United States
*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, FIRST SESSION

*Vol. 157* WASHINGTON, THURSDAY, NOVEMBER 17, 2011 *No. 176*

# *Senate*

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Eternal God, let Your peace that passes understanding be felt on Capitol Hill. Remove distracting priorities from the minds of our Senators, leading them to focus on the things that really matter. Take away disturbing doubts, providing them with certitude regarding Your providential power and purpose. Eradicate false ambition, as You make them content to serve You where they are and as they are.

In a special way, guide the supercommittee in its challenging work. And, Lord, as we enter this season of gratitude, make us truly thankful.

We pray in Your strong Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, November 17, 2011.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
*President pro tempore.*

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Following leader remarks, the Senate will be in a period of morning business for 1 hour. The Republicans will control the first half and the majority will control the final half. Following morning business, the Senate will begin consideration of S. 1867, the Department of Defense authorization bill.

We expect to receive the conference report to accompany H.R. 2112, the Agriculture, CJS, and Transportation appropriations bill, which also contains the CR, during today's session. The information I have gotten from the House—and it could change—is that it will be late. I spoke to Senator LEVIN earlier today. It appears we will have to be in session to try to work through some of that bill, anyway, tomorrow, so we may not be able to complete the conference report and the continuing resolution today. We will see what develops as the day goes on.

## CBO REPORT

Mr. REID. This week, the nonpartisan Congressional Budget Office, known as the watchdog of the Senate, confirmed what Democrats have been saying for months—that the so-called Republican jobs plan isn't much of a plan and it wouldn't create any jobs.

The Congressional Budget Office report analyzed different approaches to spurring economic growth and jobs proposed by both parties. Among the top job creators were Democratic proposals to extend unemployment benefits and cut middle-class taxes. But when the CBO looked at the GOP plan to eliminate safeguards that protect lives, save money, and shield the environment, it concluded that the idea was a flop. The study concluded that the effects of the changes the Republicans propose would be negligible at best and at worst could actually lower economic growth and slow hiring.

Although their plan would have no positive effect on our economy, the Republicans want to gut the safeguards that saved hundreds of thousands of lives just last year alone. Although their plan could potentially slow economic growth, they want to gut the safeguards that save American companies and consumers $1.3 trillion each year by increasing productivity and reducing medical bills. Nonpartisan experts agree this is not the road to recovery. They also agree with Democrats that putting money back into the pockets of middle-income families and small businesses with tax credits and refunds and extending unemployment benefits is the most efficient way to get Americans working again to turn our economy around. Families who have more money to spend will pump it back into the economy. Businesses that have more money to spend will hire new workers. At a time where we need to conserve every dollar and get the most bang for the buck, these proposals do more with less.

As we continue to discuss ways to combat high unemployment in the coming months, it would behoove my Republican colleagues to remember that not all proposals are created equally. When we consider our next jobs bill in December, my Republican friends will once again face a choice: We can cling to ideological proposals we know won't work or they can join forces with Democrats to pass proposals we know will create jobs. I hope the Republicans prove to be more interested in getting results than in getting their way.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## JOB CREATION

Mr. MCCONNELL. Over the past few weeks, I have repeatedly come to the floor to highlight the good work Republicans in the House have been doing in identifying jobs legislation on which the two parties can actually agree. At last count, House Republicans had passed 22 jobs bills which were designed not only to incentivize the private sector to create jobs but which were also designed to attract strong bipartisan support. In other words, House Republicans have been designing jobs legislation that could actually pass. They have been legislating with an eye toward making a difference instead of just making a point.

I have been encouraging the Democratic majority here in the Senate to follow the House's lead, take up these bipartisan jobs bills, pass them here in the Senate, and send them to the President for signature. That way we would actually be helping to create jobs, and we would send a message to the American people that we can actually do something many of them think we don't do enough of around here; that is, work together.

This morning, I would like to call on my Democratic colleagues once again to take me up on the offer. Once we get back from Thanksgiving, let's take up these bipartisan bills that have already passed the House, pass them here in the Senate, and send them down to the President for signature. We showed we can do it last week when we worked together to pass Senator BROWN's 3 percent withholding bill and Senator MURRAY's Veterans bill. In fact, yesterday the House passed this legislation 422 to 0, sending it to the White House for the President's signature. So I would like to call on the President this morning to invite Senator BROWN down to the White House for the signing ceremony, which would show the American people that cooperation is, indeed, possible when the Senate focuses on bipartisan job-creation solutions.

Let's continue to build off that momentum and do more. Many of the bipartisan House-passed bills already have companion or similar legislation here in the Senate. There is no reason we can't start to take them up as soon as we get back. There is a lot we could do.

Yesterday, I highlighted a bill by Senator COLLINS, the EPA Regulatory Relief Act. It has strong support from both Republicans and Democrats right here in the Senate, including 12 Democratic cosponsors. Let's pass it. The House-passed version of this bill passed overwhelmingly. It got more than 40 Democratic votes. It is supported by more than 300 business groups, including the American Forest and Paper Association, the National Association of Manufacturing, the U.S. Chamber of Commerce, the National Federation of Independent Business, and the Business Roundtable. According to one estimate, this bill could save more than 200,000 jobs and provide greater certainty for businesses that are asking us for it. The EPA has asked for more time. Both parties support it. Let's pass it.

Once we pass that bill, we should take up the four other bipartisan House-passed bills I highlighted last week. These four bills would help businesses raise capital, expand their businesses, and create more jobs. They all passed with bipartisan support over in the House. We have bipartisan companion or similar legislation right here in the Senate. What is the holdup? Let's pass these bills too.

There is the Small Company Capital Formation Act, cosponsored by Senators TESTER and TOOMEY. Its companion legislation got 183 Democratic votes in the House. Let's pass it.

There is the Community Bank Resource Improvement Act, cosponsored by Senators HUTCHISON and PRYOR. Its companion legislation in the House got 184 Democrats. Let's take it up and pass it.

There is the Private Company Flexibility and Growth Act, cosponsored by Senators TOOMEY and CARPER. Let's pass it.

There is the Democratizing Access to Capital Act, sponsored by Senator SCOTT BROWN. A similar bill in the House passed with 407 votes, including 169 from Democrats. Let's pass it.

There is the Access to Capital for Job Creators Act, cosponsored by Senator THUNE. It passed the House with 413 votes, including 175 Democrats. Let's pass it.

And we shouldn't stop there. As I see it, there is no reason we shouldn't take up every one of these bipartisan bills that have already passed the House once we get back and pass them, one by one. They all passed the House on a bipartisan basis. They all help the private sector create jobs. There is no good reason we shouldn't take up all these bills and pass them right here in the Senate because if we can't pass jobs legislation on which we all agree, then what are we going to pass? This should be a layup.

The Republican House has done its job. It is time for the Senate to act. Let's do what the American people expect us to do. Let's take up these jobs bills when we return, pass them, and send them down to the President for signature. Let's do the work we were sent here to do.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

## THE FINANCIAL FUTURE

Mr. SESSIONS. Mr. President, once again we find ourselves in a too familiar position. Secret meetings over the financial future of our country are being held as we head toward the final hours—really final minutes as has been the pattern around here—of an agreement that will be produced for us and expected to be passed by a committee of 12. It is less than a week until the deadline and no language has been made public.

The American people should be able to make their voice heard before the committee votes because the truth is, once that vote happens there will be no opportunity to change their product. It will be up or down, the train will have left the station. The bill will, hopefully, be a good bill that can pass but we will not have any opportunity to amend it.

That is not the way Congress was set up to work. I happened to catch, this morning, a statement by former Secretary of Defense under President Bush and President Obama, Robert Gates. This is a statement he made in an interview:

> I think, frankly, the creation of this supercommittee was a complete abdication of responsibility on the part of Congress. It basically says, ''This is too hard for us. Give us a BRAC. Give us a package where all I have to do is vote it up or vote it down and I don't have to take any personal responsibility for the tough decisions.'' So now we are left with this Sword of Damocles hanging over the government, hanging over defense, and if these cuts are automatically made, I think the results for our national security will be a catastrophe.

That is what the former Secretary of Defense said recently.

Admiral Mullen, when asked about this in response to a question I asked him at the Armed Services Committee—the then-Chairman of the Joint Chiefs said, if this sequester takes place:

> It has a good chance of breaking us and putting us in a position of not keeping faith with this all volunteer force that has fought two wars. . . . It will impose a heavy penalty on developing equipment for the future, and it will hollow us out.

One of the reasons I am here this morning is to issue a warning and call attention to some matters that I believe are important. People will make many promises about what this deal will be about if it passes and they reach an agreement. Hopefully they will reach an agreement that is one that can be honestly defended and we

will all be happy to vote for it. But what we have seen so far indicates that secret deals, while they remain secret, are promoted to be far better than they are when you begin to see what is in them. The devil will always be in the details.

Yesterday on the floor I spoke about the Budget Control Act disaster funding gimmick. Over 10 years, the cumulative cost of this gimmick will be about $140 billion to the Treasury, including interest. Done with just a few words tucked into the bill, people did not understand the effect of disaster provisions. It came out in the eleventh hour into the final agreement and people voted on it without fully understanding what it meant. So just a few words can dramatically alter the future fiscal situation of our country.

The record of broken promises is long, improvident promises about what a bill would do. Many deals have been proposed that have promised serious spending cuts and minimal tax increases only for the reverse to be actually true.

Let me run down a brief list: The President's budget, submitted earlier this year, was accompanied with the President's claim that it ''does not add to our debt.'' Clearly, one of the most dramatic, erroneous, blatantly false statements ever issued by a President of the United States. The reality is, that budget would double the debt of the United States in 11 years. That budget would have as its lowest single annual deficit, according to CBO, an annual deficit of $724 billion with deficits in the years 8, 9, 10 up to $1 trillion again. It increased spending, it increased taxes, and it increased the debt more than if we had done nothing.

Then the Senate Democrats talked about a budget I called a phantom budget. We have not had one in the Senate for 932 days. So they talked about a budget, and they made some claims, but we never saw it in detail—never saw the detail. But they claimed it had $2 trillion in spending cuts and $2 trillion in tax hikes, $1 of tax hikes for every $1 of spending cuts.

The President, earlier this year, acknowledged that we should have $3 of spending cuts for every $1 of tax increases. Of course, that has been abandoned now. But the reality was that the phantom budget was talked about but never produced—but an outline was produced—actually added, we think, $2 in tax hikes for every $1 in spending cuts.

Then, Senator REID, during the effort to raise the debt limit, his revised proposal claimed $2.4 trillion in deficit reduction. The reality was they were counting $1.1 trillion in savings from war costs because the CBO assumes that war costs would be the same for 10 years. It was never going to be the same for 10 years. We are always going to bring the war costs down as soon as possible. It is a phony claim that we should reduce spending by $1 trillion by claiming credit for war costs that we are on a steadfast path and have been to reduce.

The President's supercommittee proposal that he submitted to this committee of 12 claims $2 in cuts for every $1 in taxes. But the reality, as we see it, there are no real cuts and 100 percent of the reduction will come from more taxes, more spending, more debt so far. So if this committee proposes a solution and asks us to vote for it, here are some things we should look for and not be happy with, if they are in the bill. The pattern has been—I would say for the promoters of these agreements—to spin them to sound better than they are.

One of the things we should look out for are claims of spending reductions that occur by setting a cap on war spending, as I indicated. The money was never going to be spent. Some are claiming $1 trillion in savings from that and it should not be counted. Another thing we would look at are front-loaded promises, front-loaded revenue increases, tax increases that occur now along with back-loaded promises of spending cuts in the future—in the outyears then they claim these savings. But the pattern around here is that once a tax increase is passed, it is there, but a promise of a spending cut in the future very often does not become a reality. We know that. That is the pattern that has put us in such a desperate financial condition today, just that kind of activity. So whatever happens this time, this cannot be part of the process.

We need to watch for a plan that would rely on directions to standing committees in the House and Senate to, at some point in the future, produce legislation that might reduce entitlement spending and/or would raise revenue.

These committees have not followed through on that in the past, and the supercommittee's directions to them, we have to know, are not likely to occur based on history around here. That is the historic reality. Just directing a committee to raise taxes or cut spending does not at all mean they are going to do it.

Another thing we need to watch out for is if the committee makes unrealistic cuts to programs without reforming those programs, such as the current assumed annual cuts that are in law today to health care providers, doctors, and hospitals to cut their reimbursement rates. Congress knows we cannot go forward with those cuts, and they have been avoided every year by borrowing money to pay to avoid very serious cuts to our providers that, if not paid, would quit doing Medicare and Medicaid work. Doctors don't have to do that. It is just at a point we cannot cut providers anymore.

Another thing we need to watch out for is a plan that assumes unrealistic changes to the Congressional Budget Office baseline. One of the things is to assert overly optimistic economic growth projections for the next 10 years. More and more we are hearing that coming out of this recession is going to be a long, tough, slow slog. If we want to spend more money and claim to have a budget that improves our financial situation, one way to do it is to just assume more growth than is actually going to occur, that the experts don't believe will actually occur. If we do that, that is phony accounting. Our numbers may look better today but not as the years go by. That is the kind of thinking that has gotten us in the deep debt hole we are in today.

Another thing to watch out for is the claim that interest savings derived from tax increases are spending cuts. Interest expense—and it is substantial for our country—is a byproduct of spending and taxes. If you drive up debt, our interest payment will go up. If we raise taxes and reduce the deficit, then interest rates drop. We can't count the interest reduction as a spending cut. That is not cutting any real spending. That is just avoiding a future interest growth that would have occurred if we haven't done it. I don't think we should count—and we must not count—interest reductions either from tax increases or spending cuts as a spending cut.

I would also like to talk about the Defense cuts, briefly. Majority Leader REID said this just yesterday, I believe:

> If the committee fails to act, sequestration
>
> That is, automatic cuts—
>
> is going to go forward. Democrats are not going to take an unfair, unrealistic load directed toward domestic discretionary spending . . . and take it away from the military.

In other words, take the cuts away from the military. The automatic cuts that would fall on the military, which are, as Admiral Mullen, the former Chairman of the Joint Chiefs said, will hollow us out.

These automatic cuts are odd. Many programs with rising costs are protected from any cuts. Cuts are prohibited against the Medicaid Program and the surging Food Stamp program, but the Defense Department, which is already slated to take $450 billion in cuts, is facing another $600 billion in cuts, according to the Department of Defense. It would be a nearly 20-percent net reduction in Defense over the next 10 years. It would be the most severe hammering of the Defense Department, while protecting other programs from any cuts. It is not legitimate. Yet the majority leader is pushing back and saying this is perfectly legitimate. He is not going to have cuts in non-defense discretionary spending. He wants them to fall on the military.

The majority leader's comments suggest that the Defense increases have increased faster than domestic discretionary spending, but nothing could be further from the truth. From fiscal year 2008 to 2011, the Defense budget increased—base budget—by just 10 percent. Meanwhile, education spending surged 67 percent over the 2009 through 2011 period, compared to the previous three year period.

The ACTING PRESIDENT pro tempore. The minority time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent to have one additional moment.

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

Mr. SESSIONS. Mr. President, we are at a historic point. I believe this Congress has taken a great risk in turning over to a committee of 12 this responsibility. It is going to be difficult for them to reach an agreement. If they don't, damaging sequestration could occur. If they do reach an agreement, we have to be sure it is an honest agreement that actually achieves what they promised, which is—at a minimum—$1.2 trillion worth of deficit reductions. We need $4 trillion—as every expert has said—over 10 years in savings to begin to put this country on the right path. We are nowhere close to that.

I feel like the country is going to have to take some tough medicine. I hope the committee can help us get there. I do not approve of the process, but hopefully it will work and maybe we will not repeat it in the future.

I thank the Chair.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

## UNEMPLOYMENT CRISIS

Mr. REED. I rise to underscore a crucial challenge facing our Nation. There are 14 million Americans who are looking for work. Six million have been unemployed for more than 6 months, and the average length of unemployment is 40 weeks, the longest average in more than 60 years. These are dire circumstances. They must be changed, and we know how to do it. We know how to address our immediate unemployment crisis.

We must enact policies that will put Americans back to work and strengthen our economy. Congress can start by passing the American Jobs Act. The American Jobs Act is a blueprint for boosting our economy. It contains policies that most Americans, and virtually all economists, agree government should do in order to help our economy grow.

It would provide relief to the middle class. It would help small businesses grow and hire. It would invest in our Nation's bridges and roads and schools, help stabilize our housing market and provide aid to States so teachers and first responders can stay on the job.

Congress must also renew basic policies such as Federal unemployment compensation programs that have been a lifeline to the unemployed, their families, businesses and to States and economies throughout this Nation. If we do not extend unemployment benefits by the end of the year, 2 million Americans will lose their benefits by February 2012. This would be disastrous for them and for the local businesses that depend upon these people being able to still go out and get a cup of coffee or go out and buy the essentials of life. It would be disastrous for States that, again, depend on that type of economic activity in our national economy.

This is why I joined several of my colleagues to introduce the Emergency Unemployment Compensation Extension Act of 2011. If Federal support for unemployment benefits is not extended, the economy could lose $72 billion in economic activity, endangering up to 560,000 jobs nationwide—in my State the estimate is 2,300 jobs would be lost—simply because we will again shrink demand as people who are relying on just getting by with an unemployment check no longer even have that—those few dollars—to get by.

These proposals should be nonpartisan and in the past they have indeed garnered both Democratic and Republican support. Unfortunately, in the midst of the deepest and longest unemployment crisis our Nation has faced since the Great Depression, too many of our Republican colleagues have chosen simply to delay and to deny the reality of millions of Americans who are looking for work, underemployed, struggling to get by day to day.

In January 2008, before the economic crisis took hold, the unemployment rate was 5 percent. It ultimately peaked at 10.1 percent nationally in October of 2009. This massive, sudden drop in employment was precipitated by one of the worst financial crises we have ever seen in the history of the country. This crisis was caused by excessive risk taking by financial institutions, lax regulations and, in the minds of so many Americans, out and out greed.

Since that 10.1-percent high of unemployment in October of 2009, the unemployment rate has trended downward, but not fast enough. The national unemployment rate has hovered around 9 percent since January of this year. The fact remains that the economy is generating more jobs than it was under the policies of President Bush, particularly in the last year of his administration, but it is still not generating enough jobs. As we saw with the most recent unemployment report, businesses are hiring despite some strong headwinds, particularly the economic dangers from Europe. In October, the economy added 80,000 jobs and the unemployment rate came down from 9.1 percent to 9 percent. That is the right direction, but not the right speed, not the right momentum, not the right response to this crisis. The economy still has 6.6 million fewer jobs than at the beginning of the 2007 recession, and the rate of job growth is, as I said, simply too slow. Adding 80,000 jobs keeps us a bit afloat, but it doesn't allow us to have the momentum to move the economy forward, which we need.

If we continue to see sluggish job growth with an average 125,000 payroll jobs added per month—and that is the pace this year—it will take us an additional 52 months—not weeks—52 months to get back to the prerecession levels of payroll employment. If we pick up job growth—say to 200,000 jobs per month, which is, again, exceeding the current pace, but not the kind of spectacular pace we need—it still will take an additional 33 months to get back to pre-Bush recession levels in employment. This persistently high unemployment rate and anemic growth have correctly been described as a national crisis.

But more important than the findings of economists and those who are studying the policy effects of this is the damage that this crisis is inflicting upon the families and communities of America. Combined with the fact that middle-class families have not seen a real increase in their family income in 10 years, and now they have seen this high unemployment, this is a double whammy. At the same time, some essentials such as food and fuel have become more expensive. We cannot overstate the difficulty that so many families are seeing: 10 years, effectively, without any real growth in their income, increased prices in essentials, and a job market that is weak, at best, although slightly improved.

That is why what we have to do here is literally get Americans back to work, to give them not only the resources but the confidence that the days ahead will be much better. This crisis requires the full attention of Congress, as well as action, not just discussion. We cannot afford further inaction. We cannot again indulge in a period of time where we were borrowing to pay for two major conflicts.

I note my predecessor from Alabama talking about the military budget. Since 2001, we have fought two major conflicts in Iraq and Afghanistan and we have not raised the revenue to support those efforts. We have put them on the backs of future generations of Americans and on the backs of Americans today who are facing this job crisis. We have to work, to put people to work, to end this problem.

Unfortunately, I fear that, as I have said before, many of my Republican colleagues are simply engaged in delay, which might be politically expedient, but it is not helping the families of America.

Economists who are studying this economy, both national and international, have been emphatic that we have to put policies in place to get people back to work. Many of these policies are encapsulated in the American Jobs Act, which has been repeatedly rejected by my colleagues on the other side. They voted down two parts of the bill we pulled out, one being the Teachers and First Responders Back to Work Act that would have created or protected 400,000 education jobs, kept thousands of police and firefighters on the job, and helped local communities as they are struggling to keep afloat.

They also rejected the Rebuild America Jobs Act, which would have made

an immediate investment of $50 billion in our highways, transit systems, railways, and aviation infrastructure. Frankly, I don't know any American in any part of this country who does not get the idea that we have to begin and continue to reinvest in our infrastructure. Every American can point to a bridge that is failing. They can point to congestion on the highways. They can point to projects that are so necessary not only for the long-term activity of the country but for the immediate employment of our citizens.

The rejection of these efforts is based on one simple fact: that we are asking the wealthiest Americans to pay for these initiatives. No longer are we going to put it on the back of future generations as we have with a decade of foreign conflicts and other programs such as the Medicare Part D expansion. We are trying to be fiscally responsible not only to propose ways to put people to work but also to pay for those measures now. That is what my colleagues object to. They seem to be more concerned about that 1 percent that is talked about than the rest of Americans who need work—not just directly, but their communities need the work so they can prosper along with the Nation.

All of this delay has been accompanied by their proposals, but their proposals always seem to rely upon austerity: We will have to cut more and more and more. But I don't think this single-minded focus on austerity is going to lead to the kind of growth we need. In fact, there are many analysts and economists who argue that the austerity measures being suggested are counterproductive to growing the economy; that, in fact, they lead to higher unemployment and lower wages.

For example, a recent IMF study talking about the consequences of pursuing an agenda focused on austerity found that an austerity program that curbs the deficit by 1 percent of GDP reduces real income by about .6 percent and raises unemployment by .5 percent. So the notion that we can simply cut our way to employment growth is not substantiated by fair-minded analysis.

For example, again, Gus Faucher of Moody Analytics examined the most recent proposal offered by my colleagues Senators MCCAIN and PAUL and said that the Republican proposal wouldn't address the causes of the current weakness in the short term and in fact it would be harmful.

The Congressional Budget Office looked at a broad range of policies from both parties and concluded that reducing taxes on business income and repatriation of foreign income are the most ineffective and inefficient tools for growing jobs. These two measures seem to lead the list of the proposals on the other side of the aisle. Also, the idea of providing more tax breaks to corporations and the wealthy to create jobs is not supported by the record. Bush-era tax breaks for the wealthiest resulted in mediocre growth for our economy and declining wages for the middle class over the period of 2001 to 2008, 2009.

Instead of bringing forth or supporting issues that will actually put Americans to work, my colleagues on the other side want to reframe the issue. They want to talk about burdensome regulations, and this argument doesn't stand up, either.

Mr. President, let me conclude by making a point which I think is very important, because this notion of simply striking away all the regulations and we will have this miraculous growth in employment is not substantiated by careful analysis.

Since 2007, the Bureau of Labor Statistics has tracked reasons behind mass layoffs. Among the reasons an employer can cite for layoffs is ''government regulation.'' The data shows that government regulation accounted for a minuscule .2 percent of layoffs. These are the managers and leaders of these companies checking the box as to what is causing them to lay off people. Instead, employers cite a lack of demand as a reason for 39 percent of the layoffs in 2008 to 2010. Indeed, if regulations are driving unemployment, one would expect to see job losses and high unemployment rates in sectors of the economy where regulation has increased, such as the financial services sector. However, in the financial services sector, the unemployment rate is much lower than the national average. In fact, it is at 5.8 percent. Meanwhile, domestic financial firms have posted extraordinary record profits in the first two quarters of 2011. So this notion that eliminating regulations is going to miraculously solve our problems is not substantiated by the evidence we are collecting.

What we need to do is put people back to work. The programs in the American Jobs Act will do that. I hope that will be recognized and accepted so we can move quickly to pass it.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

## CONSUMER PRICE INDEX FOR ELDERLY CONSUMERS ACT

Mr. BROWN of Ohio. Mr. President, first of all, I appreciate Senator REED's comments about the state of this economy and what the supercommittee is doing and the direction we need to go on all of these tax issues and all of these spending issues. He is so right.

We know several things about Social Security. We know it has been around for 75 years. We know if we do things right here in Congress, it will be around for another 75 years. We know it makes a huge difference in the lives of our citizens and our constituents in Oregon, in Ohio, in Rhode Island, and all over this country. We know that more than half of seniors in my State who are on Social Security get more than half of their income from Social Security, and it plays such an important role in their lives. We also know that until recently, there was not a cost-of-living adjustment for seniors. We know that over the last 2 years, even though the President and the majority in the Senate—the Democrats in the Senate and in the House—voted for a $250 one-time payment for seniors to help them deal with the increase in costs of their health care—except for that, we know that Social Security beneficiaries in this country didn't get a cost-of-living adjustment for 2 years.

We also know—and the Presiding Officer, the Senator from Oregon, is working with Senator MIKULSKI from Maryland and me on legislation to fix this. We also know the cost-of-living adjustment is, pure and simple, understated because the cost-of-living adjustment seniors usually get—never quite enough to keep up with their expenses—is based on the cost of living for a working person, for someone in his fifties or forties or in her thirties or twenties.

For someone who is working full time, their cost-of-living increase is different than a senior's cost-of-living increase because if a person is 70 years old, they are much more likely to have higher health care costs than if they are 30 years old.

