

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE  
AUTHORIZATION ACT FOR 2013

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3254, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 3254) to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

## Pending:

Kyl amendment No. 3123, to require regular updates of Congress on the military implications of proposals of the United States and Russia under consideration in negotiations on nuclear arms, missile defense, and long-range conventional strike system matters.

Menendez amendment No. 3232, to enhance sanctions imposed with respect to Iran.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WEBB. Mr. President, I would like to take a couple of minutes this morning to discuss Senator SESSIONS' amendment which we will be voting on shortly, amendment No. 3009, which I cosponsor, and explain my views on why this amendment is important in terms of the balance this body traditionally and historically should have with the executive branch of our government.

There are two clarifications in this amendment that I believe are important in terms of how we develop long-term relationships, security relationships, with other countries. The first is that, as we know, recently the President of the United States entered into what they have termed an "enduring strategic partnership agreement" between the United States and the Islamic Republic of Afghanistan which proposes to establish an enduring strategic partnership. This has been done without the consent of the Congress. It has been justified based on the authority of the President to use force in order to respond to these incidents that began on 9/11.

I believe it is important for us as a body to make the distinction that the authorization for the use of military force does not in and of itself authorize the executive branch to enter into long-term security agreements with another country that can affect the number of forces that are there. It can affect a broad range of governmental issues that are far beyond the use of force in terms of dealing with international terrorism.

This is true in our history. It is actually true in the way these other countries—Iraq and now Afghanistan—have been dealing with the same documents.

I can recall during the previous administration when they signed a strategic framework agreement, and then we began working on the status of forces agreement with Iraq. I called at that time for this agreement, the strategic framework agreement, which is a long-term relationship proposed between the United States and Iraq, to be submitted to the Congress for review. I actually had to go into one of these rooms where you close the door as if you were reading a top-secret document even to examine the strategic framework agreement, which was not classified and which the Iraqi Parliament voted on twice. We did not even get to vote on it. I do not think that is the way our system of government should be working.

We are seeing the same situation here with Afghanistan. We should not be entering into a long-term security relationship with Afghanistan purely at the discretion of the executive branch. The Congress should have a part to play in this. That is the second point. The question is, What should the role of Congress be? I think that is what has paralyzed us as a body for the 6 years I have been here in the Senate.

This is not a treaty. This would not be a treaty, so we would not have to go through the entire consent process of a treaty, which could paralyze our foreign policy. The Presiding Officer and I both have worked for several years here now trying to get the Law of the Sea Treaty into place. It has been bouncing around for decades. But it should be more than what they call "consultation." Every time we talk to the executive branch—and I am a former member of the executive branch. I spent 4 years in the Pentagon in the Reagan administration. They say they have "consulted," and the definition of the "consultation" could be the Secretary of State calling the chairman of the Foreign Relations Committee or the Secretary of Defense calling the chairman of the Armed Services Committee or coming over for a meeting. That is not the level of discussion and involvement the Congress should have when we are talking about long-term commitments with countries such as Afghanistan and Iraq.

This amendment is not Draconian. It is very sensible. It basically says that in the situation where we have entered into this proposed relationship with Afghanistan, the key committees over here in the Congress should have 30 days to review the documents before they are put into play. There is no great urgency in terms of when these documents are implemented. It is the same courtesy—it is not actually as far as what the Afghan Parliament is going to be able to do on the other side. For that reason, I commend the Senator from Alabama for having decided to come forward with this amendment. It has my support.

I yield the floor.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I call up amendment No. 3009, as modified, and ask for its consideration.

Mr. LEVIN. Mr. President, we would need to see the modification before it is accepted.

Mr. SESSIONS. I believe it is at the desk.

Mr. LEVIN. We would have to reserve the right—if you could call up the amendment and then hold off on any modification until we can see it.

## AMENDMENT NO. 3009

Mr. SESSIONS. Mr. President, I call up amendment No. 3009 and ask for its consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3009.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for congressional review of any bilateral security agreement with Afghanistan)

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

**SEC. 1221. CONGRESSIONAL REVIEW OF BILATERAL SECURITY AGREEMENT WITH AFGHANISTAN.**

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

(1) The Authorization for the Use of Military Force (Public Law 107-40; 115 Stat. 224) authorizes the President to use 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, in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.

(2) President Barack Obama and Secretary of Defense Leon Panetta have stated that the United States continues to fight in Afghanistan to defeat the al Qaeda threat and the Taliban, which harbored al Qaeda in Afghanistan, where the attacks of September 11, 2001, were planned and where the attackers received training.

(3) On May 1, 2012, the United States entered into the "Enduring Strategic Partnership Agreement Between the United States of America and the Islamic Republic of Afghanistan", which establishes an enduring strategic partnership between the United States and the Islamic Republic of Afghanistan.

(4) The Agreement reaffirms the presence and operations of United States Armed Forces in Afghanistan, and establishes long-term commitments between the two countries, including the continued commitment

of United States forces and political and financial support to the Government of Afghanistan.

(5) The Agreement also commits the United States to establishing a long-term Bilateral Security Agreement, with the goal of concluding a Bilateral Security Agreement within one year to supersede the present Status of Forces agreements with the Islamic Republic of Afghanistan.

(6) Congress was not consulted regarding the framework or substance of the Agreement.

(7) In the past, Congress has been consulted, and, in some cases, has provided its advice and consent to ratification of such agreements, including those where the use of force was not authorized nor required in the country.

(b) **NOTIFICATION REQUIREMENT.**—Not later than 30 days before entering into any Bilateral Security Agreement or other agreement with the Islamic Republic of Afghanistan that will affect the Status of Forces agreements and long-term commitments between the United States and the Islamic Republic of Afghanistan, the President shall submit the agreement to the appropriate congressional committees for review. If the President fails to comply with such requirement, 50 percent of the unobligated balance of the amounts appropriated or otherwise made available for the Executive Office of the President shall be withheld.

(c) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

Mr. SESSIONS. Mr. President, I would like just like to say that this amendment arose after Senator WEBB expressed concerns at one of our Armed Services Committee hearing fundamentally that Iraq and Afghanistan are voting in their parliaments on the force of status agreements, and we are not even seeing the agreement here, so I appreciate his leadership and am glad to work with him on this piece of legislation. I think his work moves us in the right direction.

We will talk with Chairman LEVIN to see where we are.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I couldn't miss the opportunity to express our appreciation for the services of Senator WEBB. As all of us know, but it doesn't hurt to be reminded, he is a Vietnam veteran, one of the most highly decorated veterans in the entire war, a combat leader of men in fierce combat. He served the country in a number of different ways and in this Senate. Actually his book, *Fields of Fire*, remains the premier novel on the Vietnam War and is the most studied novel in colleges to this day about the war in Vietnam.

So, at any rate, I just wanted to share those remarks while we had a

minute here and express my appreciation to Senator WEBB for his service to the country and to the Senate.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, on these amendments of Senator SESSIONS and Senator WEBB—and, by the way, I thoroughly and totally join Senator SESSIONS in his comments about Senator WEBB. I think he spoke for the entire body when he made those comments.

We had agreed that we would do the following: There are a number of changes which need to be made in this amendment which the sponsors have agreed to. There are some additional concerns about this amendment, which we believe we can take care of in conference. So the suggestion was made to Senator SESSIONS and Senator WEBB that we voice vote this at this time, and we address some of those concerns and modifications in conference, and I would suggest that we do that at this time.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3009) was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I think the order is that we now proceed to consideration of the Cardin amendment.

#### AMENDMENT NO. 3025

Mr. CARDIN. Mr. Chairman, I call up amendment No. 3025.

The ACTING PRESIDENT pro tempore. The clerk will report:

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 3025.

Mr. CARDIN. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

(Purpose: To ensure sufficient sizing of the civilian and contract services workforces of the Department of Defense)

Strike section 341 and insert the following:  
**SEC. 341. CIVILIAN AND CONTRACT SERVICES WORKFORCE BALANCE.**

(a) **IN GENERAL.**—The Secretary of Defense shall, consistent with the requirements of sections 129 and 129a of title 10, United States Code, ensure that the civilian and contract services workforces of the Department of Defense are sufficiently sized, taking into account military strategy requirements and military end-strength.

(b) **COMPTROLLER GENERAL REPORT.**—Not later than 180 days after the date of the en-

actment of this Act, and annually thereafter, the Comptroller General of the United States shall submit to the congressional defense committees a report assessing the sufficiency of sizing of the civilian and contract services workforces of the Department of Defense. The report shall assess whether the sizing is consistent with workforce management and sourcing laws, including sections 129 and 129a of title 10, United States Code.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 minutes of debate equally divided and controlled on amendment No. 3025 offered by the Senator from Maryland.

Mr. CARDIN. Mr. President, this amendment would eliminate an arbitrary cap on the civilian and contractual workforce. The administration supports this amendment. Without this amendment being adopted, the Department said it will need to significantly divest workload and impose workforce caps.

The amount of civilian and contractual workforce should be determined by mission, by workload and by budget, as the law provides. This arbitrary cap would be like a second sequestration type of cap on the civilian and contractual workforce.

My cosponsors include Senators AKAKA, MIKULSKI, BEGICH, DURBIN, BROWN of Ohio, MCCASKILL, HARKIN, BOXER, LEAHY, and TESTER.

I urge my colleagues to approve the amendment.

The ACTING PRESIDENT pro tempore. The senator from Arizona.

Mr. MCCAIN. Mr. President, this was unanimously approved by the committee. There is a provision in there that would simply require the Department to plan to reduce funding for civilian and contractor personnel by approximately 5 percent, which would be less reduction than what is contemplated from the military side.

Right now, the President's budget, not counting sequester, would reduce military personnel by 123,900 men and women serving in the military or 5.5 percent over 5 years.

Since 2001, the civilian personnel in the Department of Defense has increased by 100,000, a 16 percent increase and a 37 percent increase in civilian pay costs.

The Department of Defense continues to be top heavy with headquarters. The Office of the Secretary will grow by 25 percent from 2001 to 2017.

Look, we all know that the Department of Defense is being downsized, so there has to be, obviously, a commensurate reduction in civilians, which is actually less than what is actually contemplated in the military.

