

This conference report addresses a wide array of policy issues, from cooperation with nations like Israel and Georgia, operations in Afghanistan, our new partnership with Iraq, and balancing strategic opportunities and risks with respect to China and Pakistan, to mitigating the threat from Iran and North Korea, enhancing missile defense, and maintaining this Nation's nuclear deterrent. Passage ensures our troops get a 1.6 percent pay raise and the benefits their families rely upon.

This bill also ensures that we continue to fulfill our Nation's most sacred obligations to our brave men and women serving in the greatest all-volunteer force in history. The service by our men and women in uniform is priceless, especially during the last 10 years of combat operations. Besides thanking them for their service and sacrifice to this Nation in ensuring they are afforded the best benefits and care for their service, there's little we can do to repay them for standing the watch and keeping America safe.

This bill authorizes a modest 1.6 percent pay increase, but it never can express how truly grateful we are as a Nation for the service and sacrifice of our all-volunteer force and their families.

Additionally, some very important provisions were included to ensure our industrial base maintains a constant workload and a fully employed workforce; and $14.9 billion was authorized for U.S. Navy shipbuilding, a total of 10 ships, which include two Virginia class submarines. The bill also extends the multiyear funding authority for the second and third Ford-class aircraft carriers for 4 to 5 years of incremental funding authority.

American ingenuity, creativity, and initiative are alive and well in our shipyards that build warships for the United States Navy. Shipbuilding is supported through business and industry spanning 50 States and designed and engineered by our greatest asset— the American people. The American aircraft carrier is the pinnacle of this industrial engineering ingenuity and genius where mechanical, nuclear aerospace, and electrical engineering converge with naval architecture to form a magnificent 100,000-ton, 1,092-foot-long piece of American sovereignty that travels anywhere, anytime around the world.

Additionally, the bill reinstates the requirement for annual delivery of the Navy's 30-year shipbuilding plan solidifying the need for the Navy to communicate their plan as it relates to the strategic objectives of the United States balanced against a very challenging budget environment.

I'm pleased that this legislation came together to support our men and women in uniform. In times of austerity, they remain a priority, as do the safety and security of this Nation.

Today, I stand in support of this legislation and encourage my colleagues to support its passage; and I would like to reflect that all 26 Senate conferees signed this report, and 29 out of the 32 core House conferees signed as well. This is a solid product, thoroughly debated and deliberated considerably. I urge my colleagues to support and vote in favor of the conference report.

Mr. Speaker, with that, I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report for H.R. 1540, the National Defense Authorization Act. While this legislation is not without problems, it still provides the necessary resources and support to our men and women in uniform. As our nation winds down one war and continues to fight another, giving the troops the resources they need to succeed should be a top national priority. The legislation before us today accomplishes this important goal.

H.R. 1540 does the right thing and gives our service members a pay raise of 1.6 percent. It also ensures that we are taking adequate measures to protect our troops which are still in the theatre of combat by authorizing $2.7 billion for Mine Resistant Ambush Protected (MRAP) Vehicles, which protect our troops from improvised explosive devices (IEDs). Additionally, the legislation provides $3 billion for directly combating IEDs in Afghanistan, and increases the Abrams tank program by $255 million. All of these important increases will have a real impact on the safety and wellbeing of out troops overseas, and it would be irresponsible to not support this legislation because of that fact.

The provisions relating to military detention for foreign al-Qaeda terrorists has generated much discussion, and rightfully so. Any effort which deals with civil liberties and constitutional rights must be taken very seriously. H.R 1540 simply restates what has become law on this issue through court decisions and executive actions over the last 10 years. It provides for military custody for foreigners who are members of, or substantially supporting, al-Qaeda, but gives the president wide latitude to try any such suspect in civilian courts. Specifically, the president is granted the authority to issue a national security waiver to authorize a trial in civilian courts. The legislation also explicitly states that U.S. citizens are not subject to military detention, which is a vitally important safeguard. Finally, H.R. 1540 includes language to ensure that the FBI can continue with their investigations of terrorists on U.S. soil. While this language is certainly not perfect, I believe it strikes a fair compromise between national security and civil liberties as it simply restates what our policy has been over the last decade.