So, historically in this country, we do a Consumer Price Index-W, ''wages''—CPI-W. It is based on a 30- or 40- or 50-year-old who is working full time, their cost of living. We are not basing it on the cost of living of a senior citizen who consumes, if you will, much higher health care, who has much higher health care costs.

That is what the legislation Senator MERKLEY and Senator MIKULSKI and I are working on: CPI-E, Consumer Price Index for the Elderly, reflecting their real costs. Why should a senior's cost-of-living adjustment be based on a 30-year-old's cost of living instead of a 70-year-old's cost of living? That is clearly why we need the change.

We also know another thing about Social Security. We know some conservative politicians in this institution—mostly Republicans, not quite entirely—we know some conservative politicians in this institution want to change the Consumer Price Index the other way, to make it even smaller.

For 2 years in a row, there was no increase, no COLA, no Consumer Price Index increase, no extra dollars to keep up with burgeoning health care costs for seniors. We know that did not happen for 2 years. There are people in this institution—many of whom have never supported Social Security to begin with all that much, frankly, to be honest—who want to see a smaller cost-of-living adjustment. It is something called chained CPI. I will not go into the details about how it works, but it

basically says to seniors: Whatever you are spending money on—if you are buying apples, for instance, then you could buy bananas. My staff says bananas are cheaper. We had an argument about that, whether bananas are cheaper per calorie and per weight and all that. But, nonetheless, they say to seniors, under this chained CPI thing—some conservative think tank, some corporate-funded, insurance company, drug company-funded think tank, I assume, came up with this bizarre idea of CPI chained—they say to seniors: You can pay less for things because you can do substitutions of food—from beef to chicken or from apples to bananas or from something to something—and save money.

Most seniors have already made those substitutions in their buying habits because they are already squeezed because the cost-of-living adjustment has not kept up with their health care costs. That is the whole point. So instead of our moving to reduce the cost-of-living adjustment, going to this chained Consumer Price Index, chained CPI, we should move away from CPI-W, based on wages, to CPI-E, meaning what elderly people's costs are as their health care goes up.

It will mean several hundred dollars in the monthly benefit a senior receives. Let me give those numbers, and then I will wrap up.

For the average person who retired in 1985, that person would get about an $887 increase, if it was the way Senator MERKLEY and Senator MIKULSKI and I want to change Social Security. That CPI, that increase, would then go up a little bit over time, so seniors would, in fact, be able to keep up with their health care costs. That is the importance of this change. That is the importance of our legislation. We cannot go the other way, chained CPI.

The last point I will make is, these conservatives who do not much like Social Security—some of them are Presidential candidates, I might add—they will say: We cannot afford this. The budget deficit is not because of Social Security. It is because of a bunch of other factors. Social Security is not part of this budget deficit. We know how to do minor changes to fix Social Security long term and take care of seniors and their health care needs and their increased costs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, I am pleased to rise this morning to support the adoption of a consumer price index for Social Security that would accurately reflect the costs our senior citizens actually face.

I am delighted to join the Presiding Officer, Senator BROWN of Ohio, in this effort, along with Senator MIKULSKI of Maryland. Social Security is a promise, a bond between our government and our senior citizens.

Our senior citizens have worked hard their whole life and paid into Social Security every step of the way. They expect Social Security will be there for them when they retire.

Over the past few years, I have heard from many Oregon seniors who are making ends meet on a fixed income. They ask me: Why is it we are not getting a cost-of-living adjustment, a COLA? Because our costs are rising. They have been deeply disturbed to know, with these fixed incomes and these rising costs, they are being squeezed in the middle.

I explain to them in these townhalls it is because the COLA is calculated not on what seniors face in their costs but upon what a broad cross-section of working people face. They tell me: Senator, that is different than the costs we face. We are at a different point in our lives. Health care becomes a huge component. They tell me: I can tell you, Senator, health care costs are not going down.

Some in this Chamber are coming forward with a proposal that would make it even harder for our seniors. It would use a new calculation: not this standard ''cross-section of America COLA'' we are currently using but what is referred to as a chained CPI. That chained CPI says: If the price of this goes up, you can buy that. Actually, what it does is go in the wrong direction in terms of accurately reflecting the costs our seniors face in retirement.

If we take someone who is 65 today and we look down the road, by the time they are 75, this chained CPI would cost them $560 per year—roughly a month's rent. By the time the average 85-year-old has their payment calculated, the chained CPI would cost them $984 per year; the average 95-year-old: $1,392 per year.

At a time when the best off Americans are paying less than ever before, it is simply wrong to shift costs on to our seniors and the most vulnerable in our society.

There is an alternative. It is called the CPI-E. The Consumer Price Index for our seniors or elderly. I prefer to think of it as the CPI-E for ''experienced.'' Our most experienced citizens face different costs than the rest of us. The CPI-E would track inflation specifically based on the basket of goods those aged 62 and older are purchasing.

It is simply a fairer and more accurate way to calculate the benefits for our seniors. If their costs are rising slower than the overall costs for society, it would reflect that. If their costs are rising higher than the overall pace of inflation, then that would be reflected. Either way, it is fair.

We have to ensure we are keeping our promise to our senior citizens in a way that accurately reflects the reality of living in this country. This bill for the CPI-E or Consumer Price Index for the experienced is the best way to achieve that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1867, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 1867) to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, the Republican leader is on the floor. He is going to offer an amendment. The one on this side is not ready. There has been an agreement, and I ask unanimous consent that Senator MCCONNELL be allowed to lay down his amendment. When the one on the Democratic side is laid down, which will be momentarily, it will be considered the first amendment in order.

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

The Republican leader.

AMENDMENT NO. 1084

Mr. MCCONNELL. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. KIRK, proposes an amendment numbered 1084.

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

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

The amendment is as follows:

(Purpose: To require the President to impose sanctions on foreign financial institutions that conduct transactions with the Central Bank of Iran)

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

**SEC. 1243. IMPOSITION OF SANCTIONS ON FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT TRANSACTIONS WITH THE CENTRAL BANK OF IRAN.**

Section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

''(h) IMPOSITION OF SANCTIONS ON FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT TRANSACTIONS WITH THE CENTRAL BANK OF IRAN.—

''(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, the President shall—

''(A) prohibit the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted any financial transaction with the Central Bank of Iran; and

''(B) freeze and prohibit all transactions in all property and interests in property of each such foreign financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

''(2) EXCEPTION FOR SALES OF FOOD, MEDICINE, AND MEDICAL DEVICES.—The President may not impose sanctions under paragraph (1) on a foreign financial institution for engaging in a transaction with the Central Bank of Iran for the sale of food, medicine, or medical devices to Iran.

''(3) APPLICABILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies with respect to financial transactions commenced on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.

''(B) PETROLEUM TRANSACTIONS.—Paragraph (1) applies with respect to financial transactions for the purchase of petroleum or petroleum products through the Central Bank of Iran commenced on or after the date that is 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.

''(4) WAIVER.—

''(A) IN GENERAL.—The President may waive the application of paragraph (1) with respect to a foreign financial institution for a period of not more than 60 days, and may renew that waiver for additional periods of not more than 60 days, if the President determines and reports to the appropriate congressional committees every 60 days that the waiver is necessary to the national security interest of the United States.

''(B) FORM.—A report submitted pursuant to subparagraph (A) shall be submitted in unclassified form, but may contain a classified annex.

''(5) FOREIGN FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'foreign financial institution' includes a financial institution owned or controlled by a foreign government.''.

Mr. MCCONNELL. Mr. President, I am offering this amendment on behalf of the Senator from Illinois, MARK KIRK, because the time has come for our country to sanction the Central Bank of Iran.

It has become commonplace for political leaders to state that an Iranian regime armed with nuclear weapons is unacceptable. President Obama has stated that an Iranian regime armed with a nuclear weapon is unacceptable. Unfortunately, the Iranian regime has not been deterred from conducting activities relevant to the development of such an explosive device.

The report of the IAEA of November 8, 2011, makes clear that Iran has worked on the development of an indigenous design of a nuclear weapon, including the testing of components, and that Iran has yet to answer all of the IAEA's questions concerning the military dimensions of Iran's nuclear program.

Last month, the world learned of the Quds Force plot to assassinate the Ambassador of Saudi Arabia to the United States.

Iran remains undeterred, and the United States is left with fewer options for dealing with the Iranian nuclear program as time elapses.

This amendment by Senator KIRK from Illinois would add to the current sanctions against Iran by targeting the central bank of that country. This, in my judgment, is one of the few remaining actions, short of an embargo of Iranian shipping and military intervention, to slow or end the Iranian nuclear program. It is worth supporting and pursuing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, on behalf of the Senate Armed Services Committee, I am pleased to bring S. 1867, the National Defense Authorization Act for fiscal year 2012, to the Senate floor. The Armed Services Committee approved the bill by a unanimous vote of 26 to 0. This is the 50th consecutive year that our committee has reported a defense authorization act. Every previous bill has been enacted into law.

I would like to thank all of the members and the staff of the Senate Armed Services Committee for the commitment they have shown to the best interests of our men and women in uniform as we have developed this legislation. Every year, we take on tough issues, and we work through them on a bipartisan basis consistent with the traditions of our committee. I particularly thank Senator MCCAIN, our ranking minority member, for his strong support throughout the process. The unanimous committee vote in favor of this legislation would not have been possible without his cooperation and support.

We were delayed in getting this year's bill to the Senate floor by two issues that have arisen since the time the Armed Services Committee approved the first version of this bill, S. 1253, in late June.

First, Congress enacted the Budget Control Act of 2011, which mandated deep reductions in discretionary spending, including defense spending. The initial bill reported by the Armed Services Committee would have cut the President's budget request for national defense programs by more than $6 billion. The Budget Control Act, which was adopted after our initial bill was reported, requires an additional $21 billion in reductions.

Second, the administration and others expressed misgivings about the detainee provisions in the initial bill, although the provisions in our initial bill represented a bipartisan compromise that was approved by the committee on a 25-to-1 vote. Many of these concerns were based on misinterpretations of the language in that bill; nonetheless, we have worked hard to address these concerns.

First, relative to the additional $21 billion in budget cuts, we consulted closely with the Department of Defense before identifying these cuts. We believe the reductions we decided upon can be accomplished without an adverse impact on our troops or their vital mission, and without significant increase in risks to our national security.

The committee report which accompanied the initial bill, Senate Report 112–26, did not address these cuts but is otherwise applicable to this bill as well. So the new cuts are not addressed in that Senate report because these new reductions came after that Senate report was made.

For this reason, I ask unanimous consent that a summary of the cuts be printed in the RECORD immediately following my statement.

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

(See exhibit 1.)

Mr. LEVIN. Second, the new bill would modify the detainee provisions to address concerns and misconceptions about the provisions in our initial bill. In particular, the new bill first modifies section 1031 of the bill, as requested by the administration, to assure that the provision that provides a statutory basis for the detention of individuals captured in the course of hostilities conducted pursuant to the 2001 authorization for use of military force, the AUMF, to make sure that those provisions and that statutory basis are consistent with the existing authority that has been upheld in the courts and neither limits nor expands the scope of the activities authorized by the AUMF.

It also modifies sections 1033 and 1034 of the bill, as requested by the administration, to impose 1-year restrictions rather than permanent limitations on the transfer of Gitmo detainees to foreign countries and on the use of Department of Defense funds to build facilities in the United States to house detainees who are currently at Gitmo.

We were unable to agree to the administration's proposal to strike section 1032, the provision that requires military detention of certain al-Qaida terrorists subject to a national security waiver. We did, however, adopt a number of changes to the provision. In particular, we modified the provision so that it clarifies that the President gets to decide who makes the determinations in coverage, how they are made and when they are made, ensuring that executive branch officials will have flexibility to keep any covered detainee in civilian custody or to transfer any covered detainee for civilian trial at any time.

Second, we clarify that there is no interruption of ongoing surveillance and intelligence-gathering activities or of ongoing law enforcement interrogation sessions. There have been misstatements, misimpressions, and misinterpretations of the provisions of our bill relative to those issues. We clarify them to make sure it is clearly understood by this body and the American people that—repeating, it is the executive branch, it is determined by the President, the people he appoints who will make determinations of coverage, how they are made, when they are made, so that it ensures the flexibility that the executive branch wants to keep any covered detainee in civilian custody or to transfer any covered detainee for civilian trial at any time.

It has been suggested that ongoing surveillance and intelligence-gathering activities by law enforcement people would be interrupted, or that their interrogation might be interrupted. It is very explicitly clear in this bill that there is no such interruption, there is no such interrogation session interruption or surveillance interruption or intelligence-gathering activities interruption. The process to make sure that doesn't happen is in the President's hands.

The administration officials reviewed the draft language for this provision the day before our markup and recommended additional changes. We were able to accommodate those recommendations, except for the administration request that the provision apply only to detainees who are captured overseas. There is a good reason for that. But even here, the difference is relatively modest, because the provision already excludes all U.S. citizens. It also excludes all lawful residents of the United States, except to the extent permitted by the Constitution. The only covered persons left are those who are illegally in this country or who arrive as tourists or on some other short-term basis, and that is a small remaining category, but an important one, because it includes the terrorists who clandestinely arrive in the United States with the objective of attacking military or other targets here.

Contrary to some statements I have seen in the press, the detainee provisions in our bill do not include new authority for the permanent detention of suspected terrorists. Rather, the bill uses language provided by the administration to codify existing authority that was adopted by both the Bush administration and the Obama administration and that has been upheld in the Federal courts.

Moreover, the bill requires for the first time that any detainee who will be held in long-term military custody anywhere in the world would have access to a process that includes a military judge and a military lawyer.

I want to repeat that. For the first time, this bill provides that, in determining a detainee's status, the detainee will have access to a lawyer and to a military judge. That is not the case now. Nor would the bill preclude the trial of terrorists in civilian courts, as some have erroneously asserted. As a matter of fact, it is the contrary. The bill expressly authorizes the transfer of any military detainee for trial in the civilian courts at any time. An amendment that eliminated that authority was defeated in the Armed Services Committee on a bipartisan 19-to-7 vote during the markup of the initial bill.

The bill would not require the interruption of ongoing surveillance operations or ongoing law enforcement interrogations of suspected terrorists, as some have incorrectly asserted. The opposite is the case, as I have said, because we have included language in the bill that specifically precludes those possibilities.

The bill also provides that the President, not Congress, will decide who makes determinations of whether a detained person is in the narrow class covered, and the President will decide how and when these determinations are made.

The bill would not require that al-Qaida terrorists who are captured on American soil be transferred to military custody, because it includes an easily effectuated national security waiver. With this waiver authority, executive branch officials may keep any detainee in civilian custody or move any detainee to civilian custody if they choose to do so.

That provision provides the executive branch flexibility to choose the most appropriate course of action for al-Qaida terrorists whom we capture, including detention in civilian custody. That was the intent of the original language, and it has been clarified in the bill before us. I recognize that the administration remains unsatisfied with this provision, but we have gone a long way to address their concerns.

What about the dollar provisions in this bill? The bill we bring to the floor today would authorize $662 billion for national defense programs—$27 billion less than the President's budget request, and $43 billion less than the amount appropriated for fiscal year 2011. I am pleased we were able to find these savings without reducing our strong commitment to the men and women of our Armed Forces and their families, and without undermining their ability to accomplish their important national security missions. In this time of fiscal problems for our Nation, every budget must be closely examined to identify savings, and the Department of Defense budget is no exception.

This bill contains many important provisions that will improve the quality of life of our men and women in uniform, provide needed support and assistance to our troops on the battlefield, and make the investments we need to meet the challenges of the 21st century, and provide for needed reforms in the management of the Department of Defense.

First and foremost, the bill before us continues the increases in compensation and quality of life our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world.

For example, the bill would authorize a 1.6-percent across-the-board pay raise for all uniformed military personnel and extend over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by active-duty and Reserve military personnel.

The bill provides that annual increases in TRICARE Prime enrollment fees in future years will not exceed the percentage increase in retired pay. The bill authorizes $30 million in supplemental impact aid and related education programs for the children of servicemembers. The bill authorizes service Secretaries to carry out programs to provide servicemembers with job training and employment skills training to help prepare them for the transition to private sector employment. It authorizes the service Secretaries to waive maximum age limitations to enable certain highly qualified enlisted members who served in Iraq or Afghanistan to enter the military service academies.

The bill also includes important funding and authorities needed to provide our troops the equipment and support they will continue to need as long as they remain on the battlefield in Iraq and Afghanistan.

For example, the bill fully funds the President's request for $3.2 billion for the development, testing, production, and sustainment of the MRAP vehicles and new MRAP all-terrain vehicles, which are needed to protect our troops against improvised explosive devices.

The bill authorizes $11.2 billion to train and equip the Afghan National Army and the Afghan police, the funding level recommended by the commander of U.S. Central Command after consultation with the commander of U.S. and coalition forces in Afghanistan. The purpose here is to grow the capability of those Afghan security forces to prepare them to take over increased responsibility for Afghanistan's security as we begin reductions in U.S. forces.

The bill provides $400 million for the Commanders' Emergency Response Program in Afghanistan and $400 million for the Afghanistan Infrastructure Fund to support projects that enhance the counterinsurgency campaign.

The bill extends the authority of the Department of Defense to conduct a program for the reintegration of former insurgent fighters into Afghan society.

The bill establishes a new Joint Urgent Operational Needs Fund to allow the Department to rapidly field new systems in response to urgent operational needs identified on the battlefield, and it provides the Central Command—CENTCOM—commander new

contracting authorities needed to stop the flow of money through U.S. contracts to persons who are actively opposing U.S. forces in Afghanistan.

The bill also contains a number of provisions that will help improve the management of the Department of Defense and other Federal agencies. For example, the bill would address shortcomings in the Department of Defense's management of operating and support costs, which are estimated to constitute 70 percent of the lifecycle costs of major weapons systems.

The bill freezes DOD spending on contract services at fiscal year 2010 levels and requires the Department of Defense to take a number of commonsense steps to achieve savings in this area.

The bill adds $32 million for the Department of Defense's corrosion prevention and control and requires implementation of the recommendations of a recently congressionally mandated report on corrosion control on the F–22 and F–35 programs.

The bill improves the management of defense business systems by strengthening the authority of the Department of Defense's chief management officers in the investment review process and ensures that this process covers existing systems as well as new ones.

The bill also adds $43 million to enable the Department of Defense IG to provide more effective oversight and to help identify waste, fraud, and abuse in defense programs, especially in the area of procurement.

In light of the budget constraints we face this year, the committee worked hard to keep funding increases of any kind to a minimum. We added the following items: $66 million for unfunded requirements identified by military leaders, $90 million for investments in programs such as the DOD IG and corrosion control that have high payback rates, $63 million for critical investments in intelligence and cyber security improvements, $497 million for increased funding needed to ensure the efficient execution of ongoing Department of Defense programs, and $270 million for a handful of broad-based competitive programs needed to help us keep our leadership in military technology.

I continue to believe it would be wrong for us to give up the power of the purse given Congress in the Constitution. I don't believe the executive branch has a monopoly on good ideas. In fact, I think we are more often receptive to creative new ideas that can lead to advances in the national defense than the defense bureaucracy is. Nonetheless, there are no earmarks in this bill.

Finally, I would like to discuss four major issues in the bill that were the subject of extended debate in the course of our markup this year.

First, this bill includes provisions that would require sound planning and justification before we spend more money for Marine Corps realignment from Okinawa to Guam and on tour normalization in Korea. These provisions follow detailed oversight that Senators WEBB, MCCAIN, and I have conducted over the past years. In particular, the bill prohibits the expenditure of funds for Marine Corps realignment from Okinawa to Guam until we receive an updated force laydown and a master plan detailing construction costs and schedule of all projects necessary to carry it out.

The bill requires the Department of Defense to study moving Marine Corps aviation assets currently at Marine Corps Air Station Futenma to Kadena Air Base, and the feasibility of relocating some or all Air Force assets currently at Kadena Air Base, rather than building a replacement facility at Camp Schwab that is unrealistic and unaffordable.

The bill prohibits the obligation of funds for tour normalization on the Korean Peninsula until the Secretary of the Army provides Congress with a master plan, including all costs and schedule projections to complete the program, and the Director of Cost Assessment and Program Evaluation performs an analysis of alternatives justifying the operational need.

The Department of Defense current plans for Okinawa, Guam, and Korea were developed years ago in a different fiscal environment and are projected to cost billions of dollars more than anticipated. At a time of tight budgets, we owe it to the Department of Defense and to the taxpayers to insist on a close examination and strong justification before we proceed.

Second, the committee adopted an amendment to strike all funding for the Medium Extended Air Defense System, MEADS. In February, the Department of Defense announced that after investing more than $1.5 billion in the MEADS Program, the program remained a high risk and the additional funding needed to field the system was unaffordable. However, the Department declined to terminate the program because the memorandum of understanding with our allies on which the program is based commits us to continued funding even if we withdraw from the program. For this reason, the Department requested over $400 million in funding for the continued development of a system that it has no intention of fielding. The committee amendment eliminates this funding. We recognize that under the memorandum of understanding, our decision not to fund this program could require the United States to pay for a program in which it is no longer a participant. However, the committee concluded that the course proposed by the Department is untenable and that the Department should explore all options with our allies before continuing to fund a program which we no longer need.

Third, our committee members share both a deep concern about the rising cost of the Joint Strike Fighter Program, on which we are now projected to spend more than $1 trillion—which includes operation and sustainment costs—and a strong belief that the Department of Defense must take stronger action to contain these costs.

The committee unanimously adopted an amendment requiring that the next JSF contract be entered on a fixed-price basis and that the contractor assume full responsibility for all costs above the target cost specified in the contract. This amendment puts the contractor on notice that we have lost patience with continued overruns on the program and we are determined to protect the taxpayer from further cost increases, without unnecessarily jeopardizing the heavy investment we have already made in the program by prematurely terminating the program. Senator MCCAIN has taken, really, the active lead in this effort, and it is a very critically important effort for our taxpayers.

Finally, the bill includes a bipartisan compromise regarding detainee matters—as I have made reference to before—that would address a series of important issues that relate to detainees. It is worth summarizing the detainee-related provisions in the bill.

First, the bipartisan compromise would codify the military's existing detention authority, as stated by both the administration of President Bush and the administration of President Obama and approved in the courts.

Second, the bill would require military detention for a core group of detainees who are part of al-Qaida—or an associated force that acts in coordination with or pursuant to the direction of al-Qaida—and who participate in planning or carrying out attacks or attempted attacks against the United States or its coalition partners. That is a defined core group of detainees.

This provision includes a national security waiver and includes language expressly authorizing the transfer of detainees for trial in civilian courts. It continues the conditions on the transfer of Gitmo detainees to foreign countries, including certification requirements to be met before a transfer may take place. Contrary to what some have said, this provision does not prohibit transfers from Gitmo. In fact, it is less restrictive of such transfers than legislation passed in the last Congress and signed by the President. In particular, this year's provision includes a national security waiver that is designed to address concerns expressed by the Secretary of Defense about a similar restriction which was included in last year's authorization and appropriations act.

The bill contains the same limitation on the use of Department of Defense funds to build facilities in the United States to house Gitmo detainees that has been included in past authorization and appropriations acts. This provision applies only to Department of Defense funds. It does not prohibit the use of Department of Justice funds that might be needed in connection with a

transfer for the purpose of a criminal trial, and it does not prohibit the closure of Gitmo.

The provision requires the Department of Defense to issue procedures addressing ambiguities in the review process established for Gitmo detainees. The provision clarifies but does not overturn the Executive order issued by the President earlier this year.

The provisions require the Department of Defense to establish procedures for determining the status of detainees, including, as I indicated before, for the first time, a military judge and a military lawyer for a detainee who will be held in long-term military custody.

The bill clarifies procedures for guilty pleas in trials by military commission. This provision would require a separate trial on the penalty, with a unanimous verdict needed to impose the death penalty. So while a death penalty could be imposed by a commission, the detainee would have no assurance of that result, for those detainees who want that assurance so they can make themselves martyrs.

As I have already indicated, these provisions have been substantially modified as a result of extensive discussion with administration officials. We did not make every change requested by the administration, although we adopted many of them—probably most of them—and made additional changes to address specific concerns raised by administration officials.

Mr. President, as we are here today, we have over 96,000 U.S. soldiers, sailors, airmen, and marines on the ground in Afghanistan, with 23,000 more remaining in Iraq. While there are issues on which we may disagree, we all know we must provide our troops with the support they need as long as they remain in harm's way.

Senate action on the national defense authorization bill for fiscal year 2012 will improve the quality of life of our men and women in uniform. It will give them the tools they need to remain the most effective fighting force in the world. Most important of all, it will send an important message that we as a nation stand behind them and appreciate their service.

We look forward to working with our colleagues to promptly pass this important legislation. And as I yield the floor, I again want to thank Senator MCCAIN and all the members of our committee for their hard work on this bill, as well as our staffs for their extraordinary capability. But I want to thank personally Senator MCCAIN for everything he has done to make it possible for us to get to the floor at this time.

EXHIBIT 1

SUMMARY OF $21 BILLION IN ADDITIONAL CUTS RESULTING FROM SECOND MARKUP OF NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

AIRLAND SUBCOMMITTEE

Army Programs: The bill would cut an additional $2.8 billion in Army Procurement and $800 million in RDTE. This includes over $1 billion in reductions proposed by the Army, and over $2 billion for programs that had unjustified or excessive growth, misaligned schedules, fact of life changes including terminations, or other management challenges. These recommended reductions include $518.7 million for the Joint Tactical Radio System, $224.0 million for Warfighter Information Network-Tactical, $172.5 million for Ground Soldier System-Nett Warrior, and $157.3 for HMMWV recapitalization programs. The bill would also transfer over $600 million from the base request to the overseas contingency operations accounts for capabilities directly or closely related with military operations in Iraq and Afghanistan such as increased ISR, mine protected vehicles, armoring kits, and base defense and force protection systems.

