

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

AMENDMENTS NOS. 2959, 2984, 3079, 3082, 3087, AS MODIFIED, 3102, 3105, 3135, 3145, 3196, AS MODIFIED, 3198, 3234, 3244, 3247, AS MODIFIED, 3258, 3280, 3290

Mr. LEVIN. Mr. President, I call up now a list of 17 amendments which have been cleared by myself and Senator McCain: Wyden amendment No. 2959; Bingaman amendment No. 2984; Grassley amendment No. 3079; Barrasso amendment No. 3082; Vitter amendment No. 3087, as modified by changes at the desk; Klobuchar amendment No. 3102; Klobuchar amendment No. 3105; Murkowski amendment No. 3135; Warner amendment No. 3145; Collins amendment No. 3196, as modified by changes at the desk; Barrasso amendment No. 3198; Klobuchar amendment No. 3234; Reid amendment No. 3244; McCain amendment No. 3247, as modified by changes at the desk; Alexander amendment No. 3258; Levin amendment No. 3280; Begich amendment No. 3290.

Mr. MCCAIN. The amendments have been cleared on our side.

Mr. LEVIN. I ask unanimous consent that these amendments be considered en bloc, the amendments be agreed to, and the motion to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 2959

(Purpose: To require reports on the use of indemnification agreements in Department of Defense contracts)

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

SEC. 847. REPORTS ON USE OF INDEMNIFICATION AGREEMENTS.

(a) IN GENERAL.—Not later than 90 days after the end of each of fiscal years 2013 through 2016, the Secretary of Defense shall submit to the appropriate committees of Congress a report on any actions described in subsection (b) which occurred during the preceding fiscal years.

(b) ACTIONS DESCRIBED.—

(1) IN GENERAL.—An action described in this subsection is the Secretary of Defense—

(A) entering into a contract that includes an indemnification provision relating to bodily injury caused by negligence or relating to wrongful death; or

(B) modifying an existing contract to include a provision described in subparagraph (A) in a contract.

(2) EXCLUDED CONTRACTS.—Paragraph (1) shall not apply to any contract awarded in accordance with—

(A) section 2354 of title 10, United States Code; or

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(c) MATTERS INCLUDED.—For each action covered in a report under subsection (a), the report shall include—

(1) the name of the contractor;

(2) a description of the indemnification provision included in the contract; and

(3) a justification for the contract including the indemnification provision.

(d) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

AMENDMENT NO. 2984

(Purpose: To provide for national security benefits for White Sands Missile Range and Fort Bliss)

At the end of title X, add the following:

SEC. 10. WHITE SANDS MISSILE RANGE AND FORT BLISS.

(a) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights and paragraph (3), the Federal land described in paragraph (2) is withdrawn from—

(A) entry, appropriation, and disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) consists of—

(A) the approximately 5,100 acres of land depicted as “Parcel 1” on the map entitled “White Sands Missile Range/Fort Bliss/BLM Land Transfer and Withdrawal” and dated April 3, 2012 (referred to in this section as the “map”);

(B) the approximately 37,600 acres of land depicted as “Parcel 2”, “Parcel 3”, and “Parcel 4” on the map; and

(C) any land or interest in land that is acquired by the United States within the boundaries of the parcels described in subparagraph (B).

(3) LIMITATION.—Notwithstanding paragraph (1), the land depicted as “Parcel 4” on the map is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.

(b) RESERVATION.—The Federal land described in subsection (a)(2)(A) is reserved for use by the Secretary of the Army for military purposes in accordance with Public Land Order 833, dated May 21, 1952 (17 Fed. Reg. 4822).

(c) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Effective on the date of enactment of this Act, administrative jurisdiction over the approximately 2,050 acres of land generally depicted as “Parcel 2” on the map—

(1) is transferred from the Secretary of the Army to the Secretary of the Interior (acting through the Director of the Bureau of Land Management); and

(2) shall be managed in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) any other applicable laws.

(d) LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a legal description of the Federal land withdrawn by subsection (a).

(2) FORCE OF LAW.—The legal description published under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct errors in the legal description.

(3) REIMBURSEMENT OF COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for any costs incurred by the Secretary of the Interior in implementing this subsection with regard to the Federal land described in subsection (a)(2)(A).

AMENDMENT NO. 3079

(Purpose: To permit Federal officers to remove cases involving crimes of violence to Federal court)

At the appropriate place, insert the following:

SEC. . . REMOVAL OF ACTION.

Section 1442 of title 28, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) Solely for purposes of determining the propriety of removal under subsection (a), a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer—

“(1) protected an individual in the presence of the officer from a crime of violence;

“(2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or

“(3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.

“(d) In this section, the following definitions apply:

“(1) The terms ‘civil action’ and ‘criminal prosecution’ include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.

“(2) The term ‘crime of violence’ has the meaning given that term in section 16 of title 18.

“(3) The term ‘law enforcement officer’ means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5 and any special agent in the Diplomatic Security Service of the Department of State.

“(4) The term ‘serious bodily injury’ has the meaning given that term in section 1365 of title 18.

“(5) The term ‘State’ includes the District of Columbia, United States territories and insular possessions, and Indian country (as defined in section 1151 of title 18).

“(6) The term ‘State court’ includes the Superior Court of the District of Columbia, a court of a United States territory or insular possession, and a tribal court.”

AMENDMENT NO. 3082

(Purpose: To require a report on the issuance by the Armed Forces Medical Examiner of death certificates for members of the Armed Forces who die on active duty abroad)

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

SEC. 662. REPORT ON ISSUANCE BY ARMED FORCES MEDICAL EXAMINER OF DEATH CERTIFICATES FOR MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY ABROAD.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the issuance by the Armed Forces Medical Examiner of death certificates for members of the Armed Forces who die on active duty abroad, including mechanisms for reducing or ameliorating delays in the issuance of such death certificates.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the process used by the Armed Forces Medical Examiner to issue a death certificate for members of the Armed Forces who die on active duty abroad, including an explanation for any current delays in the issuance of such death certificates.