Decisions about war and our national defense should never be taken lightly, and this is especially true in this instance. This legislation makes the necessary investments to keep our troops safe and deserves to be supported.

Mr. RAHALL. Mr. Speaker, while I support the conference agreement on the National Defense Authorization Act, I am extremely disappointed that it does not include language from previous years to prevent the Administration from moving forward with increases in TRICARE pharmacy copayments and enrollment fees.

As a cosponsor of the Military Retirees Health Care Protection Act, which would prohibit increases in TRICARE costs for servicemembers, I do not believe our brave soldiers and their families should have to bear the burden of closing our Nation's deficits.

For thirty-five years, I have fought to expand and protect affordable, quality health care for our servicemembers, and I will continue to do so.

Mr. STARK. Mr. Speaker, I rise in strong opposition to the National Defense Authorization Act because it will continue to waste more money on weapons we do not need and wars that are not necessary. This legislation prioritizes military spending over our economic stability, the health of our people, and the basic civil liberties guaranteed by the Constitution. The costs of this bill are simply too great.

Families in my district and across the country are facing unemployment, foreclosures, and the loss of their retirement savings. All levels of government are making difficult decisions to decrease budget deficits. Now is the time to focus our efforts on bringing the defense budget under control. Instead, this bill continues our unsustainable spending on wars and the military.

It is our job to spend taxpayer dollars wisely and efficiently. When it comes to defense, we have failed miserably. We have doubled our military spending since 2001, and spend six times more than China—the next highest-spending country. Continuing to spend 60 percent of our discretionary budget on an already bloated and redundant defense sector is more than just negligence; it is malicious. Every dollar we spend on war and weapons is a dollar we cannot spend on education, health care, infrastructure, or even deficit reduction. This bill does nothing to seriously rein in our defense budget.

To make matters worse, this defense authorization is costing American citizens more than just their tax dollars, but their civil liberties as well. Provisions within this legislation allow anyone—including Americans—to be detained indefinitely by the military if found to have "substantially supported" forces "associated" with a terrorist organization, or who "are engaged in hostilities" against the U.S. or "coalition partners." As none of the quoted terms are defined, this vague language gives excessive and broad power to the military.

Our Constitution does not permit the Federal Government to detain American citizens without charge or trial, nor does it give the military the authority to act in place of our justice system. And yet this legislation would codify into law the authority of the military to indefinitely detain suspected terrorists—something never even seriously considered during the McCarthy-Cold War era. I could never support a measure that, in the name of security, violates Americans' constitutional rights.

This authorization is not an accurate reflection of American values. Our first priority is

not, nor should it be, spending more money on defense than every other Western country combined. Defense spending should not receive privileged budgetary treatment while the rest of our budget faces deep cuts, nor should it be used as a vehicle to suppress civil liberties. I urge all of my colleagues to oppose this wasteful and dangerous legislation.

Mr. POLIS. Mr. Speaker, I rise today in opposition to the Rule and the underlying bill.

The bill we have before us allows for the indefinite detention of terror suspects, including U.S. citizens, without being charged and without the right to a trial. If enacted, this would be the first time since the McCarthy era that Congress has authorized the indefinite imprisonment of American citizens without this fundamental right.

The bill's detainee provisions undermine our national security and violate the Constitutional principles we all adhere to. If we are truly considering the Nation's best interests—we should strip this bill of these harmful provisions.

The federal criminal justice system has worked effectively to prosecute suspected terrorists throughout both the Bush and Obama administrations. This system has proven invaluable in producing counterterrorism information precisely because it provides incentives for suspects to cooperate.

Further, the detainee provisions in this bill do not provide the president with the flexibility that is needed to successfully combat terrorism.

Many of our Nation's most respected military leaders and national security leadership have come out against the detention provisions in this bill. In the past weeks, the director of the FBI, director of National Intelligence, Secretary of Defense, and head of the National Security Division at the Department of Justice have all spoken out against these detainee provisions.

