that the welfare of America's public safety officers, and their families, is worthy of our support. Congress has acted over the last 36 years on several occasions to expand the law. The PSOB program was designed with that overarching principle in mind, and the Department of Justice, in administering the program, must make every effort to ensure that the families of fallen officers and those disabled are provided with the benefit to which they are entitled under the law in an efficient manner.

As the Department of Justice moves forward to implement the improvements that Congress considers today, I look forward to working with officials within the Department's Office of Justice Programs as they carry out their work. And I look forward to seeing these measures put into practice swiftly and with the best interests in mind of the men and woman across the country who serve all of us every day.

## AIR FORCE STRUCTURE

Mr. CASEY. Mr. President, I rise to discuss the National Defense Authorization bill and how it will impact the structure of the Air Force moving forward.

Of particular concern to me and my constituents is the Pittsburgh Air Reserve Station, home of the 911th Airlift Wing located outside Pittsburgh. In its FY13 request, the Air Force proposed the retirement of the installation's C–130 fleet and, by connection, the closure of 911th. I have worked closely with the Pennsylvania delegation to fight against this proposed closure and I would in particular like to thank Senator TOOMEY and Congressmen MURPHY, DOYLE and CRITZ for all of their work on this critical issue.

We all fought so hard against this proposed closure because we believe that the Air Force proposal did not reflect a thorough analysis of the merits of the 911th Airlift Wing, nor its associated cost savings. In its FY13 Force Structure proposal, the Air Force did not provide any analysis on how the closure of the 911th would impact the local community. The lack of transparency associated with the Air Force's initial proposal and infrastructure changes around the country is extremely troubling. This is why I supported the freeze and the establishment of the National Commission on the Structure of the Air Force as mandated by the FY13 NDAA reported out of the Senate Armed Services Committee.

The 911th is a very efficient and cost effective unit installation that is truly part of the proudly patriotic community in the Pittsburgh area. Its aircraft maintenance program has resulted in an increase of aircraft availability days while saving the Pentagon more than $42 million over the last five years. Additionally, the Pentagon pays only $20,000 to lease more than 100 acres for the Wing, which is a small sum when compared to the parallel costs at other bases and installations. Finally and perhaps most importantly, an incredibly skilled and experienced workforce is employed at the 911th installation, a significant and irreplaceable resource for the Air Force. It would be a terrible waste of taxpayer dollars if this installation were to close at this critical time.

I am disappointed in the conferees for removing language that we voted on here in the Senate which would have frozen any infrastructure changes within the Air Force in FY13. I think that this decision was misguided and wrong.

But I understand that the bill also requires the Air Force to maintain an additional combination of 32 C–130s and C–27s. I strongly believe that the 911th is a prime candidate for a new mission that is commensurate with the decades long experience of its workforce and support from the community. On its merits and in the interests of the taxpayer, a sustainable mission should be instituted at the 911th. I think we are in a very strong position to make that case and I look forward to working closely with the Air Force to protect this critical installation.

It is in our National interests that our best citizens are able to continue serving their country. In Pittsburgh, some of these citizens have served our country proudly for generations. We should do all we can to support this tradition of service because it makes economic sense and is in our best national security interests.

Mrs. FEINSTEIN. Mr. President, I rise to address the conference report for the National Defense Authorization Act for Fiscal Year 2013 which we will vote on later today.

I will vote yes on this bill as I did on last year's bill even though nothing in it effectively addresses indefinite military detention, which 67 Members of this body are now on record opposing.

My colleagues will recall that I introduced, with a large bipartisan group of cosponsors, an amendment that provided that U.S. citizens and lawful permanent residents who are apprehended on U.S. soil cannot be detained indefinitely, without charge or trial. The Senate passed this amendment by an overwhelming bipartisan vote, 67 to 29. I am saddened and disappointed that this detention amendment was dropped in conference. I don't understand why we could not ensure that, at the very least, American citizens and green card holders cannot be held indefinitely without charge or trial. As I have said over the past few days, to me this is a no-brainer and is a real missed opportunity.

The main reason I support this bill is because it authorizes $640.7 billion for fiscal year 2013 for the Department of Defense.