(2) A description of the average amount of time taken by the Armed Forces Medical Examiner to issue such death certificates.

(3) An assessment of the feasibility and advisability of issuing temporary death certificates for members of the Armed Forces who die on active duty abroad in order to provide necessary documentation for survivors.

(4) A description of the actions required to enable the Armed Forces Medical Examiner to issue a death certificate for a member of the Armed Forces who dies on active duty abroad not later than seven days after the return of the remains of the member to the United States.

(5) Such other recommendations for legislative or administrative action as the Secretary considers appropriate to provide for the issuance by the Armed Forces Medical Examiner of a death certificate for members of the Armed Forces who die on active duty abroad not later than seven days after the return of the remains of such members to the United States.

AMENDMENT NO. 3087, AS MODIFIED

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

SEC. 1064. REPORT ON PLANNED EFFICIENCY INITIATIVES AT SPACE AND NAVAL WARFARE SYSTEMS COMMAND.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to the congressional defense committees a report on plans to implement efficiency initiatives to reduce overhead costs at the Space and Naval Warfare Systems Command (SPAWAR), including a detailed description of the long-term impacts on current and planned future mission requirements.

AMENDMENT NO. 3102

(Purpose: To provide for the retention of certain forms in connection with Restricted Reports on sexual assault involving members of the Armed Forces)

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

SEC. 544. RETENTION OF CERTAIN FORMS IN CONNECTION WITH RESTRICTED REPORTS ON SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES.

(a) **PERIOD OF RETENTION.**—The Secretary of Defense shall ensure that all copies of Department of Defense Form 2910 and Department of Defense Form 2911 filed in connection with a Restricted Report on an incident of sexual assault involving a member of the Armed Forces shall be retained for the longer of—

(1) 50 years commencing on the date of signature of the member on Department of Defense Form 2910; or

(2) the time provided for the retention of such forms in connection with Unrestricted Reports on incidents of sexual assault involving members of the Armed Forces under Department of Defense Directive-Type Memorandum (DTM) 11-062, entitled “Document Retention in Cases of Restricted and Unrestricted Reports of Sexual Assault”, or any successor directive or policy.

(b) **PROTECTION OF CONFIDENTIALITY.**—Any Department of Defense form retained under subsection (a) shall be retained in a manner that protects the confidentiality of the member of the Armed Forces concerned in accordance with procedures for the protection of confidentiality of information in Restricted Reports under Department of Defense memorandum JTF-SAPR-009, relating to the Department of Defense policy on confidentiality for victims of sexual assault, or any successor policy or directive.

AMENDMENT NO. 3105

(Purpose: Relating to the prevention and response to sexual harassment in the Armed Forces)

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

SEC. 544. PREVENTION AND RESPONSE TO SEXUAL HARASSMENT IN THE ARMED FORCES.

(a) **COMPREHENSIVE POLICY REQUIRED.**—

(1) **IN GENERAL.**—The Secretary of Defense shall, in consultation with the Secretaries of the military departments and the Equal Opportunity Office of the Department of Defense, develop a comprehensive policy to prevent and respond to sexual harassment in the Armed Forces. The policy shall provide for the following:

(A) Training for members of the Armed Forces on the prevention of sexual harassment.

(B) Mechanisms for reporting incidents of sexual harassment in the Armed Forces, including procedures for reporting anonymously.

(C) Mechanisms for responding to and resolving incidents of alleged sexual harassment incidences involving members of the Armed Forces, including through the prosecution of offenders.

(2) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the policy required by paragraph (1).

(b) **COLLECTION AND RETENTION OF RECORDS ON DISPOSITION OF REPORTS OF SEXUAL HARASSMENT.**—

(1) **COLLECTION.**—The Secretary of Defense shall require that the Secretary of each military department establish a record on the disposition of any report of sexual harassment, whether such disposition is court martial, non-judicial punishment, or other administrative action. The record of any such disposition shall include the following, as appropriate:

(A) Documentary information collected about the incident reported.

(B) Punishment imposed, including the sentencing by judicial or non-judicial means including incarceration, fines, restriction, and extra duty as a result of military court-martial, Federal and local court and other sentencing, or any other punishment imposed.

(C) Reasons for the selection of the disposition and punishments selected.

(D) Administrative actions taken, if any.

(E) Any pertinent referrals offered as a result of the incident (such as drug and alcohol counseling and other types of counseling or intervention).

(2) **RETENTION.**—The Secretary of Defense shall require that—

(A) the records established pursuant to paragraph (1) be retained by the Department of Defense for a period of not less than 50 years; and

(B) a copy of such records be maintained at a centralized location for the same period as applies to retention of the records under subparagraph (A).

(c) **ANNUAL REPORT ON SEXUAL HARASSMENT INVOLVING MEMBERS OF THE ARMED FORCES.**—

(1) **ANNUAL REPORT ON SEXUAL HARASSMENT.**—Not later than March 1, 2015, and each March 1 thereafter through March 1, 2018, the Secretary of each military department shall submit to the Secretary of Defense a report on the sexual harassments involving members of the Armed Forces under the jurisdiction of such Secretary during the preceding year. Each Secretary of a military department shall submit the report on a year under this section at the same time as the submittal of the annual report on sexual assaults during that year under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 1561 note). In the case of the Secretary of the

Navy, separate reports shall be prepared under this section for the Navy and the Marine Corps.

(2) **CONTENTS.**—The report of a Secretary of a military department for an Armed Force under paragraph (1) shall contain the following:

(A) The number of sexual harassments committed against members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated.

(B) The number of sexual harassments committed by members of the Armed Force that were reported to military officials during the year covered by the report, and the number of the cases so reported that were substantiated. The information required by this subparagraph may not be combined with the information required by subparagraph (A).

(C) A synopsis of each such substantiated case and, for each such case, the action taken in such case, including the type of disciplinary or administrative sanction imposed, section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice).