Instead of protecting our Nation, these detainee provisions will ultimately make our Nation less safe at a time when we need every counterterrorism tool available to defend our Nation from terrorist threats.

We will not defend our country by shredding the Constitution or denying U.S. citizens of their most fundamental rights. We can defend our country while securing the basic freedoms that make America unique among the community of nations.

I urge Members to respect our fundamental constitutional rights and protect our country's security by opposing this bill.

Mr. HALL. Mr. Speaker, I urge my colleagues to support the Conference Report for H.R. 1540, the National Defense Authorization Act, which includes a reauthorization of the SBIR and STTR programs.

This long-term reauthorization will provide thousands of small businesses with the certainty necessary to facilitate innovation and create high-paying jobs. The legislation will also strengthen the program's research and development output by opening it up to more small businesses, and will ensure the greatest return on taxpayer investment by helping us combat waste, fraud, and abuse.

I would like to congratulate and thank Chairman GRAVES of the House Committee on Small Business for his leadership in this process, and for working to ensure that we produced a bill that both the House and Senate could proudly support.

I would also like to thank Subcommittee Chairman QUAYLE of the Committee on Science, Space, and Technology, for his work in improving this legislation and ensuring that it produces strong research outcomes.

Finally, I would like to thank our Committee's Ranking Member, Mrs. JOHNSON, who served as a co-sponsor of the original House legislation, for her work throughout this process.

This legislation has been a long time coming. I am confident that we have produced an outstanding bill that will improve the SBIR and STIR programs, will improve the quality of research and innovation from the programs, and will help small businesses create high-paying jobs.

Ms. SCHAKOWSKY. Thank you, Mr. Speaker, I rise today in strong opposition to the C National Defense Authorization Act (NDAA) of 2012.

Mr. Speaker, I oppose this bill because it fails to rein in our out of control defense spending, it includes over $115 billion in war funding, and, most of all, because it codifies dangerous detainee provisions that are at odds with the U.S. constitution.

At a time when we are discussing drastic cuts to domestic spending programs critical to millions of Americans, this bill provides a whopping $670 billion in Pentagon spending—that's almost as much as the rest of the world, combined, spends on defense. We can reduce our defense spending without jeopardizing our national security, yet this bill continues what former Secretary Gates termed the ''gusher'' of defense funding.

In addition, this legislation codifies indefinite detention without charge or trial in military custody for foreign Al Qaeda terrorists suspected of involvement in attacks on the U.S. It also blocks the transfer of Guantanamo Bay detainees to the U.S., even for trial. It severely restricts the transfer of detainees to third countries.

Most disturbingly, the bill does not guarantee suspected terrorists a trial, even if they are U.S. citizens arrested within the United States, leaving open the possibility of indefinite detention. Passing this legislation throws fundamental rights of American citizens into serious jeopardy.

These provisions are both dangerous and unnecessary. The Secretary of Defense, Director of National Intelligence, and Director of the FBI have all publically opposed the bill's detainee language. Neither the military nor the national security establishment has sought the added detention authorities provided under this legislation.

Military detention and trial not only jeopardizes our American ideals, it is also not practical. The role of the military is to fight and win wars—not to detain and try criminals. Since 9/11, military commissions have convicted only six people on terror-related charges, while over 400 have been convicted in civilian courts. Military experts have expressed concerns about the still largely untested military tribunal system, as well as the overall capacity of the military to handle a large influx of terrorism-related cases.

Mr. Speaker, we can provide for the national security of the United States without jeopardizing our fundamental freedoms and rights. Even some of our closest allies, including Germany and the UK, have expressed reticence to transfer suspected terrorists or share intelligence about them over concerns that these individuals will end up in U.S. military custody.

In his inaugural address, President Obama stated that we ''reject as false the choice between our safety and our ideals.'' This bill would undermine 200 years of respect for fairness and due process. I strongly urge my colleagues to join me in opposing this dangerous and destructive legislation.