Navy Programs: The bill would cut an additional $724.5 million in Navy Procurement and $55.9 million in RDTE. This includes $532.1 million for programs that had unjustified or excessive growth, misaligned schedules, fact of life changes including terminations, or other management challenges. These recommended reductions include $163.5 million for the E–2D Advanced Hawkeye, $159.9 million for spares and repair parts, $69.9 million for AMRAAM, and $99.7 million for the F/A–18E/F Hornet.

Air Force Programs: The bill would cut an additional $910.2 million in Air Force Procurement and $596.0 million in RDTE for programs that had unjustified or excessive growth, misaligned schedules, fact of life changes including terminations, or other management challenges. These recommended reductions include $145 million for the A–10, $120 million for AFNET, $103 million for initial spares and repair parts, and $101 million for the AMRAAM. The bill would also transfer $87.2 million from the base request to the overseas contingency operations accounts for activities directly or closely related with military operations in Iraq and Afghanistan such as war consumables.

EMERGING THREATS AND CAPABILITIES SUBCOMMITTEE

Program Delays and Under-Execution: The bill would reduce funding for science and technology and information technology by $216 million due to excessive program growth and program delays; reduce funding for U.S. Special Operations Command by $135 million due to unjustified growth and items already funded in recent reprogramming actions; reduce funding for counter-drug programs by $128 million based on a DOD assessment that this funding is excess to need; reduce funding for counter-proliferation programs by $43 million due to slow execution; reduce funding for the Joint IED Defeat Organization (JIEDDO) by $85 million based on unjustified program growth; and reduce funding for the Chemical and Biological Defense Program by $40 million due to under-execution and program delays.

PERSONNEL SUBCOMMITTEE

Military Personnel Funding: The bill would reduce funding for military personnel by $100.6 million, by taking an additional $42.6 million in unobligated balances and using updated CBO estimates for savings attributable to a change in the calculation of hostile fire pay.

Defense Health Care: The bill includes a $330.0 million cut to private sector care under the Defense Health Program, based on an assessment of historical under execution rates for private sector care.

Military Spouse Career Advancement Accounts (MyCAA): The bill reduces funding for the program by $120 million. This reduction was offered by the Department of Defense because although the President's budget request included $190 million for the program, DOD has indicated that as a result of its redesign of the MyCAA program, only $70 million is needed for execution in fiscal year 2012.

READINESS SUBCOMMITTEE

Military Construction: The bill would cut an additional $527 million in military construction funding. This includes three domestic projects valued at $83.1 million, the largest of which the Technology Center's Third Floor Fit Out, valued at $54.6 million does not need funding because NSA has indicated that it has sufficient unobligated balances to complete the project. The balance of the cuts are for: (1) overseas military construction projects in areas that are subject to an ongoing strategic review (including five projects in EUCOM valued at $179.6 million); (2) planning and design funds rendered unnecessary due to previous cuts; and (3) programs that are not fully budgeted for in the FYDP.

Operation and Maintenance: The bill would cut an additional $3.1 billion in operation and maintenance funding. This includes $1.5 billion in reductions proposed by the military services; $315 million for ammunition account cuts based on inefficient ammunition management and recommendations from the military services; $294 million for excess growth in service contractors and civilian employees; and $258 million in the OCO accounts for a transfer of Coast Guard support to the Department of Homeland Security.

Transfers to Overseas Contingency Operations Funding: The bill would transfer to OCO accounts $4.9 billion of operation and maintenance funding for activities closely associated with military operations in Iraq and Afghanistan, including MRAP vehicle sustainment, body armor sustainment, overseas security guards, theater security packages, depot maintenance and readiness funding in support of combat operations, and CENTCOM headquarters public affairs. Most of these activities have previously been funded from OCO accounts.

SEAPOWER SUBCOMMITTEE

Navy Programs: The bill would cut an additional $234.4 million in Navy Procurement and $496.7 million in RDTE for programs that had unjustified or excessive growth, misaligned schedules, fact of life changes including terminations and a Navy-requested realignment of the VXX Presidential Helicopter program, or other management challenges. The recommended reductions include $120 million for JTRS, $70 million for the Future Unmanned Carrier-Based Strike System, $63 million for ship contract design and live fire T&E, and $58 million for the Standard Missile.

Marine Corps Programs: The bill would make additional reductions of $101.0 million in Procurement, Marine Corps due to slow program execution or contract award delays.

Air Force Programs: The bill would cut an additional $108.6 million in Air Force Procurement for unnecessary post production funding for the C–17 program and $45.9 million in RDTE for programs that had contract delays or where the programs were being rephased.

STRATEGIC SUBCOMMITTEE

Space: The bill would reduce funding for space programs by $233 million due to slow execution in the development of the Family of Advanced Line of Sight Terminals (FAB–T) used in conjunction with the Advanced Extremely High Frequency (AEHF) satellite system; by $300 million by dropping authorization for the long term lease of a commercial satellite by the Defense Information

Systems Agency due to a lack of an analysis of alternatives; and by $105 million in connection with delays in contract awards associated with GPS systems under development.

Department of Energy: The bill would reduce funding for environmental cleanup at former atomic weapons production sites by $356 million due to slow program execution; reduce the NNSA nonproliferation program by $168 million due to cost overruns for a pit disassembly facility to produce mixed oxide fuel, which is now developing a new program base line; and for NNSA program management by $45 million due to an excessive rate of growth.

Missile Defense: The bill would reduce funding by $55 million for the procurement of Standard Missile-3 Block IB missiles due to a test failure which requires an investigation, correction, and retest, delaying production (an additional $260 million of funding would be moved from procurement to the R&D account to facilitate the fixes); and reduce funding for the Terminal High Altitude Area Defense (THAAD) missile defense system by $120 million to reflect the reality of slower production rates due to delays in the program. A few joint or Army programs would be reduced by $47 million for underexecution.

Intelligence Funding: The bill includes a number of reductions to the Military Intelligence Program because of late contract awards, slow execution rates, program delays, and changes in programs since markup; it also includes reduced funding for the National Intelligence Program reflecting cuts agreed to by the two intelligence committees.

GENERAL PROVISIONS

Troop Reductions in Afghanistan: The bill would reduce OCO funding by $5.0 billion due to the President's decision to withdraw the 33,000 U.S. surge force from Afghanistan, with 10,000 to be withdrawn by December 2011 and the remaining 23,000 to be withdrawn by next summer. The Department of Defense has informed us that the $5.0 billion is no longer needed as a result of the planned Afghanistan troop reduction.

Afghanistan Security Forces Fund: The bill would reduce funding for the Afghanistan Security Forces Fund (ASFF) to $11.2 billion, a $1.6 billion reduction from the President's request. The Commander, U.S. Central Command, has determined that FY2012 ASFF funding can be reduced by $1.6 billion because of efficiencies and cost avoidances achieved by the NATO Training Mission in Afghanistan in its plans for building and sustaining the Afghan Army and Police.

AMENDMENT NO. 1092

(Purpose: To bolster the detection and avoidance of counterfeit electronic parts)

Mr. LEVIN. Mr. President, pursuant to a unanimous consent request which was previously entered into on this matter, I send to the desk an amendment on behalf of myself and Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for himself and Mr. MCCAIN, proposes an amendment numbered 1092.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LEVIN. Mr. President, I call for regular order with respect to the amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. LEVIN. Is it now pending first in line?

The PRESIDING OFFICER. It is now pending first in line.

Mr. LEVIN. I thank the Presiding Officer, and I want to make one quick comment about this amendment.

This is a bipartisan amendment that addresses the massive issue created by counterfeit parts getting into the defense supply system. It is something our staffs have investigated heavily.

Senator MCCAIN and I are introducing this bipartisan amendment. We hope it has strong support in this Senate. It will address a critically important issue we have now seen in the defense supply system with millions of counterfeit parts—mainly from China—getting into our defense system and threatening the security of our troops, the effectiveness of their mission, and costing the taxpayers a heck of a lot of money.

The PRESIDING OFFICER. The senior Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to engage in a brief colloquy with the chairman, Senator LEVIN.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. MCCAIN. First of all, I wish to thank the Chairman for the long years of work we have had together. This is the culmination of this year's work which is coming to the floor after great difficulty and a lot of obstacles. I want to thank the Senator again for the spirit of bipartisanship, which is a long tradition in the committee which was practiced by our predecessors. Obviously, we know on occasion that we have differences of views, and sometimes we—especially I—express those in perhaps a passionate manner. But the fact is, at the end of the day, we continue to come together and work together for the good of this Nation's security.

The reason I ask the Senator is because I think our colleagues ought to understand the context of this bill. First of all, it is a new bill, and it has a reduction of some $20 billion in authorization in order to keep with the Budget Control Act, a total now of a $27 billion reduction, which is a significant amount of money. It seems to me our colleagues should understand this $9.8 billion cut in defense procurement, $3.5 billion cut in research, development, test, and evaluation, $1.6 billion cut in military construction, $6.7 billion in overseas—these are significant reductions already in what we had originally envisioned as necessary for our Nation's defense capability.

I would ask the chairman, these are painful decisions we had to make. For those who somehow believe it is business as usual in the Department of Defense and on the Defense authorization, it simply is not correct. We have already made significant reductions, I ask my colleague.

Mr. LEVIN. I agree with my friend from Arizona. We literally worked months to get to the first reduction which was in our original bill. Then when the Congress adopted the Deficit Reduction Act, which required additional reductions, these are very difficult decisions to make because they in many cases will increase risks which we don't want to increase but nonetheless have got to accept some additional degree of risk on some of our programs in order to do the fiscally responsible thing. I agree with my friend.

Mr. MCCAIN. Could I ask my colleague, also, two more points. One is that we also have planned for an additional well over $400 billion reductions in the next decade, and those will again entail at some point an increase in risk. So in that context, I would appreciate again an expression of the chairman's view of a Draconian cut that would take place as a result of sequestration. The Secretary of Defense has testified before our committee of the ''devastating effects,'' as have our military leaders.

Mr. LEVIN. These cuts that would result from sequestration are massive not just in defense but also in nondefense discretionary areas. The purpose of that threat is to hopefully prevent it from taking place, as with any other kind of a sword of Damocles held over people's heads—our heads—that if we don't reach some kind of an agreement with our special committee, the group of 12 that is working so hard to come up with a reduction that will meet the requirements of the bill, we would then have a sequestration, across-the-board cuts, which are not the rational way to budget, are massive, Draconian—to use the word which the Senator from Arizona quoted. And that is true in both defense and nondefense. But, again, the purpose of having that sequestration process in place is, hopefully, an incentive so that it doesn't take place.

Mr. MCCAIN. Finally, I would ask the chairman, we have met the requirements of the Appropriations Committee with this additional $20 billion reduction in this ''new'' legislation. Then it seems it would be only appropriate that the Appropriations Committee meet the provisions of authorization that are in the authorization bill.

In other words, I am told there are some differences in the Appropriations Committee's bill as far as what the authorizing committee's responsibilities are. I hope the Appropriations Committee would address those differences in deference to our role as authorizers.

Mr. LEVIN. That is always our hope. It doesn't work out the way we wish frequently, but it is always our hope that the way it should work—at least theoretically—around here is that should be what the appropriators do.

That has not worked out that way in I don't know how many recent years. The Senator and I have had some discussions about that. When I first got here, many years ago, that was an issue which had not been resolved. But I think what the Senator sets out is the hope that the appropriators would look at our authorizations and follow our authorizations.

Mr. MCCAIN. I thank the Senator from Michigan.

I finally wish to comment. I am more than hoping. I intend to identify those areas of difference between the authorizing committee and the Appropriations Committee, and fully expect the appropriating committee—unless there is some overriding reason—to conform with the authorization bill.

Again, I thank Senator LEVIN and his staff for the work we are doing. And I thank the leadership. I thank Senator REID for bringing the bill to the floor. I know he has a lot of important priorities, but I believe it is very important that we continue an over half-century tradition of the Senate taking up, passing, and then finally seeing enacted into law the Defense authorization bill.

I think it is a valid statement to say that there is no greater priority the people's representatives have than to take every measure we can possible to ensure the security of our Nation and the men and women who serve in it. This legislation is the result of literally thousands of hours of discussion, debate, hearings, input to make sure we do the very best job we can to protect our Nation.

As I mentioned earlier, with the committee's action earlier this week we have ensured that our authorization top line of $526 billion for the base Defense budget complies with the budget allocation levels adopted by the Senate Appropriations Committee for fiscal year 2012.

We have worked with the administration over the past several weeks to address their concerns with the detainee provisions in our bill. We understand the administration is still not satisfied with the committee work. We have made many clarifications, modifications at the request of the administration to the detainee provisions as they were reported from the committee in June. As a result, we were able to report out the bill again this week with an overwhelming bipartisan vote of 26 to 0.

We will be glad to continue our discussions with the administration. I am grateful the administration reached out to us and that because of that discussion in negotiations with Mr. Brennan and others from the White House we were able to make some changes. I regret they haven't been sufficient to overcome their objections, but we will continue to work with them. This is a very important issue.

Obviously, our collective goal is to make sure that members of terrorist organizations, specifically al-Qaida, do not return to the fight, and that we make sure we are able to treat al-Qaida members who are captured in keeping with international law, but at the same time in keeping with the priority interests of America's national security. So I understand there will be an amendment on that issue or amendments. We look forward to debating and discussing that aspect.

Whatever additional concerns that may remain with the detainee provisions should be dealt with, as they will be, through debate and amendment. But, importantly, all of the aspects of this bill are of such vital importance to supporting the men and women of our Armed Forces and their families. We have already started to work on amendments that we know our colleagues are preparing to offer on this bill, and I encourage all my colleagues to file their germane amendments as quickly as possible.

Obviously, I repeat, the legislation is extremely important to our Nation's defense and the men and women in uniform. I know all of my colleagues appreciate that fact.

I would hope that this year, unlike in recent previous years, we will not add to this bill policy riders that are not relevant to the bill.

The committee bill before the Senate is the culmination of 11 months of hard work conducted through 71 hearings and meetings this year on the full range of national security priorities and issues. This tradition of deliberative review and oversight is typical of what the Defense authorization bill has provided our Nation's military for over 50 years, without fail. The committee's priorities this year and every year start with our bipartisan commitment to improve the quality of life for the men and women of the all-volunteer force—active duty, National Guard, and Reserves—and their families, through fair pay, improved policies, benefits commensurate with the sacrifices of their service, and by addressing the needs of the wounded, ill, and injured servicemembers and their families.

To do these things, this bill authorizes a 1.6-percent across-the-board pay raise for all members of the uniformed services, authorizes pay incentives for recruitment and retention of our most highly skilled and highly sought-after men and women, and improves the Uniformed Code of Military Justice to more effectively respond to accusations of certain types of misconduct. This bill provides essential resources, training, technology, equipment, and force protection our military needs to succeed in their missions, including authorizing a 6-percent increase in funding for our enormously important professional and dedicated special operations forces who play such a large role in our counterterrorism operations worldwide, and over $2.4 billion for the Department of Defense counter-improvised explosive device activities. I cannot overemphasize the importance of the timely funding of these counter-IED funds given the increase in the use of this kind of attack against our troops, first in Iraq and now in Afghanistan.

The bill enhances the capability of our military and that of our allies to conduct counterinsurgency operations, including the authority to provide support to those aiding U.S. Special Operations in combating terrorism in Yemen and East Africa, authorization of $400 million for the Commanders Emergency Response Program—known as CERP—in Afghanistan, and authorization of $11.1 billion to train and equip the Afghan security forces for the security of the Afghan people.

The bill strengthens and accelerates nuclear nonproliferation programs while maintaining a credible nuclear deterrent, reducing the number of nuclear weapons, and ensuring the safety, security, and reliability of the nuclear stockpile, the delivery systems, and the nuclear infrastructure. In this regard, the bill authorizes $1.1 billion to continue development of the Ohio-class submarine replacement program to modernize the sea-based leg of the nuclear triad of delivery platforms. It improves our ability to counter nontraditional threats, focusing on terrorism and cyber warfare; in part by requiring DOD to acquire and incorporate capabilities for discovering previously unknown cyber attacks and establishing a new Joint Urgent Operational Need Fund to allow the Department to rapidly field new systems in response to battlefield requirements. It authorizes DOD to immediately void a contract if a contractor has been determined by the commander, U.S. Center Command, to be actively opposing U.S. forces in Afghanistan.

A related provision would provide enhanced audit authority to assist in the enforcement of this provision. It authorizes over $13 billion for new construction of critical facility projects that have a direct impact on the readiness and operations of our military while also providing much needed construction jobs in a struggling economy.

In contrast to these enhancements and new authorities, the committee also had to make some very difficult decisions. The President's budget request of $553 billion was cut by nearly $27 billion in recognition of the difficult budget situation our country faces. These difficult funding reductions include: $10 billion cut in the operation and maintenance accounts for the military services used to fund readiness and training activities. This was done mainly by scaling back the growth in service contracts while also reducing certain accounts for daily operating activities and training; a $9.8 billion cut in defense procurement accounts for programs that had more money than could be efficiently put under contract this year and programs that were not able to meet production milestones; a $3.5 billion cut in the research, development, test and evaluation accounts by examining the performance of hundreds of programs and

identifying those that showed excessive cost growth or a lack of performance; $1.6 billion in cuts in military construction projects, mostly at overseas locations, to allow for a review of our U.S. military force posture worldwide. In addition, the bill cuts $6.7 billion from the President's budget request of $118 billion for overseas contingency operations, known as OCO, due to a forecast of reduced operations in Afghanistan during 2012.

These cuts are the first step in what will be an extremely critical debate on the right amount of defense spending over the next 10 years. We will need to make some very difficult decisions that will undoubtedly increase risk as we decide whether to continue or terminate costly and, in some cases, troubled and overdue programs. We will need an informed and honest debate on which defense requirements and capabilities most effectively and efficiently protect the full range of our Nation's interests.

As such, this committee's review and curtailment of troubled, wasteful or unnecessary programs is not only essential to ensure proper stewardship of taxpayer funds but also stays true to the intent of preserving funds for war fighter priorities. Along these lines, this bill proposes to cut: $452 million for the Enhanced Medium Altitude Reconnaissance and Surveillance System due to program delays; $192 million from related Brigade Combat Team Modernization projects due to a program termination by the Army; $200 million for the Joint Tactical Radio System due to program delays; $406 million for the Medium Extended Air Defense Systems, known as MEADS, which is a high-risk joint program for air defense with Germany and Italy which the Army has decided not to deploy operationally; $519 million for the Joint Tactical Radio System, called JTRS, as a result of program execution and cost concerns; $244 million for Warfighter Information Network-Tactical; $173 million for Ground Soldier System-Net Warrior; $157 million for HMMWV recapitalization programs; $108 million for unnecessary postproduction funding for the C–17 Program; $233 million due to slow execution in the development of the family of Advanced Line Of Sight Terminals used in conjunction with the Advanced Extremely High Frequency Satellite System; $300 million by curtailing authority for long-term lease of a commercial satellite by the Defense Information Systems Agency due to a lack of an analysis of alternatives; $105 million in connection with delays in contract awards associated with GPS systems under development.

Even after this long list of cuts to troubled programs, I would have liked to have done more.

I wish to point out that in the days when we were increasing defense spending, it was one thing not to be in sync with the appropriations committee. In the days of reductions in defense spending, it is absolutely vital that the Appropriations Committee follow the guidance and authorization of the authorizing committee. I intend to do everything in my power to make sure that happens.

An example of what I would have liked to have seen more of is the Joint Strike Fighter or the F–35 Programs. I offered an amendment during the committee's markup that would have put the program on a 1-year probation if the costs under the fixed-price contract for the fourth lot of early production aircraft grew by more than 10 percent over their target cost by the end of the year. My goal was to send a strong, simple, and powerful message to the Pentagon and to Lockheed Martin, a message that we will no longer continue down the road of excessive cost growth and schedule slips on this program just because other alternatives are hard to come by.

We now are faced with a prospect of the first $1 trillion weapons system in history, which it certainly was not originally designed to be.

As it turned out, the amendment did not go forward as a result of a tie vote in committee. An alternative provision offered by Chairman LEVIN will instead require that the fifth lot of early production F–35 aircraft be procured under a fixed-price contract and that Lockheed Martin bear the entire responsibility for any cost overrun other than certain limited costs needed to make specific changes that the government requests. Because I feel it is essential to use fix-price contracts for large Pentagon weapons programs, I supported the chairman's amendment during the markup and I support it now.

Today, as we speak, the Pentagon is negotiating with Lockheed Martin on who will bear the cost of changes to the design and manufacturing of the aircraft that could come down the road as a result of thousands of hours of flight testing that lie ahead. In this sense, the excessive overlap between development and production that is called concurrency is now coming home to roost. The Defense Department quite rightly says it will not sign any contract for the next lot until Lockheed Martin agrees to pay a reasonable share of these concurrency costs, and Lockheed Martin doesn't want to bear the risk of new discoveries.

Let me be clear. I strongly support the Department of Defense position. I think it reflects exactly the congressional view reflected in our markup. As we agree to buy more early production jets while most of the development testing has yet to be done, Lockheed Martin must be held increasingly accountable for cost overruns that come as a result of wringing out necessary changes in the design and manufacturing process for this incredibly expensive aircraft.

How does this legislation affect pending negotiations? It means on the next production lot, Congress expects the Department to negotiate a fixed-price contract that requires Lockheed Martin to assume an increased share of any cost overruns. It requires a ceiling price for that lot that is lower than the previous contract for the last lot purchased. It ensures a shared responsibility for reasonable concurrency cost increases.

In other words, the deal we negotiate on this next production lot must be at least as good, if not better, than the deal we negotiated under the previous one. Otherwise, we are moving in the wrong direction and it will only be a matter of time before the American people and the U.S. Congress lose faith in the F–35 Program, which is already the most expensive weapons program in the history of this country.

I look forward to having the opportunity to address this and other significant national security policies related to detainee policies, cyber operations, Iranian aggression, Pakistan, acquisition reform, and the way we buy space programs and launch services, further limiting the use of fixed-price contracts for procurement, reducing the cost of military health care, counterfeit parts, and the future of our military in the face of major budget reductions.

On the issue of counterfeit parts, I commend the initiative of the chairman to address this critical issue. The proliferation of counterfeit parts threatens the safety of our men and women in uniform, our national security, and our economy. We cannot risk a ballistic missile interceptor missing its target or a helicopter pilot unable to fire his or her weapons or display units failing in aircraft cockpits or any other system failure, all because of a counterfeit electronic part. Nor can we keep affording the hundreds of thousands, even millions, of dollars to fix the systems they penetrate.

Our committee has been conducting an investigation for the past year, and we will have an amendment—there is one already pending—as a result of this outstanding work.

I also plan to offer amendments that will start us on the course of an updated plan for U.S. military forces in the Pacific theater. The current plan to move 8,700 marines, 9,000 family members from their current bases on Okinawa to Guam is now estimated to require spending between $18 and $23 billion on Guam to build up its capabilities as a permanent base. This is an increase of well over $10 billion from the original estimate. I believe the pricetag will continue to rise. As a result, I, along with Chairman LEVIN and Senator WEBB and other colleagues, view this program as unworkable, unaffordable, and an unnecessary strain on the relations between our government and the Government of Japan. Recognizing this strain, both the Armed Services Committee and the Military Construction and Veterans Affairs' Committee of the Appropriations Committee have stopped funding Guam

military construction projects until the Department of Defense provides a master plan and considers alternatives that may provide the needed Marine forward presence at much less expense.

Let's face it, we simply are at a level we cannot afford under the present plan. I also understand our relations with Japan are very important in this whole move. We cannot send a signal that America is leaving the area. In fact, I was very pleased to see the agreement the President of the United States signed with the Prime Minister of Australia just yesterday that provides for a joint operating base in Australia. But we must understand the delicacy of our relations with the Government and people of Japan, especially in the time of rising concern about some of the behavior that has been exhibited by the Chinese.

I believe we need to take advantage of this pause to convene a congressional commission of experts in Asian affairs, with multilateral input, to review our national security interests in the Pacific region over the next 30 years and charter that commission to propose a posture for our military forces that will both strengthen our traditional alliances while offering opportunities for cooperative efforts with emerging partners and allies to solidify our mutual interests in the region.

In the face of the doubt about the scope and timing of the Pacific realignments, we also need to ensure that this pause in potentially unnecessary spending is extended in 2012 to the use of defense funds to activities that have no direct impact on military functions or missions on Guam, such as the purchase of civilian school buses and an artifact repository and a mental health clinic on Guam. While these projects may have legitimate value to the Government of Guam to address current needs for citizens of Guam, they simply are not my idea of top defense priorities in the fiscal environment we face.

In addition, despite the efforts of Congress to ban earmarks and special interest projects, this bill contains almost $850 million in authorizations of funding for items and programs not requested by the administration. The full Senate needs to consider the merits of these unrequested spending items and to determine whether they are top defense priorities in today's fiscal environment.

The bill also cuts $330 million for private sector care under the Defense Health Program, based on an assessment of historical underexecution rates. This is the first step in an important progress in helping the Department of Defense control spiralling health care costs. It is the other challenges we face in this bill where we could have and should have done more.

Secretary Panetta, speaking at the Woodrow Wilson Center, said:

> The fiscal reality facing us means we also have to look at the growth in personnel costs, which are a major driver of budget growth and are, simply put, on an unsustainable course.

The Secretary concludes:

> If we fail to address [these costs], then we won't be able to afford the training and equipment our troops need in order to succeed on the battlefield.