This funding ensures our troops deployed around the world—especially those in Afghanistan—have the equipment, resources, and training they need to defend this Nation. For example, the Defense bill fully funds the President's budget request of $5.7 billion to build the capacity of the Afghan National Security Forces so those forces can take over for U.S. forces and take the security lead throughout Afghanistan by 2014.

The Defense authorization bill will also provide the resources necessary to support our defense strategies and allow our military to modernize equipment worn out after 11 years of war in the difficult battlefield environments of Afghanistan and Iraq.

Such resources include investments in our Global Hawk unmanned aircraft, which provide critical intelligence, surveillance and reconnaissance information. These aircraft have also provided crucial support for disaster response efforts, including for rescue workers in the wake of the earthquake, tsunami, and nuclear disaster in Japan.

To increase diplomatic security around the world and so that we learn from the mistakes that took the lives of four Americans in Benghazi, this bill requires the Secretary of Defense to develop a plan to increase—by up to 1,000—the number of marines in the Marine Corps security guard program to be able to deploy them to troubled facilities to protect our personnel abroad.

As I mentioned, the Senate overwhelmingly passed, on a 67 to 29 vote, the amendment to ban the indefinite detention of U.S. persons—citizens and green card holders—without charge or trial.

The amendment would have updated the Non-Detention Act of 1971, which clearly states:

> No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an act of Congress.

The amendment would have built on the Non-Detention Act of 1971 so that it applies to not just U.S. citizens but also to green card holders. It would have provided that no military authorization allows indefinite detention of U.S. citizens and green card holders apprehended inside the United States.

The detention amendment stated:

> An authorization to use military force, a declaration of war, or any similar authority shall not authorize 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.

Unfortunately, as soon as the amendment passed, the language was misrepresented by critics on the left as well as proponents of indefinite military detention on the right, particularly after a handful of Senators who previously opposed this effort switched their vote at the last minute.

Make no mistake, the amendment is not a Trojan horse designed to surreptitiously authorize indefinite detention in the United States. The text of the amendment is clear, and the legal experts I consulted on the amendment agree.

For example, Stephen Vladeck of American University, a law professor who has litigated military detention issues in the Supreme Court and an expert on national security law, testified this year before the Senate Judiciary Committee on S. 2003, the Due Process Guarantee Act, which is almost identical to the detention amendment to the Defense authorization bill. Professor Vladeck reviewed the statements of support for the amendment by Senators CARL LEVIN and LINDSEY GRAHAM—both of whom advocated indefinite military detention powers in the past.

Professor Vladeck wrote:

The Graham/Levin colloquy sought to cast [the Feinstein] language as doing exactly the opposite of what it says, i.e., as confirming that U.S. citizens can be detained even within the territorial United States pursuant to the logic of the Supreme Court's opinion in Hamdi [v. Rumsfeld].

Professor Vladeck concluded that Senators LEVIN and GRAHAM were ''exactly wrong'' because ''the plain text of the bill is simply irreconcilable with that understanding.''

In another article, Vladeck and Georgetown Law Professor Marty Lederman, another expert on military detention and national security, wrote:

If it were to be enacted, the amendment would ensure that a future president could not construe the September 18, 2001 Authorization for Use of Force (AUMF), the FY2012 NDAA, or any comparable statute to authorize the military detention of citizens and LPRs [lawful permanent residents] apprehended within the United States.

I agree with these law professors—with whom I worked, in fact, on the drafting of my bill and amendment. It is true the courts have previously reached ambiguous and conflicting decisions regarding whether U.S. persons apprehended on American soil may be subject to indefinite detention under the laws of war. However, far from adding to this ambiguity, I am confident this amendment would bring much-needed clarification to this area of the law.

The Feinstein detention amendment would have updated the Non-Detention Act of 1971 which Congress passed to repudiate the shameful Japanese-American internment experience during World War II. That 1971 landmark legislation, which liberal critics of the detention amendment have made no effort to overturn, protected only U.S. citizens from detention. In contrast, the amendment broadens protections from indefinite detention, protecting both green card holders, called ''lawful permanent residents'', as well as citizens.

At a time when civil liberties are under attack, we should not let the perfect be the enemy of the good. As Professors Lederman and Vladeck note, ''The new Feinstein amendment . . . does protect the vast majority of persons in the United States from non-criminal detention without express statutory authorization . . . .''