Mr. HOLT. Mr. Speaker, this could have been a landmark bill. Instead, it offers our nation more of the same—more spending on programs we don't need, and no rethinking of our priorities.

To be fair, there are some good provisions in this bill—a military pay raise, additional funding for programs important to military families. I am pleased that this bill authorizes $216 million for cooperative tactical missile defense programs with Israel like Iron Dome. Indeed, it's astounding that some in the Republican Party have suggested that America should zero out our aid to Israel—a reckless idea that would endanger the security of our best ally in the Middle East.

I regret that the conferees elected to continue a series of dubious Cold War-era programs instead of taking this opportunity to do what we must do: rescale our armed forces to meet the real threats we face.

This bill authorizes $8.5 billion for 31 F–35 Joint Striker Fighters and $9 billion for missile defense programs. Neither of these kinds of programs will give us the ability to deal with the kind of asymmetric threats we currently face and will likely encounter in the future. It's worth remembering that our Cold War-legacy systems did nothing to stop the 9/11 attacks. They will do nothing to confront the cybersecurity threats we face. They will do nothing to address our imported oil vulnerability, or our strategic minerals vulnerability. Continued funding of these and other Cold War-era programs only proves that the Congress has no intention of seriously rethinking our defense spending priorities, without which we cannot possibly responsibly provide for ''the common defense''.

Additionally, this bill should be defeated because it contains provisions that would eviscerate Constitutional protections against indefinite detention.

I am not at all convinced by the arguments of proponents of this bill that sufficient changes have been made to the sections dealing with detainees to ensure that no U.S. citizen can be detained indefinitely in U.S. military custody. We need only remember the case of Jose Padilla, the accused terrorist and U.S. citizen who was held in a military brig for years without trial. This bill would do nothing to prevent that from happening again because it does nothing to change the language of the original Authorization for the Use of Military Force (AUMF) passed after the 9/11 attacks. That language makes the President of the United States the sole determiner of who is a member of Al Qaeda, or who may have ''supported'' Al Qaeda, etc. Since there is no way to immediately challenge the President's determination of who is a terrorist, there is no way to ensure that innocent Americans will not be charged falsely with having committed terrorist acts. That is the true problem with the detainee-related implications of this bill.

Finally, I cannot support this bill because it does not even mention the recently disclosed scandal at the Dover Port Mortuary, much less

take any action to correct the egregious desecration of the remains of hundreds—and perhaps thousands—of our fallen heroes.

The initial revelations about the mishandling or desecration of the remains of deceased servicemembers came about through the work of three heroic Air Force employees at Dover. Despite the risk of retaliation from their chain of command, they brought their allegations to the Office of Special Counsel, which ultimately prompted investigations by the Air Force Office of Special Investigations and the Army Inspector General. Separately, a constituent of mine—Mrs. Lynn Smith of Frenchtown, New Jersey—made me aware earlier this year that for at least several years, the unclaimed additional remains of fallen servicemembers were being cremated, mixed with medical waste, and dumped in a Virginia landfill.

When Mrs. Smith learned that this had happened to her husband, she suspected immediately that it had happened to others. She was right, as we learned late last month with the Pentagon finally provided a response—albeit incomplete—to my inquiry as to how many servicemember's unclaimed remains had been mishandled in this way. Right now, the number stands at 274. I strongly suspect that number is actually higher.

Although the House Armed Services Committee held a briefing with the Air Force secretary and his senior staff in mid-November, this issue is not even mentioned in this bill, which is inexcusable. At a minimum, the bill should've had condemned the Air Force's mishandling of the remains and directed that the Secretary of Defense establish a family advisory panel to make recommendations to the Pentagon and the Congress on how to improve the casualty notification and remains disposition process. Because this bill does not address this issue and the families impacted by it, I will not support H.R. 1540.