This was unanimously reported, and I have had conversations with the Secretary of Defense, who agrees that we need to reduce the civilian personnel as well as the uniformed personnel.

I urge my colleagues to reject this amendment.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent that I be allowed to proceed for 10 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I oppose this amendment. We are cutting military end strength by 5 percent over the next 5 years. In this budget situation, we have no choice but to cut the Defense Department civilian employee and contractor workforces as well. This gives flexibility to the Department of Defense when and where to make the cuts.

We have got to make some reductions in the defense budget. This does it in a way which is flexible and necessary, so I too oppose the amendment.

Mr. CARDIN. Mr. Chairman, how much time remains?

The ACTING PRESIDENT pro tempore. There are 16 seconds remaining.

Mr. CARDIN. Mr. President, let me just point out the civilian workforce is going to be cut. According to the House Armed Services Committee, over 10,000 positions will be eliminated in FY12 alone.

The House bill does not contain this provision. This provision imposes an effective cap on civilian and contractual workers.

Mr. MCCAIN. Regular order here.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Under the previous order, the question is on agreeing to the amendment of the Senator from Maryland, Mr. CARDIN.

Mr. MCCAIN. I ask unanimous consent that the Senator from Maryland be given an additional 3 minutes, if he so desires.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I will not take 3 minutes.

The point I am bringing up is that what this would do is impose an additional cap on civilian and contractual. They are already controlled by law. The law says by mission and budget. That is what it should be. The administration supports this amendment, and I would urge my colleagues to approve it.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Maryland, Mr. CARDIN.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Sen-

ator from Utah (Mr. HATCH), the Senator from Nevada (Mr. HELLER), and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 53, as follows:

[Rollcall Vote No. 214 Leg.]

#### YEAS—41

Akaka	Inouye	Pryor
Begich	Kerry	Reed
Blumenthal	Landrieu	Reid
Boxer	Lautenberg	Sanders
Brown (OH)	Leahy	Schumer
Cantwell	Lieberman	Shaheen
Cardin	McCaskill	Snowe
Casey	Menendez	Stabenow
Coons	Merkley	Tester
Durbin	Mikulski	Udall (CO)
Franken	Murkowski	Udall (NM)
Gillibrand	Murray	Warner
Hagan	Nelson (NE)	Webb
Harkin	Nelson (FL)	

#### NAYS—53

Ayotte	Crapo	Lugar
Barrasso	DeMint	Manchin
Baucus	Enzi	McCain
Bennet	Feinstein	McConnell
Bingaman	Graham	Moran
Blunt	Grassley	Paul
Boozman	Hoeven	Portman
Brown (MA)	Hutchinson	Risch
Burr	Inhofe	Roberts
Carper	Isakson	Rubio
Chambliss	Johanns	Sessions
Coats	Johnson (SD)	Shelby
Coburn	Johnson (WI)	Thune
Cochran	Klobuchar	Toomey
Collins	Kohl	Vitter
Conrad	Kyl	Whitehouse
Corker	Lee	Wicker
Cornyn	Levin	

#### NOT VOTING—6

Alexander	Heller	Rockefeller
Hatch	Kirk	Wyden

The amendment (No. 3025) was rejected.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

Ms. KLOBUCHAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, there is now going to be a 2-minute debate on the Menendez amendment on Iran sanctions.

What Senator MCCAIN and I asked for last night, and we again ask for now, is that the Members let us know which amendments they believe need to be voted on if a rollcall vote and a debate is necessary because we are going to attempt to put together a unanimous consent agreement which will lay out the amendments that would be voted on before cloture next Monday.

It was our expectation by the end of the day that cloture was going to be filed by the leader. We can try to avoid that problem if we can work out a finite list of amendments to put in a unanimous consent agreement so we can work toward the final completion of this bill.

So I urge Members during this period to work with our staffs and let them

know what amendments they believe must be disposed of prior to the end of this bill.

#### AMENDMENT NO. 3232

The ACTING PRESIDENT pro tempore. Under the previous order there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3232 offered by the Senator from New Jersey, Mr. MENENDEZ.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator MENENDEZ and Senator KIRK for this very important action of tightening sanctions on Iran.

The centrifuges are still spinning in Tehran, and we have enacted strong sanctions. They have had some effect, but we have not had sufficient effect.

I thank Senator MENENDEZ and Senator KIRK for this language in this amendment. I will not go through a list of all the actions that will be taken against Iran, but the screws need to be tightened. This is an important act, and it can—I emphasize, can—lead to a way to prevent a conflagration in the Middle East.

I thank Senator MENENDEZ for his leadership, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I thank Senator MCCAIN for his support and his words, and the chairman for his help in getting us here. This is a bipartisan amendment that is vital to U.S. national security and regional stability in the Middle East.

Our most recent sanctions that we passed a year ago 100 to 0 are working toward crippling Iran's economy, but Iran hasn't quit trying. That is why we need to go further with this amendment and apply additional sanctions to Iran's energy, port, shipping, shipbuilding sectors that support their nuclear program, and the sales of certain commodities that support those sectors.

Just this week the IAEA said Iran has not slowed down its enrichment activities. They continue to deny access for inspection of facilities, and they have actually conducted live tests of conventional explosives that could be used to detonate a nuclear weapon. We must make clear to the Iranians that toughing out and waiting out is not an option; that it will only get worse. And I hope we have, on behalf of Senator KIRK, myself, Senators LIEBERMAN and CASEY, and many other colleagues, the strong bipartisan vote we had last year.

#### SANCTIONS CREDIBILITY

Mr. JOHNSON. Mr. President, in August, Congress passed and the President signed into law the Iran Threat Reduction and Syria Human Rights Act of 2012. This measure, coupled with CISADA and last year's powerful Iran Central Bank legislation authored by Senators MENENDEZ and KIRK, have helped dramatically to increase pressure on the Iranian government to halt its illicit nuclear activities. Iran's petroleum exports have dropped by more

than half this year, producing losses of over \$100 million each day to Iran's economy. Even so, Iran continues to press forward aggressively with its enrichment program and to suppress the rights of its citizens.

The bipartisan amendment proposed by Senators MENENDEZ and KIRK to the 2013 National Defense Authorization Act will further tighten sanctions on Iran and increase the economic pressure on its leaders. I have worked closely with Senator MENENDEZ and respect his fierce commitment to this issue, and to giving the administration all of the tools it needs to deal with Iran. I support the amendment. Our sanctions laws have become increasingly complex, however, and to assure that the new provisions can be effectively implemented, I hope we can work with officials in the Departments of State and Treasury to continue to refine these provisions as the bill moves to conference. This is a complex area of the law, and we need to have a sure hand as we go forward toward conference, drawing clear lines and avoiding any unintended consequences that might undermine the credibility of the overall sanctions regime.

Mr. MENENDEZ. I welcome my colleague's support, and I agree to work with him to refine the new sanctions provisions contained in this amendment to make them as workable and effective as possible as the bill moves forward.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent for 30 seconds on this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEVIN. I strongly support this amendment. It will continue to tighten sanctions on Iran and to bring into strong participation the international community.

This amendment is a continuing effort. The administration has made major efforts. I commend them for it. But this will add great strength to the existing sanctions which are essential to force Iran to comply with the international community.

The administration has raised concerns—we know that—about some provisions of this amendment. They have indicated that the amendment does not give them sufficient waiver flexibility. The Banking Committee has raised some issues, and we will try to address, if we can, in an appropriate way some of these concerns in conference. But I strongly support this amendment and hope it gets the unanimous support or near unanimous support in this body.

The ACTING PRESIDENT pro tempore. Under the previous order, the

question occurs on amendment No. 3232.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), the Senator from Nevada (Mr. HELLER), the Senator from Utah (Mr. HATCH), and the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea," and the Senator from Nevada (Mr. HELLER) would have voted "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—94

Akaka	Franken	Moran
Ayotte	Gillibrand	Murkowski
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Paul
Bingaman	Hoeven	Portman
Blumenthal	Hutchison	Pryor
Blunt	Inhofe	Reed
Boozman	Inouye	Reid
Boxer	Isakson	Risch
Brown (MA)	Johanns	Roberts
Brown (OH)	Johnson (SD)	Rubio
Burr	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Shelby
Chambliss	Landrieu	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Lee	Thune
Collins	Levin	Toomey
Conrad	Lieberman	Udall (CO)
Coons	Lugar	Udall (NM)
Corker	Manchin	Vitter
Cornyn	McCain	Warner
Crapo	McCaskill	Webb
DeMint	McConnell	Whitehouse
Durbin	Menendez	Wicker
Enzi	Merkley	
Feinstein	Mikulski	

NOT VOTING—6

Alexander	Heller	Rockefeller
Hatch	Kirk	Wyden

The amendment (No. 3232) was agreed to.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, we are fortunate to have two of the most seasoned veterans managing this bill. They understand the legislation. They have worked together for a quarter of a century on this. No one knows this subject matter better than these two managers.

Having said that, they are now going to put their experience to a test because they are going to come up with a finite list. People have wanted to start legislating the way we have legislated. That is what we are doing here. As I mentioned this morning, we have almost 400 amendments that have been filed on this bill, but that is not un-

usual. People have a pent-up desire to offer amendments and we all understand that. But from that list, these two managers are going to cull a number of amendments to come up with a finite list; that is, a list of amendments that should be disposed of.

They are going to do that by unanimous consent, and I hope everyone will cooperate. They will be as fair as they can to Democrats and Republicans. People should look at the list. If they don't like it, then they should talk to one of the managers, but that is the way it is. There will be no more votes after the next one, but by noon today there will be a determination as to whether there will be further activity on this legislation.

We have a vote that is now going to be announced by the Chair in a minute. I hope everybody understands we have made great progress on this bill. This legislation has passed 51 consecutive years. This will be the 52nd year we have passed this bill. It would be untoward and not good for our fighting men and women not to pass this legislation. Once we pass it, we can't spend a lot more time on it. This is a massive bill. It has to go to conference with the House. The two managers and the conferees have to work something out so we will have a final product before the end of the year.

Mr. LEVIN. Would the leader yield?

Mr. REID. I would be happy to yield.

