

Mr. LIEBERMAN. Mr. President, in the remaining time, I appreciate what my friend from Arizona said. I not only join him in that request, but I am confident because I have talked to Senator REID about this—he said that if we invoke cloture tonight, he will allow a finite number of amendments. I do not want to encourage anyone. He said not 15. I took that to be some number less than 15.

I think five amendments is well within the term “finite.” So I would ask my colleagues, give it a chance, and let’s vote for cloture. I am sure Senator REID will allow five amendments.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 3414, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Harry Reid, Joseph I. Lieberman, Barbara A. Mikulski, Thomas R. Carper, Richard J. Durbin, Christopher A. Coons, Mark Udall, Ben Nelson, Jeanne Shaheen, Tom Udall, Daniel K. Inouye, Carl Levin, John D. Rockefeller IV, Charles E. Schumer, Sheldon Whitehouse, John F. Kerry, Michael F. Bennett.

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

The question is, Is it the sense of the Senate that debate on S. 3414, a bill to enhance the security and resiliency of the cyber and communications infrastructure of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUE), is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The yeas and nays resulted—yeas 51, nays 47, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—51

Akaka	Conrad	Lautenberg
Begich	Coons	Leahy
Bennet	Durbin	Levin
Bingaman	Feinstein	Lieberman
Blumenthal	Franken	Lugar
Boxer	Gillibrand	Manchin
Brown (MA)	Hagan	McCaskill
Brown (OH)	Harkin	Menendez
Cantwell	Johnson (SD)	Mikulski
Cardin	Kerry	Murray
Carper	Klobuchar	Nelson (NE)
Casey	Kohl	Nelson (FL)
Collins	Landrieu	Reed

Reid
Rockefeller
Sanders
Schumer

Shaheen
Snowe
Stabenow
Udall (CO)

Udall (NM)
Warner
Webb
Whitehouse

NAYS—47

Alexander
Ayotte
Barrasso
Baucus
Blunt
Boozman
Burr
Chambliss
Coats
Coburn
Cochran
Corker
Cornyn
Crapo
DeMint
Enzi

Graham
Grassley
Hatch
Heller
Hoeven
Hutchison
Inhofe
Isakson
Johanns
Johnson (WI)
Kyl
Lee
McCain
McConnell
Merkley
Moran

Murkowski
Paul
Portman
Pryor
Risch
Roberts
Rubio
Sessions
Shelby
Tester
Thune
Toomey
Vitter
Wicker
Wyden

NOT VOTING—2

Inouye

Kirk

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, upon reconsideration, the motion is not agreed to.

The majority leader.

ORDER OF BUSINESS

Mr. REID. Mr. President, the bill that was, and is, most important to the intelligence community and to the Pentagon was just killed. I am speaking of the cyber security bill.

I have had a number of people come to me during the day and say: Are you going to allow relevant amendments on this? I said: Sure. They said: How about five? I said: Fine. But whatever we do on this bill, it is not enough for the Chamber of Commerce. It is not enough.

So everyone should understand, cyber security is dead for this Congress. What an unfortunate thing. But that is the way it is.

I filed cloture on the Sportsmen’s bill yesterday. Unless we can agree to a limited number of amendments, we will have a cloture vote on the bill early tomorrow morning, probably around 9 o’clock. If we get cloture, there will be a potential 30 hours of debate under the rules, as we all know too well. I have been told someone on the other side also plans to make a Budget Act point of order against the Sportsmen’s bill.

We have Members representing the States of New York and New Jersey who are going to be in their States tomorrow because of the tremendous damage caused by Sandy, but they will be back here tomorrow evening and we will have a vote in the morning on cloture on the Sportsmen’s bill, and then we could have votes later tomorrow or on Friday.

On DOD authorization—Senator LEVIN is here, Senator MCCAIN was here earlier. I have had conversations with Senator LEVIN. I haven’t spoken to Senator MCCAIN this week but have spoken to him previously on a number of occasions. This is a bill we should get done. It is an important piece of legislation. I know we have the Defense

appropriations bill at a later time, but this is something we have to do now because it changes policy toward our fighting men and women around the world. It does a lot of good for them. We need to get this bill done, I repeat.