Ms. CLARKE of New York. Mr. Speaker, I rise today in opposition to the National Defense Authorization Act of 2012. As a member of the Committee on Homeland Security, I am well aware of the threats that face this nation from home and abroad, but even though this struggle is of the highest stakes, we must remember the very values and basic rights that set us apart from those who would seek to destroy us. We must remember that we cannot sacrifice our freedom or the freedom of others in order to maintain it. To follow such a path represents a fundamental contradiction and degrades any moral high ground we claim to possess. The indefinite detention provisions do just that; they continue a shameful precedent set in the wake of the attacks against our nation on 9/11 that allows our military to detain suspected terrorists, foreign and domestic, indefinitely and with limited ability for redress.

It has been reported that if enacted, the detention provisions would codify authority for indefinite detention without charge and mandatory military detention, authorizing their application on the basis of suspicion to virtually anyone picked up in the anti-terrorism efforts; including those arrested on U.S. soil. In effect, the U.S. military would become the sole authority over terrorism suspects, to the exclusion of the U.S. judicial system.

Mr. Speaker, this blatant eradication of Habeas Corpus is a scary thing, particularly for the people of New York City who live under the constant threat of terrorism and the ever present surveillance of law enforcement. That, among other reasons is why I'm not voting against this bill, and I urge my colleagues to do the same.

H.R. 1540, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

Ms. BORDALLO. Mr. Speaker, I rise in opposition to H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012. Although I have serious concerns about this legislation because of its lack of commitment to forces in the Asia-Pacific region, there are portions of the bill that are good for our national defense.

Chief among those provisions is section 512, which provides the Chief of the National Guard Bureau with a seat on the Joint Chiefs of Staff. Including section 512 brings to a conclusion more than seven years of work to align the roles and responsibilities of the Chief of the National Guard Bureau appropriately for an operational reserve force. The provision recognizes the unique and important role our National Guard has played in our Nation's defenses throughout history, particularly since the attacks of September 11. This year, on the 10th anniversary of these tragedies, the National Guard will finally have the recognition and appropriate responsibilities to ensure the requirements and capabilities of the National Guard are fully integrated into our national security infrastructure. Section 511 also establishes the position of Vice Chief of the National Guard Bureau which is necessary if the Chief of the National Guard Bureau is to sit on the Joint Chiefs of Staff.

I also strongly support inclusion of section 621, which provides a one-year extension of authority to reimburse travel expenses for inactive-duty training outside of normal commuting distances. This authority is critical to the Guam National Guard as well as units in Hawaii and Alaska. Section 621 is an important recruiting and retention tool for our National Guard.

Finally, the bill also maintains our committee's longstanding support for the C–27J Joint Cargo Aircraft program by providing authorization of appropriation for nine additional aircraft in Fiscal Year 2013. The C–27J is a critical tactical airlift asset for our Air Force and Air National Guard. I regret that language restricting the retirement of C–23 Sherpa aircraft was not maintained in the final bill, but I hope that the Department can clarify how it intends to meet airlift mission requirements given the reduction in aircraft procurement over the last several years.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to H.R. 1540, the Defense Authorization Agreement for FY 2012.

I strongly oppose the conference language which amends section 1097b(a) of title 10 of United States Code which exempts important and hard-fought civil rights protections that were enacted to advance the goals of ensuring equal opportunity and promoting diversity in the workplace. There is no principled reason for creation of this grave precedent exempting this class of subcontractors from the workplace discrimination laws applicable to all other companies that enjoy the privilege of doing business with the federal government. Subcontractors that do follow the law deserve a level playing field, instead of a Congressional exemption for their competitors.

If this provision becomes law, many of those TRICARE network providers that are federal subcontractors unlike other federal subcontractors will be exempt from systemic evaluations of contractors' employment practices. Additionally, their employees will lose the assurance that there is a federal agency independently monitoring their employers' compliance with nondiscrimination and affirmative action law. Being a federal contractor or subcontractor is a privilege and with that privilege comes a responsibility to comply with the law and make equal opportunity a reality for everyone.

This is unfortunate as I am very pleased that this legislation contains a comprehensive reauthorization of the Small Business Innovation Research, SBIR, program and the Small Business Technology Transfer, STTR, program. We have worked tirelessly over the last few months on a bipartisan, bicameral basis in an attempt to strike a deal on this reauthorization and I am pleased that these efforts have finally paid off.