(D) The policies, procedures, and processes implemented by the Secretary during the year covered by the report in response to incidents of sexual harassment involving members of that Armed Force.

(E) Any other matters relating to sexual harassment involving members of the Armed Forces that the Secretary considers appropriate.

AMENDMENT NO. 3135

(Purpose: To extend the deadline for submission of a report on the findings and conclusions of the National Commission on the Structure of the Air Force)

On page 502, line 7, strike “2013” and insert “2014”.

AMENDMENT NO. 3145

(Purpose: To require a study on the ability of national air and ground test and evaluation infrastructure facilities to support defense hypersonic test and evaluation activities)

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

SEC. 1064. STUDY ON ABILITY OF NATIONAL AIR AND GROUND TEST AND EVALUATION INFRASTRUCTURE FACILITIES TO SUPPORT DEFENSE HYPERSONIC TEST AND EVALUATION ACTIVITIES.

(a) **STUDY REQUIRED.**—The Director of the Office of Science and Technology Policy, working with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration (NASA), shall conduct a study on the ability of Department of Defense and NASA air and ground test and evaluation infrastructure facilities and private ground test and evaluation infrastructure facilities, including wind tunnels and air test ranges, as well as associated instrumentation, to support defense hypersonic test and evaluation activities for the short and long term.

(b) **REPORT AND PLAN.**—

(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 appropriate congressional committees a report containing the results of the study required under subsection (a) together with a plan for requirements and proposed investments to meet Department of Defense needs through 2025.

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

(A) An assessment of the current condition and adequacy of the hypersonics test and

evaluation infrastructure within the Department of Defense, NASA, and the private sector to support hypersonic research and development within the Department of Defense.

(B) An identification of test and evaluation infrastructure that could be used to support Department of Defense hypersonic research and development outside the Department and assess means to ensure the availability of such capabilities to the Department in the present and future.

(C) A time-phased plan to acquire required hypersonics research, development, test and evaluation capabilities, including identification of the resources necessary to acquire any needed capabilities that are currently not available.

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

(A) the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Armed Services and the Committee on Science, Space, and Technology of the House of Representatives.

AMENDMENT NO. 3196, AS MODIFIED

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

SEC. 526. RESEARCH STUDY ON RESILIENCE IN MEMBERS OF THE ARMY.

(a) **RESEARCH STUDY REQUIRED.**—

(1) **IN GENERAL.**—The Secretary of the Army shall carry out a research program on resilience in members of the Army.

(2) **PURPOSE.**—The purpose of the research study shall be to determine the effectiveness of the current Comprehensive Soldier and Family Fitness (CSF2) Program of the Army while verifying the current means of the Army to reduce trends in high risk or self-destructive behavior and to prepare members of the Army to manage stressful or traumatic situations by training members in resilience strategies and techniques.

(3) **ELEMENTS.**—In carrying out the research study, the Secretary shall determine the effectiveness of training under the Comprehensive Soldier and Family Fitness program in—

(A) enhancing individual performance through resiliency techniques and use of positive and sports psychology; and

(B) identifying and responding to early signs of high-risk behavior in members of the Army assigned to units involved in the research study.

(4) **SCIENCE-BASED EVIDENCE AND TECHNIQUES.**—The research study shall be rooted in scientific evidence, using professionally accepted measurements of experiments, of longitudinal research, random-assignment, and placebo-controlled outcome studies to evaluate which interventions can prove positive results and which result in no impact.

(b) **LOCATIONS.**—The Secretary carry out the research study at locations selected by the Secretary from among Army installations which are representative of the Total Force. Units from all components of the Army shall be involved in the research study.

(c) **TRAINING.**—In carrying out the research study at an installation selected pursuant to subsection (b), the Secretary shall ensure, at a minimum, that whenever a unit returns from combat deployment to the installation the training established for purposes of the research study is provided to all members of the Army returning for such deployment. The training shall include such training as the Secretary considers appropriate to reduce trends in high risk or self-destructive behavior

(d) **PERIOD.**—The Secretary shall carry out the research study through September 30, 2014.

(e) **REPORTS.**—Not later than 30 days after the end of each of fiscal years 2013 and 2014, the Secretary shall submit to the Committees on Armed Forces of the Senate and the House of Representatives a report on the research study during the preceding fiscal year. Each report shall include the following:

(1) A description of the trends in high risk or self-destructive behavior within each of the units involved in the research study during the fiscal year covered by such report.

(2) A description of the effectiveness of Comprehensive Soldier and Family Fitness Program training in enhancing individual performance through resiliency techniques, utilization of positive psychology.

(3) In the case of the report on fiscal year 2014, such recommendations for the expansion or modification of the research study as the Secretary considers appropriate.

AMENDMENT NO. 3198

(Purpose: To renew expired prohibition on return of veterans memorial objects without specific authorization in law)

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

SEC. 1084. RENEWAL OF EXPIRED PROHIBITION ON RETURN OF VETERANS MEMORIAL OBJECTS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

(a) **CODIFICATION OF PROHIBITION.**—Section 2572 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) Except as provided in paragraph (3), and notwithstanding this section or any other provision of law, the President may not transfer a veterans memorial object to a foreign country or an entity controlled by a foreign government, or otherwise transfer or convey such an object to any person or entity for purposes of the ultimate transfer or conveyance of the object to a foreign country or entity controlled by a foreign government.

“(2) In this subsection:

“(A) The term ‘entity controlled by a foreign government’ has the meaning given that term in section 2536(c)(1) of this title.

“(B) The term ‘veterans memorial object’ means any object, including a physical structure or portion thereof, that—

“(i) is located at a cemetery of the National Cemetery System, war memorial, or military installation in the United States;

“(ii) is dedicated to, or otherwise memorializes, the death in combat or combat-related duties of members of the armed forces; and

“(iii) was brought to the United States from abroad as a memorial of combat abroad.

“(3) The prohibition imposed by paragraph (1) does not apply to a transfer of a veterans memorial object if—

“(A) the transfer of that veterans memorial object is specifically authorized by law; or

“(B) the transfer is made after September 30, 2017.”.