Probably what we are going to do is move to the bill. I don’t know why in the world we have to file cloture on a motion to proceed to it. I don’t quite understand that. But I haven’t understood that about almost 400 times the last few years. So what we are going to do, and everyone should understand—listen to this, everybody—we are going to move to the bill. If we get permission to go to the bill, we will have an open amendment process on this bill. I have been assured by Senator LEVIN and Senator MCCAIN, through Senator LEVIN, that on all these nonrelevant, vexatious amendments they will help us table them or dispose of them in some appropriate manner. And that is how we should legislate around here.

I hope Senator MCCAIN, after speaking to Senator LEVIN, will agree to move forward on this bill. And that is my proposal. I hope it is something that everyone would agree to. We will start legislating on this bill the day we get back after the Thanksgiving recess.

Mr. CARPER. Would the majority leader yield for a question?

Mr. REID. Yes.

Mr. CARPER. I am pleased to hear the leader say he would be most willing to allow the minority to offer five relevant, germane amendments to the cyber security legislation. Literally within the last 30 minutes we have had on the floor both the leader saying this, and I have heard him saying it before, that a limited number of relevant amendments—Senator MCCAIN came to the floor, who, as you know, has not been anxious to support the bipartisan legislation developed by Senators LIEBERMAN and COLLINS and others—but we have had one of the antagonists to that legislation and the majority leader both saying that five relevant and germane amendments would be allowed for the minority to offer, so we could at least take up the bill, debate the bill. At the end of the day, we still need 60 votes to get the bill off the floor.

I have heard so many of my colleagues say it is not a matter of if but it is when, and I don’t want us to leave and go home for Thanksgiving with this hanging, if we could actually do something relevant.

Mr. REID. Mr. President, just so everyone listening to my friend understands—and he also has worked so hard on the bill that was just killed—when he says it is not a question of if, it is when, he is not talking about passing this bill, he is talking about a cyber attack, a gargantuan cyber attack on our country.

Here we are in this beautiful Capitol building today, and all around America we have government officials and private sector officials who are trying to thwart the people trying to destroy businesses and parts of our country’s infrastructure.

As I have said here so many different times—and Senator LIEBERMAN and Senator FEINSTEIN, the chairman of the Intelligence Committee are on the floor—the record is here. We have told everybody for months and months that something is going to happen. And we have laid the groundwork, I am sorry to say, to blame you guys for not doing something to take care of this issue. It is a big issue and it is an important issue for our country. This should have nothing to do with partisan politics. And why the Chamber of Commerce is doing what they are doing is beyond my ability to comprehend.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DOD INSPECTOR GENERAL OVERSIGHT FAILURE

Mr. GRASSLEY. Mr. President, I am getting the runaround from the inspector general at the Department of Defense, and my remarks, which are fairly lengthy, will be connected with that problem I am having. With sequestration looming on the horizon, Congress needs a truly independent Department of Defense audit oversight capability. We need it to root out waste.

As my friend from Oklahoma, Senator COBURN, knows all too well, rooting out Department of Defense waste is no easy task. His new report identifies some excellent examples of waste ready for removal. I commend Senator COBURN for his outstanding work and stand ready to help him.

But to successfully root out waste day in and day out, there must be a topnotch audit quality and capability in the hands of an inspector general who is ready and willing to use it effectively.

I am reluctant to say this, but it needs to be said. I fear, and I suspect, that the independence of the inspector general's audit capability may have been compromised. I say this because of the story I am about to tell. This story is about a difficult audit, where the inspector general apparently got a bad case of weak knees and caved under pressure. The inspector general dropped the ball on an audit that should be a critical component in Secretary Panetta's good-faith effort to bring the Defense Department into compliance with the Chief Financial Officers Act.

Today, the Department of Defense is the only Federal agency that cannot pass the test. So Secretary Panetta turned up the pressure. He wants to move the audit readiness date up to no more than 3 years from the congressionally mandated date of 2017 to 2014. This is a daunting task, which I spoke

about here on the floor almost 12 months ago now, on December 11 of last year. I say it is a daunting task because there is a big pothole in the road the Secretary faces that he may not know about, hence the reason I am speaking.