Mr. LEVIN. In addition to putting together a finite list, which would be the amendments which would apparently require rollcall votes, we will continue to try to clear amendments which can be cleared on both sides. It is the amendments which we believe would require rollcall votes in order for us to proceed that we are going to put on a finite list. So don't give up on amendments just because they are not on the list. If we indicate to our colleagues that we have a reasonable chance of clearing those amendments today or Monday, we would add those to the possibilities.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, again, I hope our colleagues understand we are either going to do this finite list or we will have cloture and nonrelevant amendments will automatically fall. I hope everybody understands this is one of two options, and it seems to me if we agree on a finite list, we can then have a better chance for amendments to be considered.

I wish to thank the majority leader and all our colleagues for their patience throughout this very difficult process. I hope, in the interests of achieving the objective of passing this legislation, we will allow the amendments that are relevant and debate and votes.

Mr. REID. Finally, I ask all Senators to know that word "cloture" did not purse my lips.

Mr. LEVIN. Would all Senators please note—I wish to thank the leader

for this—he used the word, referring to Senator MCCAIN and me, as “seasoned” Senators rather than older Senators. Thank you.

AMENDMENT NO. 3073

The ACTING PRESIDENT pro tempore. The next amendment to be offered is amendment No. 3073.

The Senator from Florida.

Mr. NELSON of Florida. I call up amendment No. 3073.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 3073.

Mr. NELSON of Florida. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation)

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

**SEC. 643. REPEAL OF REQUIREMENT OF REDUCTION OF SURVIVOR BENEFITS PLAN SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) REPEAL.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

(i) by striking subsection (e);

(ii) by striking subsection (k); and

(iii) by striking subsection (m).

(B) In section 1451(g)(1), by striking subparagraph (C).

(C) In section 1452—

(i) in subsection (f)(2), by striking “does not apply—” and all that follows and inserting “does not apply in the case of a deduction made through administrative error.”; and

(ii) by striking subsection (g).

(D) In section 1455(c), by striking “, 1450(k)(2).”.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (f) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY FOR DEPENDENT CHILDREN.—Section 1448(d) of such title is amended—

(1) in paragraph (1), by striking “Except as provided in paragraph (2)(B), the Secretary

concerned” and inserting “The Secretary concerned”; and

(2) in paragraph (2)—

(A) by striking “DEPENDENT CHILDREN.—” and all that follows through “In the case of a member described in paragraph (1).” and inserting “DEPENDENT CHILDREN ANNUITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1).”; and

(B) by striking subparagraph (B).

(e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES.—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3073.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I can explain this in 60 seconds. This is the widows and orphans offset. It is a moral issue because under the Veterans' Administration, someone who dies service connected gets compensation of about \$1,100 a month for their widow. At the same time, many of those people have a life insurance contract, an annuity, called a survivor benefit plan. It pays equally the same amount. Current law offsets the two.

The Senate has passed this six times in the last decade, and we have whittled away at that offset in conference, but the major part of the offset is still there. That is the essence for the widows and orphans.

We have seen the movie “Lincoln.” Remember what Lincoln said in his second inaugural address; that the cost of war is borne not only by those who fight but by their widows and orphans.

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

The Senator from Tennessee.

Mr. CORKER. Mr. President, I strongly support the policy Senator NELSON has laid out. As a matter of fact, I have voted for it every single time he has brought it to the floor, and I thank him for pointing out this problem that exists.

However, circumstances are different this time. We are all operating under

the Budget Control Act. The Nation is watching as we try to deal with fiscal issues that are before us. The amounts that are in the Budget Control Act are counted as it relates to dealing with our deficit and, unfortunately, this is not offset over the next decade, and that violates the budget by \$7 billion.

For that reason, the pending measure, amendment No. 3073 to S. 3254, the National Defense Reauthorization Act, would cause the underlying legislation to exceed the authorizing committee's section 302(a) allocation of new budget authority for outlays. Therefore, I raise a point of order against the measure pursuant to section 302(f) of the Congressional Budget Act of 1974.

I encourage all of us who want to solve this problem before the year ends to vote against it. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. NELSON of Florida. I move to waive and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Mr. MURRAY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Utah (Mr. HATCH), the Senator from Nevada (Mr. HELLER), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted “nay,” and the Senator from Utah (Mr. HATCH) would have voted “yea.”

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 34, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—58

Akaka	Gillibrand	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson (SD)	Reid
Blumenthal	Kerry	Rubio
Blunt	Klobuchar	Sanders
Boozman	Kohl	Schumer
Boxer	Landrieu	Shaheen
Brown (MA)	Lautenberg	Snowe
Brown (OH)	Leahy	Stabenow
Cantwell	Levin	Tester
Cardin	Lieberman	Udall (CO)
Casey	Manchin	Udall (NM)
Collins	McCaskill	Warner
Conrad	Menendez	Webb
Coons	Merkley	Whitehouse
Durbin	Mikulski	Wicker
Feinstein	Moran	
Franken	Murkowski	

## NAYS—34

Ayotte	Enzi	McConnell
Barrasso	Graham	Paul
Burr	Grassley	Portman
Carper	Hoeven	Risch
Chambliss	Inhofe	Roberts
Coats	Isakson	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	
DeMint	McCain	

## NOT VOTING—8

Alexander	Hutchison	Rockefeller
Hatch	Kirk	Wyden
Heller	Murray	

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 58, the nays are 34. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

Mr. UDALL of New Mexico. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

## AMENDMENT NO. 3123, AS MODIFIED

Mr. KYL. If the Democratic manager of the bill has nothing right at this moment, I wish to modify an amendment which is at the desk, No. 3123, and ask that the amendment be withdrawn and the Senate consider, instead, the amendment I have at the desk.

Mr. LEVIN. Would the Senator yield, because I want to make sure we are on the same track.

Mr. KYL. I yield to the Senator.

Mr. LEVIN. Is this the amendment that has been amended after discussions with Senator KERRY?

Mr. KYL. That is correct.

Mr. LEVIN. Then is it the Senator's intent to send a new amendment to the desk? Is that it?

Mr. KYL. The original amendment, No. 3123, would be withdrawn. The modification of that amendment, as written by Senator KERRY, and I believe cleared by the Senator's side, would be the modified.

Mr. LEVIN. So, in other words, it would be the same numbered amendment, as modified?

Mr. KYL. That is correct.

Mr. LEVIN. What is the intent of my friend from Arizona to do with that amendment now?

Mr. KYL. To make about a 45-second statement.

Mr. LEVIN. Then have it adopted?

Mr. KYL. Eventually, but not today.

Mr. LEVIN. Not to have it adopted at this time by voice vote?

Mr. KYL. Correct, although I would say I am not going to need a rollcall vote at the end.

Mr. LEVIN. At some point the Senator would be happy to take a voice vote on it?

Mr. KYL. Yes. This amendment is also offered by Senators LIEBERMAN, INHOFE, RISCH, LUGAR, SESSIONS, DEMINT, CORNYN, RUBIO, WICKER,

AYOTTE, COLLINS, CORKER, and VITTER. I do understand it has been cleared by both sides, and I do appreciate the cooperation with Senator KERRY.

The amendment provides that the administration shall brief the appropriate committees on the dialogue between the United States and Russia on issues related to or limits on or controls on nuclear arms, missile defense systems, or long-range conventional strike systems.

I think it is in the administration's interests to consult with the Congress and keep us adequately briefed on these discussions because they could, of course, eventually lead to an agreement which might then require the advice and consent of the Senate.

I note former Senator Arthur Vandenburg first said, "If I'm going to be in on the crash landing, I want to be in on the takeoff," meaning, of course, that it is much easier for the administration to obtain our consent if they seek advice during the consultation process. I would confess this amendment was prompted by recent press stories, including one on November 8, which reported that our Ambassador to Russia, Michael McFaul said, "President Obama would like to have a serious conversation with President Putin about a further round of reductions in nuclear weapons to build on the START treaty."

I conclude that another round of negotiations or discussions with Russia concerning nuclear arms will be extremely complicated and important and is likely to concern the missile defenses as conventional long-range strike systems, about which I know I and others have serious misgivings. I think this suggests the necessity and the desirability of the kind of consultation we would be requesting of the administration prior to any agreement being reached.

I appreciate my colleagues' indulgence. At the appropriate time I will ask for approval of the amendment, as modified.

The ACTING PRESIDENT pro tempore. The amendment is so modified.

The amendment (No. 3123), as modified, is as follows:

(Purpose: To require briefings on dialogue between the United States and the Russian Federation on nuclear arms, missile defense, and long-range conventional strike systems)

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

**SEC. 1074. BRIEFINGS ON DIALOGUE BETWEEN THE UNITED STATES AND THE RUSSIAN FEDERATION ON NUCLEAR ARMS, MISSILE DEFENSE, AND LONG-RANGE CONVENTIONAL STRIKE SYSTEMS.**

(a) BRIEFINGS.—Not later than 60 days after the date of the enactment of this Act, and not less than twice each year thereafter, the President, or the President's designee, shall brief the Committees on Foreign Relations and Armed Services of the Senate on the dialogue between the United States and the Russian Federation on issues related to limits or controls on nuclear arms, missile defense systems, or long-range conventional strike systems.

(b) SENSE OF THE SENATE ON CERTAIN AGREEMENTS.—It is the sense of the Senate that any agreement between the United States and the Russian Federation related to missile defense, nuclear weapons, or long-range conventional strike systems obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Let me thank Senator KYL with the way in which he has worked with Senator KERRY. It is very constructive and very important. I want to tell him how much we all appreciate that working together.

I believe Senator SHAHEEN is going to want to be recognized for up to 10 minutes to talk on an amendment.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I rise to speak to a provision that is actually already in this bill, the NDAA authorization bill before us. It is a provision that would provide for reproductive health parity for women in the military.

You know, we talk a lot in this Chamber and in the Armed Services Committee about the service of our men and women in uniform. We talk about their courage in the face of our enemies, we talk about their selflessness as they continually deploy around the world, sometimes uprooting their families and sometimes leaving them behind. We talk about our responsibilities to the men and women who are serving, from the tools they will need to accomplish their missions to the support they have earned when they return home.