As I said during the floor debate on the amendment, I would support extending the protections in the amendment to all persons in the United States, whether lawfully or unlawfully present, but so far we have lacked sufficient support in the Senate to do this. Most Republican cosponsors of the bill said they would not support the legislation if it went that far.

Other critics misrepresent the language of the amendment by charging that it could be read to imply there is an authorization to indefinitely detain illegal immigrants and legal visitors in the United States. In doing this, they ignore the language in paragraph 3 that explicitly prevents such an interpretation. Paragraph 3 of the amendment clarifies that the text to be added to the Non-Detention Act of 1971 ''shall not be construed to authorize the detention of a citizen of the United States, a lawful permanent resident of the United States, or any other person who is apprehended in the United States.'' Again, don't take my word for it. Professors Lederman and Vladeck say that the amendment ''would do nothing of the sort.''

The bottom line: Indefinite military detention is incompatible with our values, and this amendment would have been a major step forward to make sure we never return to the dark chapter of American history when we detained Japanese-American citizens out of fear during World War II.

Mr. President, some have pointed to section 1029 of the conference report and said that it accomplishes what the Feinstein amendment would have done. That is not true.

The amendment offered by Congressman GOHMERT regarding habeas corpus, which is now section 1029 of the underlying conference report, does nothing except restate that constitutional rights to file a habeas claim can't be denied.

Consider the exact text of this section, which reads:

SEC. 1029. RIGHTS UNAFFECTED.

Nothing in the Authorization for Use of Military Force or the National Defense Authorization Act for Fiscal Year 2012 shall be construed to deny the availability of the writ of habeas corpus or to deny any Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would be entitled to the availability of such writ or to such rights in the absence of such laws.

This provision doesn't do anything to add to the rights of individuals inside the United States, such as citizens, because the writ of habeas corpus is a constitutional right to appear before a judge to challenge the legality of an individual's incarceration.

During the colonial period, habeas corpus was understood as a writ available to a prisoner, ordering his jailer to appear with the prisoner before a court of general jurisdiction and to justify the confinement.

In the Constitution, after enumerating the powers of Congress, the drafters inserted language guaranteeing the right to habeas when they stated, ''The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.''

So habeas is a constitutional right that already applies to all individuals found in the United States, and habeas rights even extend to noncitizen detainees held in Guantanamo, who have never even set foot in the United States.

This was the issue before the Supreme Court in the case of Rasul v. Bush, 2004 where, in a 6-to-3 opinion written by Justice John Paul Stevens, the Court found that noncitizen detainees at Guantanamo had habeas corpus rights. Justice Stevens also wrote that the right to habeas corpus is not dependent on citizenship status. The detainees were therefore free to bring a habeas claim challenging their detention as unconstitutional.

Because the Constitution already grants this right explicitly—legislation purporting to grant this right is ineffective and simply empty words, meant to make lawmakers feel good but not actually adding anything to the rights of the American people.

The question is not whether Americans still have constitutional rights to habeas. Of course that right and others that are guaranteed by the Constitution remain in place. Rather, the question is, Should the military be allowed to indefinitely detain U.S. citizens in the first place? Should we allow the military to patrol our streets and pick up citizens? I believe the answer to that question—both here in the Senate and across the Nation—is a resounding no.

So I will continue to work to correct the flaws of the Fiscal Year 2012 National Defense Authorization Act, and I look forward to the continued support of the 67 of my colleagues who voted for the Feinstein amendment this year.

I am confident that eventually we will build the support for this amendment that we need on the House side too. Therefore, it is only a matter of time before we prevail. The Feinstein detention amendment is what the American people want, and it would guarantee the fundamental liberty that they deserve.