Providing the Department with the authority to adjust Tricare PRIME enrollment fees based on a realistic index of national health expenditures per capita, as the administration requested, would have been the right thing to do. Instead, this bill limits all future enrollment fee increases to the cost-of-living adjustment for military retired pay.

Military retirees and their families deserve the best possible care and nothing less in return for a career of military service. But we cannot ignore the fact that health care costs will undermine the combat capability and training and readiness of our military if we don't begin to control the cost growth now. Our committee report reflects the desire of the committee to review options for phasing in more realistic future adjustments beginning in fiscal year 2014, and that is exactly what we must do.

I wish to emphasize a point here. I am solemnly aware of the commitment this Nation has made to the men and women who have served in the military regarding health care and benefits. This Nation has made promises for many years and has endeavored to keep those promises. But we are faced with a set of dire circumstances regarding the long-term viability of entitlement programs that threatens to undermine a whole range of promises we have made to every American.

I am also keenly aware that in this unprecedented fiscal crisis facing this country, providing for our national defense is the most important responsibility that our or any government has. It is our Nation's insurance policy. And in a world that is more complex and threatening than I have ever seen, we cannot allow arbitrary budget arithmetic to drive our defense strategy in spending. We have to look at every program to determine what risks we can afford to take without risking the lives and welfare of those brave young Americans who volunteered to serve in the military.

As such, some of the defense cuts being discussed—particularly as a result of sequestration—would do grave harm to our military and our Nation's security. The immediate impact of a sequester, according to Secretary Panetta, who previously served as chairman of the House Budget Committee and Chief of Staff to President Bill Clinton, could be a 23-percent across-the-board cut to our Nation's defense programs. Shipbuilding and construction contracts would have to be curtailed. Civilian personnel and contractors would have to be furloughed. The end results of these cuts after 10 years would be ''the smallest ground force since 1940, the smallest number of ships since 1915, and the smallest Air Force in its history.'' The United States would face ''substantial risk of not being able to meet our defense needs.''

Defense spending is not what is sinking this country into fiscal crisis, and if the Congress and the President act on that flawed assumption, they will create a situation that is truly unaffordable—the decline of U.S. military power and a hollow military. We cannot let this happen. Despite a significant decline in defense spending, the growing threats we face around the world demand a strong and resolute U.S. military that continues as the first line of protection for peace, freedom, justice, and democracy around the world.

I have had the privilege of a long career in public service, but in all my years I don't think I have ever seen a geopolitical environment as complex and as multidimensional as the one we face today. This will only increase in the years to come. The rise of China is one of the most seminal events in world history, but it is not an isolated occurrence. Other nations across the Asia-Pacific—most notably India—are also growing rapidly and using their newfound wealth to enhance their comprehensive national power, especially new military capabilities.

The challenge for the United States is this: How do we, as a historic Pacific power, use the next few years—despite the necessary cuts that will have to be made in our defense spending—to make smart, strategic investments that set us up to shape the future of the coming Pacific century? That means a more geographically dispersed and operationally resilient regional force posture. It means developing new operational concepts, such as the Defense Department's AirSea Battle concept, which aims to enable us to operate effectively in an anti-access and area-denial environment. It means taking advantage of the many opportunities we face to enhance the capabilities and interoperability of our alliances and partnerships. And perhaps most of all, it means making some difficult and at times painful choices about where we can go, what we do, and what we can do without. We all must take responsibility for these choices.

When we talk about our increasing focus on the Asia-Pacific region, what this does not mean and cannot mean is a lack of commitment to the broader Middle East. After all, the United States still has a capacity to do at least two things at once, and we cannot afford to allow that to change.

The Middle East and north Africa are undergoing perhaps the most consequential period of upheaval since the collapse of the Ottoman Empire. Governments with long patterns of authoritarian control—some of them our partners—are falling under the popular pressure of millions of citizens who desire dignity, freedom, and opportunity. Our old and dear ally Israel faces a more tumultuous and potentially threatening position than it has in decades. At the same time, new regional

leaders, such as Turkey and Qatar and the UAE, are playing a more confident and assertive role in shaping the events of the region despite the failure of leadership that led us to the full withdrawal of U.S. troops in Iraq. The success of that country remains a critical national security interest of the United States. We must remain committed to Iraq's success and stability. And all the while, the Iranian regime continues to threaten the security of the region and that of the United States.

Amid all of these complicated and important global trends, it is absolutely vital that the Members of this body be allowed to engage in a fulsome and serious debate about the vital national security interests contained in this bill. I hope there will be a generous opportunity to offer amendments and debate them. I am confident we can do this while still moving diligently and quickly along.

We have given the majority leader the commitment that we will work to ensure Senate consideration of this bill on an expedited basis. This Chamber must have the opportunity to complete this bill and then send it to the conference with the House. We need to have a conference report before the end of the year.

We cannot continue to place critical authorizations in appropriations bills or continuing resolutions because we cannot get the Defense authorization bill done in a timely manner. As an example, this bill includes extensions for several important counternarcotics authorities that expired at the end of fiscal year 2011. The expiration of these authorities has had a direct impact on DOD efforts to combat illicit trafficking networks where proceeds often directly fund the activities of terrorists and other criminal organizations that pose a significant threat to U.S. security interests. Timely passage of the Defense authorization bill will ensure that these counternarcotics missions can continue in places such as Afghanistan, Colombia, and along our southern border.

I, for one, am not proud of the 9-percent approval rating in the performance of Congress determined by various polls. They are right—we need to do more for the American people. I hope we can reverse this downward trend in our approval by tackling the critical national security challenges facing this country in an efficient and effective manner.

I look forward to working with Senator LEVIN to pass this bill as quickly as possible and get it into law for the benefit of our military and our country. I would ask our colleagues—as we usually do—to get their amendments to us so we can have them considered and have as prompt action as possible on them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let me thank my friend from Arizona for his great work on this bill and the way in which he and our members, our brothers and sisters on the committee, including the Presiding Officer, worked so well together on a bipartisan basis and the way our staffs worked together. We are now in a position where we can consider amendments, as the Senator from Arizona said, pending the receipt of amendments for our consideration.

I yield the floor.

Mr. MCCAIN. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the McCain-Levin amendment No. 1092.

Mr. MCCAIN. I think that is the Levin-McCain amendment.

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. I would like to discuss that amendment. This amendment is a result of the effort made by our committee staff and other members of the committee to identify a very serious problem that can affect our Nation's security; that is, the counterfeiting of critical components that end up in our defense systems—in some cases, helicopters; in some cases, aircraft; in some cases, missiles—literally every high-tech aspect of our Nation's defense systems.

We traced, in hearings under Senator LEVIN's leadership, the way in which, through different shell companies, these parts that originate in China that are counterfeit end up, through various establishments and then by our major parts suppliers, in our weapons systems. There already have been occasions where there have been system failures, and there have also been situations which have inhibited or reduced readiness and further capabilities. So far, thank God, it has not resulted in any casualties or deaths, but there is very little doubt that this counterfeiting poses a serious threat. According to our findings, some 70 percent of these counterfeit parts come from China.

It has to be stopped. We don't know, to tell my colleagues the truth, if all the parts of this amendment will stop it because it is a huge money-making business, but I think this initial amendment will move us in the right direction to try to bring at least under some control the flow of these counterfeit parts into our Nation's defense.

So I hope that with the help of my colleagues we could adopt this amendment as rapidly as possible and move on to the next one. I know of no one who objects to it. I know there are other members of the committee who were involved in the examination of this situation, and perhaps they would like to come and speak on it. But I would recommend to the chairman that we move on this amendment as quickly as possible.

Mr. LEVIN. Madam President, I thank the Senator from Arizona. I very briefly described this amendment before, but I will take a few minutes now to describe it in some greater length because it is very significant. It is going to totally change the way we buy replacement parts for our weapons systems to avoid the absurdity that we have so many counterfeit parts, including used parts, where we need new parts on these weapons systems.

The investigative staff of our committee looked at just a slice of the Defense chain for getting replacement parts. In that one slice of that supply chain, they identified 1,800 examples of where counterfeit parts were in our weapons systems. There were 1,800 different examples, but they involve millions of parts.

What happens here is that these used computers that originate from China, which are called e-waste, are sent back to China where they are pulled apart. The electronic parts are then washed, frequently in a stream—and there are pictures of these parts being washed in streams—dried out in the open, and then they go mainly to one place in China, Shantou. The surfaces of these parts are then sanded down, new surfaces are put on them, and a number is placed on them to make them look like new parts. Then, those parts, through various ways, get into the supply chain. That is what we have to stop.

This is dangerous for our troops. It jeopardizes their missions. We believe we are losing approximately 11,000 American jobs that would be making these parts if they weren't counterfeited overseas. That is just one estimate by the Semiconductor Industry Association. Our semiconductor manufacturers suffer about $7.5 billion in lost revenue. So there is a safety issue and a mission threat issue here, first and foremost, but this is also an unnecessary and unfair blow to the American economy and to American jobs.

This is what this amendment does. We are requiring the Secretary of Homeland Security to establish a program of enhanced inspection of electronic parts imported from any country that is determined by the Secretary of Defense to be a significant source of counterfeit parts in the DOD supply chain.

This amendment requires the Department of Defense and its suppliers to purchase electronic parts from original equipment manufacturers and their authorized dealers, or from trusted suppliers who meet established standards for detecting and avoiding counterfeit parts. It establishes requirements for notification, inspection, testing, and authentication of electronic parts that are not available from such suppliers.

It requires the Department of Defense and DOD contractors who become aware of counterfeit parts in the supply chain to provide written notification to the Department of Defense inspector general, the contracting officer, and the Government-Industry Data Exchange Program—GIDEP—or a similar program designated by the Secretary of Defense.

The amendment would authorize Customs to share information with original component manufacturers from electronic parts inspected at the border to the extent needed to determine whether an item is a counterfeit.

It requires large Department of Defense contractors to establish systems for detecting and avoiding counterfeit parts in their supply chains, and it authorizes the reduction of contract payments to contractors who fail to develop adequate systems.

The amendment requires the Department of Defense to adopt policies and procedures for detecting and avoiding counterfeit parts in its own direct purchases, and for assessing and acting upon reports of counterfeit parts from Department of Defense officials and DOD contractors.

The amendment authorizes the suspension and debarment of contractors who repeatedly fail to detect and avoid counterfeit parts or otherwise fail to exercise due diligence in the detection and avoidance of counterfeit parts.

The amendment also includes a bill Senator WHITEHOUSE introduced that was passed out of the Judiciary Committee to toughen criminal sentences for counterfeiting military goods or services.

Finally, the amendment requires the Department of Defense to define the term ''counterfeit part'' which is a critical and long overdue step toward getting a handle on the problem.

We also make it clear that it is the supplier of the counterfeit part who is going to pay for its replacement, and not the taxpayers of the United States.

This amendment touches the jurisdiction of two or three other committees, so we have sent this amendment to the other committees to try to clear this amendment. The Judiciary Committee is one, and I think Homeland Security is another, and I believe the Finance Committee is the third. We are hoping we can get prompt, positive response, but obviously we want to make sure those other committees are consulted and that they concur. If not, we would have to then make changes in the amendment, probably, in order to accommodate what those concerns are. But there are some jurisdictional issues here which we are currently working out.

I had an opportunity this morning, with Senator MCCAIN, to talk to Senator LEAHY, who was before our committee introducing a nominee, to alert him to the fact that we had this amendment which touched on the jurisdiction of his committee. I hope by now the language of the amendment has been shared with the staffs of those three committees—and I think I have them all—but we intend to do exactly that.

Mr. MCCAIN. Madam President, will the Senator yield for a question?

Mr. LEVIN. Surely.

Mr. MCCAIN. Is it not also true that as the Senator mentioned, and I wish to emphasize, that Senator WHITEHOUSE's Combating Counterfeiting Military Act is a part of this bill, so that would hopefully satisfy at least the Judiciary Committee? I see the distinguished Senator from Iowa here. He does not intend to address this issue, but I hope we can get the committees of jurisdiction involved in this as quickly as possible. I think this is an issue we should not delay too much longer.

Mr. LEVIN. Well, we do need to consult with those committees. That is underway. I am hopeful the committees and their leaders will take a prompt look at this and see if there is any problem with the language from the perspective of their committees.

Mr. MCCAIN. If the chairman will further yield briefly, so we will not voice vote this until we get the signoff of the relevant committees; is that correct?

Mr. LEVIN. That is correct.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent to address the Senate as in morning business.

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

CONSTITUTIONALITY OF PPACA

Mr. GRASSLEY. Mr. President, I am pleased the Supreme Court has agreed to hear the arguments in three cases challenging the constitutionality of the health care reform law Congress passed 2 years ago. I appreciate that the Obama administration asked the Supreme Court to hear this question. In light of the importance of these cases, I have written to Chief Justice Roberts asking him to provide live audio and video coverage of the oral arguments.

The constitutionality of the health care law was the subject of a hearing in the Judiciary Committee last February. Regrettably, the Judiciary Committee would not hold such a hearing until after the bill became law. Those who voted for that law should have given these constitutional questions more attention before they voted for the bill. Today I wish to discuss the issues that are presented in the cases, focusing primarily on the constitutionality of the individual mandate and another recent appellate court ruling on that topic.

When Congress passed this law last year, we were told it would be very popular and truly and clearly constitutional. Neither is true. Polls show that the law remains unpopular. The law's individual mandate provision requires nearly all Americans who do not otherwise have health insurance to purchase such insurance or to pay a monetary penalty. That provision also raises serious constitutional questions about the scope of congressional power to regulate interstate commerce.

Normally, the Supreme Court grants only 1 hour for oral argument. Here, the constitutional questions associated with the bill are so difficult that the Supreme Court has decided to devote 5½ hours to oral argument. The answers to the questions are not clear. Besides considering the commerce clause question, the Court will also hear oral arguments on three other questions. The first is severability: Will the remainder of the law stand if the individual mandate is struck down? Normally, the Court does not even consider severability until it has decided that a part of a statute is, in fact, unconstitutional. The fact that at least four Justices have voted to hear arguments on this question should cause uneasiness among those who are confident that the law is constitutional. The second issue is the constitutionality of the law's expansion of the Medicaid Program upon the States. The third is whether procedurally the law can be challenged in the courts before it actually takes effect.

There is always the possibility that after all the briefs, all the arguments, and all the public expectations, the Supreme Court will finally resolve whether the health care law is, in fact, constitutional. Conversely, the Court could determine that it is too soon for it to rule on the issue because the law hasn't fully gone into effect.

Before the Supreme Court agreed to hear these cases, the U.S. Court of Appeals for the DC Circuit ruled that the individual mandate was within the constitutional power to regulate interstate commerce. That court concluded that this result followed from existing Supreme Court decisions. It also ruled that Congress could, therefore, require private individuals to purchase any product that Congress chose. The majority opinion was written by Judge Laurence Silberman.

I respect Judge Silberman, but I strongly dispute his ruling and I wish to take this opportunity to outline my disagreements with Judge Silberman.

I think Judge Silberman has selectively read Supreme Court decisions. For instance, he noted that no Supreme Court has ever held the commerce clause authority is limited to people who are currently engaging in an activity that involves interstate commerce, but it is equally true that no Supreme Court case has ever held that the commerce clause covers people who are not engaging in an activity and may never do so in the future. It is not clear why Judge Silberman focused only on the first formulation and did not consider the second. This omission is even more peculiar when compounded by his omission of the Supreme Court's repeated skepticism of congressional claims that it can exercise a power that it never before discovered in more than 200 years of our constitutional history. The Court has always been wary when a new power is claimed.

Judge Silberman recognized that the power claimed here to require that the purchase of a product or service is novel, but he did not continue with the next step that the Supreme Court

would have taken. Instead, the judge concluded that the argument against the power was equally novel.

I think it is common sense no one would have made such an argument if Congress had not claimed this power. For instance, when the Supreme Court in the Plaut case ruled that Congress could not reinstate a statute of limitations once it had expired, it pointed out that Congress had never done that. It did not belittle the argument against the practice by characterizing it, as Judge Silberman did, as novel. In fact, the argument against the novel claimed power won.

Judge Silberman stated that Congress cannot regulate noneconomic behavior based on a weak link to interstate commerce. He ruled that Congress cannot regulate intrastate economic activity that in the aggregate does not substantially affect interstate commerce. Agreeing with Judge Silberman, so far so good. But then he found that decisions whether to purchase health insurance do affect interstate commerce. However, the Supreme Court has never ruled that Congress can regulate decisions—in other words, thoughts—on whether to purchase a good or service. The Court for decades has referred to the power of Congress to regulate activities that affect interstate commerce.

Since Congress cannot regulate noneconomic activities or intrastate economic activities that have no combined effect on commerce, then it follows naturally that Congress cannot regulate at all inactivity—such as refraining from buying a product.

Judge Silberman considered the ''activity'' argument and, in my mind, he repeated an earlier error. He concluded that no Supreme Court case had ever said that existing activity was necessary for Congress to exercise its power to regulate interstate commerce.

But it is just as true that many Supreme Court cases have described the kinds of activities Congress may regulate under the commerce clause. Judge Silberman could have as accurately found that no Supreme Court case has ever held that Congress has the power to regulate commerce in the absence of an activity.

Another way Judge Silberman selectively read the Supreme Court precedents is that he could have struck down the individual mandate consistent with all Supreme Court precedents.

This point was confirmed in the Judiciary Committee hearing we held in February. I asked the witnesses whether the Supreme Court could strike down the individual mandate without overruling any of these precedents. The Republicans' witnesses both responded that the Court could do so. The Democrats' witnesses identified no cases that would have to be overturned. So not only is the individual mandate unconstitutional, but the Supreme Court could strike it down without overturning any of its precedents.

Judge Silberman disagreed. He said the mandate here is close to the facts of Wickard v. Filburn, a famous 1942 Supreme Court decision that broadly read the powers of Congress to regulate interstate commerce. The Court then upheld the second Agricultural Adjustment Act. Under that law, a farmer could be penalized for growing wheat on his own farm even for the use of his own family and livestock. He could not grow that wheat if he exceeded his wheat quota. The homegrown wheat substituted for the wheat the farmer otherwise would have had to purchase on the open market, so the Court concluded that would depress the price of wheat when combined with the actions of similar farmers all across the country. So, obviously, in Filburn, that farmer affected interstate commerce. That may not make sense to us today, but it made sense in 1942, and it is still a precedent.

Judge Silberman, however, ruled that the regulation at issue in that case is very similar to the individual mandate, which is an inactivity if you decide not to purchase it, and that any activity involved in the Wickard case was incidental to simply owning a farm.

I take issue with that. The Wickard case differs conceptually from the individual mandate. Farmer Filburn, in 1942, could avoid the regulation by ceasing to farm, by no longer engaging in the regulated activity. In fact, that is true in all of the cases Judge Silberman cited. A person can avoid laws penalizing cultivation of marijuana by not cultivating marijuana. A person can avoid laws criminalizing child pornography by not downloading child pornography. A person can avoid public accommodation regulations by not operating a public accommodation. Those are activities Congress can constitutionally regulate under the commerce clause.

But that is not the case with the individual mandate. You cannot avoid being subject to that mandate. If you exist, if you are alive, an individual in this country, you are regulated. And, of course, that is not the situation with respect to any other decisions Judge Silberman cited. It is why he is, respectfully, wrong to find that the infringements on liberty are the same in those cases as they are in the individual mandate. The liberty of avoiding the regulation was preserved in the laws at issue in those cases. Liberty would prevail because you did not have to abide by the law if you were not in that business, but not so with the individual mandate under the health care reform bill.

Moreover, I disagree with Judge Silberman's assertion that it is for political reasons and not constitutional ones that it took until 2010 for Congress to conclude that the Constitution allows it to force people to buy goods or services. If this power truly existed, Congress would have exercised it frequently and long ago.

Why would Congress pass tax incentives to encourage people to buy hybrids if Congress could simply order you or anybody else to buy hybrids? Why would Congress give strong incentives for farmers not to grow wheat so as to keep the price up when it could force people—the consumer—simply to buy wheat? Why could it not raise the price of beef by requiring vegetarians to purchase it, so long as it did not require them to eat that beef? Why would Congress take the political heat for raising taxes when it could order some people to pay third parties for goods and services?

Even more sinister, Members of Congress could use this supposed power under the commerce clause to entrench ourselves in office. Congress could require that the goods and services Americans must purchase be limited to those providers who contribute to the political party of the Members. Or it could prohibit purchases from those providers who contribute to the other political party. It could require people to buy houses or cars or other products in areas where that political party has its base of support. Sounds a little bit like Mussolini's Italy, doesn't it?

Before the Supreme Court's Lopez decision, there were people who believed Wickard v. Filburn, since 1942, gave Congress the ability to regulate anything Congress chose to regulate. Then, in the Lopez case, the Supreme Court ruled that the commerce clause did not permit Congress to regulate the possession of handguns near schools. At the time, there was widespread fear among liberals that the power of Congress to regulate interstate commerce would be jeopardized. Those fears did not materialize. Similarly, today, people such as Judge Silberman again believe that Wickard v. Filburn gives Congress the ability to regulate nearly anything it chooses and, therefore, the individual mandate must be upheld. I do not agree.

Where I give Judge Silberman credit—and if you knew the man, you would know this is his character—is in his intellectual honesty. Unlike the Obama administration, Judge Silberman recognizes the truth. If Congress can force people to buy health insurance, he admits, it can force people to buy any goods or services. It can regulate inactivity because it can affect interstate commerce. This is consistent with the opinion of the Congressional Budget Office, which wrote in a 1994 memorandum that ''a mandate-issuing government'' could lead ''[i]n the extreme'' to ''a command economy, in which the President and the Congress dictated how much each individual and family spent on all goods and services. . . . '' That is not the America our Constitution writers envisioned.

At the oral arguments in the DC Circuit, the judges asked the Obama administration lawyer if Congress could require Americans to buy broccoli, or to buy cars to keep General Motors in business, or to set up mandatory retirement accounts in place of Social

Security. The lawyer weaseled an answer, saying that ''It would depend.'' That is not a principled position on the nature of the supposed powers of Congress, which has no limit.

Judge Silberman is a former Ambassador to what used to be Yugoslavia. He understands the difference between a command economy and a free market economy. What his decision implicitly states is that Wickard v. Filburn permits Congress to enact a command economy with no individual economic freedom whatsoever. But our Constitution provides protections for private property and for contracts. It establishes some form of a free market system. Judge Silberman's interpretation may imply that Wickard v. Filburn was wrongly decided and should be overturned, but I do not believe it is necessary to overrule that decision, any more than it was necessary to reverse the Filburn case when they decided the Lopez case.

Apart from cases, we need to go back to the basics. We should consider first principles in evaluating the constitutionality of the individual mandate in the health care reform bill. The people are sovereign in our country. The government serves the people, not the other way around. That is enforced through our Constitution. And that Constitution gives Congress just limited powers.

In the Federalist Papers, James Madison wrote that the powers of the Federal Government are few and are defined, and the powers of the States are many and are undefined. Although there is much more interstate commerce in today's economy than there was in 1787, the power is still limited. If Congress can require Americans to purchase goods and services that Congress chooses, without a limiting principle, then there is no limited Federal Government. There would be no issue that Congress could not address at the Federal level. There would be no range of State powers that the Federal Government cannot usurp. And there would be no individual economic autonomy that the Federal Government must respect. Surely, the Constitution would not have been ratified if Americans had understood it to permit such a result.

The upcoming Supreme Court decisions on the constitutionality of the individual mandate are important, not only for the fate of that provision but for their effect on the powers of the Federal Government and for the very survival of individual economic activity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1084

Mr. KIRK. Mr. President, I wish to speak on the pending amendment. I rise in support of the Kirk-Manchin-Heller and Blunt amendment regarding Iran. What we know with regard to Iran is that they have persecuted 330,000 Baha'is in their country, registered their houses, kicked their kids out of university, made sure that they can do no business with the Iranian Government.

We know Iran is the chief sponsor of the terrorist group Hezbollah that has had a grip on southern Lebanon. We know Iran jumped the Shiite divide to also support the terrorist group called Hamas in the Sunni community.

We know Iran has been a state sponsor of terror as certified by Presidents Carter, Reagan, Bush, Clinton, Bush, and Obama.

We know Iran recently sentenced an Iranian actress to 90 lashes for appearing in an Australian movie without a headdress.

We know Iran recently arrested 70 of its fashion designers, for crimes I cannot even imagine that they would have committed.

But, most importantly, we know the International Atomic Energy Agency has certified that now Iran has enriched uranium far beyond what it needs to run a civilian reactor program; that Iranian military personnel have been involved in acquiring information on the design of nuclear weapons; that the Iranians are working on the details of a warhead for their Shahab-3 missile that fits all of the profiles of a nuclear weapon.

Finally, we know, according to the Attorney General of the United States, Eric Holder, that Iran and its Iranian Revolutionary Guards Quds force established a bomb plot with the Mexican cartel, the Zetas, to blow up a Georgetown restaurant, to kill a number of Americans, even talked about possibly killing Senators, in an effort to assassinate the Saudi Arabian Ambassador to the United States here in Washington, DC.

I think it is clear with this bipartisan amendment that we all recognize we are at a turning point and that we need new sanctions against Iran. Without crippling sanctions, I believe we have then turned the international community on the path toward war, likely between Iran and our allies, in Israel.

This would cause a needless loss of life. It would lead to higher energy prices for the West, an increase in instability in Europe when we can least afford it. Therefore, we need to level crippling sanctions, especially against the Iranian center of gravity, the Central Bank of Iran.

The Central Bank of Iran is the principal funder of the Ahmadinejad regime itself. It is probably the source of funds so substantially provided to terrorist groups by Iran to Hamas and Hezbollah. It is the Central Bank of Iran that is supporting operations in Afghanistan and Iraq against our allies there.