(b) **REPEAL OF OBSOLETE SOURCE LAW.**—Section 1051 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 10 U.S.C. 2572 note) is repealed.

AMENDMENT NO. 3234

(Purpose: To enhance the annual reports regarding sexual assaults involving members of the Armed Forces)

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

SEC. 544. ENHANCEMENT OF ANNUAL REPORTS REGARDING SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) **IN GENERAL.**—Section 1631(b) of the Ike Skelton National Defense Authorization Act

for Fiscal Year 2011 (10 U.S.C. 1561 note) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

“(3) A synopsis of each such substantiated case, organized by offense, and, for each such case, the action taken in such case, including the following information:

“(A) The type of disciplinary or administrative sanction imposed, if any, including courts-martial sentences, non-judicial punishments administered by commanding officers pursuant to section 815 of title 10, United States Code (article 15 of the Uniform Code of Military Justice), and administrative separations.

“(B) A description of and rationale for the final disposition and punishment, regardless of type of disciplinary or administrative sanction imposed.

“(C) The unit and location of service at which the incident occurred.

“(D) Whether the accused was previously accused of a substantiated sexual assault or sexual harassment.

“(E) Whether the accused was admitted to the Armed Forces under a moral waiver granted with respect to prior sexual misconduct.

“(F) Whether alcohol was involved in the incident.

“(G) If the member was administratively separated or, in the case of an officer, allowed to resign in lieu of facing a court-martial, the characterization given the service of the member upon separation.”; and

(2) by adding at the end the following new paragraphs

“(7) The number of applications submitted under section 673 of title 10, United States Code, during the year covered by the report for a permanent change of station or unit transfer for members of the Armed Forces on active duty who are the victim of a sexual assault or related offense, the number of applications denied, and, for each application denied, a description of the reasons why such application was denied.

“(8) An analysis and assessment of trends in the incidence, disposition, and prosecution of sexual assaults by commands and installations during the year covered by the report, including trends relating to prevalence of incidents, prosecution of incidents, and avoidance of incidents.

“(9) An assessment of the adequacy of sexual assault prevention and response activities carried out by training commands during the year covered by the report.

“(10) An analysis of the specific factors that may have contributed to sexual assault during the year covered by the report, including sexual harassment and substance abuse, an assessment of the role of such factors in contributing to sexual assaults during that year, and recommendations for mechanisms to eliminate or reduce the incidence of such factors or their contributions to sexual assaults.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply beginning with the report required to be submitted by March 1, 2014, under section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (as amended by subsection (a)).

AMENDMENT NO. 3244

(Purpose: To amend title 18, United States Code, to provide penalties for transporting minors in foreign commerce for the purposes of female genital mutilation)

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

SEC. 1084. TRANSPORT FOR FEMALE GENITAL MUTILATION.

Section 116 of title 18, United States Code, is amended by adding at the end the following:

“(d) Whoever knowingly transports from the United States and its territories a person in foreign commerce for the purpose of conduct with regard to that person that would be a violation of subsection (a) if the conduct occurred within the United States, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.”.

AMENDMENT NO. 3247, AS MODIFIED

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

SEC. 1084. TRANSFER OF EXCESS AIRCRAFT TO OTHER DEPARTMENTS.

(a) **TRANSFER.**—Subject to subsection (c), the Secretary of Defense shall transfer excess aircraft specified in subsection (b) to the Secretary of Agriculture and the Secretary of Homeland Security for use by the Forest Service and the United States Coast Guard. The transfer of any excess aircraft under this subsection shall be without reimbursement.

(b) AIRCRAFT.—

(1) **IN GENERAL.**—The aircraft transferred under subsection (a) are aircraft of the Department of Defense that are—

(A) identified by the Forest Service or the United States Coast Guard as a suitable platform to carry out their respective missions;

(B) subject to paragraphs (2) and (3), excess to the needs of the Department of Defense, as determined by the Secretary of Defense; and

(C) acceptable for use by the Forest Service, as determined by the Secretary of Agriculture.

(D) acceptable for use by the United States Coast Guard, as determined by the Secretary of Homeland Security.

(2) **LIMITATION ON NUMBER.**—The number of aircraft that may be transferred to either the Secretary of Agriculture or the Secretary of Homeland Security may not exceed 12 aircraft.

(3) **LIMITATIONS ON DETERMINATION AS EXCESS.**—Aircraft may not be determined to be excess for the purposes of this subsection, unless such aircraft are determined to be excess in the report referenced by subsection (b) of section 1703 of Title XVII of this Act, or if such aircraft are otherwise prohibited from being determined excess by law.

(c) **PRIORITY IN TRANSFER.**—The Secretary of Agriculture and the Secretary of Homeland Security shall be afforded equal priority in the transfer under subsection (a) of excess aircraft of the Department of Defense specified in subsection (b) before any other department or agency of the Federal Government.

(d) **CONDITIONS OF TRANSFER.**—Excess aircraft transferred to the Secretary of Agriculture under subsection (a)—

(1) may be used only for wildfire suppression purposes; and

(2) may not be flown or otherwise removed from the United States unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression efforts or for other purposes approved by the Secretary of Agriculture in writing in advance.

(e) **EXPIRATION OF AUTHORITY.**—The authority to transfer excess aircraft under subsection (a) shall expire on December 31, 2013.

SEC. 1085. REAUTHORIZATION OF SALE OF AIRCRAFT AND PARTS FOR WILDFIRE SUPPRESSION PURPOSES.

Section 2 of the Wildfire Suppression Aircraft Transfer Act of 1996 (10 U.S.C. 2576 note) is amended—

(1) in subsection (a), by striking “during the period beginning on October 1, 1996, and ending on September 30, 2005” and inserting “during a period specified in subsection (g)”;

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

“(g) **PERIODS FOR EXERCISE OF AUTHORITY.**—The periods specified in this subsection are the following:

“(1) The period beginning on October 1, 1996, and ending on September 30, 2005.