Mr. JOHNSON of South Dakota. Mr. President, last August Congress enacted, with broad bipartisan support, the Iran Threat Reduction and Syria Human Rights Act of 2012, a comprehensive sanctions bill I coauthored. That legislation, blending various measures introduced by my colleagues with new ideas developed by the Banking Committee, imposed a range of tough new sanctions on the Government of Iran and those who do business with it. This was done to tighten further the squeeze on Iran's major revenue sources, and force its leaders finally to come clean on Iran's illicit nuclear program. The third major piece of Iran sanctions legislation to be enacted in the last 2 years, it followed the Banking Committee's Comprehensive

Iran Sanctions and Divestment Act in July of 2010, and the sanctions imposed on Iran's oil purchases 1 year ago. Those combined sanctions have had a powerful effect on Iran's economy, reducing its oil revenues by up to $5 billion per month, and causing the value of its currency to plummet.

The Defense Authorization conference report being considered today includes a set of additional measures aimed at Iran which broaden and deepen U.S. sanctions against its shipping, energy, shipbuilding and military sectors, and those who deal with entities in these sectors. They also require new sanctions against those supplying Iran certain strategic materials, and expand the sanctions net to those who provide Iran certain financial or insurance services.

All of these new sanctions, and those provided for in our legislation in August which will come online soon, will be implemented at a sensitive time, as the U.S. and our P5+1 allies prepare for what President Obama has described as a renewed push to develop a negotiated solution to this problem. The prospect of a nuclear-armed Iran is the most pressing foreign policy challenge we face, and we must continue to do all we can—politically, economically, and diplomatically—to avoid that result. In the coming months, it will become clear whether Iran will be willing finally to change course, and agree to the terms of the international community to bring an end to its illicit nuclear program, allow for intrusive international inspections of its nuclear sites and activities, and stop its continued support for terrorism and abuses of human rights. Given Iran's track record, there is considerable reason to be skeptical. But the President continues to press to resolve these issues diplomatically if possible, and if that can be done it is obviously preferable to any military alternative. Isolated diplomatically, economically, and otherwise, Iran must understand that the patience of the international community is fast running out. Iran's leaders can end the repression against their people, come clean on their nuclear program, suspend enrichment, and stop supporting terrorists around the globe, or they can continue to face sustained multilateral economic and diplomatic pressure and deepen their international isolation.

Let me say a final word about the process. The new measures contained in this bill were offered as a Senate floor amendment, and did not come through the Banking Committee. My view has always been that any innovative legislative ideas that may help force Iran to engage in successful negotiations are worthy of serious consideration. Even so, in negotiating these provisions in a hurried conference committee process, procedural objections raised by House Ways and Means Committee majority staff because of the way the new provisions were offered prompted them to insist on inserting certain exceptions related to import restrictions on certain goods. While I regret that these exceptions were added by the conferees, and think they may need to be addressed in future legislation, they cannot be allowed to weaken or undermine implementation of these sanctions or of the broader sanctions regime already in place. Our staff worked hard, on a bipartisan basis, to ensure that the final version preserves all of the President's very powerful sanctions tools provided for under the International Emergency Economic Powers Act, and does not undermine that authority in any way. I am concerned that as we forward on sanctions an approach which is inattentive to these existing authorities might actually unintentionally undermine them.

As we all recognize, economic sanctions are not an end—they are a means to an end—to apply enough pressure to secure agreement from Iran's leaders to fully, completely and verifiably abandon their illicit nuclear activities. The Banking Committee will continue to assertively oversee the President's implementation of the comprehensive sanctions regime, and do all we can to provide all the tools he needs to resolve these issues with Iran.

Mr. MCCAIN. Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank Senator PRYOR for his tremendous contribution to this bill and to this body. The fight he is waging here is the correct fight. This was not done well by the Air Force, to put it mildly. We froze it. They amended it. We have some problems with the amendment, but we had to reach a compromise with the House, which favored their modified bill, and there are some rough edges to it.

The Senator from Arkansas has very eloquently pointed out one of those rough edges. We put in this place in this bill a commission to try to avoid these kinds of problems in the future. That does not help this year. I wish it could. But, nonetheless, it is because of the efforts of the Senator from Arkansas and others, who pointed out the defects in the process this year, that we have been able to, hopefully, avoid a repetition of this in the future. I thank him for the many contributions he has made to this bill. His fight for his home State is passionate and effective, and I commend him for it.

Mr. President, I yield back our time, if we have any remaining.

The PRESIDING OFFICER. All time is yielded back.