It is the Central Bank of Iran that is the principal underlying financial support for the Iranian nuclear program, and the Central Bank of Iran that is the paymaster for the Iranian Revolutionary Guards force, especially their Quds force. Likely the money that was planned for the Zetas to carry out the bomb plot in Washington, DC, had its origin point with the Central Bank of Iran.

That is why 92 Senators, Republicans and Democrats, despite these partisan times, have joined to say we should level this crippling sanction against the Central Bank of Iran.

I thank the 92 Senators who signed the Schumer-Kirk letter. Indications are that the Obama administration is going to take further actions on the Central Bank of Iran. This amendment lays out the full roadmap for what we should do.

What does the amendment do? It is patterned after the bipartisan amendment adopted under the authorship of Democratic California Congressman HOWARD BERMAN, unanimously adopted in the House Foreign Affairs Committee, that says for any business, if you do business with the Central Bank of Iran, you cannot do business with the United States of America.

We know that world financial arrangements and especially oil markets are complicated instruments, so under this bipartisan amendment we have a 180-day timeclock to make sure that especially key allies and friends of the United States can unhook from Iranian oil and the financial ties that bind them to Iran. This is particularly important for Turkey, for Sri Lanka, for Italy, and for Greece, who would all use that time under this amendment to unhook from Iran.

In this, I think we are going to have a very willing partner in the Government of Saudi Arabia, recently obviously focused on, because the Iranians tried to kill their Ambassador to the United States. I will be meeting with that Ambassador tomorrow. I think this amendment lays the groundwork not just to work with Israel, not just to work with Saudi Arabia, but our allies, to collapse the Central Bank.

Without action, I think we turn the Middle East and especially the Persian Gulf toward war. That is why we should take every nonmilitary action possible to avoid that conflict, to collapse the Central Bank of Iran.

There are a number of bipartisan heroes in this story—Senator LIEBERMAN, who has been a key actor on these issues and a partner with me on many of these issues; Senator GILLIBRAND also who has helped out; obviously Senator SCHUMER, who was the coauthor of the 92-Senator letter on the Central Bank of Iran; Senator MENENDEZ, who also has an outstanding idea on creating an Iranian oil-free zone; and obviously my bipartisan partner on this and best friend in the Senate, Senator MANCHIN, who joined me on this effort.

Together, we can have a clear statement about what has happened with the IAEA and the Iranian nuclear program, with their record on human rights, with their record on support for terrorism and, most importantly, according to the Attorney General, with a brazen attempt to attack the United States directly with this bomb plot.

I urge Members of this Chamber to vote for this amendment, which is now pending to the National Defense Authorization Act, because it puts a clear statement forward, levels the toughest nonmilitary sanction we had, helps reduce the chance for war or market and oil instability and higher prices, and has such a strong bipartisan pedigree behind it.

I yield the floor.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. AYOTTE. Mr. President, as a member of the Senate Armed Services Committee and as the ranking member of the Readiness Subcommittee, I wish to speak for a few moments and comment on the National Defense Authorization Act.

I will begin by thanking the majority leader for honoring his commitment to bring the National Defense Authorization Act to the floor for debate, amendment, and passage. As Leader REID pointed out this morning, this would have been the first time in a half century in which we would not have passed a national defense authorization bill. In the midst of two wars, with our brave sons and daughters and husbands and wives fighting in Iraq and Afghanistan, with our country facing a serious threat from radical Islamist terrorists, that would have been unacceptable.

I very much thank Chairman LEVIN and Ranking Member MCCAIN for their leadership. In this era that has been characterized by gridlock and partisanship in Washington, the Armed Services Committee has represented a welcome exception. The Senate Armed Services Committee has a long-enjoyed, well-deserved reputation for professionalism and bipartisanship as we work across party lines to support our troops and their families who sacrifice so much for our country to keep us safe.

This bipartisan spirit is reflected by the fact that the Armed Services Committee unanimously reported the initial Defense authorization bill out of committee this summer, and did so again this week, after reducing the authorization levels consistent with the requirements we need to meet, in light of the fiscal crisis our country faces, and after revising the detainee compromise to take into consideration some of the administration's concerns.

This year, once again, the quality of Senator LEVIN's and Senator MCCAIN's leadership is reflected in the quality of the legislation the Armed Services Committee has produced. This bill will ensure that our war fighters have what they need to accomplish their missions, protect themselves, and defend our country.

I am especially proud of the work of the Readiness Subcommittee. It has been a pleasure to work with Chairman MCCASKILL. Our committee made significant, well-informed reductions that achieve taxpayer savings without endangering our military readiness.

However, going forward, I wish to raise one issue. We have to guard against excessive cuts to our readiness accounts that will leave our troops and our Nation less prepared for future contingencies. In light of the supercommittee meeting in Washington, we have to come to an agreement to avoid what Secretary Panetta has described as catastrophic and a deep concern for our national security if those sequestration cuts occur.

I am particularly pleased key provisions of the Brown-Ayotte ''no contracting with the enemy'' legislation are included in the bill. This provision will make it easier for the Defense Department, contracting officials in Central Command area operations, to void contracts with contractors that, unfortunately, in some instances, have funneled taxpayer dollars to our enemies.

Let me conclude by saying that, again, I very much appreciate the leadership and bipartisan nature of the work done on the Armed Services Committee. This is a very important bill that I am very glad we are going to take up and fully debate in the Senate. I certainly urge my colleagues to pass this bill.

AMENDMENT NO. 1065

Ms. AYOTTE. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1065.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Ms. AYOTTE], for herself, Mr. MCCAIN, and Mr. REED, proposes an amendment numbered 1065.

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

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

The amendment is as follows:

(Purpose: Relating to the force structure for strategic airlift aircraft)

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

**SEC. 136. STRATEGIC AIRLIFT AIRCRAFT FORCE STRUCTURE.**

Section 8062(g)(1) of title 10, United States Code, is amended—

(1) by striking ''October 1, 2009'' and inserting ''October 1, 2011''; and

(2) by striking ''316 aircraft'' and inserting ''301 aircraft''.

Ms. AYOTTE. Mr. President, the amendment I have just offered to the Defense authorization bill is an amendment that Senator REED from Rhode Island is joining me in sponsoring.

The amendment itself would allow the Air Force to reduce its strategic airlift aircraft inventory to what they need to meet our readiness needs. It would save $1.2 billion of taxpayer money in the next few years, without compromising the readiness we need to protect our Nation.

Our Nation's strategic air fleet provides global air mobility to the U.S. military. As GEN Raymond Johns, commander of the Air Force Air Mobility Command, said in his statement in a hearing before the Armed Services Committee, where we had this amendment addressed:

The strategic airlift is a national asset allowing America to deliver hope, to fuel the fight, and to save lives anywhere in the world within hours of getting the call.

In order to meet this need, the United States uses C–5s and C–17s as their strategic airlift capability, and current Federal law sets the Air Force's minimum number of strategic aircraft at 316. However, the Air Force and the administration—when the Department of Defense submitted their budget request, they made very clear that we don't need to keep the minimum requirement at 316 to meet the needs of our country; that only a minimum requirement of 301 aircraft are needed to meet the strategic airlift capacity requirements of our country. The requirement to maintain the bottom-line limit of 316 is a situation where Congress is requiring the Air Force to maintain planes it does not need to protect the readiness of our country. So it was the Air Force that wanted this amendment to be brought forward to ensure we can save taxpayer dollars—over $1 billion.

This is very important at a time when we are asking our military, as a result of the Budget Control Act, over the next 10 years, to reduce spending by close to $450 billion. So they have to look at areas where we are spending money we don't need or where we are maintaining assets we do not need to meet our readiness.

That is why I brought this amendment forward. It is a commonsense amendment that I am so pleased Senator REED has joined me on. I hope my colleagues will support it in this time of great fiscal challenges. But the need remains ever present to protect our national security against those who would want to harm Americans and our allies for what we believe in.

We have to allow the Air Force and our Armed Forces to make sensible decisions on where they need to put resources to protect our country. That is what this amendment does. I will say we had a full hearing in the subcommittee of the Armed Services Committee on the strategic airlift aircraft requirement. The military testified uniformly that reducing the number of the strategic airlift from 316 to 301 would put us in a very strong position to meet every contingency that we can anticipate going forward, including multiple contingencies around the world, as well as homeland events.

This area has been studied very carefully. It will allow us to continue to

protect our country, but again, will save $1.2 billion in taxpayer money over the next few years.

I urge my colleagues to support this amendment.

Mr. MCCAIN. Will the Senator yield for a question?

Ms. AYOTTE. I will yield to the Senator.

Mr. MCCAIN. Is it correct that the U.S. Air Force not only supports this but considers it one of their very high priorities?

Ms. AYOTTE. Yes, this is a very high priority of the Air Force, because in this difficult time when they are making reductions, this is an area where they can meet our national security needs. Yet Congress has actually asked the Air Force to maintain more planes than it needs. So this is a commonsense provision that is very important to our Air Force.

Mr. MCCAIN. In these times of very difficult budgetary decisions that are having to be made, is it not true also the President's budget in 2011 had included a plan to retire 17 C–5As in 2011 and 5 in 2012?

Ms. AYOTTE. Yes. Actually, this amendment I am bringing forward is consistent with the administration's budget request they submitted for the Congress's consideration. So this is a situation where, after a careful hearing we had before a subcommittee of the Armed Services Committee, and after the administration had submitted its request, and after the Air Force asked for this, it makes complete sense that we would allow them to reduce this strategic airlift capacity.

Mr. MCCAIN. May I ask if any State where these aircraft are presently stationed would lose that mission or whether the older C–5s would convert to new C–17s? Is that pretty much the conclusion the Senator would draw from the Air Force plan?

Ms. AYOTTE. This is not going to be a diminishment for States. This is just going to be a right-sizing of the fleet.

What I am concerned about is if we don't pass amendments such as this, where the administration has asked for it, where all of the data supports that we don't need to keep the level at 316, and where we can save $1.2 billion by doing it, how can we then ask our military to make significant reductions if we don't allow them to take such commonsense action such as this?

Mr. MCCAIN. I thank the Senator from New Hampshire, and I hope we can dispose of this amendment. I don't know if a recorded vote would be required by any of the Members, but I hope we can voice vote it.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me thank the Senator from New Hampshire for not only her comments about the committee work and myself and Senator MCCAIN personally, but I want to tell her, and tell anyone within the sound of my voice, what a valuable member of our committee she is. She is someone who is there all the time, and I very much value the input she gives to us because of her regular presence at our hearings and our meetings. So I thank her for that as well as her comments.

I also thank her for this amendment. It is a good amendment. I understand from my staff, and from what the Senator said as well, there was a hearing held specifically on this subject, and that Senator REED, as chairman, made a commitment to hold that hearing, as I understand it. He is a cosponsor of the amendment of Senator AYOTTE. As far as I can see, it is a good amendment, a sound amendment, and it does what Senator MCCAIN said, as well as what the Senator from New Hampshire has said. It avoids spending money on something we can't afford to spend money on.

I don't know of any objection on this side, and I support the amendment.

Ms. AYOTTE. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Arizona.

Mr. MCCAIN. Is it true we are trying to clear the amendment on both sides at the moment?

Mr. LEVIN. I don't know of an objection on this side. As far as I am concerned, if there is no further debate, the Presiding Officer can put the question.

Mr. MCCAIN. I ask the Chair to put it to a vote.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 1065) was agreed to.

Ms. AYOTTE. I thank the chairman.

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

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

The motion to lay on the table was agreed to.

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

The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I thank the chairman, Senator LEVIN, and the ranking member, Senator MCCAIN, for the immensely important work they have done on the bill we are considering, S. 1867, the National Defense Authorization Act. It is a massively important bill, a big bill, and I want to focus on one part of it—a seemingly small section but a vitally important provision of the bill—that enables our Department of Defense to more effectively counter improvised explosive devices, known as IEDs, which have been a major source of attacks against United States and coalition forces in the wars of Iraq and Afghanistan and threaten not only our troops there but all around the world as well as our coalition partners.

I thank particularly one of my colleagues, Senator BOB CASEY, who has been a champion of these efforts against the IEDs or roadside bombs for some time. He has been a relentless and tireless leader in this effort and has included me and others, and I am proud to join him in seeking more effective measures.

This summer saw the highest volume of IED incidents ever recorded in Operation Enduring Freedom, approximately 1,800 a month. That is a staggering and alarming number, and they continue. These devices are deadly and devastating, killing and maiming our troops and causing loss of limbs, traumatic brain injury, posttraumatic stress, and other horrific injuries that are the signature wounds of the ongoing wars. In fact, roadside bombs cause 60 percent of all casualties in Afghanistan. They are the hidden killers in this war.

I speak with the urgency of an elected official whose State citizens are at risk and who are returning with these signature wounds of war and whose lives and limbs can be preserved if we act effectively. I speak as a citizen who has visited the hospitals and the troops who have come back. We have all visited our constituents and their families, their loved ones, their friends and neighbors who have been victims of these terrible weapons of destruction.

Most IEDs in Afghanistan, in fact more than 80 percent, are made with materials originating in Pakistan. There is no magic bullet or panacea to solving this problem or addressing the challenge. It will take a comprehensive fight. Both the provisions contained in the Foreign Operations appropriations bill with regard to Pakistan and the vital force protection equipment in the Defense authorization bill are essential to shutting down the sources of bomb-making materials in Pakistan. They include steps to interdict bomb-making materials at the border and to provide the armor and force protection against the IED threat.

Roadside bombs in Afghanistan are typically made with calcium ammonium nitrate, a very common fertilizer. It is a seemingly innocent product but capable of detonation when processed and packaged in these roadside bombs and then placed in areas where our troops go. This fertilizer from Pakistan accounts for more than 80 percent of the IEDs in Afghanistan. Every day bags of this fertilizer are smuggled to Afghanistan from Pakistan, sometimes hidden in the convoys of goods that cross the open 1,500-mile border. The fertilizer pellets are boiled down and the material is put in a package or container with an explosive detonator that is often linked to a simple trigger system—something such as a tripwire buried in the sand awaiting the tire of a passing vehicle or the foot of an American soldier on patrol. At this moment, thousands of our soldiers and Marines have been injured. Thousands of these bombs are buried in Afghanistan soil and, sadly, many more will be planted in the coming weeks and months.

Again, my colleague from Pennsylvania, Senator CASEY, has been a leader in the Senate and, indeed, led a bipartisan group of Senators, including

myself, in writing to the Secretary of State to request a greater diplomatic effort by our government to encourage Pakistan to stem the flow of bomb-making materials into Afghanistan. Then, in August, we went on an official trip, a CODEL, to take the message straight to the Government of Pakistan. We met with the most senior leaders of Pakistan and we urged stronger action against the misuse of everyday materials by terrorist groups in making the bombs that kill and maim our troops in Afghanistan. We took this message to officials of Pakistan at the highest level, and they responded with a plan that is supposedly being implemented.

The fact is, stronger measures are needed. We need a crackdown and a shutdown on the bomb-making materials, the fertilizer, and the calcium ammonium nitrate that is transported and smuggled across the border so that it can be made into bombs and maim and kill troops from Connecticut and from across the country—troops who are innocent victims—and the people of Pakistan and Afghanistan themselves who have become victims.

We saw firsthand how our troops seek to protect themselves from these IEDs. In fact, at a sand-swept compound in Helmand Province in Afghanistan our congressional delegation saw the most common types of protective practices and devices, including how our soldiers and marines wear body armor, lie face down in the dirt and drag a 10-foot pole with a hook on the end on the ground to look for the telltale signs of an IED. Other measures range from the use of dogs that sniff out bombs to huge armor vehicles and more advanced technology. But even with the most effective and advanced means of detection and disarming bombs, body armor is still essential to protecting our troops.

Pakistan's plan to address the IED smuggling supply chain, which is a threat to its own people as well as our soldiers and marines, has yet to prove effective. The plan addresses border security, regulation of fertilizer materials, and promoting public awareness of the threat posed by these IEDs. But we cannot rely on Pakistan's goodwill to ensure this important work is given the priority it requires.

There can be no ambiguity, no doubt, no uncertainty in our relationship with Pakistan, and that is why I support the even stronger measures Senator CASEY has championed in a process he has suggested that would withhold any assistance if verification cannot be accomplished. The Pakistanis need to prove with action, not mere plans or conferences, that they are stemming and stopping the flow of fertilizer. They need to prove more than good will or good intentions but effective action to stem and stop the flow of all of the bomb-making materials across the border.

We also must support efforts by the Department of Defense to procure and deploy body armor and equipment, such as this bill does, that protects all our troops in harm's way. We are all familiar with the force protection development such as enhanced ceramic plates and redesigning vehicles with V-shaped hulls to deflect blast impact. These advances, make no mistake, came at great expense in terms of blood and treasure to our Nation. We learned how to properly equip our troops in some respects for these measures. But even as the end of Operation Enduring Freedom is now in sight, the requirement to develop even better protection continues and it must be relentless and tireless.

We cannot abandon our efforts. We simply cannot abandon this fight to protect our troops in the field. The lessons learned will serve to honor our commitment to ensure that the brave men and women who protect our freedom and protect our safety and security have the best protection we can provide them.

Enhanced ballistic armor, including underwear protection—or blast boxers—are essential to combatting the threat of roadside bombs. When an IED detonates against dismounted troops, it blasts sand and fragments that shred skin, literally tears apart the skin of our troops. Covering their legs and groin area with flexible armor can prevent amputation of a limb or worse.

I have asked and been informed about delivery of this equipment. To date, 165,000 of the tier 1 sets of blast protection have been delivered into theater. The Marine Corps received 15,000 sets of tier 2-level protection, delivered 4 days ahead of schedule. By the middle of next month, the Army will also receive its complete requirement of tier 2-level sets.

This armor was adapted from one of our allies, British forces, and the Army has now established domestic production of the equipment. I am hopeful that additional types of protection will also be processed and produced and sent and I hope it will be expeditiously.

When I learned of this lifesaving equipment and the challenges involved in delivery, I wrote to the Department of Defense urging swift delivery of the body armor. I was joined by colleagues Senators CASEY, BENNET, and WHITEHOUSE. I am hopeful this program will be an example of our body armor procurement system working effectively. I am hopeful it will set an example and provide a model for this body armor being provided expeditiously, as it is needed. I look forward to our passing the Defense authorization bill, which continues these efforts to supply body armor and equipment needed for troops in Afghanistan.

This bill provides also for the equipment needed to interdict IEDs, from the small backpacks carried by our troops to UAVs to giant Buffalo vehicles. Interdiction also requires the right specialized equipment to detect materials to make those IEDs as they are smuggled across the porous Afghan-Pakistan border. This effort also requires training and awareness of both our military personnel and our allies in this fight. As of September 2011, the Afghan border police had 20,852 personnel. This growth is encouraging.

But the border police have problems with endemic corruption, and they are effective only to the extent that our special forces augment this effort. Our special forces, our special operators, should be encouraged and enabled to continue this effort. Interdiction is an integral part to larger efforts to understand battles based in this region. Force alone can't solve this problem. We need better intelligence and the right detection equipment, combined with the efforts of our special forces. It must be truly a comprehensive effort, as the Defense authorization bill clearly recognizes. We need to show all who live on both sides of this border that the cost of supplying the ingredients of these bombs that kill and maim our troops is too high for them, just as it is too high for us to tolerate.

Let me again thank chairman Senator LEVIN and ranking member Senator MCCAIN for their recognition of this problem. Our Nation has spent more than $½ trillion in support of the war in Afghanistan. We have sustained more than 2,800 coalition casualties. An Afghanistan that is stable and self-sufficient certainly is our goal, and it depends upon the tactical success of these efforts.

IEDs remain the weapon of choice of our enemy. Should we not learn to successfully counter the threat of IEDs, we will see this asymmetrical threat repeated on the battlefield, wherever our troops are deployed around the world.

Given the enormity of this challenge, I urge my colleagues to remain committed to this goal, remain true to this strategy, and counter these IEDs. We must authorize both our foreign operations expenses and this bill and I thank my colleagues for their truly bipartisan support of these efforts.

I yield the floor.

Mr. CARDIN. As to the floor privileges, Mr. President, let me just comment how valuable these Navy fellows are in our offices. I am very grateful for LCDR Knisley's service in my office, and I know Senator WICKER feels the same.

LCDR Shane Knisley will be leaving my office next month, and I wish to thank him very much for the service he has provided in the Senate.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. CARDIN. Mr. President, in a moment, I am going to be asking unanimous consent that the Senate take up to confirm the nomination of Ken Kopocis to be Assistant Administrator for the Office of Water for the Environmental Protection Agency.

Before I make that unanimous consent request, I wish to just take a moment to say a few words about this nominee and the process that has taken place in Senate.

I have known Ken Kopocis since I was first elected to Congress in 1986 and have worked personally with him on a number of water-related issues. Ken has extensive background in water policy and legislative issues, having worked at the Congress for 25 years. I worked with him first when I was in the House of Representatives. I know the Presiding Officer also, when he was in the House, remembers the good work Ken did for the House of Representatives. He has now worked, of course, in the Senate.

He has played a role in crafting and defending numerous pieces of environmental legislation, including the Clean Water Act. At a time when there are so many controversial issues concerning water issues in the Congress, I think it is important we have someone at the helm who has the confidence of Senators on both sides of the aisle.

I have the honor of chairing the Subcommittee on Water and Wildlife in the Environment & Public Works Committee. Ken Kopocis enjoys the confidence of all the members of our committee.

When his nomination was considered in the Environment & Public Works Committee back in July—that is when we took it up—Ken was praised by both Republicans and Democrats alike. Most of my colleagues have had the opportunity to work with him, and they are enthusiastic about his credentials and his levelheaded bipartisan approach to every issue.

It is time the Senate take up this confirmation. It is the right thing to do.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 403, that the nomination be confirmed with no intervening action or debate; that no further motions be in order to the nomination; that any statements related to the nomination be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Wyoming.

Mr. BARRASSO. Mr. President, reserving the right to object. There are still questions that need to be answered and information that needs to be provided by Mr. Kopocis.

I am concerned about the depth of his past involvement to change the scope of the Clean Water Act beyond congressional intent. To me, this nominee still needs to explain his views on public and stakeholder input on regulations he would be in charge of and explain his understanding—his understanding—of the role of Congress versus the role of the Environmental Protection Agency in terms of who makes the laws in this country.

Until those issues are clarified, I do not believe it is appropriate for this nominee to move forward.

Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. CARDIN. Mr. President, I am going to yield the floor in just a moment.

Let me say to my friend from Wyoming, I am going to do my best to make sure the Senator gets all the information he needs. I wish to make sure every Senator has all the information they need. I think this is a very important position to be filled. Mr. Kopocis has the qualifications and confidence. I wish to make sure that is done as quickly as possible. I respect my colleague's views, and I will work to make sure he gets all the information he needs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, it is my understanding that the Senator from Colorado, Mr. UDALL, is coming over to propose an amendment and I hope that will happen momentarily and I hope Members will be prepared with other amendments that we can dispose of this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise this afternoon in support of the fiscal year 2012 national defense authorization bill.

As ranking member on the Seapower Subcommittee, I wish to thank both Chairman LEVIN and Ranking Member MCCAIN for their leadership. It is somewhat of an achievement in actually getting the bill to the floor at this time, and I appreciate their determination.

As we approach the Thanksgiving holiday next week, I would like to take a moment to honor the men and women of our Armed Forces. We are grateful for their service, and our thoughts and prayers are with those now deployed at sea and ashore. My own State of Mississippi is home to many brave servicemembers. Their sacrifices are matched, of course, by those of their families who have supported them day in and day out as they selflessly serve this country.

As ranking member of the Seapower Subcommittee, I have had the pleasure of working with my friend Senator REED of Rhode Island, who is chairman of that subcommittee. We both worked to ensure that this bill meets a wide range of procurement, sustainment and research and development needs for the Navy and the Marine Corps.

Our deliberations were informed by, among other things, a series of hearings we held that addressed force structure and modernization for the Department of the Navy. This process has resulted in a bill that contains provisions which will deliver important capabilities and support our sailors and marines.

The bill before us is supportive of the President's shipbuilding budget request and contributes to the continued vitality of our shipbuilding industrial base which is very important. At a time when we are concerned about job creation, the last thing we want to do is let our industrial base be chipped away.

The fiscal year 2012 shipbuilding budget funds new construction for various types and classes of ships, including an aircraft carrier, amphibious ships, submarines, and large and small surface combatants, totaling more than $15 billion.

From our discussions during the Seapower Subcommittee meetings, it has become abundantly clear that members are concerned about challenges in maintaining fleet capacity among many classes of ships and the capability gaps that exist that have a real effect on the sailors who crew these ships. From amphibious ships to aircraft carriers to destroyers and to submarines, our Navy must maintain an adequate balance among all classes of ships to ensure our Navy can execute these responsibilities.

Through classified briefings we have received from senior officials in the Navy and in the intelligence community, the Seapower Subcommittee also is well aware of the imminent and emerging threats facing our sea services. America must maintain its capability to project power and uphold our obligations to our friends and allies throughout the world. This means robust investment in seapower, and I am heartened that this bill contains such an investment.

With the Deficit Reduction Committee's recommendations due to Congress in less than 1 week, I know all my colleagues agree that cutting our deficit and reducing our national debt responsibly is a must. Failing to act will put the burden on our children and grandchildren. We must make tough decisions now on spending because our current track is unsustainable.

I hope the Deficit Reduction Committee is able to come to an agreement on spending priorities because the alternative is unacceptable cuts in national defense. We must remember that national defense is solely a Federal responsibility. Failure to reach consensus would have grave consequences for our military. Marine Corps Commandant GEN James Amos cautioned about such cuts earlier this week.