We all recognize the important role that small businesses play in fueling technological innovation and creating jobs in the United States. That being the case, we should be doing what we can to foster a vibrant small business community and give our small businesses the tools that they need to succeed. The SBIR and STTR programs are such tools. They have been critically important programs for fostering innovation by small businesses and meeting the research and development needs of our Federal agencies.

I am particularly pleased that the SBIR/STTR reauthorization contained in this bill includes important provisions to ensure that outreach is carried out to small businesses that have traditionally been underrepresented in the SBIR and STTR programs. This was a top priority for me for this reauthorization since one of the four stated congressional objectives for the SBIR program is to increase participation by woman- and minority-owned small businesses. In its 2008 evaluation of the SBIR program, however, the National Research Council found that the program was not achieving this objective and recommended that targeted outreach be developed to improve the participation rates of these small businesses. The reauthorization bill included in the Defense Authorization bill includes funding for targeted outreach activities, consistent with the National Research Council recommendations. I am thrilled that we were able to find common ground on this important issue and have taken critical steps to ensure that all small businesses have access to these important programs.

Mr. Speaker, in conclusion I must quote Coretta Scott King as she once said, ''Struggle is a never-ending process. Freedom is never really won. You earn it and win it in every generation.'' Moreover, I cannot in good faith support a bill that turns back the clock on civil rights, fairness and inclusion in this country.

Mr. PRICE of Georgia. Mr. Speaker, this Congress has enacted a defense authorization bill every year for the last half-century, generally with broad bipartisan support. The reason for this broad support is simple: under Republican and Democratic leadership alike, we have recognized that support for our Nation's men and women in uniform should remain above the partisan fray, unencumbered by controversial policy debates that are only tangentially related to the mission of our Armed Forces.

Throughout my service in Congress, I have almost always supported this annual measure, which authorizes funding for a wide range of programs upon which our military depends, from salaries and benefits to military health care to critical equipment and readiness accounts. I thus find it deeply unfortunate that the House Republican leadership chose to use this year's bill as a vehicle for advancing ill-advised policies that seek to tie the President's hands in the war on terror and expand the military's role in the detention and disposition of terror suspects, at the expense of our civilian justice system and our civil liberties.

To be sure, the original House version of this bill, which I opposed, was much worse. It would not only have indefinitely extended the Authorization for the Use of Military Force that was enacted in the wake of September 11, but would also have required suspects detained pursuant to that authorization to be prosecuted in military tribunals. My Republican colleagues' inexplicable insistence on forcing terror trials into military commissions instead of civilian courts flies in the face of the facts; our court system has a strong record of trying and convicting terrorism suspects, while the record of military commissions has been spotty at best. It is no wonder that the Obama Administration threatened to veto this bill—as any administration, Democrat or Republican, would almost certainly have done.

To their credit, our Democratic conferees succeeded in averting the worst aspects of the House bill in the conference report before us today. But they didn't go far enough. The measure would still require all foreign suspects detained in the war on terror to be kept in military custody, potentially disrupting critical anti-terrorism operations and muddying the waters of a process that should be crystal clear. As FBI Director Robert Mueller reiterated today, this provision would unnecessarily complicate interrogation and intelligence collection—the very capabilities that the provision's supporters claim they are trying to enhance. The conference report would also needlessly reaffirm our ability to detain terror suspects indefinitely, upholding an ambiguity in current law that should be resolved by the courts. And it would impose new consultation requirements that further restrain the discretion of the Attorney General to determine how to prosecute terror cases.

For these reasons, I intend to oppose the measure before us today, despite my strong support for the majority of its provisions. In the future, rather than using the defense authorization bill to advance their partisan agenda, I urge the Republican leadership to return to the past practice of leaving controversial policy debates for another time and place. Our men and women in uniform deserve nothing less.

Mr. TURNER of Ohio. Mr. Speaker, I rise today to speak in favor of passage of the conference report on the FY12 NDAA.