The question is on the adoption of the conference report.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Massachusetts (Mr. BROWN), the Senator from South Carolina (Mr. DEMINT), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

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

The result was announced—yeas 81, nays 14, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—81

| | | |
|---|---|---|
| Akaka | Gillibrand | Murkowski |
| Alexander | Graham | Murray |
| Ayotte | Hagan | Nelson (NE) |
| Baucus | Hatch | Nelson (FL) |
| Begich | Heller | Portman |
| Bennet | Hoeven | Pryor |
| Bingaman | Hutchison | Reed |
| Blumenthal | Inhofe | Reid |
| Blunt | Isakson | Roberts |
| Boozman | Johanns | Rockefeller |
| Boxer | Johnson (SD) | Rubio |
| Brown (OH) | Johnson (WI) | Schumer |
| Burr | Kerry | Sessions |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Kohl | Shelby |
| Carper | Kyl | Snowe |
| Casey | Landrieu | Stabenow |
| Chambliss | Lautenberg | Tester |
| Coats | Levin | Thune |
| Coburn | Lieberman | Toomey |
| Cochran | Lugar | Udall (CO) |
| Collins | Manchin | Udall (NM) |
| Conrad | McCain | Vitter |
| Coons | McCaskill | Warner |
| Corker | McConnell | Webb |
| Cornyn | Menendez | Whitehouse |
| Feinstein | Mikulski | Wicker |

NAYS—14

| | | |
|---|---|---|
| Barrasso | Grassley | Paul |
| Crapo | Harkin | Risch |
| Durbin | Leahy | Sanders |
| Enzi | Lee | Wyden |
| Franken | Merkley | |

NOT VOTING—4

| | |
|---|---|
| Brown (MA) | Kirk |
| DeMint | Moran |

The conference report was agreed to.

Mr. HARKIN. Mr. President, as a Senator, I have no greater responsibility than to work to ensure our Nation's security. Our Armed Forces must have the tools they need to keep our country safe. That is why I support the vast majority of the provisions in the National Defense Authorization Act and why I supported the bill that passed the Senate. I particularly note provisions that increase pay and benefits for our servicemembers and retirees, ensure a drawdown of our troops in Afghanistan, allow female servicemembers access to basic health services if they are victims of sexual assault, and limit the annual increases in TRICARE prescription drug premiums. All of these provisions I support and believe are important.

I oppose this bill because I do not believe it adequately reflects our principles. I believe we can do a better job of protecting our national security without compromising important values than what is contained in this legislation.

This Nation has long been a beacon of liberty and a champion of rights throughout the world. Yet since 9/11, in the name of security, we have repeatedly betrayed our highest values. The

past administration believed it could eavesdrop on Americans without a warrant or court order. It utilized interrogation techniques long considered immoral, ineffective, and illegal, regardless of laws and treaties. And, it intentionally sought to put detainees beyond the rule of law. Thankfully, the current administration has ended the worst abuses of these practices, despite the efforts of some of my colleagues to stymie these efforts.

However, I am deeply concerned that the conference report continues us on a dangerous path of sacrificing long-held principles.

To begin, this bill fails to make clear that under no circumstance can an American citizen be detained indefinitely without trial. When the bill was considered in the Senate, I was proud to join 66 of my colleagues in supporting an amendment, authored by Senator FEINSTEIN, which sought to clarify that the law does not authorize the President to indefinitely detain an American seized in the United States and indefinitely detain them without charges and without due process. I am heartened that President Obama has made clear he will not attempt to exercise such power, but I am greatly disappointed that the conference report omitted this language.

Moreover, the bill would make it much more difficult to close the detention center at Guantanamo Bay. There simply is no compelling reason to keep the facility open and not to bring these detainees to maximum security facilities within the United States. The detention center has been, and continues to be, a stain on our Nation's honor. I agree with former Secretary of State Colin Powell who said ''we have shaken the belief that the world had in America's justice system by keeping [the detention center at Guantanamo Bay] open. We don't need it and it's causing us far more damage than any good we get for it.''