“(2) The period beginning on October 1, 2012, and ending on September 30, 2017.”.

AMENDMENT NO. 3258

(Purpose: To modify the authority to carry out a fiscal year 2011 military construction project at Nashville International Airport)

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

SEC. 2613. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2011 PROJECT.

In the case of the authorization contained in the table in section 2604 of the Military Construction Authorization Act for Fiscal Year 2011 (division B of Public Law 111-383; 124 Stat. 4453) for Nashville International Airport, Tennessee, for renovation of an Intelligence Squadron Facility, the Secretary of the Air Force may convert up to 4,023 square meters of existing facilities to bed down Intelligence Group and Remotely Piloted Aircraft Remote Split Operations Group missions, consistent with the Air National Guard's construction guidelines for these missions.

AMENDMENT NO. 3280

(Purpose: To require reports to the Department of Defense on penetrations of networks and information systems of certain contractors)

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

SEC. 935. REPORTS TO DEPARTMENT OF DEFENSE ON PENETRATIONS OF NETWORKS AND INFORMATION SYSTEMS OF CERTAIN CONTRACTORS.

(a) **PROCESS FOR REPORTING PENETRATIONS.**—The Under Secretary of Defense for Intelligence shall, in coordination with the officials specified in subsection (c), establish a process by which cleared defense contractors shall report to elements of the Department of Defense designated by the Under Secretary for purposes of the process when a network or information system of such contractors designated pursuant to subsection (b) is successfully penetrated.

(b) **DESIGNATION OF NETWORKS AND INFORMATION SYSTEMS.**—The Under Secretary of Defense for Intelligence shall, in coordination with the officials specified in subsection (c), establish criteria for designating the cleared defense contractors' networks or information systems that contain or process information created by or for the Department of Defense to be subject to the reporting process established pursuant to subsection (a).

(c) **OFFICIALS.**—The officials specified in this subsection are the following:

(1) The Under Secretary of Defense for Policy.

(2) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(3) The Chief Information Officer of the Department of Defense.

(4) The Commander of the United States Cyber Command.

(d) **PROCESS REQUIREMENTS.**—

(1) **RAPID REPORTING.**—The process required by subsection (a) shall provide for rapid reporting by contractors of successful penetrations of designated network or information systems.

(2) **REPORT ELEMENTS.**—The report by a contractor on a successful penetration of a designated network or information system under the process shall include the following:

(A) A description of the technique or method used in the penetration.

(B) A sample of the malicious software, if discovered and isolated by the contractor.

(3) **ACCESS.**—The process shall include mechanisms by which Department of Defense personnel may, upon request, obtain access to equipment or information of a contractor necessary to conduct a forensic analysis to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of the contractor and, if so, what information was exfiltrated.

(4) **LIMITATION ON DISSEMINATION OF CERTAIN INFORMATION.**—The process shall prohibit the dissemination outside the Department of Defense of information obtained or derived through the process that is not created by or for the Department except with the approval of the contractor providing such information.

(e) **CLEARED DEFENSE CONTRACTOR DEFINED.**—In this section, the term “cleared defense contractor” means a private entity granted clearance by the Defense Security Service to receive and store classified information for the purpose of bidding for a contract or conducting activities under a contract with the Department of Defense.

AMENDMENT NO. 3290

(Purpose: To modify notice requirements in advance of permanent reductions of sizeable numbers of members of the Armed Forces at military installations)

On page 543, between lines 2 and 3, insert the following:

SEC. 2705. MODIFICATION OF NOTICE REQUIREMENTS IN ADVANCE OF PERMANENT REDUCTION OF SIZEABLE NUMBERS OF MEMBERS OF THE ARMED FORCES AT MILITARY INSTALLATIONS.

(a) **CALCULATION OF NUMBER OF AFFECTED MEMBERS.**—Subsection (a) of section 993 of title 10, United States Code, is amended by adding at the end the following new sentence: “In calculating the number of members to be reduced, the Secretary shall take into consideration both direct reductions and indirect reductions.”.

(b) **NOTICE REQUIREMENTS.**—Subsection (b) of such section is amended by striking paragraphs (1) through (3) and inserting the following new paragraphs:

“(1) the Secretary of Defense or the Secretary of the military department concerned—

“(A) submits to Congress a notice of the proposed reduction and the number of military and civilian personnel assignments affected, including reductions in base operations support services and personnel to occur because of the proposed reduction; and

“(B) includes in the notice a justification for the reduction and an evaluation of the costs and benefits of the reduction and of the local economic, strategic, and operational consequences of the reduction; and

“(2) a period of 90 days expires following the day on which the notice is submitted to Congress.”.

(c) **DEFINITIONS.**—Such section is further amended by adding at the end the following new subsection:

“(d) **DEFINITIONS.**—In this section:

“(1) The term ‘direct reduction’ means a reduction involving one or more members of a unit.

“(2) The term ‘indirect reduction’ means subsequent planned reductions or relocations in base operations support services and personnel able to occur due to the direct reductions.

“(3) The term ‘military installation’ means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

“(4) The term ‘unit’ means a unit of the armed forces at the battalion, squadron, or an equivalent level (or a higher level).”.

AMENDMENT NO. 3018

Mr. LEAHY. Mr. President, the National Defense Authorization Act, NDAA, that was enacted into law last December contained several deeply troubling provisions related to the indefinite detention of individuals without charge or trial. These provisions undermine our Nation’s fundamental principles of due process and civil liberties. I strongly opposed these provisions during last year’s debate, and believe that we must eliminate and fix those flawed provisions. Toward that end, I voted last night in favor of the amendment offered by Senator FEINSTEIN, which clarified that our Government cannot detain indefinitely any citizen or legal permanent resident apprehended in the United States. It is my hope that this is a positive step forward in our efforts to undo some of the damage from last year’s NDAA.