I am pleased, as I know we all are, about the growing recognition of the unprecedented contribution our female servicemembers are making to our national defense. There are over 214,000 women serving in our Armed Forces. They make up over 14 percent of our total Armed Forces. Women are flying our F-15 Strike Eagles, Apaches, and Black Hawks. Women are training to be Marine Corps infantry officers and working alongside our special operations units in Afghanistan. Women are an integral part of nearly all of our military operations. Earlier this year the Department of Defense opened 14,000 new positions to women.

When he was asked about the move, Secretary Panetta said, "Through their courage, sacrifice, patriotism and great skill, women have proven their ability to serve in an expanding number of roles on and off the battlefield."

The women serving in the U.S. military continue to overcome barriers and strive for new opportunities to serve their country. They have carried on the finest traditions of our military and should make us all very proud.

Yet despite their service, women in the military continue to face discrimination when it comes to reproductive



health care. In the United States, women are receiving health care through Medicaid, Medicare, the Federal Employees Health Benefits Program, and the Indian Health Service, so all of the Federal health care programs. All have access to the care they need if they face pregnancy resulting from rape or incest.

Even women incarcerated in Federal prison are protected in the case of rape. Yet right now our women in the military are not granted the same access to abortion services in cases of rape or incest.

To be clear, a general ban on abortion coverage remains for millions of women who receive health care through the Federal Government. However, in nearly all cases, these bans allow for coverage if the life of the mother is in danger or if the pregnancy is the result of rape or incest. It is simply unfair that military women continue to be denied such reproductive health care.

Like so many of us in the Chamber, I was so encouraged that during this year's markup of the NDAA, a strong bipartisan majority of my colleagues on the Armed Services Committee, including Chair LEVIN and Ranking Member MCCAIN, supported providing reproductive health parity to our service-women.

The NDAA bill before us will finally bring the Department of Defense policy on abortion coverage in line with the policies governing the rest of the Federal Government.

Over the coming weeks, I will continue to work with my colleagues here in the Senate, many of whom are long-time champions on this issue, to ensure that this provision is included during the conference with the House and ultimately signed by the President.

In the end, this is an issue of basic equality. Women serving in our Armed Forces should be able to access the same reproductive health services as the civilians they protect. Access to care should no longer be one of the sacrifices women in the U.S. military are forced to make. Women in the military deserve the best, most comprehensive health care we can provide.

I am encouraged by the bipartisan support this provision has received thus far, and I am hopeful we will see it become law this year. It is way past time, and it is the least we can do for our female servicemembers.

Thank you very much, Mr. Chairman and the ranking member, for your support on this provision.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from New Hampshire. She is an advocate and a very active and important member of our committee.

I also would wish to thank her for arranging yesterday's event on behalf of and in memory of one of the great Members of this body, Warren Rudman. I thought it was a wonderful event, and I thank the Senator, both senators

from New Hampshire, for arranging what I think was a very fitting tribute to one of the real giants of the Senate in the New Hampshire tradition, so I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mrs. SHAHEEN. If I could briefly reply, I very much appreciate the Senator's remarks about yesterday's reception and especially the wonderful tribute you made to Senator Rudman, who was a real giant, not just in the Senate but, of course, in New Hampshire. It was such a remarkable collection of celebrated political people from this country's history who were there yesterday to give tribute, and I so appreciate that.

Also, I so much appreciate Senator MCCAIN's support for this provision in the bill and thank the Senator for that.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, before Senator SHAHEEN leaves the floor, I want to add my thanks to her and for those words expressed by Senator MCCAIN. Senator SHAHEEN is, indeed, an extraordinary Member of this body and a great asset for us on the Armed Services Committee. I very much appreciate her work on so many issues including the one she just spoke about.

I so much regret I was unable to be at that event yesterday for Senator Rudman, because my memories of him are warm and I had very much looked forward to being there. I could not be there, but I know that Senator MCCAIN—I don't know who else spoke. I have heard rave reviews about the quality of the speeches.

Mr. MCCAIN. The Vice President of the United States also was in attendance.

Mr. LEVIN. And I understand that there was a quantity, and there was also a fairly long speech by the Vice President which delayed things on the floor by a few hours—by a few minutes, excuse me. But I hear it was a wonderful tribute. I only wish I could have been there.

Mr. MCCAIN. As my friend from Michigan knows, the Vice President of the United States is not notorious for his brevity.

Mrs. SHAHEEN. Yes, there was an interesting bet between former Secretary Cohen and the Vice President relative to who would have the shortest speech, and I think the Vice President lost that.

But I thank the Senator for his kind words, and the Senator would have loved it.

Mr. LEVIN. I didn't have to be there to know that the Vice President would lose any bet where he is betting anyone that he will be shorter than anybody on any subject.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, 15 months ago in August, the debt ceiling of the United States was reached; that

is, that we had borrowed all of the money we could lawfully borrow. A big discussion occurred and a number of things came out of it.

Finally, it was agreed to raise the debt ceiling so the government could continue to borrow. Almost 40 cents of every dollar we spend now is borrowed. It is unbelievable, but it is true. We also agreed that over 10 years, we would reduce spending by \$2.1 trillion. That is a lot of money, but compared to what we are spending, it is not so much.

For example, we were expected to spend, over the next 10 years, \$47 trillion over the—basically, \$37 trillion we would spend now if we maintain the current level, and we agreed to reduce it from 47 to 45. Spending over 10 years would grow by \$8 trillion instead of \$10 trillion, not something that would destroy the Republic, but it was a step of noticeable weight to change the debt course of America. We still remain, after that agreement, totally on an unsustainable debt course. We have more work to do.

But the point I want to make is it passed both Houses of Congress, it had the support of both leaders and the President of the United States. It didn't freeze spending in a lot of things, it didn't cut spending in a lot of things, but it did reduce the growth of spending and give us some real teeth through that on certain accounts—not all accounts.

Well, today was the third vote in recent weeks in which this Senate said: We will abide by and adhere to the agreement we reached. We will not spend more than we agreed to spend just August a year ago. This is a 10-year agreement. We promised to stay within those limits for 10 years. Yet within 15 months, a little over a year, we have now had the fifth bill on the floor of the Senate that violated that agreement. And this is the third time the Members of the Senate said: No, we are not going to keep violating that agreement.

This survivor benefit program reform is something I have favored. I worked with Senator NELSON years ago. I was a cosponsor with him of the legislation, and we have tried a lot of ways to do it. But we agreed to spending limitations. The amendment Senator NELSON offered today had a great goal, it is something I think we can figure a way to advance for sure, but there was no reduction of spending and no pay-for for this amendment. There just wasn't. At the last moment he walks in with \$7 billion—almost \$7 billion—in new spending, none of which was paid for, in blatant, direct, total violation of the agreement we reached in August a year ago.

We had Members, Republican Members—and I appreciate Senator CARPER breaking ranks and voting to uphold the budget—who wanted to vote for this and felt bad they were not able to allow the amendment to advance, but it violates the budget. So I was proud

of that. I think it is the right thing for America.

We can do this. I believe our message is being sent. We brought up a popular bill, the Sportsmen's Act, and I was for that, but it wasn't paid for or it spent more money than we agreed to in the Budget Control Act. So this amendment would have spent more money—\$7 billion more than we agreed to. We blocked the Sportsmen's Act and it was \$140 million more than we agreed to. The Senate said no, even though many of us liked what was in that bill. This was \$7 billion above what we agreed to, and even with the good cause we said we should adhere to the limits we have.

If we have new priorities that we want to fund, can't we find wasteful spending somewhere in our government? One of the dysfunctions we have, one of the reasons it is so hard to get something such as that accomplished and fund a new spending program without borrowing the money, just increasing the debt, is everybody is jealous of their account. How silly is that. We should all be focusing on the national interest. So when we say we are going to reduce this program over here and we are going to pay for the benefits for widows, people automatically say: No, you can't take my money. But it is all the taxpayers' money, isn't it? It is not this Senator's money or this committee's money, it is not this program's money. It is all the taxpayers' money.

We have been in denial. We think business as usual is going to continue, but this country has never, ever, ever been in a more systemic, dangerous position with regard to our finances. Never. We have had expert testimony on that. So we have to be honest about it. We have to do the right thing. We can't have a Senator waltz in, even with something we would wish to support, and ask us to vote for it when it adds \$7 billion above the amount we agreed to spend. I wanted to say that because it is a troubling situation for us.

One more thing. The President of the United States is the one person who speaks for America. He is now pushing and advancing an agenda that seems to me to raise taxes. But will it reduce spending? No. It seems the new taxes are to fund new spending. Well, we don't have the numbers, so I am going to be asking him to see the numbers. I am the ranking member on the Budget Committee. I want to see how much new spending they have and how much new taxes they have, and if it is like what we have been seeing, there is a lot of flimflam. We had a budget projection that was voted down 100 percent, not a single vote. The budget he sent out earlier this year increased taxes \$1.8 trillion but increased spending \$1.4. So it didn't pay down the debt.

I hope the President will look the American people in the eye and tell them we are on an unsustainable course. I have not heard him say that. Why won't he say that? His own debt commissioner, Erskine Bowles, said we

face the most predictable debt crisis in our Nation's history. Why won't the President say we can't continue on this path and we have to change? Why won't he say we need to tighten our belt across the government? This is one of the problems we have at the end of this year.

I wanted to say to my friends who may have seen this differently that those people who voted a few minutes ago to uphold the budget, not to waive the Budget Act but to stay with the budget agreement we signed, I believe were doing what they truly felt was in the best interest of America. I don't think they should be in any way accused of being hard-hearted. It is time for us to at least agree to stand by the numbers we have agreed to.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I rise today to talk about two of my amendments to the Defense authorization bill. I will maybe at a later point speak on some of the other amendments I had filed, but I am not going to offer the amendments at this time.

I first rise to speak on the Udall-Corker amendment No. 3049. Last year I introduced S. 1798, the Open Burn Pits Registry Act with Senator CORKER. We have met with veterans and Active-duty members of the military and they have told us how important it is that we act now on this issue. The Senate Veterans' Affairs Committee agrees and has passed the legislation after holding hearings.

This week, Senator CORKER and I submitted amendment No. 3049 to the Defense authorization bill because our veterans and Active-duty members suffering from exposure to burn pits should not have to wait any longer.