As the Chairman of the Strategic Forces Subcommittee, I'd like to briefly walk through some of the key provisions in the conference report.

First, concerning U.S.-Russia missile defense, the conference report contains a modified version of a provision offered by Mr. BROOKS of Alabama to require the President, before sharing any classified information about U.S. ballistic missile defenses, to prove that it is in the interest of the United States and to show how the information will be protected from third party transfers.

Second, regarding U.S. nuclear forces, the conference report imposes checks on the Administration's plans for nuclear reductions by requiring assessments of those reductions from the STRATCOM commander before any nuclear weapons reductions are made; requiring the Administration to disclose its plans for future reductions; and, re-asserting Congressional oversight of the nation's nuclear war plan.

Third, concerning LightSquared, we retained House and Senate provisions that will ensure that the FCC will not be able to attempt to slip one by Congress and the DOD in the dark of night again. And I note recent press reports that new proposals for LightSquared's network continue to impose unacceptable interference to DOD GPS systems.

Also, for the first time, DOD will be able to directly transfer funding to NNSA Weapons Activities for up to $125 M per year if there are shortfalls in that budget in the event of an appropriations shortfall.

And the bill ensures that the credibility of the U.S. deterrent and extended deterrent will start to get equal billing with safety, security and reliability.

I also would like to thank Chairman HAL ROGERS and Chairman RODNEY FRELINGHUYSEN—I have appreciated their support for funding for NNSA's vital nuclear weapons programs, which are key to maintaining the safety, security, reliability and credibility of the U.S. nuclear weapons stockpile, and enabling any of the force reductions the Administration may plan, including those under the New START treaty.

I also hope that our NATO allies and the Administration read closely the provision on our extended nuclear deterrent in Europe and any future arms control negotiations with Russia, which states that if any negotiations occur they should focus on Russia's massive stockpile of tactical nuclear weapons and that for the purposes of the negotiations, consolidation or centralized storage of Russia's tactical nuclear weapons should not be viewed as elimination of those weapons.

This last position was recently endorsed by the NATO Parliamentary Assembly, the U.S. delegation to which I am the Chairman.

Now I would like to discuss an issue that is important to our men and women in uniform, is impacting our Armed Forces readiness and forces servicemembers to choose between service to their nation and their families. This is the issue of military child custody.

Now I would like to discuss an issue that is important to our men and women in uniform, is impacting our Armed Forces' readiness and forces servicemembers to choose between service to their nation and their families. This is the issue of military child custody.

In a short time after becoming a member of the House Armed Services Committee, I was struck to learn that this country's judicial system was using servicemember's deployments against them when making child custody determinations.

Just to be clear, we are asking an all volunteer force which consists of less than one percent of our population to engage in the longest conflict in our nation's history, endure more deployments than any other generation in our history, and do so at the peril of losing their children.

Recognizing this unconscionable injustice, the House Armed Services Committee has included language in the past 5 NDAA's to provide servicemembers a uniform national standard of protection. This provision has also made it through the House Veterans Affairs Committee.

Unfortunately, despite overwhelming bipartisan support in the House and the support of the Department of Defense, the Senate once again failed our servicemembers and their families. It appears that they have done so using false information.

Earlier this year, Secretary Gates stated, "I have been giving this matter a lot of thought and believe we should change our position to one where we are willing to consider whether appropriate legislation can be crafted that provides Servicemembers with a federal uniform standard of protection." This year, I worked with the DoD and the House Armed Services Committee to provide that legislation. Yet, the Senate failed to provide the protections in the final bill.

Given all the sacrifices made by our servicemembers, I ask that the Senate finds it within themselves to reconsider their position and work with us to provide the protections our men and women in uniform deserve. It's the right thing to do and we owe it to them.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 493, the previous question is ordered.

Pursuant to clause 1(c) of rule XIX, further consideration of the conference report is postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1740

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 5 o'clock and 40 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1905, by the yeas and nays;

H.R. 2105, by the yeas and nays;

H.R. 3421, de novo;

H.R. 1264, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

IRAN THREAT REDUCTION ACT OF 2011

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the