In conclusion, I believe the national defense authorization bill reaffirms our commitment to national security and to our men and women in uniform.

I urge my colleagues to act quickly on this important piece of legislation, and once again I thank and commend my friends, Chairman LEVIN and Ranking Member MCCAIN.

I yield the floor.

Mr. President, 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. UDALL of Colorado. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. UDALL of Colorado. Mr. President, I come to the floor to comment on the NDAA, the bill in front of us today. I want to start my remarks by acknowledging the leadership of Chairman LEVIN and Ranking Member MCCAIN. Under their tutelage and leadership the committee has worked tirelessly to craft a Defense Authorization Act that provides our Armed Forces with the equipment, the services, the training, and the overall support they need to keep us safe while they themselves are being protected. I thank the chairman and ranking member, my colleagues, and, most important, the wonderful staff that works for us for their diligence and dedication to this important work.

I also come to the floor to speak out against a proposed change that I think would alter what has been a very effective set of terrorist detention policies and procedures. I believe to make those changes would complicate our capacity to prosecute the war on terror and call into question the principles we as Americans hold dear.

I filed an amendment, No. 1107, that would take a look at what is proposed in the NDAA. We have a solemn obligation to pass the National Defense Authorization Act. But we also have a solemn obligation to make sure those who are fighting the war on terror have the best, most flexible, most powerful tools possible. I have to say again, and I will say it more than two times in my remarks, I am worried these changes we are about to push through would actually hurt our national security.

I am a proud member of the Senate Armed Services Committee. As I have implied, and I want to be explicit, I understand the importance of this bill. I understand what it does for our military, which is why, in sum, what I am going to propose with my amendment is that we pass the NDAA without these troubling provisions but with a mechanism by which we can consider what is proposed and perhaps at a later date include any applicable changes in the law.

We need to hear from the Department of Defense, our intelligence community, and the administration more broadly on what our men and women in the field actually need to effectively prosecute the war on terror, especially before we change detainee policies that are already working. As I am saying, I have serious concerns about the detainee provisions that have been included in the bill.

In my opinion, and in the opinion of many others—and I will share those opinions and insights with my colleagues—these provisions disrupt the capacity of the executive branch to enforce the law, and they impose unwise and unwarranted restrictions on our ability to aggressively combat international terrorism. In so doing, they inject legal uncertainty and ambiguity that may only complicate the military's operations and detention practices.

I am not the only one who has serious concerns. The Secretary of Defense has urged us to oppose these new provisions. Both chairmen of the Intelligence and Judiciary Committees strongly oppose them. The President's team is recommending a veto. These are people whose opinions should be carefully considered before we put these new proposals into our legal framework.

In the Statement of Administration Policy the White House states:

> We have spent 10 years since September 11, 2001, breaking down the walls between intelligence, military and law enforcement professionals; Congress should not now rebuild those walls and unnecessarily make the job of preventing terrorist attacks more difficult.

Those are striking words that should give us all pause as we face what seems to me a bit of a rush to submit these untested and legally controversial restrictions on our ability to prosecute terrorists.

I ask unanimous consent to have the entire Statement of Administration Policy printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. UDALL of Colorado. Mr. President, these are complex issues that have far-reaching consequences for intelligence, civilian law enforcement agencies, and our intelligence community as they work to keep Americans safe from harm. Despite this fact, the Department of Defense and the national security staff, as far as I know, had little opportunity to review or comment on the final language in the provisions. As a result, these provisions restrained the ''Executive Branch's options to utilize, in a swift and flexible fashion, all the counterterrorism tools that are now legally available.''

That quote comes directly from a letter addressed to the Armed Services Committee from Secretary Panetta. I think we all know that before he held the job he has now, Secretary of Defense, Mr. Panetta, was the Director of the CIA. He very well knows the threats facing our country, and he knows we cannot afford to make mistakes when it comes to keeping our citizens safe.

I also ask unanimous consent that Secretary Panetta's letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. UDALL of Colorado. Mr. President, the provisions I am speaking to are well intended. I have much admiration for my colleagues who propose them, but I think we need to take some more time to consider the ramifications. The United States, our country, can currently choose from several options when prosecuting terrorists. That flexibility has allowed us to try, convict, and imprison hundreds of terrorists, and it allows the government to select the venue that will provide the highest likelihood of obtaining a conviction. The current detention provisions in the bill we are debating would strip away that flexibility and potentially impair our capacity to successfully prosecute and convict terrorists. It is not clear to me why, after 10 years of successfully prosecuting terrorists and preventing another 9/11-like attack, why we would want to limit our options while our enemies are constantly adapting their tactics and expanding their efforts to do us harm.

In a recent op-ed in the Chicago Times, a bipartisan group of three former Federal judges, including William S. Sessions, who was also the appointed Director of the FBI under President Reagan, said it best when describing these provisions:

> Legislation now making its way through Congress would seek to over-militarize America's counterterrorism efforts, effectively making the U.S. military the judge, jury and jailer of terrorism suspects to the exclusion of the FBI and local and State law enforcement agencies. As former Federal judges, we find this prospect deeply disturbing. Not only would such an effort ignore 200 years of legal precedent, it would fly in the face of common sense.

And I ask unanimous consent that op-ed be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. UDALL of Colorado. I also point out these provisions raise serious questions as to who we are as a society and what our Constitution seeks to protect. One section of these provisions, section 1031, could be interpreted as allowing the military to capture and indefinitely detain American citizens on U.S. soil. Section 1031 essentially repeals the Posse Comitatus Act of 1878 by authorizing the military to perform law enforcement functions on American soil. That alone should alarm my colleagues on both sides of the aisle. But there are other problems with these provisions that must be resolved.

These detainee provisions are unnecessary, counterproductive, and potentially harmful to our counterterrorism efforts. I know I have said this a couple of times already, but it feels as though they are being rushed through in a manner that does not serve us well. The Department of Defense has had little input. There have been no hearings. Earlier this week the changes were presented to us in the Armed Services Committee just hours before we were asked to vote on them. These are just too important a set of questions to let them pass without a thorough review and far greater understanding of their

effect on our national security and our fight against terrorism. It feels to this Senator that we are rushing hastily to address a solution in search of a problem. We ought to hear from the Department of Defense, the intelligence community, our colleagues, and other relevant committees before we act. Do we believe this Congress—again, let me underline that after 10 years of successfully prosecuting the war on terror—should substitute its views for that of our Defense, intelligence, and Homeland Security leadership without careful analysis?

I recently received a letter signed by 18 retired military leaders in opposition to these provisions. The letter states that: ''Mandating military custody would undermine legitimate law enforcement and intelligence operations crucial to our security at home and abroad.'' I could not agree more.

I would ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. UDALL of Colorado. We are already trying and convicting terrorists in both civilian courts and under military commissions. The provisions that are in this bill would require the DOD to shift significant resources away from their mission, to act on all the fronts all over the world, and they would become a police force and jailer. This is not what they are good at. This is not what we want them to do. I think it has potentially dangerous consequences because we have limited resources and limited manpower. We would not lose anything by taking a little bit more time to discuss and debate these provisions, but we could do real harm to our national security by allowing this language, unscrutinized, to pass, and that is exactly what our highest ranking national security officers are warning us against doing.

This is a debate we need to have. It is a healthy debate, but we ought to be armed with all of the facts and expertise before we move forward. The least we can do is take our time, be diligent, and hear from those who will be affected by these new limitations on our ability to prosecute terrorists.

It concerns me that we would tell our national security leadership—a bipartisan national security leadership, by the way—that we would not listen to them and that Congress knows better than they do. It doesn't strike me that that is the best way to secure and protect the American people. That is why I have filed amendment No. 1107. I think it is a commonsense alternative that will protect our constitutional principles and beliefs while also allowing us to keep our Nation safe. The amendment has a clear aim, which is to ensure we follow a thorough process and hear all views before rushing forward with new laws that could be harmful to our national security.

What is in the amendment? It is straightforward. Specifically the amendment would require that our Defense, intelligence, and law enforcement agencies report to Congress with recommendations for any additional authorities or flexibility they need in order to detain and prosecute terrorists. In other words, let's not put the cart before the horse or fix something that is not broken. Let's first hear from the stakeholders as to what laws they believe need to be changed to give them better tools to do their job.

My amendment then asks for hearings to be held so we can fully understand the views of respected national security experts. Moreover, it would require input from each of the relevant committees to ensure that we have carefully considered the benefits and consequences of our actions. The chairmen of our Judiciary and Intelligence Committees have deep concerns about the detainee provisions in the pending legislation. And, of course, as we underwent this process, the existing laws that guide our actions today would remain in place. They have been successful.

I see some of my colleagues who I think share my views who have come to the floor. They also made the compelling case that it is a system that is working. Why would we change it without thinking it through? It is straightforward, it is common sense, and it allows us to make sure we will win the war on terror.

Mr. DURBIN. Will the Senator from Colorado yield for a question, through the Chair?

Mr. UDALL of Colorado. Yes.

Mr. DURBIN. I thank the Senator from Colorado for his strong statement and totally support his position. This change in the Defense authorization bill goes beyond a military decision. It goes to the fundamental questions of principles of our Constitution and our body of law. As a member of the Senate Judiciary Committee, I believe this matter should have been considered as well by the Senate Judiciary Committee, and I believe Senator FEINSTEIN has expressed the feeling that it should have been considered as well by the Senate Intelligence Committee.

I wish to use one example to ask the Senator from Colorado a question. When we had the so-called Underwear Bomber, the passenger on a commercial aircraft who tried to detonate a bomb—and thank God was unsuccessful—he was subdued, arrested, and interrogated by the Federal Bureau of Investigation in Detroit. After that investigation was underway—and he surrendered some information—he stopped talking, at which point the FBI investigators read him his Miranda rights.

Then later, working with his parents, he resumed talking to the investigators and literally—according to the FBI—gave a dramatic amount of information helpful to us in keeping America safe and stopping terrorism. He was then prosecuted in the criminal courts of America, article 3 courts, and ultimately, weeks ago, pled guilty.

Mr. MCCAIN. Will the Senator state his question.

Mr. DURBIN. I am going to. I would say to the Senator from Arizona, I think it is important we take some time on this important issue.

Mr. MCCAIN. I would say it is important that all voices be heard.

Mr. DURBIN. Senator MCCAIN, of course, as the ranking member, will have ample opportunity to express his point of view.

What I am asking the Senator from Colorado is this: Taking into consideration the language that is now being presented in this Defense authorization bill, particularly section 1032, it is my understanding the Federal Bureau of Investigation could not have continued their interrogation of this suspected terrorist without first contacting our military and bringing them in to determine whether they had jurisdiction over this matter. In other words, time would have been lost, opportunities would have been lost, information might have been lost by following the new section in the bill.

I am asking the Senator from Colorado if this is a decision which he believes we should make in the haste of a Defense authorization bill or ought to step back and work with the President of the United States, the FBI, the military, and our intelligence forces to make sure we do not lose an opportunity to catch an alleged terrorist, to interrogate them, and to keep this country safe.

Mr. UDALL of Colorado. I thank the Senator from Illinois for his question. My understanding is the Senator from Illinois is correct, that provision 1032 would change the way in which interrogations would unfold. There may be some in the Senate who would see it differently, but that is all the more reason to adopt my amendment, which would allow a thorough process of hearing from the very experts who interrogated the Underwear Bomber and other experts who have been on the front lines in fighting terrorism. We ought to go slow. We should not fix something that is working fine right now.

I thank the Senator for his question.

Mr. DURBIN. If the Senator from Arizona will forgive me, I would ask one more question through the Chair. The question goes back to the point the Senator made: Section 1031, as I understand it, would be a departure from current law and would say that those who are American citizens can be detained indefinitely if they are suspected of certain terrorist conduct. I ask the Senator from Colorado: Is that the point the Senator made in his statement?

Mr. UDALL of Colorado. The Senator from Illinois is correct. Mr. President, 1031 would do just that, and it would come directly at a piece of law, posse comitatus, which dates back to the Civil War, that is held dear by all of us in America because it distinguishes between the military used to protect us

against foreign foes and how we manage our own civil affairs here at home.

Also, as the Senator alludes to, it causes questions to be raised about something that is very sacred in our system of law, which is the writ of habeas corpus. You have to prove why you hold someone. You cannot detain an American citizen indefinitely in any other circumstance.

I thank the Senator for his questions.

Mr. LEVIN. Would the Senator yield for a question?

Mr. UDALL of Colorado. I would be happy to yield for a question.

Mr. LEVIN. We explicitly wrote into this bill the following language: that the procedures providing for the determination that somebody is an Al-Qaida terrorist or related, affiliated one is not required to be implemented until after the conclusion of the interrogation session, which is ongoing at the time the determination is made.

Is the Senator familiar with that language which explicitly says that the President will adopt the procedures—whatever procedures the President determines—to make sure there is no interference with an ongoing interrogation by the civilians as it appears in section 2(c) on page 363? Is the Senator familiar with that?

Mr. UDALL of Colorado. I am familiar with the language in the general way it has been introduced. I would say to the chairman of the Armed Services Committee that we had a chance to review this language starting about 48 hours ago.

One of the reasons I think my amendment is important is it would give those voices, which are being heard more and more as of today, who have concerns with this provision—they are not sure how it applies—that that is all the more reason to slow this down, to keep the existing law in place, and go through a more thorough process to understand the ramifications of the waiver provision and the other provisions the chairman and ranking member——

Mr. LEVIN. Is it not true, however, that the language which is in this bill that I just read clearly provides there will not be any interference with an interrogation session, that those procedures are to be determined by the President, and that it explicitly says there will not be any interference with the interrogation and the procedures will guarantee there will not be? That is the point of this language.

I don't understand how the statement could be made that this language in this bill interferes with the interrogation by civilian authorities and the FBI when the very language here says they will not interfere with that interrogation. I wonder if the Senator could explain to me his agreement with the Senator from Illinois that something in this bill would result in an interference with an interrogation.

Mr. UDALL of Colorado. What I would say to my friend is that just having had an opportunity to review this language in the last 48 hours, I have no question about his intent, but I have heard from people with much greater expertise than I have that there are questions that are still unanswered. Maybe this provision is appropriate and will do what the chairman says it will do. But, again, that is why I think it would be well worth our time to take a further look at what is involved in these provisions.

Mr. LEVIN. I do appreciate the Senator's response. I have one other question, and that has to do with an American citizen who is captured in the United States and the application of the custody pending a Presidential waiver to such a person. I wonder whether the Senator is familiar with the fact that the language which precluded the application of section 1031 to American citizens was in the bill we originally approved in the Armed Services Committee, and the administration asked us to remove the language which says that U.S. citizens and lawful residents would not be subject to this section.

Is the Senator familiar with the fact that it was the administration which asked us to remove the very language which we had in the bill which passed the committee, and that we removed it at the request of the administration that this determination would not apply to U.S. citizens and lawful residents? Is the Senator familiar with the fact that it was the administration which asked us to remove the very language, the absence of which is now objected to by the Senator from Illinois?

Mr. UDALL of Colorado. I am familiar now because the Senator from Michigan has shared that fact with me. I am also familiar with the fact that the administration has other questions and concerns which has caused it to issue a set of provisions and issues they wish to further consider.

Mr. LEVIN. I thank my friend.

Mr. LEAHY. Would the Senator yield for a question?

Mr. UDALL of Colorado. I would be happy to yield to my friend from Vermont.

Mr. LEAHY. Is the Senator from Colorado aware that the administration has raised real concerns—both DOD and the White House—saying that requiring the President to devise the kind of procedures discussed in this bill creates all kinds of problems, and that this is one of the reasons why both the Senate Intelligence Committee and the Senate Judiciary Committee have asked to have the opportunity to hold hearings on a section that obviously involves the jurisdiction of both the Senate Intelligence and Senate Judiciary Committees?

Mr. UDALL of Colorado. I am. The Senator from Vermont is correct. That knowledge on my part is, in part, one of the reasons I filed the amendment we are discussing right now.

Mr. LEAHY. I thank the Senator.

Mr. UDALL of Colorado. I thank the Senator from Vermont.

I yield the floor.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

*Washington, DC, November 17, 2011.*

STATEMENT OF ADMINISTRATION POLICY

S. 1867—NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 2012—(SEN. LEVIN, D–MI)

The Administration supports Senate passage of S. 1867, the National Defense Authorization Act for Fiscal Year (FY) 2012. The Administration appreciates the Senate Armed Services Committee's continued support of our national defense, including its support for both the base budget and for overseas contingency operations and for most of the Administration's initiatives to control spiraling health costs of the Department of Defense (DoD).

The Administration appreciates the support of the Committee for authorities that assist the ability of the warfighter to operate in unconventional and irregular warfare, authorities that are important to field commanders, such as the Commanders' Emergency Response Program, Global Train and Equip Authority, and other programs that provide commanders with the resources and flexibility to counter unconventional threats or support contingency or stability operations. The Administration looks forward to reviewing a classified annex and working with the Congress to address any concerns on classified programs as the legislative process moves forward.

While there are many areas of agreement with the Committee, the Administration would have serious concerns with provisions that would: (1) constrain the ability of the Armed Forces to carry out their missions; (2) impede the Secretary of Defense's ability to make and implement decisions that eliminate unnecessary overhead or programs to ensure scarce resources are directed to the highest priorities for the warfighter; or (3) depart from the decisions reflected in the President's FY 2012 Budget Request. The Administration looks forward to working with the Congress to address these and other concerns, a number of which are outlined in more detail below.

Detainee Matters: The Administration objects to and has serious legal and policy concerns about many of the detainee provisions in the bill. In their current form, some of these provisions disrupt the Executive branch's ability to enforce the law and impose unwise and unwarranted restrictions on the U.S. Government's ability to aggressively combat international terrorism; other provisions inject legal uncertainty and ambiguity that may only complicate the military's operations and detention practices.

Section 1,031 attempts to expressly codify the detention authority that exists under the Authorization for Use of Military Force (Public Law 107–40) (the ''AUMF''). The authorities granted by the AUMF, including the detention authority, are essential to our ability to protect the American people from the threat posed by al-Qa'ida and its associated forces, and have enabled us to confront the full range of threats this country faces from those organizations and individuals. Because the authorities codified in this section already exist, the Administration does not believe codification is necessary and poses some risk. After a decade of settled jurisprudence on detention authority, Congress must be careful not to open a whole new series of legal questions that will distract from our efforts to protect the country. While the current language minimizes many of those risks, future legislative action must ensure that the codification in statute of express

military detention authority does not carry unintended consequences that could compromise our ability to protect the American people.

The Administration strongly objects to the military custody provision of section 1032, which would appear to mandate military custody for a certain class of terrorism suspects. This unnecessary, untested, and legally controversial restriction of the President's authority to defend the Nation from terrorist threats would tie the hands of our intelligence and law enforcement professionals. Moreover, applying this military custody requirement to individuals inside the United States, as some Members of Congress have suggested is their intention, would raise serious and unsettled legal questions and would be inconsistent with the fundamental American principle that our military does not patrol our streets. We have spent ten years since September 11, 2001, breaking down the walls between intelligence, military, and law enforcement professionals; Congress should not now rebuild those walls and unnecessarily make the job of preventing terrorist attacks more difficult. Specifically, the provision would limit the flexibility of our national security professionals to choose, based on the evidence and the facts and circumstances of each case, which tool for incapacitating dangerous terrorists best serves our national security interests. The waiver provision fails to address these concerns, particularly in time-sensitive operations in which law enforcement personnel have traditionally played the leading role. These problems are all the more acute because the section defines the category of individuals who would be subject to mandatory military custody by substituting new and untested legislative criteria for the criteria the Executive and Judicial branches are currently using for detention under the AUMF in both habeas litigation and military operations. Such confusion threatens our ability to act swiftly and decisively to capture, detain, and interrogate terrorism suspects, and could disrupt the collection of vital intelligence about threats to the American people.

Rather than fix the fundamental defects of section 1032 or remove it entirely, as the Administration and the chairs of several congressional committees with jurisdiction over these matters have advocated, the revised text merely directs the President to develop procedures to ensure the myriad problems that would result from such a requirement do not come to fruition. Requiring the President to devise such procedures concedes the substantial risks created by mandating military custody, without providing an adequate solution. As a result, it is likely that implementing such procedures would inject significant confusion into counterterrorism operations.

The certification and waiver, required by section 1033 before a detainee may be transferred from Guantánamo Bay to a foreign country, continue to hinder the Executive branch's ability to exercise its military, national security, and foreign relations activities. While these provisions may be intended to be somewhat less restrictive than the analogous provisions in current law, they continue to pose unnecessary obstacles, effectively blocking transfers that would advance our national security interests, and would, in certain circumstances, violate constitutional separation of powers principles. The Executive branch must have the flexibility to act swiftly in conducting negotiations with foreign countries regarding the circumstances of detainee transfers. Section 1034's ban on the use of funds to construct or modify a detention facility in the United States is an unwise intrusion on the military's ability to transfer its detainees as operational needs dictate. Section 1035 conflicts with the consensus-based interagency approach to detainee reviews required under Executive Order No. 13567, which establishes procedures to ensure that periodic review decisions are informed by the most comprehensive information and the considered views of all relevant agencies. Section 1036, in addition to imposing onerous requirements, conflicts with procedures for detainee reviews in the field that have been developed based on many years of experience by military officers and the Department of Defense. In short, the matters addressed in these provisions are already well regulated by existing procedures and have traditionally been left to the discretion of the Executive branch.

Broadly speaking, the detention provisions in this bill micromanage the work of our experienced counterterrorism professionals, including our military commanders, intelligence professionals, seasoned counterterrorism prosecutors, or other operatives in the field. These professionals have successfully led a Government-wide effort to disrupt, dismantle, and defeat al-Qa'ida and its affiliates and adherents over two consecutive Administrations. The Administration believes strongly that it would be a mistake for Congress to overrule or limit the tactical flexibility of our Nation's counterterrorism professionals.

Any bill that challenges or constrains the President's critical authorities to collect intelligence, incapacitate dangerous terrorists, and protect the Nation would prompt the President's senior advisers to recommend a veto.

Joint Strike Fighter Aircraft (JSF): The Administration also appreciates the Committee's inclusion in the bill of a prohibition on using funds authorized by S. 1867 to be used for the development of the F136 JSF alternate engine. As the Administration has stated, continued development of the F136 engine is an unnecessary diversion of scarce resources.

Medium Extended Air Defense Systems (MEADS): The Administration appreciates the Committee's support for the Department's air and missile defense programs; however, it strongly objects to the lack of authorization of appropriations for continued development of the MEADS program. This lack of authorization could trigger unilateral withdrawal by the United States from the MEADS Memorandum of Understanding (MOU) with Germany and Italy, which could further lead to a DoD obligation to pay all contract costs—a scenario that would likely exceed the cost of satisfying DoD's commitment under the MOU. Further, this lack of authorization could also call into question DoD's ability to honor its financial commitments in other binding cooperative MOUs and have adverse consequences for other international cooperative programs.

Overseas Construction Funding for Guam and Bahrain: The Administration has serious concerns with the limitation on execution of the United States and Government of Japan funds to implement the realignment of United States Marine Forces from Okinawa to Guam. The bill would unnecessarily restrict the ability and flexibility of the President to execute our foreign and defense policies with our ally, Japan. The Administration also has concerns over the lack of authorization of appropriations for military construction projects in Guam and Bahrain. Deferring or eliminating these projects could send the unintended message that the United States does not stand by its allies or its agreements.

Provisions Authorizing Activities with Partner Nations: The Administration appreciates the support of the Committee to improve capabilities of other nations to support counterterrorism efforts and other U.S. interests, and urges the inclusion of DoD's requested proposals, which balance U.S. national security and broader foreign policy interests. The Administration would prefer only an annual extension of the support to foreign nation counter-drug activities authority in line with its request. While the inclusion of section 1207 (Global Security Contingency Fund) is welcome, several provisions may affect Executive branch agility in the implementation of this authority. Section 1204 (relating to Yemen) would require a 60–day notify and wait period not only for Yemen, but for all other countries as well, which would impose an excessive delay and seriously impede the Executive branch's ability to respond to emerging requirements.

Unrequested Authorization Increases: Although not the only examples in S. 1867, the Administration notes and objects to the addition of $240 million and $200 million, respectively, in unrequested authorization for unneeded upgrades to M–1 Abrams tanks and Rapid Innovation Program research and development in this fiscally constrained environment. The Administration believes the amounts appropriated in FY 2011 and requested in FY 2012 fully fund DoD's requirements in these areas.

Advance Appropriations for Acquisition: The Administration objects to section 131, which would provide only incremental funding—undermining stability and cost discipline—rather than the advance appropriations that the Administration requested for the procurement of Advanced Extremely High Frequency satellites and certain classified programs.

Authority to Extend Deadline for Completion of a Limited Number of Base Closure and Realignment (BRAC) Recommendations: The Administration requests inclusion of its proposed authority for the Secretary or Deputy Secretary of Defense to extend the 2005 BRAC implementation deadline for up to ten (10) recommendations for a period of no more than one year in order to ensure no disruption to the full and complete implementation of each of these recommendations, as well as continuity of operations. Section 2904 of the Defense Base Closure and Realignment Act imposes on DoD a legal obligation to close and realign all installations so recommended by the BRAC Commission to the President and to complete all such closures and realignments no later than September 15, 2011. DoD has a handful of recommendations with schedules that complete implementation close to the statutory deadline.

TRICARE Providers: The Administration is currently undertaking a review with relevant agencies, including the Departments of Defense, Labor, and Justice, to clarify the responsibility of health care providers under civil and workers' rights laws. The Administration therefore objects to section 702, which categorically excludes TRICARE network providers from being considered subcontractors for purposes of the Federal Acquisition Regulation or any other law.