I began this work because of service-members such as MSgt Jesse Baca, a member of the New Mexico Air National Guard, and his wife Maria. Master Sergeant Baca was stationed in Balad, Iraq, and exposed to burn pits. Because of the burn pits he has battled cancer, chronic bronchialitis, chemical-induced asthma, brain lesions, TBI, PTSD, and numerous other ailments. He knows firsthand the suffering caused by burn pits and the need for answers.

In both Afghanistan and Iraq, open air burn pits were widely used at forward operating bases. Disposing of trash and other debris was a major challenge. Commanders had to find a way to dispose of the waste while concentrating on the important mission at hand. The solution that was chosen, however, had serious risks. Pits of waste were set on fire, sometimes using jet fuel for ignition.

For example, the air samples at Joint Base Balad turned up some nasty stuff: particulate matter, chemicals that form from the incomplete burning of coal, oil, and gas, garbage, or other organic substances, also volatile organic

compounds such as acetone and benzene—benzene is known to cause leukemia—and dioxins associated with Agent Orange.

A scientific study by the American Lung Association found the following:

Emissions from burning waste contain fine particulate matter, sulfur dioxides, carbon monoxide, volatile organic compounds and various irritant gases such as nitrogen oxides that can scar the lungs.

All of this was in the air and our veterans have begun to raise the alarm.

We are forever in debt for their service so we must ask the question: How did these burn pits impact the health of our returning heroes? This amendment is a step toward finding the answers we owe them.

This amendment is supported by numerous groups, including Burn Pits 360, Veterans of Foreign Wars, the Association of the U.S. Navy, Retired Enlisted Association, Uniformed Services Disabled Retirees, and the National Military Family Association.

I urge the Senate to adopt this amendment so that Master Sergeant Baca and his fellow servicemembers and veterans can begin to heal.

Now I want to speak about a second amendment. This is an amendment that deals with the issue of buying American solar. This amendment is Udall No. 3150, sponsored by Senators Schumer, Bingaman, and Wyden.

Solar power increases energy security for American military installations, but we should be using Buy American-compliant solar panels. The Department of Defense is a leader on utilizing solar power, not for environmental reasons but for energy security reasons. When we use taxpayer funds to support military solar power, we need a level playing field for U.S. solar manufacturers in the contracting process. Today we have U.S. military bases with Chinese solar that violates the trade laws, but there is no U.S. solar on Chinese military bases.

The 2011 Defense authorization bill took an important step to clarify DOD's Buy American Act requirements, making sure they apply to solar. My amendment is needed to close existing loopholes in the 2011 Buy American solar requirements. It would ensure Buy American standards apply to solar on DOD property that is used to meet DOD energy goals.

This amendment is nearly identical to the one passed on voice vote last year but dropped in conference with the House. The change from last year's amendment is a 1-year term so we can test this provision. CBO estimated the cost of this amendment as insignificant, so we know this amendment does not raise costs. The difference in price is very small. Chinese solar now has significant tariffs. Nations that are in the WTO are not discriminated against. Buy American does not bar nations that allow reciprocal access to U.S. firms. Existing exemptions, such as availability and cost, still apply. We do not expect this to harm DOD's procurement in any way.



I would once again urge the Senate, when we have the opportunity, to adopt this amendment.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, in a moment I am going to call up a list of nine amendments which have been cleared by Senator McCain and myself. We expect that there will be, in perhaps an hour or so, an additional list of perhaps 15 or 20 cleared amendments. Shortly thereafter it would be our expectation to propound a unanimous consent proposal with a finite list of amendments that would be considered before final passage.

At the time we do that, we would give our colleagues perhaps 20 minutes after we read that proposed unanimous consent agreement to come to the floor, if they choose, and talk to us about it or, if they so choose, to object.

We hope that will not happen, obviously. We worked very hard with colleagues. Nonetheless, that is the procedure we are planning on following.

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENTS NOS. 3052, 3075, 3133, 3182, 3183, 3233, 3236, 3248, 3283 EN BLOC

Mr. LEVIN. Mr. President, I now call up a list of nine amendments which have been cleared, as I indicated before: McCain amendment No. 3052, Whitehouse amendment No. 3075, Snowe amendment No. 3133, Sanders amendment No. 3182, Sanders amendment No. 3183, Warner amendment No. 3233, Coburn amendment No. 3236, Sanders amendment No. 3248, Rubio amendment No. 3283.

The PRESIDING OFFICER. Is there objection? Without objection the amendments are considered en bloc.

Is there further debate on the amendments? If not, the question is on agreeing to the amendments.

The amendments were agreed to, as follows:

#### AMENDMENT NO. 3052

(Purpose: To provide a military resource plan to meet the United States Force Posture Strategy in the Asia Pacific Region)

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

#### SEC. 1064. REPORT ON MILITARY RESOURCES NECESSARY TO EXECUTE UNITED STATES FORCE POSTURE STRATEGY IN THE ASIA PACIFIC REGION.

##### (a) REVIEW REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Chairman of the Joint Chiefs of Staff, conduct a comprehensive review of the national defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and

policies of the United States with regard to the Asia Pacific region to determine the resources, equipment, and transportation required to meet the strategic and operational plans of the United States.

(2) ELEMENTS.—The review required under paragraph (1) shall include the following elements:

(A) The force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program of the United States associated with the Asia Pacific region that would be required to execute successfully the full range of missions called for in the national defense strategy.

(B) An estimate of the timing for initial and final operational capability for each unit based in, realigned within, or identified for support to the Asia Pacific region.

(C) An assessment of the strategic and tactical sea, ground, and air transportation required for the forces assigned to the Asia Pacific region to meet strategic and operational plans.

(D) The specific capabilities, including the general number and type of specific military platforms, their permanent station, and planned forward operating locations needed to achieve the strategic and warfighting objectives identified in the review.

(E) The forward presence, phased deployments, pre-positioning, and other anticipatory deployments of manpower or military equipment necessary for conflict deterrence and adequate military response to anticipated conflicts.

(F) The budget plan that would be required to provide sufficient resources to execute successfully the full range of missions and phased operations in the Asia Pacific region at a low-to-moderate level of risk and any additional resources (beyond those programmed in the current future-years defense program) required to achieve such a level of risk.

(G) Budgetary recommendations that are not constrained to comply with and are fully independent of the budget submitted to Congress by the President pursuant to section 1105 of title 31, United States Code.

(b) CJCS REVIEW.—Upon the completion of the review under subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary of Defense the Chairman's assessment of the review, including the Chairman's assessment of risk and a description of the capabilities needed to address such risk.

##### (c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results of the review required under subsection (a).

(2) CONTENT.—The report required under paragraph (1) shall include the following elements:

(A) A description of the elements set forth under subsection (a)(1).

(B) A description of the assumptions used in the examination, including assumptions relating to—

(i) the status of readiness of the Armed Forces;

(ii) the cooperation of allies, mission-sharing, and additional benefits to and burdens on the Armed Forces resulting from coalition operations;

(iii) warning times;

(iv) levels of engagement in operations other than war and smaller-scale contingencies and withdrawal from such operations and contingencies;

(v) the intensity, duration, and military and political end-states of conflicts and smaller-scale contingencies; and

(vi) the roles and responsibilities that would be discharged by contractors.

(C) Any other matters the Secretary of Defense considers appropriate.

(D) The assessment of the Chairman of the Joint Chiefs of Staff under subsection (b), including related comments of the Secretary of Defense.

(3) FORM.—The report required under paragraph (1) may be submitted in classified or unclassified form.

#### AMENDMENT NO. 3075

(Purpose: To express the sense of the Senate on the continuing progress of the Department of Defense in implementing its Item Unique Identification Initiative)

At the end of subtitle B of title VIII, add the following:

#### SEC. 826. SENSE OF SENATE ON THE CONTINUING PROGRESS OF THE DEPARTMENT OF DEFENSE IN IMPLEMENTING ITS ITEM UNIQUE IDENTIFICATION INITIATIVE.

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

(1) In 2003, the Department of Defense initiated the Item Unique Identification (IUID) Initiative, which requires the marking and tracking of assets deployed throughout the Armed Forces or in the possession of Department contractors.

(2) The Initiative has the potential for realizing significant cost savings and improving the management of defense equipment and supplies throughout their lifecycle.

(3) The Initiative can help the Department combat the growing problem of counterfeits in the military supply chain.

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

(1) to support efforts by the Department of Defense to implement the Item Unique Identification Initiative;

(2) to support measures to verify contractor compliance with section 252.211-7003 (entitled "Item Identification and Valuation") of the Defense Supplement to the Federal Acquisition Regulation, on Unique Identification, which states that a unique identification equivalent recognized by the Department is required for certain acquisitions;

(3) to encourage the Armed Forces to adopt and implement Item Unique Identification actions and milestones; and

(4) to support investment of sufficient resources and continued training and leadership to enable the Department to capture meaningful data and optimize the benefits of the Item Unique Identification Initiative.

#### AMENDMENT NO. 3133

(Purpose: To terminate the Federal authorization of the National Veterans Business Development Corporation)

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

#### SEC. 1084. NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by striking section 33 (15 U.S.C. 657c).

(b) CORPORATION.—On and after the date of enactment of this Act, the National Veterans Business Development Corporation and any successor thereto may not represent that the corporation is federally chartered or in any other manner authorized by the Federal Government.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.), as amended by this section, is amended—

(A) by redesignating sections 34 through 45 as sections 33 through 44, respectively;

(B) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking "section 34(d)" and inserting "section 33(d)";

(C) in section 33 (15 U.S.C. 657d), as so redesignated—

(i) by striking “section 35” each place it appears and inserting “section 34”;

(ii) in subsection (a)—

(I) in paragraph (2), by striking “section 35(c)(2)(B)” and inserting “section 34(c)(2)(B)”;

(II) in paragraph (4), by striking “section 35(c)(2)” and inserting “section 34(c)(2)”;

(III) in paragraph (5), by striking “section 35(c)” and inserting “section 34(c)”;

(iii) in subsection (h)(2), by striking “section 35(d)” and inserting “section 34(d)”;

(D) in section 34 (15 U.S.C. 657e), as so redesignated—

(i) by striking “section 34” each place it appears and inserting “section 33”;

(ii) in subsection (c)(1), by striking section “34(c)(1)(E)(ii)” and inserting section “33(c)(1)(E)(ii)”;

(E) in section 36(d) (15 U.S.C. 657i(d)), as so redesignated, by striking “section 43” and inserting “section 42”;

(F) in section 39(d) (15 U.S.C. 657l(d)), as so redesignated, by striking “section 43” and inserting “section 42”;

(G) in section 40(b) (15 U.S.C. 657m(b)), as so redesignated, by striking “section 43” and inserting “section 42”.