But our work is not done. As I have stated before, I believe that the vital protections of our Constitution extend to all persons here in the United States, regardless of citizenship or immigration status. That is why I cosponsored an amendment filed by Senator MARK UDALL that would go beyond the scope of the Feinstein amendment to extend the protection against indefinite detention to any person within the United States. I look forward to working with Senator UDALL and others in our continuing efforts to improve the law in this area.

I am fundamentally opposed to indefinite detention without charge or trial. I fought against the Bush administration policies that led to the current situation, with indefinite detention as the de facto policy. I opposed President Obama’s executive order in March 2011 that contemplated indefinite detention, and I helped lead the efforts against the detention-related provisions in last year’s NDAA. Simply put, a policy of indefinite detention has no place in the justice system of any democracy let alone the greatest democracy in the world.

The American justice system is the envy of the world, and a regime of indefinite detention diminishes the credibility of this great Nation around the globe, particularly when we criticize other governments for engaging in such conduct, and as new governments in the midst of establishing legal systems look to us as a model of justice. Indefinite detention contradicts the most basic principles of law that I have

pledged to uphold since my years as a prosecutor and in our senatorial oath to defend the Constitution. That is why I have opposed and will continue to oppose indefinite detention.

Last December, Senator FEINSTEIN introduced the Due Process Guarantee Act, which was at the core of her amendment to this year’s NDAA. Both the Due Process Guarantee Act and Senator FEINSTEIN’s amendment make clear that neither an authorization to use military force nor a declaration of war confer unfettered authority to the executive branch to hold Americans in indefinite detention. In February, I chaired a hearing to examine the Due Process Guarantee Act, and the Judiciary Committee heard testimony from witnesses who asserted that no individual arrested within the United States should be detained indefinitely regardless of citizenship or immigration status. I wholeheartedly agree, and I believe that the Constitution requires no less.

The notion of indefinitely imprisoning American citizens is the most striking, but to me the Constitution creates a framework that imposes important legal limits on the Government and provides that all people in the U.S. have fundamental liberty protections. That is why I have cosponsored Senator UDALL’s amendment, which provides expansive protections against indefinite detention and fixes this unwise policy for all people. As I said before, though, I view the adoption of Senator FEINSTEIN’s amendment as a positive first step towards this goal.

During last night’s Senate floor debate on Senator FEINSTEIN’s amendment, however, some made fundamentally flawed legal arguments and interpretations. As chairman of the Senate Judiciary Committee, I feel it is important to set the record straight.

According to those who had opposed our efforts and support indefinite detention, Senator FEINSTEIN’s amendment should somehow be read as authorizing the indefinite detention of United States citizens captured on U.S. soil. They contended that the Supreme Court in *Hamdi v. Rumsfeld* held that the Authorization for the Use of Military Force (AUMF) expressly authorized the indefinite detention of citizens, regardless of where they were apprehended. This assertion is flatly wrong, entirely unsupported by the actual text of the opinion and, I believe, contrary to the Constitution.

Much of last night’s debate centered on the language in Senator FEINSTEIN’s amendment that prohibited the “detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an act of Congress expressly authorizes such detention.” Senators who had opposed our remedial efforts and support indefinite detention asserted that the Supreme Court in *Hamdi* concluded that the AUMF was an “explicit authorization” of such detention even for citizens cap-

tured in the U.S. and that the AUMF was an act of Congress that fulfills the exception in the Feinstein amendment. The Senators ignore the fact that the text of the AUMF contains no reference whatsoever to the detention of individuals without charge or trial, and certainly no express reference to or authority for the detention of citizens in such a manner. Moreover, nowhere in the plurality or dissenting opinions in *Hamdi* do any of the Justices state that the AUMF expressly authorizes the detention of citizens without charge or trial.

The preexistence of the AUMF does not fulfill the requirement that the amendment seeks to create and that requires express congressional authorization of exceptional authority after the adoption of the Feinstein amendment. Senator FEINSTEIN did not intend to write and the Senate did not intend to pass a nullity. If this opposition argument were right, the amendment changed nothing.

Senator LEVIN acknowledged in his remarks last night that the “Supreme Court in *Hamdi* held that the existing authorization for use of military force does address this issue and does explicitly, in their words, authorize detention of United States citizens in that situation which was on the battlefield in Afghanistan.” (emphasis added) The *Hamdi* case did not address and did not expressly authorize the indefinite detention of U.S. citizens apprehended in the U.S. As Senator FEINSTEIN and Senator DURBIN have pointed out, the *Hamdi* ruling was limited to “individuals who fought against the United States in Afghanistan as part of the Taliban.”

The substance of the Supreme Court’s legal analysis is important here, and the attempts to gloss over the actual text of the *Hamdi* opinion cannot go unchecked. The starting point of the Court’s analysis in this regard was the text of the Non-Detention Act, codified at 18 U.S.C. Section 4001(a), which states that “no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” The *Hamdi* court then turned to whether the AUMF constituted an act of Congress within the scope of this exception, such that *Hamdi*’s detention would be authorized. In her plurality opinion, Justice O’Connor concluded that the answer was yes, but she made certain to circumscribe carefully the scope of that ruling by saying “we conclude that the AUMF is explicit congressional authorization for the detention of individuals in the narrow category we describe,” i.e. “individuals who fought against the United States in Afghanistan as part of the Taliban.” Stated simply, the *Hamdi* decision does not stand for the proposition that the AUMF expressly authorizes the indefinite detention of U.S. citizens captured on U.S. soil.

Although last night’s debate on the *Hamdi* decision focused largely on the

statutory authority to detain individuals, we must also not lose sight of other aspects of that opinion regarding the nature and duration of law of war detention, and how changing circumstances might warrant re-examination of the authority for such detention. Last night, Senator GRAHAM stated that Hamdi's imprisonment "could last for the rest of his life because the law of war detention can last for the duration of the relevant conflict." Although I do not necessarily disagree that law of war detention has historically been viewed as appropriate for the duration of the relevant conflict, this statement begs the question of when and how the duration of the relevant conflict is determined.