Troops to Teachers Program: The Administration urges the Senate's support for the transfer of the Troops to Teachers Program to DoD in FY 2012, as reflected in the President's Budget and DoD's legislative proposal to amend the Elementary and Secondary Education Act of 1965 and Title 10 of the U.S. Code in lieu of section 1048. The move to Defense will help ensure that this important program supporting members of the military as teachers is retained and provide better oversight of 6 program outcomes by simplifying and streamlining program management. The Administration looks forward to

keeping the Congress abreast of this transfer, to ensure it runs smoothly and has no adverse impact on program enrollees.

Constitutional concerns: A number of the bill's provisions raise additional constitutional concerns, such as sections 233 and 1241, which could intrude on the President's constitutional authority to maintain the confidentiality of sensitive diplomatic communications. The Administration looks forward to working with the Congress to address these and other concerns.

EXHIBIT 2

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

JOHN MCCAIN.

EXHIBIT 3

[From the Chicago Tribune, Oct. 7, 2011]

BEYOND GUANTANAMO

(By Abner Mikva, William S. Sessions and John J. Gibbons)

A new shift in philosophy has begun to emerge among lawmakers in Washington. Legislation now making its way through Congress would seek to overmilitarize America's counterterrorism efforts, effectively making the U.S. military the judge, jury and jailer of terrorism suspects, to the exclusion of the FBI and local and state law enforcement agencies. As former federal judges, we find this prospect deeply disturbing. Not only would such an effort ignore 200 years of legal precedent, it would fly in the face of common sense.

The bill in question, the 2012 National Defense Authorization Act, would codify methods such as indefinite detention without charge and mandatory military detention, and make them applicable to virtually anyone picked up in anti-terrorism efforts—including U.S. citizens—anywhere in the world, including on U.S. soil. Such an effort to restrict counterterrorism efforts by traditional law enforcement agencies would sadly demonstrate that many members of Congress have very little faith in America's criminal justice system.

It is a fact that our criminal justice system is uniquely qualified to handle complex terrorism cases. Indeed, civilian courts have successfully overseen more than 400 terrorism-related trials, whereas military commissions have handled only six. While the use of military commissions may occasionally be appropriate under the Constitution, the Guantanamo military commissions remain subject to serious constitutional challenges that could result in overturned guilty verdicts. The simple truth is that existing federal courts operate under rules and procedures that provide all the tools necessary to prosecute terrorism cases and they are not subject to the same legal challenges as military commissions.

We need access to proven instruments and methods in our fight against terrorism. Stripping local law enforcement and the FBI of the ability to arrest and gather intelligence from terrorism suspects and limiting our trial options is counterintuitive and could pose a genuine threat to our national security. Furthermore, an expanded mandatory military detention system would lead to yet more protracted litigation, infringe on law enforcement's ability to fight terrorism on a local and state level, and invite the military to act as law enforcement within the borders of our states.

In the face of these disturbing developments, we are encouraged by the fact that the administration has expressed its own concerns. The Obama White House has raised strong objections to congressional efforts to undermine the use of our traditional criminal justice system, efforts that would effectively eliminate the administration's ability to leverage ''the strength and flexibility'' of the system to ''incapacitate dangerous terrorists and gather critical intelligence.'' In previous statements, President Barack Obama said he intends to oppose any attempt to extend or expand such restrictions in the future. We submit to the president that the future is now.

We firmly believe the United States can preserve its national security without resorting to sweeping departures from our constitutional tradition. We call on Obama and Congress to support a policy for detention and trial of suspected terrorists that is consistent with our Constitution and maintains the use of our traditional criminal justice system to combat terrorism. Further restricting the tools at our disposal is not in the best interest of our national security.

EXHIBIT 4

NOVEMBER 7, 2011.

DEAR SENATOR: We write today to thank you for signing on to the October 21, 2011 letter to Senator Reid regarding detainee provisions 1031–1033 in the National Defense Authorization Act. We are members of a nonpartisan group of forty retired generals and admirals concerned about the implications of U.S. policy regarding enemy prisoner treatment and detention. We have been following the public debate concerning the provisions closely and are troubled by the overreaching nature of the legislation that would allow for indefinite detention without trial, mandatory military custody of counterterrorism suspects and permanent transfer restrictions imposed on inmates already at GTMO, some of whom have been cleared for release.

We understand there has been significant disagreement about the provisions and exactly what their impact on national security would be; however, the fact that such disagreement exists underscores that further public debate is needed and the provisions should not go forward as a part of the NDAA.

Regardless of how one interprets the intent of the provisions, it does not cure the underlying defect: over-militarization of our counter terrorism response. Our military does not want nor seek to try all foreign terror suspects. Congress has wisely enacted dozens of criminal laws to incapacitate potential terrorists, and federal courts have convicted more than 400 of terrorism related crimes since 9/11. Using military commissions as a one-size-fits-all response threatens our security because commissions do not have the same broad array of criminal laws that our federal courts have.

Military custody may be an incident of battlefield operations, but mandating military custody would undermine legitimate law enforcement and intelligence operations crucial to our security at home and abroad. Providing an individualized waiver would only serve to politicize each decision and possibly paralyze effective national security response.

We thank you again for signing on to the October 21, 2011 letter to Senator Reid and your attention to these important issues. As former members of our armed forces, please

call on us as a resource as debate moves forward on detainee provisions as part of the NDAA

Sincerely,

General Joseph P. Hoar, USMC (Ret.); General Charles C. Krulak, USMC (Ret.); General William G. T. Tuttle Jr., USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Vice Admiral Lee F. Gunn, USN (Ret.); Lieutenant General Charles Otstott, USA (Ret.);Rear Admiral Don Guter, USN (Ret.); Rear Admiral John D. Hutson, USN (Ret.); Major General William L. Nash, USA (Ret.); Major General Thomas J. Romig, USA (Ret.); Major General Walter L. Stewart, Jr., ANG (Ret.); Brigadier General James Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (Ret.); Brigadier General Leif H. Hendrickson, USMC (Ret.); Brigadier General David R. Irvine, USA (Ret.); Brigadier General John H. Johns, USA (Ret.); Brigadier General Murray G. Sagsveen, USA (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.).

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the sake and the accommodation of the schedules of my colleagues, I ask unanimous consent that following my remarks and whoever the speaker is on the other side designated by the chairman, Senator AYOTTE be recognized, and then after a speaker from the other side, if necessary, Senator CHAMBLISS, followed by a speaker on the other side, followed by Senator GRAHAM. I do that because of the time constraints of my colleagues. So I ask unanimous consent and agreement from the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Reserving the right to object, before we go into the series of speakers, I ask unanimous consent that I be allowed to just call up and then set aside amendment No. 1072, which is sponsored by myself and Senator GRAHAM, and there is a list of 67 cosponsors.

Mr. MCCAIN. Sure. I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I thank my friend from Arizona.

AMENDMENT NO. 1072

(Purpose: To enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response)

I ask unanimous consent to call up amendment No. 1072.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. GRAHAM, and others, proposes an amendment numbered 1072.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LEAHY. Mr. President, this is on behalf of myself, Senators GRAHAM, ROCKEFELLER, AYOTTE, BAUCUS, BEGICH, BENNET, BINGAMAN, BLUMENTHAL, BLUNT, BOOZMAN, BOXER, SCOTT BROWN, SHERROD BROWN, BURR, CANTWELL, CARDIN, CARPER, CASEY, COATS, CONRAD, COONS, CORKER, CRAPO, DURBIN, ENZI, FEINSTEIN, FRANKEN, GILLIBRAND, GRASSLEY, HAGAN, HARKIN, HELLER, HOEVEN, INHOFE, INOUYE, JOHANNS, RON JOHNSON, TIM JOHNSON, KLOBUCHAR, LANDRIEU, LAUTENBERG, LEE, LUGAR, MANCHIN, MCCASKILL, MENENDEZ, MERKLEY, MIKULSKI, MORAN, MURRAY, BEN NELSON, PRYOR, RISCH, SANDERS, SCHUMER, SHAHEEN, SNOWE, STABENOW, TESTER, MARK UDALL, VITTER, WARNER, WHITEHOUSE, and WYDEN. It has been called up, and I ask unanimous consent to have it set aside to deal with the pending matter.

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

Without objection, the foregoing request from the Senator from Arizona is——

Mr. LEVIN. Reserving the right to object, and I don't object because that is the way we should proceed, going back and forth, and usually we do that informally. I don't know whether there may be implications because I don't know who will be speaking.

Mr. President, I have no objection.

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

Mr. MCCAIN. I thank my friend from Michigan. I do that for the convenience of my colleagues because I know there will also be others coming to speak on this important issue.

I wish to point out that the Senator from South Carolina—a member of the National Guard, one of the major authors of the Detainee Treatment Act, and a person who has tried hundreds of cases in military courts—brings a degree of knowledge and expertise on this issue.

The Senator from New Hampshire served as attorney general of her State for a number of years. She understands the Miranda rights. She has been a student and leader on this issue of detainee treatment.

Also, of course, Senator CHAMBLISS, in his role as the Republican leader on the Intelligence Committee, has a deep and longstanding involvement on detainee issues and the requirements for making our Nation safe.

I will be fairly brief except to say that by any judgment, the President's policy, the President's strategy, the President's movements concerning detainees have been a total and abysmal failure. If the President of the United States would have had a coherent policy that made any sense whatsoever to anyone, we would not have had to act in the Senate Armed Services Committee.

Let me point out a couple of facts. The President of the United States campaigned saying that he would close Guantanamo Bay. Guantanamo Bay remains open. The President of the United States also said we would have detainees tried in civilian as well as military courts, and that was a position he has held.

So they had a great idea: Let's take Khalid Shaikh Mohammed to New York City. That was a great idea. Let's have $300 million in security costs while they have a trial of one of the most notorious international criminals. Obviously, that one got the support it deserved.

Thanks to the release policy of Guantanamo, 27 percent of the detainees of Guantanamo who have been released are back in the fight, trying to kill Americans—only this time they have a red badge of courage and a degree of legitimacy because they spent time in Guantanamo Bay. Leaders of al-Qaida have been released from Guantanamo Bay under this administration. They were released under the Bush administration as well, to be fair, but we didn't know at that time how many of them would return to the fight. Some of the leaders in Yemen whom we are speaking about who are now doing everything they can to kill Americans were released from Guantanamo Bay. That can't be viewed as a successful policy. Thirty individuals in Guantanamo today are citizens of Yemen. We can't release them, obviously, back to Yemen.

So now what do we do in order not to have people go to Guantanamo Bay? We are now using U.S. naval ships to detain suspected terrorists. For 60 days, they kept a suspected al-Qaida member on board a ship. Now, when I support the construction of more Navy ships, I have a lot of missions in mind. Serving as a detainment facility for suspected terrorists is not one of them.

The Underwear Bomber was Mirandized 50 minutes into custody, and the Senator from Illinois forgot to mention that several weeks went by before the Underwear Bomber's family came and convinced him to cooperate. Suppose there had been an impending attack on the United States of America during the 50 minutes in captivity before he was Mirandized. Most Americans don't believe al-Qaida members should be Mirandized, as the Senator from New Hampshire, who has had a lot of experience with individuals who have exercised their Miranda rights, will point out.

So the administration policy has been a complete failure. What we are trying to do in this legislation—and we have tried and tried again to satisfy many of the concerns the administration has, including, I would point out, doing certain things such as making this legislation only for 1 year—not permanent but only for 1 year—and we have put into this legislation a national security waiver which is a mile wide. If the President of the United States decides that an individual should be given a trial in civilian court, he has a waiver that all he has to do is exercise. So I am not exactly sure why the administration feels so strongly about a 1-year restriction, with a national security waiver that is a mile wide. We made a couple of other changes at the request of the administration. So I can only assume that

somehow this has some sort of political implications—and I don't say that lightly—as most of the actions concerning this whole detainee issue seem to be driven by.

So there were hearings held in the Senate Armed Services Committee. There was input from different sources. The Senator from Michigan has been fair and objective on this issue, and I am very appreciative of that. The vote in the Senate Armed Services Committee was, I believe, 26 to 0.

We feel very strongly that these provisions in this bill are necessary to keep Americans secure. We want to stop more than one out of every four of these detainees going back into the fight. We want to make sure the military court system applies here to people who are noncitizens and known members of al-Qaida. All of it seems to me to make perfect sense.

So obviously the administration ratcheted up the stakes today with a threat of a veto. I hope they are not serious about it. There is too much in this bill that is important to this Nation's defense.

I yield the floor.

Mr. LEVIN. I wonder if we can amend the unanimous consent agreement. There is nobody that I know of on this side at the moment who wants to speak in support of the amendment, so I am wondering if it would be agreeable to the ranking member to have two Members on his side go and then two Members on our side, should that occur.

Mr. MCCAIN. That is not agreeable to me. I would say that they have the ability to walk over here if they are interested.

Mr. LEVIN. In that case, I note the absence of a quorum.

Mr. MCCAIN. I would agree to that, but it is not fair.

Mr. LEVIN. I don't want you to agree if you think it is not fair.

Mr. MCCAIN. You know it is not fair. If you have a speaker, bring them up.

Mr. LEVIN. I am in opposition to the amendment. I want to be fair.

The PRESIDING OFFICER. Does the Senator from Arizona agree with the revised unanimous consent request?

Mr. MCCAIN. I agree.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in opposition to the motion of the Senator from Colorado. As the vice chairman of the Senate Intelligence Committee, let me just say in response to the statement from the distinguished chairman of the Judiciary Committee that there has not been a lack of discussion of this issue, both within the Armed Services Committee and within the Intelligence Committee. While I am not permitted to talk about what has gone on within the Intelligence Committee, I assure my colleagues that this has been a major issue from a discussion standpoint for a number of months. In fact, it has been a point of discussion for almost 3 years now. I will get into some of that in my comments.

Secondly, just in quick response to the comment of the Senator from Illinois, the assistant majority leader, when he talked about how we would treat U.S. citizens under this, I know how smart he is, and he is my friend, but he obviously hasn't read the bill. There is a specific exclusion for citizens of the United States being required to be detained by the military in this bill.

Over the past several years, there has been an ongoing debate concerning our Nation's ability to fully and lawfully interrogate suspected terrorists. One thing remains clear: After all of these years after 9/11, we still lack an unambiguous and effective detention policy. The consequences of that failure are very real. If we had captured bin Laden, what would we have done with him? If we had captured Anwar al-Awlaki, what would we have done with him? If today we capture Zawahiri, the leader of al-Qaida, what would we do with him? Many of us have posed these same questions to various administration officials, and the wide variety of responses only confirms that there is no policy. That is unacceptable, and that is why the detainee provisions in this bill are so absolutely critical.

I think it is fair to say that if we had captured bin Laden or Awlaki, we could have gained very actionable intelligence from either one of them, and that is our primary goal. But how would we have done that? We have no detainee policy; there is no place we could have taken them for long-term interrogation. The closest thing to a policy we have heard from the administration is that Guantanamo is off the table. But that is not helpful when they provide no other alternatives.

We have heard some administration officials say holding detainees on ships for brief periods of time solves this detention problem. Now, Senator MCCAIN just addressed that issue, and we have a great U.S. Navy. It is not the intention of the U.S. Navy to function in a way of sailing ships around the world and having terrorists brought to ships for detention. A state-of-the-art facility like Guantanamo Bay is off the table, but holding someone on a ship, never intended to be a floating prison and prohibited from long-term detention by the Geneva Conventions is somehow a humane replacement for Guantanamo? That simply does not make sense.

The intent behind the detainee provisions in this bill is very simple: We must be able to hold detainees for as long as it takes to get significant foreign intelligence information without them lawyering up, as the Christmas Day bomber did so famously after only 50 minutes of interrogation.

Again, to my friend from Illinois, who talked about the fact that once this young man's parents got involved, that after his Miranda rights had been given to him, he gave us an awful lot of intelligence—and that is true in his case—I doubt very seriously that Zawahiri's parents, who probably are not even alive, are going to step up and tell their son: You ought to go in and talk to these folks and give them all the details about the way you helped plan the September 11 attacks on the United States of America. We just know with high-value targets that is not going to happen on a wholesale basis, and we simply need to be in a position to gain actionable intelligence from every one of those individuals.

While I fully support the detainee provisions in this bill, I believe there are other improvements that can and should be made. For example, I am cosponsoring Senator AYOTTE's amendment which will allow our intelligence interrogators to use lawful interrogation methods beyond those set forth in the Army Field Manual.

We need to be clear on exactly what this means. This amendment does not authorize or condone torture, and every technique used in every interrogation must comply with our laws and treaty obligations. I believe there needs to be flexibility in how we interrogate terrorists. But even more so I believe it is foolish to publicize—as the Army Field Manual does—the specific techniques that can be used in interrogating a suspected terrorist.

Over the years, we have heard repeatedly from the intelligence community that the element of surprise is sometimes our greatest asset in gathering timely intelligence from detainees. Senator AYOTTE's amendment gives the intelligence community the ability to use techniques that have not been broadcast over the Internet. In my opinion, that makes a lot of sense. I hope my colleagues will agree because the folks we are dealing with in the terrorist world today—these guys who are the meanest, nastiest killers in the world; who wake up every morning trying to figure out ways to kill and harm Americans—are not stupid. They carry laptops. They know how to use the Internet. We gain valuable information oftentimes through the airwaves. We know how smart they are, and we know they have the capability of going on the Internet today and reviewing the Army Field Manual. They know exactly the way they are going to be interrogated and the type of techniques that are going to be used to gain intelligence from them.

The Armed Services Committee has worked very hard on a bipartisan basis to come up with legislation that will improve congressional oversight of detainee matters, as well as provide greater assurance that detainees who pose a threat to our national security are not released so they can return to the fight.

As the vice chairman of the Intelligence Committee, I have a specific interest in making sure our intelligence community has the ability to gather timely and actionable intelligence from detainees. I believe this bill will help our intelligence interrogators do exactly that, and I urge my colleagues

to support these provisions fully as was done on a unanimous basis within the Armed Services Committee when this issue was discussed, debated, and talked about thoroughly during the markup.

I yield to my friend from New Hampshire.

Mr. LEVIN. No. Yield the floor.

Mr. CHAMBLISS. I am sorry. I thought you gave us two, Mr. Chairman.

Mr. LEVIN. You had two, I believe. You were the second, I think.

Mr. MCCAIN. I think what the chairman meant was, there would be two if——

Mr. LEVIN. If we did not have somebody here, we were going to do it two at a time.

Mr. MCCAIN. Yes. I think it is the other side's turn.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I appreciate the courtesy of the Senator from New Hampshire. I will not speak long. I know she is here waiting to speak, as we go back and forth across the aisle in sequence.

I want to begin by thanking Chairman LEVIN and his ranking member, Senator MCCAIN, for the work they have done on this detention issue. I think they have made a lot of progress, and I look forward to continuing to work on the Senate floor to try to conclude what I hope will be a successful agreement for everyone.

AMENDMENT NO. 1092

But I am here to speak about amendment No. 1092 to the National Defense Authorization Act, which is the piece that has been put in that responds to the serious and ever-growing problem of counterfeit parts that appear in our military supply chain.

Our Nation asks a lot of our troops. We send them far away. We send them into danger. We ask them to suffer prolonged separation from their families. We ask them to put their life and limb in peril. In return, we have a high obligation to give them the best possible equipment to fulfill their vital missions and come home safely.

In order to assure the proper performance of our weapons systems, of our body armor, of our aircraft parts, and of countless other mission critical parts, we have to make sure they are legitimate and not counterfeit parts.

That was why I introduced the Combating Military Counterfeits Act, which was reported without objection by the Judiciary Committee on July 21 of this year. It is cosponsored by my colleague, Senator GRAHAM, whom I see on the floor; by the ranking member, Senator MCCAIN—again, my appreciation to him—Senator COONS; the chairman of the Judiciary Committee, Senator LEAHY; Senator KYL; Senator SCHUMER; Senator HATCH; Senator BLUMENTHAL; and Senator KLOBUCHAR. I thank all of those cosponsors for their support and leadership on this important issue.

I particularly want to thank Chairman LEVIN and Ranking Member MCCAIN for including this legislation in their amendment No. 1092, which was offered earlier today.

Senator LEVIN and Senator MCCAIN led an in-depth investigation in the Armed Services Committee into this problem of military counterfeits, and they have drawn on that investigation in making these important reforms that will protect military procurement from counterfeit parts. I am very glad they believe, as I do, the enhanced criminal penalties in my bill would provide a useful complement to those important changes.

Prosecutors have an important role to play in the fight against military counterfeiters. The criminals who sell counterfeit military products should not get off with light sentences. They knowingly sell the military, for instance, counterfeit body armor that could fail in combat, a counterfeit missile control system that could short-circuit at launch, or a counterfeit GPS that could fail under battlefield conditions.

The Combatting Military Counterfeits Act of 2011 makes sure appropriate criminal sanctions attach to such reprehensible criminal activity, first, by doubling the maximum statutory penalty for an individual who trafficks in counterfeits and knows the counterfeit product either is intended for military use or is identified as meeting military standards; and, second, by directing the Sentencing Commission to update the sentencing guidelines as appropriate to reflect our congressional intent that trafficking in counterfeit military items be punished seriously, sufficiently to deter this kind of reckless endangering of our servicemembers.

The administration has called for these increased sentences for trafficking in counterfeit military products. In the private sector, this legislation is supported by the U.S. Chamber of Commerce, the National Association of Manufacturers, the Semiconductor Industry Association, DuPont, the International Trademark Association, and the International AntiCounterfeiting Coalition. I thank all of them for their work and leadership on this issue.

One semiconductor manufacturer, ON Semiconductor, which has a development center in East Greenwich, in my home State of Rhode Island, has written a letter of support explaining that military counterfeits are a particular problem since ''[m]ilitary grade products are attractive to counterfeiters because their higher prices reflect the added costs to test the products to military specifications, specifications that include the full military temperature range.'' So it is a target area for counterfeiters.

I will say, without going on at any great length, the examples are shocking. The Defense Department, for instance, has found out in testing that what it thought was Kevlar body armor was, in fact, nothing of the sort and could not protect our troops the way proper Kevlar can. In another example, a supplier sold the Defense Department a part that it falsely claimed was a $7,000 circuit that met the specifications of a missile guidance system.

A January 2010 study by the Commerce Department quoted a Defense Department official as estimating that counterfeit aircraft parts were ''leading to a 5 to 15 percent annual decrease in weapons systems reliability.'' The investigation, led by Chairman LEVIN and Ranking Member MCCAIN, revealed countless other grave and sobering examples.

I am glad we are responding to the serious and ever-growing threat posed by counterfeit military parts. Again, I thank Chairman LEVIN and Ranking Member MCCAIN for their great work to eliminate counterfeit parts from the military supply chain, and I hope all my colleagues will support their amendment No. 1092.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first, let me thank Senator WHITEHOUSE for the extraordinary effort he has made to go after counterfeit parts. We have incorporated his legislation in our legislation. It is a critically important part of our legislation. But his leadership has been early, often, and strong on this issue, and we commend and thank him for it. Hopefully, when this amendment gets passed, there will be a recognition of the critical role the Senator from Rhode Island played. It is an ongoing saga to stop counterfeiting coming in, mainly from China. This is a major effort to stem that flow.

Mr. WHITEHOUSE. I thank the chairman and the ranking member.

Mr. MCCAIN. Madam President, could I just add my words of appreciation, along with those of the chairman, for Senator WHITEHOUSE's hard work on this very important issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Madam President, I rise in opposition to the amendment offered by the Senator from Colorado to strike the detainee provisions from the defense authorization markup—provisions that were agreed upon on an overwhelming bipartisan basis in the Armed Services Committee.

I would like to start first by revisiting the history of this and where we are because the reason the Armed Services Committee, in the first place, thought it was very important we discuss this issue in committee and address it is that having participated in hearings over the course of months and months in the Armed Services Committee, there has been witness after witness from our Defense Department who has come in and our military leaders with whom we have been talking about the detention policy and asking

them very important questions about where we are and how we are going to ensure that our military and intelligence community has the tools they need to protect America, and also asking them about this issue of detainees and how we are treating them.

Because one of the important facts my esteemed colleague from Georgia, as well as the ranking member, Senator MCCAIN, mentioned, is that we have a recidivism rate of 27 percent from Guantanamo—those who have reengaged our soldiers again and are back in theater. I was very concerned about this in the Armed Services Committee. That caused, over a series of months, us to ask about the administration's detainee policy.

I just want to share some of the comments that were made over that period of time in February. Secretary Michael Vickers said the administration is in the final stages of revising or establishing its detention policy.

Now, that was 8 months ago, and we are now 10 years into this war. In April I questioned GEN Carter Ham, the Commander of Africa Command, about what we would do if we captured a member of al-Qaida in Africa. Do you know what he told me. He said, ''We would need some lawyerly help on answering that one.''

So this is an area that cried out for clarification on a bipartisan basis because it is so important to ensure that while we remain at war with terrorists that we have the right policies in place to protect Americans. That is why the Armed Services Committee worked very hard.

I thank the chairman of the committee, Chairman LEVIN, for his diligent work, along with other members of the committee for coming forward with this provision—that the Senator from Colorado is seeking to strike—as well as the ranking member, Senator MCCAIN.

What ended up happening is, we brought forward a compromise that passed overwhelmingly out of committee originally in June. In fact, it passed out 25 to 1, and then the administration raised some concerns about it. In reaction to those concerns, I know the chairman of the Armed Services Committee, as well as the ranking member and some others of us, including myself, sat down with members of the administration to hear out their concerns and to try to accommodate their concerns while still making sure we had a policy that would give proper guidance, would protect Americans, and would fundamentally deal with this issue of making sure, in the first instance, that we reaffirmed our authority that we are at war with al-Qaida post 9/11; second, reaffirming that when we are at war the presumption is military custody because the priority has to be gathering intelligence to protect our country; and then, third, those who are released from Guantanamo, making sure there is a standard in place so they cannot reengage back into the battle to harm our troops, our partners, and our allies.