(2) TITLE 10.—Section 1142(b)(13) of title 10, United States Code, is amended by striking “and the National Veterans Business Development Corporation”.

(3) TITLE 38.—Section 3452(h) of title 38, United States Code, is amended by striking “any of the” and all that follows and inserting “any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course, as that term is defined in section 3675(c)(2).”.

(4) FOOD, CONSERVATION, AND ENERGY ACT OF 2008.—Section 12072(c)(2) of the Food, Conservation, and Energy Act of 2008 (15 U.S.C. 636g(c)(2)) is amended by striking “section 43 of the Small Business Act, as added by this Act” and inserting “section 42 of the Small Business Act (15 U.S.C. 657o)”.

(5) VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999.—Section 203(c)(5) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking “In cooperation with the National Veterans Business Development Corporation, develop” and inserting “Develop”.

#### AMENDMENT NO. 3182

(Purpose: To require an annual report on Federal contracting fraud)

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

#### SEC. 888. ANNUAL REPORT ON DEFENSE CONTRACTING FRAUD.

(a) ANNUAL STUDY AND REPORT.—The Secretary of Defense shall conduct an annual study on defense contracting fraud and submit a report containing the findings of such study to the congressional defense committees.

(b) REPORT CONTENTS.—The report required under subsection (a) shall include with respect to the most recent reporting period the following elements:

(1) An assessment of the total value of Department of Defense contracts entered into to with contractors that have been indicted for, settled charges of, been fined by any Federal department or agency for, or been convicted of fraud in connection with any contract or other transaction entered into with the Federal Government.

(2) Recommendations by the Inspector General of the Department of Defense or other appropriate Department of Defense official regarding how to penalize contractors

repeatedly involved in fraud in connection with contracts or other transactions entered into with the Federal Government, including an update on implementation by the Department of any previous such recommendations.

#### AMENDMENT NO. 3183

(Purpose: To require public availability of the database of senior Department officials seeking employment with defense contractors)

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

#### SEC. 888. PUBLIC AVAILABILITY OF DATABASE OF SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS.

Section 847(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 1701 note) is amended by adding at the end the following new paragraph:

“(3) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make available online to the public any information contained in the database or repository required under paragraph (1) that is not confidential, personal, or proprietary in nature.”.

#### AMENDMENT NO. 3233

(Purpose: To promote a more efficient, responsive, and effective bilateral defense trade relationship between the United States and India)

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

#### SEC. 1246. BILATERAL DEFENSE TRADE RELATIONSHIP WITH INDIA.

(a) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that articulates the vision of the Department of Defense for defense trade relations between the United States and India within the context of the overall bilateral defense relationship.

(2) CONTENT.—The report required under paragraph (1) shall include the following elements:

(A) A description of the Department's approach for normalizing defense trade.

(B) An assessment of the defense capabilities that could enhance cooperation and coordination between the Governments of the United States and India on matters of shared security interests.

(b) COMPREHENSIVE POLICY REVIEW.—

(1) IN GENERAL.—The Secretary of Defense shall lead a comprehensive policy review to examine the feasibility of engaging in co-production and co-development defense projects with India.

(2) SCOPE.—The policy review should—

(A) examine the parameters and requirements for United States-India cooperation as well as the terms and conditions India must fulfill to broach such cooperation; and

(B) consider potential areas of cooperation, including the possibility of co-producing a training aircraft and co-developing counter-IED technology or individual soldier capabilities.

(c) SENSE OF CONGRESS ON INTERNATIONAL INITIATIVES.—It is the sense of Congress that the Department of Defense, in coordination with the Department State, should—

(1) conduct a review of all United States-India bilateral working groups dealing with high technology transfers, including technology security and licensing for dual-use and munitions licenses, and determine the feasibility of establishing a single United States Government working group dedicated to strategic technology trade;

(2) engage counterparts in the Government of India in an intensified dialogue on the cur-

rent challenges related to the compatibility of the Foreign Military Sales and direct commercial sales programs with the Indian Defense Procurement Procedure (DPP), and steps to improve compatibility;

(3) engage counterparts in the Government of India in a dialogue about the elements of an effective defense industrial base, including personnel training, quality assurance, and manufacturing procedures;

(4) consider the establishment of orientation programs for new defense officials in the Government of India about the procedures for United States defense sales, including licensing processes; and

(5) continue and deepen ongoing efforts to assist the Government of India in developing its defense acquisition expertise by assisting with the development of training institutions and human capital.

#### AMENDMENT NO. 3236

(Purpose: To ensure that the Deputy Chief Management Officer of the Department of Defense obtains information from the military departments and Defense Agencies necessary to conduct defense business system investment reviews)

At the end of subtitle A of title IX, add the following:

#### SEC. 903. INFORMATION FOR DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE FROM THE MILITARY DEPARTMENTS AND DEFENSE AGENCIES FOR DEFENSE BUSINESS SYSTEM INVESTMENT REVIEWS.

Section 2222(g) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) The investment management process required by paragraph (1) shall include requirements for the military departments and the Defense Agencies to submit to the Deputy Chief Management Officer such information on covered defense business system programs as the Deputy Chief Management Officer shall require for the review of defense business system programs under the process. Such information shall be submitted to the Deputy Chief Management Officer in a standardized format established by the Deputy Chief Management Officer for purposes of this paragraph.”.

#### AMENDMENT NO. 3248

(Purpose: To amend the Federal renewable energy purchase requirement to include geothermal heat pumps)

At the end of subtitle B of title XXXI, add the following:

#### SEC. 3122. RENEWABLE ENERGY.

Section 203(b)(2) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)) is amended by striking “geothermal,” and inserting “geothermal (including geothermal heat pumps),”.

#### AMENDMENT NO. 3283

(Purpose: To require a report on implementation by the Government of Bahrain of the recommendations contained in the Report of the Bahrain Independent Commission of Inquiry)

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

#### SEC. 1233. REPORT ON IMPLEMENTATION BY GOVERNMENT OF BAHRAIN OF RECOMMENDATIONS IN REPORT OF THE BAHRAIN INDEPENDENT COMMISSION OF INQUIRY.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the implementation by the Government of Bahrain of the recommendations contained in

the Report of the Bahrain Independent Commission of Inquiry.

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

(1) A description of the specific steps taken by the Government of Bahrain to implement each of the 26 recommendations contained in the Report of the Bahrain Independent Commission of Inquiry.

(2) An assessment of whether each recommendation has been fully complied with by the Government of Bahrain.

(3) An assessment of the impact of the findings of the Report of the Bahrain Independent Commission of Inquiry on progress toward democracy and respect for human rights in Bahrain.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, there will be another hour where people will have an opportunity to come to the Senate floor and check on their amendments. We hope our colleagues will take advantage of that opportunity.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I hope our colleagues and staffs who are observing our deliberations would think seriously about their amendments and how they can be consolidated, whether they really need to be considered. We are working through large numbers of amendments. We will probably be revealing a finite list, and we hope we can satisfy all Members' concerns.

I yield.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COBURN. I ask unanimous consent to speak as in morning business to offer a tribute.

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

HONORING MICHAEL SCHWARTZ

Mr. COBURN. Mr. President, I wish to take a moment to honor a member of my staff who is not retiring but as a result of his ailment can no longer come to work on the Hill. This gentleman's name is Michael Schwartz. He has been my chief of staff for almost 15 years, beginning while I was in the House and here in the Senate as well.

A lot of people on the Hill know Michael. What they know is that he is one of the kindest, gentlest people anyone has ever met. He has been a light focused on how we do things to honor other people.

Michael has been the kind of person who has always focused on others, especially those in need. He is the kind of person who doesn't pass up the homeless we all see around the Capitol but stops and tries to satisfy their need. He

offers them money and food, but he also offers them friendship and his time. He offers them the love and dignity that comes from being reminded that we are all children of the Creator.

Mike has also been an unapologetic defender of the family and of those who cannot defend themselves, whether that be the disability community, the unborn, the infirm, or the elderly. He has reminded me and my staff and all of us that a society is truly measured in how it treats and cares for those less fortunate.

Mike is also a voracious reader and gifted leader. In a city where people stop learning when they gain power, Mike has shown that the closer one gets to power, the more one needs to humble oneself and learn new things. He has been mentoring staff and others for years on the Hill in both reading groups and Bible studies, where he has shared his wisdom, his faith, and his heart.

As many in the Senate know, Mike has ALS, Lou Gehrig's disease. For weeks, he has been battling—actually months—to continue to fulfill his responsibilities here when most of us would have said: It is too difficult, I can't do it. He has overcome challenges that most of us can scarcely imagine. He has done so with grace, humility, and an unbelievable level of courage. Through all this, we have watched him inspire everybody on my team with both his spirit and his tenacity.

In these difficult circumstances, Mike has been an extraordinary servant and faithful leader. He is still the guy who cares more about other people than himself. The kindness he has shown to everyone he has encountered, whether to a homeless person on the street or a leading Senator in the halls, he has reminded our team and me that we are all equal regardless of position in the eyes of God.

Let me close with a passage from 2 Corinthians that reminds me so very much of Mike.

It is written: "I believed; therefore I have spoken." Since we have that same spirit of faith, we also believe and therefore speak because we know that the one who raised the Lord Jesus from the dead will also raise us with Jesus and present us with you to himself. All this is for your benefit, so that the grace that is reaching more and more people—

That wonderful word "grace," too often a shortage in Washington, that Mike so well displays—

may cause thanksgiving to overflow to the glory of God. Therefore, we do not lose heart.

Mike, don't lose heart.

Though outwardly we are wasting away, yet inwardly we are being renewed day by day. For our light and momentary troubles are achieving for us an eternal glory that far outweighs them all. So we fix our eyes not on what is seen, but on what is unseen, since what is seen is temporary, but what is unseen is eternal.