In her opinion in Hamdi, Justice O'Connor stated that the AUMF justified detention as part of the exercise of necessary and appropriate force "if the record establishes that United States troops are still involved in active combat in Afghanistan" against Taliban combatants. Significantly, Justice O'Connor wrote that "if the practical circumstances of a given conflict are entirely unlike those of the conflicts that informed the development of the law of war, that understanding may unravel." Accordingly, as we wind down our combat operations in Afghanistan, Congress and the courts should consider carefully how those changing circumstances might affect the legitimacy of so-called law of war detention authority under the AUMF.

I also continue to be deeply disturbed by the mandatory military detention provisions that were included in last year's NDAA through Section 1022. In the fight against al Qaeda and other terrorist threats, we should give our intelligence, military, and law enforcement professionals all the tools they need not limit those tools, as was required by this law. That is why the Secretary of Defense, Attorney General, Director of the FBI, and Director of National Intelligence all objected to this section and it was modified to require the President to produce procedures to determine who meets the definition of a person subject to mandatory military detention. I appreciate that the President took an aggressive approach in these procedures to preserve the flexibility of law enforcement, as well as military and intelligence professionals, to investigate and prosecute alleged terrorists.

However, these procedures do not mitigate my concerns that the mandatory military detention requirements are overly broad and threaten core constitutional principles. Once sacrificed, our treasured constitutional protections are not easily restored. After all, the policy directive of this President can be undone by a future administration. That is why I have cosponsored Senator UDALL's amendment to this year's NDAA that would repeal this ill-advised authority.

In Hamdi, Justice O'Connor stated unequivocally that "[w]e have long

since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens." We can never forget that the power of our Federal Government is bound by the Constitution. The detention provisions enacted through last year's NDAA are deeply troublesome. They do not represent Vermont values, they do not represent American values, and they have no place in this world. Moving forward, I urge all Senators to join in support of upholding the principles of our Constitution, protecting American values, and championing the rule of law. We need a bipartisan effort to guarantee that the United States remains the model for the rule of law to the world.

Mr. CASEY. Mr. President, I rise today to discuss several issues of importance to the future of our Nation's military. The National Defense Authorization Act before us this year will affect the size and strength of the U.S. Armed Forces and the resources and programs available to our service members and their families.

According to GEN Martin Dempsey, Chairman of the Joint Chiefs of Staff, "capability is more important than size." As the size of our military begins to decrease, there is more need than ever to ensure that they have the right equipment to fulfill their missions. Therefore, I am pleased that the committee has given the Pentagon the authority through this bill to negotiate multiyear procurements for the military's workhorse, the CH-47 *Chinook*, and for the V-22 *Osprey* and the unique capabilities it brings to the field. I also want to note my frustration with the Army's lack of strategic and long-term thinking related to armored combat vehicles. The Army's desire to temporarily cease production of tanks and Bradley fighting vehicles without long-term plans as to what will replace them is nonsense. These proposals, should they be approved, jeopardize the Nation's combat vehicle industrial base, our national security and the livelihoods of many individuals throughout the Nation.

Small businesses are the backbone of the economy both in Pennsylvania and across the Nation. Given their importance, I am committed to advocating for the needs of businesses, particularly women and minority business enterprises, in the U.S. Senate. My amendment, No. 2986, would ensure that subcontractors are aware of their inclusion on bids for Federal contracts and establish a system to report fraudulent procurement practices.

In order to secure government contracts, big companies routinely list small businesses as subcontractors on their bids in order to strengthen their applications without the intention of actually giving the work to the named subcontractor. This especially happens with women and minority owned businesses. Currently, there is no legal requirement to notify subcontractors of their inclusion on Federal bids and no

way to report this. This is taking business away from hard working men and women and it is time for this fraudulent activity to end.

Amendment No. 2986 would prohibit prime contractors from using small businesses as straw men to win government bids. First, it would require that subcontractors identified on a solicitation for a competitive proposal are notified by the prime contractor before the application is submitted. Second, it would establish a reporting mechanism that allows subcontractors to report any fraudulent activity. This amendment is in direct response to concerns raised by my constituents, Alexander Nicholas of the Western Pennsylvania Minority Supplier Development Council, and Craig Bingham, owner of DCI Logistics in Carnegie, PA. I ask my colleagues to join me in support for promoting transparency and accountability in Federal procurement processes and support amendment No. 2986.

Another long-term objective that the Nation and our military must recognize is the need for a secure and reliable source of strategic materials, such as rare earths. In filing amendment No. 2994 to the fiscal year 2013 National Defense Authorization Act, I want the Department of Defense to conduct a cost-benefit analysis on the feasibility of recycling heavy rare earth elements from fluorescent lighting waste. New innovations by Pennsylvanian businesses have taken the theory of recycling rare earths and made it a reality. With China controlling 95 percent of the world supply of rare earth elements, the United States must look at methods, including the recycling of products, to increase our domestic supply of rare earths.

Investing in alternative fuels and energy technology is also critical to sustaining our national defense capabilities in the 21st century. DOD is the largest single user of oil in the world and their fuel bill was more than \$17 billion in fiscal year 2011. DOD recognizes that this type of expenditure, not to mention where we have to go in the world to get that oil, is unsustainable. That is why they began investing in alternative fuels and energy technology under Secretary Rumsfeld back in the early 2000s. I think it would be a mistake to disinvest in that effort now when the return on investment could be so beneficial to our country.

As they are currently written, sections 313 and 2823 of the NDAA put unnecessary restrictions on our military's ability to invest in alternative fuels, which could prove harmful to our national defense capabilities and our economy by keeping our military dependent on imported fossil fuels. I think it is very important that we fix sections 313 and 2823 with Senator UDALL's amendment 2985 and Senator HAGAN's amendment 3095, respectively.

Currently, DOD invests only a small portion of their budget in alternative fuel development but this is an important investment for American businesses that focus on alternative fuel

development and energy technology research. Therefore, our Nation benefits three times from the fruits of these investments: once by improving our national defense capabilities, a second time by supporting jobs in the energy research and development sector, and again because these innovations can be applied in the marketplace benefiting all Americans. It is a smart investment to keep our military strong and develop 21st century energy solutions that we can use here and export abroad. Therefore, I support my colleagues' amendments to strike sections 313 and 2823 from the NDAA.