The kingpin of this initiative—the Department's flagship accounting agency known as the Defense Finance and Accounting Service—may not be ready to produce credible financial statements. It claims to have earned a clean opinion. Yet when its financial statements were put under the inspector general's microscope, they were found to be very lacking. They did not meet the prescribed audit standards.

To make matters worse—far worse—all the evidence suggests the inspector general may have quashed this negative audit report, allowing the charade to continue unchecked. This oversight failure could leave a gaping hole in Secretary Panetta's master plan.

Except for the Corps of Engineers, the Defense Finance and Accounting Service handles all the Department's financial transactions. It should be the foundation of Secretary Panetta's initiative. It was created over 20 years ago to clean up the Department's financial mess. It should be exerting leadership in this arena and showing the rest of the Department how to balance the books. Its audit needs to be as clean as a whistle. If the Department's central accounting agency can't earn a clean opinion, then who can earn a clean opinion?

Today the central accounting agency's claim of a clean opinion may be hollow. The inspector general, who is responsible for making those judgments, rejected that opinion. The inspector general reviewed it and concluded that it did not pass muster. Unfortunately, the inspector general dropped the ball and quit before the job was done.

The inspector general's report, known as a nonendorsement report, was finalized but never signed and issued. It was simply buried in some deep hole and covered with dirt. Were it not for whistleblowers who are in touch with my office, we might think the Defense Finance and Accounting Service's statements were somehow squeaky clean. I now have the nonendorsement report and other relevant audit workpapers, and they tell a very different story.

The financial statements produced by smaller organizations, such as the Defense Finance and Accounting Service, are audited by certified public accounting firms. But this is always done under the watchful eye of the inspector general. In the end, the inspector general must validate those opinions produced by a CPA firm.

The firm Urbach Kahn and Werlin, UKW, examined the defense accounting agency's statements. It awarded an unqualified opinion or passing grade. The inspector general, by comparison, reached a different opinion. It con-

cluded that those statements did not meet standards. The inspector general announced that it would issue a nonendorsement report, but that report was never issued.

That is why this Senator is here on the floor today. What happened to the nonendorsement report? All the evidence appears to indicate that the inspector general may have quashed the nonendorsement report. That assessment is based on a continuing review of all the pertinent documents. I would like to briefly review those facts so my colleagues can understand where I am coming from.

Seven red flags have popped up on my radar screen.

Red flag No. 1. The contract, which governed the audits in question, is a good place to start because it sets the stage for what followed. The contract was supposed to put the inspector general in the driver's seat. Section 3 of the contract clearly specifies that "all deliverables are subject to final Department of Defense Inspector General approval." The opinion prepared by the public accounting firm was the main deliverable. Two members of the inspector general's audit team were designated as contracting officer representatives. They had exclusive authority to determine whether that opinion met audit standards and deserved endorsement and to approve invoices for payment. Unfortunately, as I will explain, none of the parties involved showed much respect for this contract. In fact, when the crunch came, they trashed it.

Red flag No. 2. The inspector general's decision memorandum and final version of the nonendorsement letter, both dated February 16, 2010, contain compelling evidence. The evidence points in just one direction: There was a lack of credible audit evidence to justify a clean opinion. Both the inspector general's audit team and its Quantitative Methods and Analysis Division reported major deficiencies in the CPA firm's work. Once the inspector general determined that the CPA's audit opinion did not meet prescribed standards, the inspector general's representative prepared a nonendorsement letter and instructed that payments on outstanding invoices be stopped. Those decisions precipitated a classic bureaucratic impasse.

Red flag No. 3. The impasse came to a head at the Defense Finance and Accounting Service's audit committee meeting held on January 27, 2010, where three options were considered: first option, the IG would issue a nonendorsement letter; second option, the CPA firm would do more work on accounts payable and undelivered orders issued; and third option, the IG would do additional work. Just 1 day later, January 28, a senior official from the Inspector General's Office, Ms. Patty Marsh, announced the results of the meeting. Ms. Marsh reported that a consensus was reached: No additional work would be performed. She then declared that the