In a place preoccupied by titles and position and power, Mike has shown everyone by his life and his deeds and his words that things that are unseen are

the things that matter. He has shown us what it means to run the race and finish it strongly. Well done, good and faithful servant.

My hope is that God will bless Mike and Roseanne, their children and grandchildren, as he closes this chapter of his life on the Hill. He will still be doing projects for us because his intellect, his insight, and his knowledge are what we cannot bear to do without. So it has been my privilege over the last 15 years to be modeled and mentored by my chief of staff.

Mike, we love you. God bless you.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Mr. President, the bill we have before us, the Defense authorization bill, we all recognize as a pretty special bill. Every year for the past 51 years Congress has sent to the President a Defense authorization bill which has been bipartisan in nature. Based upon the progress we have seen in this Chamber for these past several days, it appears this year will not be an exception.

I deeply appreciate the strong leadership of our colleagues, the Senator from Michigan and the Senator from Arizona, in managing this bill. They have put in countless hours and have worked to wade through nearly 400 amendments that Members have filed with respect to this bill. Not only the chairman and ranking member and their leadership, but their staffs have worked incredibly hard. So I am pleased with where we are.

I think the Chair probably knows I am one of those Members who doesn't have a tendency to pile on or add multiple amendments to this measure or to many measures, but on this bill I have broken with that practice by filing 10 amendments. Six of these amendments relate to frustrations I have experienced in responding to force structure changes that were announced by the Air Force this last February. I think we recognize that force structure changes can be a euphemism for realignments, and realignments are usually reserved for a BRAC round. But faced with the need to meet rigid fiscal year 2013 budget objectives, the Air Force didn't wait for a BRAC round and, instead, proposed a series of backdoor BRACs.

Most of these changes affected the Air National Guard and the Air Force Reserves. One of these changes would substantially realign and stop one step short of closing an Active-Duty air base, and I am referring to Eielson Air Force Base near Fairbanks, AK.

Last February, the Air Force informed the Alaska congressional delegation that it intended to make what

they call a “warm” base out of Eielson and reduce its current population of about 3,000 airmen by half. The reduction would most profoundly affect the Active-Duty population, which would be reduced by about two-thirds. It would have led to the laying off of hundreds of civilian and contractor personnel.

In the words of one prominent Fairbanks community leader:

It's the Air Force's intention to change Eielson from a base that is mission capable to a base that is mission incapable.

The Air Force somehow concluded it could pull off a move of this magnitude without ever having to face the BRAC Commission or answer to Congress. That takes a little bit of chutzpah. The Air Force knew this was not going to sit well with the community. They promptly dispatched then-Chief of Staff GEN Norton Schwartz to Alaska for a meeting with community leaders. I appreciate his presence, and I was there when he spoke to those leaders. But his message didn't leave much room for optimism.

The Air Force official pretty much insisted this was a happening thing; that resistance was going to be futile. I have to admit it came as something as a surprise to me that the Air Force would select Eielson as the only Active-Duty base slated for a backdoor BRAC. For those who are not familiar with Eielson's strategic position, it sits at the gateway to the Pacific Area of Responsibility, the most strategically important Area of Responsibility, according to this administration's defense planner. It also sits at the front door of the Joint Pacific Alaska Range Complex, which the Air Force regards as its top unencroached training facility with tremendous future upside potential. But for some reason this is the Active-Duty base that the Air Force chose to essentially throw under the bus.

Unfortunately, this isn't the first time. Back in 2005, the Air Force proposed to warm base Eielson. The BRAC Commission rejected that proposal. They, instead, suggested the Air Force should place an F-16 Aggressor Squadron at Eielson to take advantage of its proximity to the Joint Pacific Alaska Range Complex. That Aggressor Squadron supports cutting edge exercises, such as Red Flag Alaska and Northern Edge—superior, phenomenal training exercises. Under the Air Force 2012 proposal, that squadron would now base at Joint Base Elmendorf Richardson, and they would essentially commute to future exercises launched out of Eielson Air Force Base.

So, Mr. President, I am left to conclude that perhaps there is somebody in the Air Force who, for whatever reason, doesn't like Eielson. I reach this conclusion with some hesitation and reluctance, but when I see the Air Force prepared to sacrifice a base with one of the longest runways in North America—it is a 14,531-foot runway, which I think the Chair can appre-

ciate—it is significant. There are no encroachments, it has geographic superiority with respect to missions in the Pacific and, really, across the globe. So it really does cause me to wonder.

Since February, Senator BEGICH and I and our staffs have been in touch with the Air Force on an almost daily basis trying to understand the thinking of the Air Force. And it has been a moving target. It has been tough to pin down.

First, they claimed it would save money in 2013, and then they admitted that, well, a move would cost unbudgeted money in 2013. They next claimed the move could be accomplished without any NEPA review. Then they admitted that maybe an Environmental Impact Statement is going to be required. They concluded the move could be executable in 2013 because there was sufficient housing that was proximate to JBER, but then they came back and admitted their housing availability data had come primarily off of Craig's list.

Later, there was a more disciplined study conducted that demonstrated if the move were to be executed in 2013 there was not going to be housing that was sufficient and proximate to JBER in order to relocate the airmen, and there probably wouldn't be sufficient classroom seats for the military families either.

A whole series of issues have cropped up because they weren't thoroughly reviewed prior to the decision being made. So the Air Force has now conceded that its plans are not executable in fiscal year 2013. That is a wise decision, but it kind of begs the question: So what about the future?

The Air Force may deny, but I think reasonable minds could conclude, the Eielson plan is still moving full steam ahead. Let me offer the following in evidence of that. The Senate Appropriations Committee has directed the Air Force to spend no fiscal year 2013 money to implement the force structure change until the Commission on the Future Structure of the Air Force reports. I think that is a good thing, and I intend to argue Eielson's case before that Commission. But I would note that S. 3254 requires the Commission, which is only going to be created once the Defense authorization bill is signed into law, to report by March 31, 2013—essentially, a 3-month period. That is absolutely not adequate time for the rigorous analysis that is required. I have submitted an amendment this week, amendment 3135, which gives the commission an additional year to complete its work.

Now, notwithstanding this direction to stop, the Air Force has announced its plans to begin an Environmental Impact Statement on the Eielson downsizing. They have announced this will commence January 2013 using fiscal year 2012 money. I do agree an EIS is a legally required condition precedent to implementing the Air Force's structure changes at Eielson, and that

if the Air Force ultimately intends to downsize Eielson and add airplanes and people to JBER, it will have to complete the NEPA. Moreover, an EIS process will offer the Alaska community an opportunity to weigh in and to vent their frustrations and concerns with the Air Force, which is appropriate. But one has to wonder after reading the Senate version of the Defense appropriations bill, what part of “stop” is the Air Force not understanding.

I actually put this question to them in writing in September. I still have not received a satisfactory answer. Several of the amendments I have introduced would bring this concept of “stop” into the Defense authorization bill, but there may be an alternative to offering them—a solution that I think could be a win for all.

It strikes me that an EIS is not going to address two questions I think are critical and I think should be answered before the EIS process begins. The first is whether it makes any sense at all to throw Eielson under the bus given its considerable strategic upside potential. And the second is whether the Air Force will truly achieve any cost savings by walking away from Eielson or simply transfer costs someplace else.

In addition, an EIS will not answer the question whether it makes sense for the Air Force to abandon a community that supports our airmen like no other community in the country. This is a community that loves to fly. You have people who have float planes and small aircraft and bush planes. Everybody is a pilot there. They love to fly. This community is more than willing to accommodate the Air Force's desire to conduct summer exercises at the expense of precious general aviation airspace, provided that the Air Force remains a good corporate citizen in the community.

My amendment No. 3156 is a good-faith effort to find that common ground with the Air Force. It requires the Air Force submit a report to the defense communities evaluating the upside potential of Eielson Air Force Base before it acts to tear down that base or relocate its assets.

I wish to take a minute here to speak to some of that upside potential, because I think it is considerable.

It is a well-known fact in interior Alaska that the Air Force publicly announced scoping on an EIS for F-35 basing at Eielson back in 2008. So in 2008 they are talking about bringing in the F-35s. Then in 2009, they walked away from that announcement but suggested that Eielson would be a desirable OCONUS basing location for the F-35. I might suggest that this abrupt downsizing that is being considered now of Eielson is inconsistent with that possible future use.

The 168th Air Refueling Wing of the Alaska National Guard fuels the North Pacific on a daily basis, every single day of the year. There has been some

discussion about adding an active association and increasing the tanker presence proportionate to demand. But downsizing Eielson could undermine the efficiency of that operation.

I mentioned earlier the unencumbered airspace that Eielson has. This unencumbered airspace might make a perfect place for remote piloted vehicle testing. This is a mission that Senator BEGICH has been actively promoting for the past several years. So let's come to a conclusion about whether this is a viable possibility.

As the Pacific AOR becomes more important, Eielson might once again have the potential as a combat-coded fighter base given its proximity to the world's hotspots. But let's not also forget that Eielson is the air base closest to the Arctic and may certainly have new responsibilities in that rapidly changing part of the globe. That is one of the reasons why the Department of Homeland Security needs to be part of this ongoing conversation.

So before the Air Force moves to potentially throw away all of this and potentially demolish perfectly good facilities that might support future missions, I think it needs to take a good hard look at the upside of Eielson—not just merely recite the same old lines that, quite honestly, failed back in 2005. That goes to the substance of the Eielson decision.

I wish to spend a moment here to speak of the frustrations that I have had about process as we have gone through this since February. Congress has created a process to ensure that realignments that occur outside of BRAC rounds are vetted by the congressional defense committees. But like many laws, the Pentagon has been kind of looking around for loopholes and the Air Force has been pretty adept at identifying them—even if they might not actually be there. But there are some worthy amendments I have submitted that would close the loopholes. These are contained in 10 USC 993 and 10 USC 2687, and I hope they will be considered.

One of the more substantial loopholes that is contained in 10 USC 2687 would seem to allow the Defense Department to characterize a substantial reduction in civilian personnel as a reduction in force rather than a realignment. That loophole, if it does exist, needs to be closed.