Lastly, we must take care of the military families who continue to sacrifice without complaint. As chairman of the Joint Economic Committee, I studied the economic effects that the military lifestyle has on the earnings of military spouses. In 2010, the unemployment rate for military wives was 15.0 percent compared to 7.3 percent for civilian wives. One cause of this disparity may have to do with the numerous relocations military families undergo. In this same time period, 24.1 percent of military wives moved across State lines, compared with only 2.4 percent of civilian wives. Frequent moves coupled with military spouses holding jobs that require State-level relicensing create barriers that spouses must overcome when seeking employment. Therefore, I introduced S. 697, the Military Spouse Job Continuity Act, which would provide a \$500 tax credit for military spouses who need to renew or transfer their professional licenses or certifications due to military relocations. While this specific bill cannot be taken up today for procedural reasons, I ask my colleagues to join me in a sense-of-the-Senate amendment recognizing that we must work with the Pentagon and State and local governments to reduce the employment barriers for military spouses, without whom we would not have the superb military we have today.

I ask my colleagues to join me in supporting these important amendments.

Mr. MCCAIN. Mr. President, I thank the Presiding Officer for his patience and long period of time in the chair today. We, obviously, have a couple of members in the media who have no other lives.

Mr. LEVIN. I thank Senator MCCAIN. He very humorously, with his great, good nature, kind of joshes himself comparing his patience to mine. My standard is not the one that anybody wants to follow around here; We will never get anything done.

He is more than patient, and I am very grateful that he is standing there in that ranking position and sitting right in that ranking position. I hope he stays in that ranking position in some committee at least for many, many, many years—in the ranking position.

Mr. MCCAIN. I thank our distinguished chairman. Obviously, you have been here a long time.

I also appreciate our staffs who, again, show that work-release programs are quite successful in the Senate. Thank you very much.

Mr. LEVIN. I join in that too.

Now, we have to close. I don't know if we have the closing. We do.

MORNING BUSINESS

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

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

REMEMBERING GEORGE MCGOVERN

Mr. JOHNSON of South Dakota. Mr. President, I rise to celebrate the life of Senator George McGovern, a man that many in this body called a friend, and an inspiration.

Senator McGovern was more than an elected official, although his 22-year career in the Senate and House of Representatives serving the great people of South Dakota left a lasting legacy filled with numerous accomplishments and achievements. Senator McGovern inspired me and many others into public service.

Like my mother, Senator McGovern was a PK, a preacher's kid, and I recall from my mother's memories that this was not easy. Senator McGovern often talked about growing up not only as a Methodist PK who couldn't attend movies, but also as a child of the Depression, living in a small parsonage that shared the little they had with those in the congregation who had even less.

His Methodist background provided the foundation for his deep sense of morality and social justice. It was the force that led him to be a lifelong advocate for feeding the hungry, for serving his country as a bomber pilot during World War II, and then returning home to work for peaceful solutions to international conflicts.

Each chapter of Senator McGovern's life was as riveting and spellbinding as the chapters of the many books he penned over the years. Numerous honors were bestowed upon him, including the Presidential Medal of Freedom, the World Food Prize, and the Air Medal.

From his heroic military service where he flew 35 missions as a B-24 Liberator pilot and earned the Distinguished Flying Cross for making a hazardous emergency landing of his damaged plane and saving his crew; his tenacious advocacy in fighting world hunger and working to provide school meals for millions of children in dozens of countries; to his unwavering and passionate support of various social programs, his strongly stated political views, and his wisdom on a spectrum of contemporary political and world issues, Senator McGovern's life has had a profound impact on our nation and world.

He traveled the world to advocate for better nutrition programs and establish efforts to fight hunger. He was the first U.N. Global Ambassador on World Hunger. He was the first director of the Food for Peace Program under President John F. Kennedy. He developed the "McGovern Report", which led to a new set of nutritional standards and guidelines for Americans. He joined longtime friend Senator Bob Dole in establishing the McGovern-Dole International Food for Education and Child Nutrition Program that provided school meals to millions of children. He served 3 years as U.S. Ambassador to the United Nations Agencies for Food and Agriculture.

Yet Senator McGovern never forgot the people of South Dakota, residing many months out of the year in his hometown of Mitchell, location of the George and Eleanor McGovern Library and Museum. George would often take his dog, Dakota, on daily walks on the campus of Dakota Wesleyan University, sometimes stopping to eat at the university cafeteria and visit with students.

Senator McGovern once said that "politics is an act of faith," meaning that you need faith that the people can make good and moral decisions. He had that faith, and his life of moral and intellectual leadership has made it easier for all of us to carry that faith forward.

One of the characteristics that I most admired in Senator McGovern was that his belief in good and moral decisions extended to leaders in both parties, and led to his lifelong friendships with statesmen like the aforementioned Senator Dole, with whom he formed a deep friendship as they worked on hunger issues, and William Buckley, with whom he delighted in debating the issues whether in public, on "Firing Line", or over a drink as they traveled together debating their opposing views.

Senator McGovern knew and valued what so many have forgotten today; that America needs a strong two-party system built on respect and cooperation if we are to survive as a democracy.

He also found time to write 14 books on political issues and philosophy. And he found time to check off a few items from his personal bucket list. In his late eighties, he parachuted from an airplane. He drove a stock car at a local speedway. Even this past summer, as he was to observe his 90th birthday, he had hoped to fly a B-1 aircraft.

With all of his accomplishments, perhaps his greatest was his marriage to Eleanor. I will never forget the opening of the McGovern library in Mitchell, SD, which Eleanor was too weak to attend, and how affectionately he touched the newly unveiled statue of her standing with him, as they had stood together throughout their lives.

We can rejoice today that they are now reunited and with their children Terry and Steve. They lived the lives