In the immediate aftermath of 9/11, the Bush administration declared a broad and open-ended ''war on terror.'' I have always considered this a flawed description of the challenge that confronted us after the 9/11 attacks. After all, ''terror'' is an endlessly broad and vague term. And a ''war on terror'' is a war that can never end, because terrorism and terrorists will always be with us. Because of the never-ending nature of this so-called ''war on terror,'' it offers a rationale for restricting civil liberties indefinitely. This is not healthy for our democracy or for our ability to inspire other countries to abide by democratic principles.

We will not overcome terrorism with secret prisons, with torture, with degrading treatment, with individuals denied basic rights. Rather, we shall overcome it by staying true to our highest values and by insisting on legal safeguards that are the very basis of our system of government and freedom.

Mr. LEAHY. Mr. President, today, the Senate voted, by voice vote, to approve the conference report to accompany H.R. 4310, the National Defense Authorization Act (NDAA) for Fiscal Year 2013. As it always does, the NDAA included a number of important provisions, including critical authorizations for our troops in uniform, for essential defense programs to promote and protect our national security both at home and abroad, and for important programs that keep ours the greatest military in the world.

The conference report approved today also includes two important provisions which I was proud to support. The Dale Long Public Safety Officers Benefits Improvements Act will fill a gap in existing law and extend the Federal Public Safety Officers/Benefits program to paramedics and emergency medical technicians who work or volunteer for nonprofit ambulance services, and their families, when they are disabled or killed in the line of duty. And important measures relating to Department of Defense law enforcement officers are also included.

While I am pleased this conference report includes important elements such as these, I remain deeply concerned about several troubling provisions that remain in the law relating to the indefinite detention of individuals without charge or trial and the conference report drops the Senate amendment we adopted to protect against abuses. The indefinite detention and mandatory detention provisions that were enacted in last year's defense authorization bill undermine our Nation's fundamental principles of due process and civil liberties, and I have worked to eliminate or fix these flawed provisions.

Earlier this month, during debate on the Senate bill, we took a positive step toward fixing these flawed provisions by adopting an amendment offered by Senator FEINSTEIN that I supported to clarify that our government cannot detain indefinitely any citizen or legal permanent resident apprehended in the United States. More than two-thirds of the Senate voted in favor of this amendment, and I viewed this as a constructive part of our efforts to undo some of the damage from last year's NDAA. During the Senate debate on the detention provisions this year, I stated again my belief that the vital protections of our Constitution extend to all persons here in the United States, regardless of citizenship or immigration status. Nonetheless, I voted for this amendment to affirm that indefinite detention has no place in our justice system.

Inexplicably, however, the Feinstein amendment was stripped from the final bill during conference negotiations between the House and Senate. Despite such broad Senate support for the Feinstein amendment, the conference report no longer expressly reaffirms that U.S. citizens and legal permanent residents in America cannot be detained indefinitely without charge or trial. Instead, we are left with the status quo of restrictions and prohibitions on the transfer of detainees that leaves us no closer to closing the detention facility at Guantanamo once and for all.

I have repeatedly said that 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. 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.

In addition to failing to rectify the indefinite detention provisions from last year's NDAA in the conference report, 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. These limitations abandon our full arsenal of powers. I remain concerned 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.

I find the detention provisions enacted through last year's NDAA and the failure to fix them this year deeply troublesome. I am also concerned about the extension of overly burdensome restrictions and conditions on the transfer of detainees from Guantanamo, even those who have already been found to have had no connection to terrorism. These provisions do not represent Vermont values, they do not represent American values, and they have no place in this world. As a result of the failure of the conferees to seriously address these fundamental wrongdoings and support the principles of our Constitution, I am unable to support final passage of this year's NDAA. Moving forward, as I did last year, I hope to foster a broader discussion about these issues and work to

make concrete changes to protect American values and champion 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.

There is one additional provision that has been excluded from this conference report that is of concern to me and a number of Senators and Congressmen. Both the House and Senate approved in their defense authorization bills language to freeze Air National Guard and Air Force Reserve manpower and force structure in the wake of the Air Force's announced intention to disproportionately target the National Guard as it prepared for Budget Control Act cuts. I joined Senator GRAHAM, Representative HUNTER and Representative WALZ in leading a letter to the conferees signed by 87 members of Congress in support of continuing the freeze and preserving the National Commission on the Structure of the Air Force which was included in the Senate-passed Defense Authorization Act.