Let me also note the difficulties we have had in obtaining information from the Air Force over the past several months. Just asking for specific information has been a struggle these past several months. Ask the Air Force a question, and you tend to get a heavily vetted and not terribly specific answer. Ask for documents explaining the deliberative process of the Air Force, and maybe you get one document months after you have asked for it. And, again, the document doesn't explain very much.

Perhaps it is time for personal offices to be able to use the Freedom of Infor-

mation Act—the FOIA process—to get the documents they need in a timely fashion, as journalists do. My amendment No. 3143 would provide for an expedited review of FOIA requests pertaining to its activities in a Member's home State, with no fees charged for processing that request. I think it would perhaps level the playing field between the committees that can subpoena documents and personal offices that have a more limited option to obtain the documents they need.

I think it is a positive contribution to oversight and I hope others here in the Chamber will feel likewise. I will not be offering that amendment up at this point in time in the hopes that the Air Force is clear on my message, that I wish to find a way we can work more cooperatively with this information exchange and that there can be greater accommodation with the congressional request. I know that General Welsh, as the new Chief of Staff, intends to improve the Air Force relationships with the Congress. I have had a very positive conversation with him about that. I want to give him an opportunity to do so. I look forward to working with him on these issues and some of the others I have had an opportunity to raise with him.

I wish to conclude my remarks by again thanking the chairman and ranking member and all of the staffs for their yeomen's efforts on the bill, and I look forward to supporting final passage.

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

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

Mr. LEVIN. Mr. President, we have been working very hard to come up with what we call a finite list of amendments that would be the only remaining first-degree amendments that would be in order to the bill. We are working, obviously, on many other amendments to get them cleared, but this would be the list of the maximum number of first-degree amendments that would be in order.

Twenty minutes from now, I will be asking unanimous consent, as we promised, that these amendments be the only remaining first-degree amendments to the bill. We promised everybody they would have that opportunity, because it is a long list, and we want to keep that promise. But during that 20 minutes, we can reassure folks that if they have a problem, things are the way we said they would be: Bingaman 2984; Brown of Ohio 3216; Kerry and Brown of Massachusetts 3034; Kohl 2887; Lieberman 3167; Lieberman 3276; Mikulski 3217; Nelson of Nebraska 3274; Pryor 2946; Reed of Rhode Island 3014; Reed of Rhode Island 3255; Reid of Ne-

vada 3244; Reid of Nevada 3047; Tester 3028—that is not the sportsmen's amendment, by the way. There was an objection to it and Senator TESTER was willing to not have that on the list—Udall of New Mexico 3049; Udall of New Mexico 3150; Akaka 3204; Begich 3194; Bennet 3226; Bingaman 3208; Boxer 3265; Brown of Ohio 3113; Carper 3241; Casey 2997; Conrad 3227; Coons 3289; Hagan 3056; Harkin 3147; Johnson of South Dakota 3100; Kohl 2887; Lautenberg 3288; Levin 3164; Levin 3280; Levin 3284; Nelson of Florida 3267; Reed of Rhode Island 3165; Reed of Rhode Island 3255; Rockefeller 2996; Warner 3145; Warner 3188; Webb 2943; Webb 2957; Whitehouse 3181; Wyden 2959; Alexander 3258; Ayotte 3003; Ayotte 3004; Ayotte 3080; Barrasso 3081; Barrasso 3082; Barrasso 3198; Blunt 3728; Boozman 3221; Brown of Massachusetts 3160; Brown of Massachusetts 3270; Burr 3219; Coats 2923; Collins 3042; Collins 3196; Collins 3259; Collins 3282; Corker 3172; DeMint 3134; Graham 3203; Grassley 2990; Grassley 3079; Hatch 3268; Hutchison 3078; Inhofe 2978; Kyl 2927; Kyl 3033; Kyl 3239; Lee 3185; McCain 3054; McCain 3091; McCain 3247; McCain 3262; McCain 3281; Moran 3285; Murkowski 3135; Murkowski 3136; Murkowski 3156; Murkowski 3197; Paul 3118; Paul 3119; Portman 3142; Risch, 3093; Risch 3094; Roberts 3032; Rubio 3175; Rubio 3176; Sessions 3007; Sessions 3008; Sessions 3013; Shelby 3070; Snowe 3218; Thune 3210; Thune 3277; Toomey 3060; Toomey 3065, with a modification; Toomey 3066; Vitter 3087; Wicker 3000; and Wicker 3002.

Again, the UC will be offered at a quarter to 4. If anyone has questions, please call our staff through the cloakroom. We have done a huge amount of work to get to this point. I emphasize again that many of our colleagues are understanding that we are working through additional amendments that are not on this list, and we would hope they would continue to cooperate with us in that regard.

Mr. MCCAIN. Mr. President, could I say we now have, believe it or not, a pretty manageable list. We have been working for 3 days on amendments, on compiling amendments, on disposing of amendments, various managers' packages, and we will have an additional managers' package or two today.

I ask our colleagues to cooperate in the next 20 minutes and have their staffs—and themselves if they are in their offices—examine this list, which is available, and make sure it is agreeable to them so we can lock this down and then move forward to having voice votes, managers' packages, and, where required, rollcall votes. We will not deny any Senator this right, starting on Monday night. We look forward to having agreement from everybody. I believe we can, beginning on Monday, get this legislation done.

I would also like to say that I appreciate the patience of the majority leader, who has a large calendar. We appreciate his patience on this issue.

Finally, I would say again that I think we are showing and can show

Monday night that this body is capable of taking up a piece of legislation without a cloture vote, without filling up the tree, without all the other parliamentary maneuvers and objections, and come forth with a piece of legislation that I think all of us can be proud of but, more importantly, that is of significant importance to the men and women who are serving in the military and our ability to protect this Nation.

I thank the chairman again for his unstinting effort.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I extend our thanks to our colleagues and their staffs who are working with us to keep this manageable. It is manageable. I know it sounds overwhelming and it is daunting, but it is manageable, providing understanding is there for this process and what we are doing. I thank the staff who are working so hard. I thank the Presiding Officer, who I know is changing his schedule this afternoon so he can continue to preside.

At quarter-to—when I added up the minutes, at quarter-to, I will put this unanimous consent request. I again emphasize that we are also working on many amendments that are not on this list, and we are still trying to clear them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, we are going to withhold the unanimous consent agreement at this time. There have been a number of questions raised about it. The time is being well spent actually. Those questions need to be asked, but there are enough of them so that we will pick that up on Monday. But we are making good progress. We are going to have another 17 cleared amendments that will be coming up, we hope, in the next 5 or 10 minutes.

We have already disposed of 77 amendments. I think we have done it in a way which will make this body proud that we are legislating. If people want to filibuster, threaten to filibuster or debate something, we are going to say: Come over and debate—which we have. So we have avoided these long periods of space. We have had no threat of a filibuster that has required a threshold of 60. We have had majority votes, and not the 60-threshold votes except for that one technical budget amendment issue.

We are making great progress. I believe we will continue to make progress. The leader, in a moment, I believe, is going to a file cloture motion which is going to help with progress. But between now and the time we vote on cloture, both this

afternoon and on Monday, we are going to continue to work on amendments to try to clear amendments.

I am sure we will voice-vote amendments in the cases that they have been cleared and do not require a voice vote. The leader will, in a moment, again, state what his plans are. But for the time being, I want to thank our leader for the support he has given to the managers. It is essential. We have had that support. We are grateful for it, and to all of our colleagues and staffs working on this bill, which is always complex and always has literally hundreds of amendments.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. The work done has been exemplary by the two managers. I appreciate it very much. We have disposed of 75 amendments. We have another batch we are going to approve very quickly. We have had rollcall votes. There has been significant progress made. We are not going to be able to lock in a finite list of amendments. That is always hard to do. But I am confident we are going to be able to get this done.

Senators MCCAIN and LEVIN and their staffs will be available over the weekend, and staff will be available more than the two Senators, who have spent many hours on the Senate floor. We need to make sure people who have problems with the proposal made by the two managers, that they let them know because we need to lock this in as quickly as possible.

I am going to file cloture in just a minute. I encourage people to work with the managers. We are going to go out. Senators LEVIN and MCCAIN are going to clear a few amendments, and then we are going to go out for the weekend. This has been a very productive week.

#### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

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 the debate on S. 3254, a bill to authorize appropriations for fiscal year 2013 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.

Harry Reid, Carl Levin, Kay R. Hagan, Barbara A. Mikulski, Tom Udall, Jeff Merkley, Al Franken, Tom Harkin, Jon Tester, Richard Blumenthal, Jeff Bingaman, Patrick J. Leahy, Robert P. Casey, Jr., Amy Klobuchar, Max Baucus, Michael F. Bennet, Mark Begich, Patty Murray.

Mr. REID. Mr. President, I ask unanimous consent under rule XXII that the mandatory quorum be waived.

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

Mr. REID. Senator LEVIN will announce to the Senate at a later time—but just to give an idea of what to expect—there will be a Maryland judge's vote on Monday evening. Then that will be followed by a cloture vote on the matter that I just sent the motion on to the desk.

We would hope that there will be the ability at that time—while the 30 hours are running—to clear a bunch of amendments.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as in executive session, I ask unanimous consent there be no amendments in order to the treaty or the resolution of ratification; that following leader remarks on Tuesday, December 4, the time until 12 noon be divided in the usual form; that at 12 noon the Senate proceed to vote on the Resolution of Advice and Consent to Ratification of the Convention on the Rights of Persons with Disabilities; that if the resolution is adopted, the motion to reconsider be considered made and laid upon the table; that the President be then immediately notified of the Senate's action; further, that if the resolution is not adopted, the treaty be returned to the calendar, there be no motions or points of order in order other than a motion to reconsider.

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

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013—Continued

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank the majority leader again for his encouragement of this process. As I said before, I think it should be an example for addressing further pieces of legislation before this body. It has been very tough. There have been hundreds of amendments that have been filed, many of which have been disposed of.

I believe on Monday night we could complete this legislation with the cooperation of all Members so that this body could move on to other business. I want to thank again my friend, the chairman, who continues to show unlimited patience, which is a quality that I do not possess.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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