I was surprised to see that the conferees rewrote these provisions, instead adopting in this conference report an Air Force proposal that had been neither reviewed nor debated by either chamber. While the final conference report does preserve the National Commission on the Structure of the Air Force, I believe it does not go far enough to protect the fundamental needs and strength of our Air National Guard.

I will continue to work with others here in Congress who believe, as I do, that the Guard represents much of what is best about our country's military.

## UNANIMOUS CONSENT AGREEMENT—H.R. 1

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader.

Mr. REID. Mr. President, I have a unanimous consent agreement. If everyone would be patient, we have two votes.

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with Senator MCCONNELL, the Senate proceed to the cloture vote with respect to the substitute amendment to H.R. 1; that if cloture is not invoked, the majority leader be recognized; that if cloture is invoked, Senator TOOMEY or designee be recognized for the purpose of raising a budget point of order against the pending substitute amendment; that if the point of order is raised, Senator LEAHY or designee be recognized to move to waive the budget point of order; that there be 10 minutes of debate prior to a vote in relation to the motion to waive; that no other budget points of order be in order to the substitute or the underlying bill; that not withstanding rule XXII, the following amendments be in order: Cardin No. 3393; Grassley No. 3348; Feinstein No. 3421, as modified; Harkin No. 3426; Landrieu No. 3415; Leahy No. 3403; McCain No. 3384, as modified; Bingaman No. 3344; Coburn No. 3368; Coburn No. 3369; Coburn No. 3370, as modified, with two divisions; Coburn No. 3371; Coburn No. 3382; Coburn No. 3383; Tester No. 3350; Paul No. 3376; Paul No. 3410; McCain No. 3355; Merkley No. 3367, as modified; Lee No. 3373, as modified; and Coats No. 3391; that no amendments be in order to any of these amendments prior to votes in relation to the amendments; that the amendments be subject to a 60-affirmative-vote threshold; that there be 30 minutes of debate equally divided in the usual form on each of the amendments, with the exception of the following: 20 minutes equally divided on each of the Coburn amendments or divisions and the Lee amendment; and 40 minutes equally divided on each of the Paul amendments; and 1 hour equally divided on the Coats amendment; that upon the use or yielding back of time, the Senate proceed to votes in relation to the amendments in the order listed; that there will be 2 minutes of debate equally divided between the votes; that all after the first vote be 10-minute votes; further, that upon disposition of the pending amendments listed, the Senate proceed to vote in relation to the pending substitute amendment, as amended, if amended; that upon disposition of the substitute, the cloture motion on the underlying bill be withdrawn, the bill be read a third time, and the Senate proceed to vote on passage of H.R. 1, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the majority leader indicated that when we have the point of order, I or my designee be recognized. I ask that the distinguished senior Senator from Maryland, the chair of the Appropriations Committee, be the designee.

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

## CLOTURE MOTION

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 3395 to H.R. 1, an act making appropriations for the Department of Defense and other departments and agencies of the Government for the fiscal year ending September 30, 2011.

Harry Reid, Patrick J. Leahy, Benjamin L. Cardin, Mark Begich, Joe Manchin III, Tom Harkin, Jeff Bingaman, Mary Landrieu, Christopher A. Coons, Amy Klobuchar, Bill Nelson, Debbie Stabenow, Jack Reed, Kirsten E. Gillibrand, Tom Udall, Bernard Sanders, Sheldon Whitehouse

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call will be waived.

The question is, Is it the sense of the Senate that debate on substitute amendment No. 3395, offered by the Senator from Nevada, Mr. REID, to H.R. 1, an act making appropriations for the Department of Defense and other departments and agencies of the government for the fiscal year ending September 30, 2011, and for other purposes, shall be brought to a close?

Mr. REID. Mr. President, I ask unanimous consent that this vote and the next vote be 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Massachusetts (Mr. BROWN), the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. COBURN), the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 91, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—91

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

NAYS—1

Kyl

NOT VOTING—7

| | | |
|---|---|---|
| Brown (MA) | DeMint | Moran |
| Burr | Inhofe | |
| Coburn | Kirk | |

The PRESIDING OFFICER. On this vote, the yeas are 91, and the nays are