In that process, that is how this provision was derived that Senator UDALL from Colorado seeks to strike with his amendment. If we were to eliminate these provisions, we would be putting our country in a position where these important issues are not being addressed, and they need to be addressed just based on what we have heard from our military leadership over many months in the Armed Services Committee.

So I would also echo what Senator CHAMBLISS, who is the vice chairman of the Intelligence Committee, said. This is an issue that has been thoroughly discussed in this body and cries out for passage in the Defense Authorization Act. I want to point out a couple of very important parts to this. Now, I am someone who, on the recent appropriations bill, the CJS appropriations bill, brought an amendment that would have provided for military commissions trials for members of al-Qaida and associated forces who have committed an attack against us or our coalition partners because I am deeply concerned that this administration has been treating these types of cases as common criminal cases.

When I brought that amendment forward, it did not pass this body. I feel very strongly that the policy should be that we treat these cases for what they are, military cases, because we remain at war and our priorities should be to gather intelligence. But I point out the fact that after my amendment lost, I sat down with the chairman of the Armed Services Committee, the ranking member, and the administration to hear out their concerns.

So while this amendment—I would have gone further in my amendment—addresses many of the objections that were raised—in fact, I think all of the objections which were raised to the amendment I brought to the floor from the other side; that is, we have given the administration flexibility to make the decision on whether they believe it is appropriate, based on national security concerns, which has to be the primary concern and consideration of how to treat those who have committed an attack on our country who are members of al-Qaida or associated forces, and also who are not members of this country, so who are foreign citizens and are seeking to attack our country or have attacked our country in a way that the administration can decide it is best to handle them in a civilian court or a military system.

So all of the objections that were raised to my amendment—I stand by my amendment—but they are addressed in this compromise. And to hear the objection to it, that there is not flexibility, it is very clear that is just not true when you look at the language in this amendment because we adjusted the amendment to address the administration's concerns to say no interrogation will be interrupted based upon this amendment; that interrogations have to be the priority, and we are giving the administration maximum flexibility under this amendment.

So I do not understand why there are such objections continuing when this is as a result of a very good, strong good-faith effort to address any operational concerns that were raised based on the amendment I brought and even based on the prior language which, in my view, I think was very sufficient.

I want to point out something that is very important. In the course of the discussions we had with the administration on section 1031, which we have heard cited as a section that could be used to detain Americans indefinitely, this section was changed based on feedback from the administration. In fact, the administration asked us to actually strike a provision in it that would have said American citizens—it did not apply to American citizens, and, in fact, had to comply with the Constitution of the United States.

So I am a little bit apoplectic to understand why the administration is raising an objection about something they actually asked to be removed on a section they told us they were satisfied with and based on revisions that we made that they wanted. We said we would be happy to make these accommodations because we wanted to make sure we got this right.

So on that section, I do not understand why we are in a position where the Senator from Colorado is trying to remove it—the administration is objecting to it—when we took the language they gave us and incorporated it directly into the National Defense Authorization Act.

One point I think is being lost: So why is it that this amendment creates an initial presumption for military custody? This is the most important point. The priority has to be in protecting American citizens by gaining available intelligence to protect our country. The esteemed Senator from Illinois cited the case of the so-called Christmas Day or Underwear Bomber as an example of how cases have worked well.

Well, I think it is important to appreciate the facts of that case. This is a situation where the underwear bomber is caught with the explosives strapped to him, where there are hundreds of witnesses on the plane, and they were able to make their case in the absence of any interrogation or confession. What ended up happening is he was questioned at the scene for about 50 minutes? Then he was read his Miranda rights, one of those being: You have the right to remain silent.

Let's think about that for a second. We would want to tell terrorists: You have you have the right to remain silent. Common sense will tell you telling a terrorist they have the right to remain silent is counter to what we need to do to protect Americans. We do not want them to remain silent, we

want them to tell us everything they know. But continuing on with that case, the only reason he reengaged in providing information for our country is because his parents intervened. Weeks later, his parents convinced him he should cooperate with us; that he should provide information and tell us what he knew.

If our interrogation policy for people who commit attacks on our country is going to be, well, we hope a parent comes and intervenes to help us get information that will protect Americans, I think we are in trouble if that is our intelligence-gathering procedure.

So I wanted to point out, since that case is cited as an example by the Senator from Colorado and the Senator from Illinois as to why this section should be struck, if anything, I think that case points out why we need guidance in this area and why it is very important the priority be on gathering intelligence.

That is what this amendment does. It gives the administration sufficient flexibility, based on concerns they raised, operational concerns. If the FBI is conducting an interrogation, they do not have to stop it because of anything in this provision. That is very clear.

If the administration wants to treat someone in a civilian court, even though I do not think they should versus a military commission who is a member of al-Qaida who has attacked our country, that waiver is in here. That flexibility is in here.

This was a reasonable compromise where people like me who would have gone a lot further did not get what we wanted. But what we did do is get a very strong bipartisan compromise that came out of this committee overwhelmingly. When we had a vote at the beginning of the week, and the Senator from Colorado raised the very same amendment to strike this provision, it was rejected overwhelmingly on a bipartisan basis.

So I hope this Chamber will also overwhelmingly reject striking this very important provision from the National Defense Authorization Act.

Again, we cannot be in a position where we spend the next year in the Armed Services Committee again hearing from our military leaders: The administration is still in the final stages of revising or establishing its detention policy. I certainly do not want to hear again from one of our generals, when I ask him about our detention policy and what we are going to do with terrorists: I would need some lawyerly help in answering that one.

This amendment gives us the guidance we need. I would ask my colleagues to reject striking it from the authorization.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I view the detention provisions of this bill as real pernicious, as an attack on the Executive power of the President, and contrary to the best interests of this Nation. So I rise to express my strong opposition to three specific detention provisions in the Defense authorization bill.

There was some discussion on the Senate floor that the Intelligence Committee had reviewed these. This is not true. I would like to read a letter that I sent to the majority leader that was signed by every Democratic member of the Intelligence Committee on October 21.

We write as members of the Senate Judiciary Committee—

Because there were some Judiciary Committee members on this.

and the Senate Select Committee on Intelligence, to express our grave concern with subtitle D, titled Defense Matters of title 10 of S. 1253, the National Defense Authorization Act for Fiscal Year 2012. We support the majority of provisions in the bill which further national security and are of great importance. But we cannot support these controversial detention positions.

Then we go on to say—and I will not read the whole letter. I will put the whole letter in the RECORD.

The executive branch must have the flexibility to consider various options for handling terrorism cases, including the ability to prosecute terrorists for violations of U.S. law in Federal criminal court.

Yet, taken together, sections 1031 and 1032 of subtitle (d) are unprecedented and require more rigorous scrutiny by Congress. Section 1031 needs to be reviewed to consider whether it is consistent with the September 18, 2001, authorization for use of military force, especially because it would authorize the indefinite detention of American citizens without charge or trial . . .

I will stop reading here, but again, I want to emphasize this point. We are talking about the indefinite detention of American citizens without charge or trial. We have not done this at least since World War II when we incarcerated Japanese Americans. This is a very serious thing we are doing. People should understand its impact.

I want to outline the provisions in the Armed Services bill that would further militarize our counterterrorism efforts and ignore the testimony and recommendations of virtually all national security and counterterrorism officials and experts. We have heard from the Secretary of Defense, the Attorney General, the general counsel of the Defense Department, and John Brennan, the Assistant to the President for Homeland Security and Counterterrorism. Every one of them opposes these provisions. They have to carry them out. They are the professionals responsible for so doing. Yet, we are going to countermand them?

The first problematic provision, section 1032, requires mandatory military custody with no consideration of the details of individual cases. The bill mandates military detention of any non-U.S. citizen who is a member of al-Qaida, or an associated force, whatever that may be, and who planned or carried out an attack, or attempted attack, on this country or abroad. Here is the problem: The Armed Services Committee ignores the administration's request to have this provision apply only to detainees captured overseas. Therefore, any noncitizen al-Qaida operative captured in the United States would be automatically turned over to military custody.

Military custody for captured terrorists may make sense in some cases, but certainly not all. Requiring it in every case could harm our Nation's ability to investigate and respond to terrorist threats and create major operational hurdles. For example, the FBI has 56 local field offices around the country. It is staffed with agents who can arrest, interrogate, and detain. The military does not. As has been the policy of Republican and Democratic Presidents before and after 9/11, the decision about where to hold a prospective terrorist should be based on the facts of each case, and should be made by national security professionals in the executive branch.

In a letter, Secretary Panetta said this week that this provision ''restrains the executive branch's options to utilize, in a swift and flexible fashion, all the counterterrorism tools that are now legally available.''

He added that the bill as written ''. . . may needlessly complicate efforts by frontline law enforcement professionals to collect critical intelligence concerning operations and activities within the United States.''

This is the man who ran the CIA and is now running the Department of Defense, and we are going to ignore him? Are we saying it doesn't make any difference what he says? I am not part of that school of thought. I think what he says does make a difference.

I ask unanimous consent to have Secretary Panetta's November 15 letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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

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

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

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

Section 1032. We recognize your efforts to address some of our objections to section 1032. However, it continues to be the case that any advantages to the Department of

Defense in particular and our national security in general in section 1032 of requiring that certain individuals be held by the military are, at best, unclear. This provision restrains the Executive Branch's options to utilize, in a swift and flexible fashion, all the counterterrorism tools that are now legally available.

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

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

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

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

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

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

Sincerely,

LEON E. PANETTA.

Mrs. FEINSTEIN. Let me explain why this proposal is bad policy.

Consider the case of Najibullah Zazi. He was arrested in September of 2009 as part of an al-Qaida conspiracy to carry out suicide bombings of the New York City subway system. The FBI arrested Zazi after they had followed him on a 24/7 basis. He began providing useful intelligence to the FBI once captured.

If the mandatory military custody in the Armed Services bill were law, all of the surveillance activities, all of what the FBI did would be in jeopardy. Instead of interrogating him about his coconspirators, or where he had hidden other bombs, the FBI would have squandered valuable time determining whether Zazi was a member or part of al-Qaida or an ''associated force.'' Requiring law enforcement and national security professionals to determine whether an individual meets a specific legal definition adds a delay—most people would have to admit this. Also a waiver process takes time as it proceeds through the President and Secretary of Defense, both of whom believe it unduly complicates the ability to immediately interrogate an individual or prevent another attack.

Suppose a terrorist such as Zazi were forced into mandatory military custody. Then the government could also have been forced to split up codefendants, even in cases where they otherwise could be prosecuted as part of the same conspiracy in the same legal system.

Zazi was a permanent legal resident. His coconspirators were both U.S. citizens. They would be prosecuted on terrorist charges in Federal criminal court, but Zazi himself would be transferred to military custody. Two different detention and prosecution systems would play out and could well complicate a unified prosecution.

Incidentally, in the Zazi case, prosecutors have obtained convictions against six individuals, including guilty pleas from Zazi, who faces life in Federal prison without parole.

What could be better than that? If it is not broke, don't fix it. What is happening now isn't broke. That is the point.

Guess what. I try to do my homework, I read the intelligence, and I try to know what is happening. It is working. The government has its act together. Now arbitrarily this is going to change because there is a predilection of some people in this body that the military must do it all—if they cannot do it all, a part of it. But what this does is essentially militarize certain criminal terrorist acts in the United States. I have a real problem with that. I don't understand why Congress would want to jeopardize successful terrorism prosecutions.

The former speaker was talking about Farouq Abdulmutallab, better known as the Underwear Bomber, from Christmas Day in 2009. Abdulmutallab was brought into custody in Detroit after failing to detonate a bomb on Northwest Flight 253. He was interrogated almost immediately by FBI special agents. And he talked.

Some critics contend that Abdulmutallab stopped talking later that day because he was Mirandized. That happens to be correct, at least temporarily. But what these critics don't mention is that he likely would have been even less forthcoming to military interrogators.

It was FBI agents who traveled to Abdulmutallab's home in Nigeria and persuaded family members to come to Detroit to assist them in getting him to talk. The situation would have been very different under Section 1032. Under the pending legislation, it would have been military personnel who were attempting to enlist prominent Nigerians to assist in their interrogation, and Abdulmutallab would have been classified as an enemy combatant and held in a military facility and, therefore, his family would not be inclined to cooperate. This is we have been told on the Intelligence Committee.

For the record, Umar Farouq Abdulmutallab pleaded guilty to all charges last month in a Federal criminal court in Michigan and will likely spend his life behind bars. What can be better than that? Where can the military commission come close to that effort? In fact, they can't. They had 6 cases, minor sentences, or released, plus 300 to 400 convictions in Federal Court.

To conclude on this mandatory military custody provision, the Defense Department has made clear it does not want the responsibility to take these terrorists into mandatory military custody. But do we know better? I don't think so.

The Department of Justice has said that approximately one-third of terrorists charged in Federal Court in 2010 would be subject to mandatory military detention, absent a waiver from the Secretary of Defense.

The administration contends that the mandatory military custody is unwise because our allies will not extradite terrorist suspects to the United States for interrogation and prosecution—or even provide evidence about suspected terrorists—if they will be sent to a military brig or Guantanamo.

Finally, the military isn't trained or equipped for this mission—they have plenty to do as it is—but the Department of Justice is.

As John Brennan, the Assistant to the President for Homeland Security and Counterterrorism, said in March:

> Terrorists arrested inside the United States will, as always, be processed exclusively through our criminal justice system. As they should be.

I agree.

> The alternative would be inconsistent with our values and our adherence to the rule of law. Our military does not patrol our streets or enforce our laws in this country. Nor should it.

I could add that our military doesn't spend its resources and expertise surveilling terrorists in the U.S. like Najibullah Zazi, as the FBI did, to know his every move, to know where he bought the chemicals, to know the amount of chemicals, to know what backpacks they had, and to follow him to New York. It makes no sense to me to have to transfer that jurisdiction.

The second problematic provision imposes burdensome restrictions to transfer detainees out of Guantanamo, section 1033. This provision essentially establishes a de facto ban on transfers of detainees out of Gitmo, even for the purpose of prosecution in U.S. courts or another country.

The provision requires the Secretary of Defense to make a series of certifications that are unreasonable—and, candidly, unknowable—before any detainee is transferred out of Gitmo.

Again, here is an example: The administration proposed eliminating the requirement that the Secretary of Defense certify that the foreign country where the detainee will be sent is not ''facing a threat that is likely to substantially affect its ability to exercise control over the individual.''

How can the Secretary of Defense certify that—facing a threat that is likely to not just affect, but substantially affect, its ability to exercise control over the individual? What does it mean for a nation to ''exercise control'' over a former Gitmo detainee? Does he have to be in custody? Can he have an ankle bracelet? Is he remanded to his home? Is he in some county facility somewhere? What does it mean?

The Secretary of Defense must also certify, in writing, that there is virtually no chance that the person being transferred out of American custody would turn against the United States once resettled.

I agree with the sentiment, but as it is written, this is another impossible condition to satisfy.

The administration tried to work with the Armed Services Committee to make this section more workable, but the input by professionals in the defense, law enforcement, and intelligence communities, quite frankly, was rejected.

The committee didn't address the concerns of the administration except to limit these restrictions to 1 year.

In his November 15 letter, Secretary Panetta wrote he was troubled this section remains essentially unchanged and that none of the administration's concerns or suggestions for the provision were adopted. This in itself is a concern. The views of the professionals who do this day in and day out should be considered. Congress is not on the streets, we are not shadowing terrorists, we are not putting together intelligence. So I find this just terribly imperious.

The third problematic detention provision reverses the interagency process of detention reviews for those detained at Guantanamo.

Let me begin by saying I support detention of terrorists under the law of war. There must be a way to hold people who would, if free, take up arms against us. But detention without charge, perhaps forever, is a power that must be subject to serious review to ensure it is applied correctly and that we are only holding people—in some cases for decades—with cause and careful consideration and review.

Incidentally, this would apply to U.S. citizens. Do we want to go home and tell the people of America we are going to hold them, if such a situation comes up, without any thorough and considered review? It is just not the American way.

In March, the President issued an executive order that laid out the process for reviewing each detainee's case to make sure indefinite detention continues to be an appropriate and preferred course. Section 1035 essentially reverses the interagency process created by the President's order.

Let me just say a few things about this process. The Secretary of Defense is in charge of the decision. He is allowed to reject the findings of an interagency review board that includes a senior official from the State Department, the Department of Defense, the Justice Department, DHS, the Office of the Director of National Intelligence, and the Office of the Chairman of the Joint Chiefs of Staff. They, together, review a case of a person who could be held forever without trial, without charge. They can deliberate on the kind of threat this individual continues.

There are people who are in Guantanamo—or I should say who were in Guantanamo—who were simply in the wrong place at the wrong time. That is possible for an American as well. Everything we are all about is to see that the system is a just system. This is not just and particularly not for a U.S. citizen. I don't care who they are, they have certain rights under the Constitution as a U.S. citizen.

Why should we place the Department of Defense above the unified judgment of five other departments on what is, at its heart, a question about the legality of continued detention, the assessment of the threat a detainee poses, and the options available to handle that individual?

Secretary Panetta is not requesting new authority in this section. Again, reading from the Secretary's November 15 letter, he says:

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

Let me conclude by saying I support the vast majority of provisions in this authorization. The bill improves our national security and it is essential to meet our commitment to the men and women of our Armed Forces. I understand all that, and I have voted for virtually every Defense authorization bill. But I intend to continue to oppose these three detention policy provisions.

I have not made up my mind, candidly, how I will vote on this bill. I guess maybe I see things a little differently than many in this body, because one of the things I have learned in my time here is the importance of the U.S. Constitution—and I have had 18 years on the Judiciary Committee—and what it means to have due process of law, and that means for everybody. That is for the poorest person on the street, the wealthiest person or whoever it is. Criminals are entitled to due process of law.

How can we do this? It may not stand the test of constitutionality. But be that as it may, despite having raised these concerns months ago and offered suggestions to address them, this bill does very little to resolve my three principal concerns and those of the administration about mandatory military custody and the possibility this bill will create operational confusion and problems in the field.

I look forward to the debate. Candidly, I hope sides haven't hardened. The three amendments I will offer will—one will strike the language, one will insert the word ''abroad,'' in section 1032, and one will carry with it the administration's proposal. I hope there will be the opportunity to offer these amendments.

I can't think of anything more serious that we are doing, and I must tell you a lot of effort has gone into putting the FBI in a position by creating a huge intelligence operation within the Federal Bureau of Investigation to be able to deal with terrorist threats in this country. We also have a Department of Homeland Security to do that as well. To now say the military is going to take over in certain situations is going to end up unworkable, if, in fact, this becomes the law and I hope it will not.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I wonder if the Senator from California might offer those amendments right now and call them up so we can get a vote on them. We are trying to vote on amendments, and I am wondering if she could call up one of those amendments, we could debate it, and then vote on it.

Mrs. FEINSTEIN. I only found out this bill was coming up this morning, so the administration is reviewing the largest amendment at the present time.

The other two amendments, we may already have filed those.

We have filed those, but I would prefer to wait until we have the larger amendment, which is being reviewed by the administration, and then I will be making a decision as to which I want to go with.

Mr. LEVIN. Which amendment is the larger one?

Mrs. FEINSTEIN. This is the amendment currently being reviewed by the administration.

Mr. LEVIN. Is that one of the three?

Mrs. FEINSTEIN. Yes.

Mr. LEVIN. Which was the larger of the three; can the Senator describe it for us?

Mrs. FEINSTEIN. There are several amendments.

Mr. LEVIN. Which is the one currently being reviewed, if the Senator is able to share that with us.

Mrs. FEINSTEIN. This essentially would strike the detention provisions

and replace them with proposals from the executive branch. It reflects what the White House offered to Senators LEVIN and MCCAIN as compromise language on the detention provisions to address the opposition raised by the administration.

Mr. LEVIN. I thank the Senator.

Mrs. FEINSTEIN. I have more to say, but I am not sure.

Mr. LEVIN. That helps. I thank the Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Madam President, one, I would like to begin by thanking Senators LEVIN and MCCAIN. I don't know how long Senator LEVIN and I have been working on this together—it seems like forever—trying to get a detainee policy in a post-9/11 world that the courts will accept and that lives within our values. I have just been thinking throughout the years about the journey we have taken—beginning with the Bush administration—where the idea of indefinite detention of unlawful enemy combatants originated by executive order.

I do believe, since 9/11, we have been in a state of undeclared war with organizations such as al-Qaida. The Congress created legislation early on—right after the attacks of 9/11—allowing the President to use military force against al-Qaida. Part of being able to engage someone militarily is to detain those we capture. But that has been years ago. This is the first time Congress has spoken since the early days of the war.

We tried during the Bush administration to work with the Bush people to create a law of war detention system by statute. We had a problem there. They felt the executive order was the way to go. I have always believed when the Congress and the White House work together, the courts appreciate it as being a more collaborative process. So we went from sort of one extreme—to where we had military commissions that were almost legislating a conviction—to a better product, and the end product was the 2009 bill we worked on with Senator LEVIN that got almost 80 votes. So we have come a long way.

About the detention issue. Here is what I have been trying to accomplish for years. I wish to make sure we understand the difference between fighting a war and fighting a crime. When it comes to al-Qaida operatives, whether they are captured in the United States or overseas, the first thing we should be doing as a nation is trying to find out what that person knows about the attack in question or future attacks. When we capture an enemy prisoner, the first thing our military does is turn the person over to the military intelligence community for questioning.

I am of the belief that we have the ability to question people under the law of war without congressional authorization. But when the Congress acts, it is better for us all. So in this bill, working with Senators LEVIN and MCCAIN, we have, as a body, said the President—this President and all future Presidents—will have the ability to detain a member of al-Qaida and other allied organizations, regardless of where they are captured in the world, and hold them as an enemy combatant.

Under the law of war, when we capture an enemy prisoner, there is no magic date we have to let them go. The problem with this war, unlike other wars, is there will not be a definable end. We had 400,000 German prisoners in military prisons inside the United States during World War II. We weren't going to let those folks go if they had been in jail 1 year. Not one of them got to go see a Federal judge saying: Let me out of here.

Under the law of war of our military, the executive branch of government has the authority to protect the Nation, and courts have not interfered with that 200-year right.

What is different about this war? There are no capitals to conquer, there is no air force to shoot down or navy to sink. So we have people who don't wear uniforms who are roaming the globe, and they don't have a home country, they have a home idea, and we are fighting an ideology. Sometimes they make it to our soil and sometimes they don't.

So here is what we are trying to do. We are trying to create a hybrid system, for lack of a better word. If you captured an al-Qaida member overseas in Afghanistan, Iraq, or Yemen, it is clear that they have no constitutional right to petition a judge in the United States: Let me go.

When we put people in Guantanamo Bay, the Bush administration argued that prison wasn't subject to legal review by our courts. And in the Hamdi case involving a U.S. citizen captured in Afghanistan, the Supreme Court held that we could hold an American citizen as an enemy combatant. They suggested to the Bush administration a procedure to ratify that decision. They pointed to an Army regulation, 190—I can't remember the number—and we tried to come up with a procedure that would allow us some due process as a nation for an enemy combatant, including an American citizen.

In the Boumediene case, the Court said: Wait a minute. We are going to allow a habeas petition by those held as enemy combatants—American citizens or non-American citizens—if they are at Guantanamo Bay because we have control over that facility. That is part of the United States in terms of our legal infrastructure.

So the law of the land is that if you are captured overseas, even if you are an American citizen, you can be held as an enemy combatant and questioned by our military with no right to proceed to a criminal venue. It is not a choice to try them or let them go. You can hold an unlawful enemy combatant for an indefinite period of time just like you could hold any other enemy prisoner in any other war. But what we have done differently in this war is we have said: Our courts will review the military's decision to declare you as an enemy combatant in a habeas procedure—not a criminal trial but a habeas procedure—as to whether there is sufficient evidence to label you as an unlawful enemy combatant.

So, to my colleagues on the other side, the law of the land by the Supreme Court is that an American citizen can be held as an enemy combatant. Like every other enemy combatant, they have habeas rights, but they don't have the right to say: Try me in a civilian court or military commission court, because when we capture someone, the goal is to gather intelligence.

The Christmas Day Bomber, the Times Square case—the reason many of us want military custody from the outset is that under domestic criminal law, other than a very narrow public safety exception, we don't have the right under criminal law to hold someone for an indefinite period of time without providing them a lawyer and telling them what their legal rights are or charging them in a court of law. And let me say, as a military lawyer, I would never want that to be the case. I don't want to change our domestic criminal system to allow us to grab someone and hold them indefinitely, pending criminal charges, without the right to a lawyer, the right to remain silent being presented to the defendant, and presentment to court, because that is what criminal law is all about. Under military law, whether it is here at home or abroad, you can hold someone suspected of being an enemy agent, enemy prisoner, and you can interrogate them humanely and lawfully—and we have good laws now governing interrogation procedures—without having to present them to a court. That is the difference between intelligence gathering and fighting a crime.

The Padilla case was an American citizen captured inside the United States. He was held for about 4 years in Charleston Naval Brig, and the Fourth Circuit Court of Appeals ruled that, yes, an American citizen captured within the United States can be held as an unlawful enemy combatant, but they have the right to counsel when it comes to presenting their habeas case. They don't have the ability to tell the interrogator and the military: I don't want to talk to you now. I want my lawyer.

When you are talking to a military interrogator or the FBI or the CIA trying to gather intelligence, you don't have a right to remain silent, you don't have a right to a lawyer because we are trying to defend ourselves against an enemy bent on our destruction. The day we decide to treat you as a common criminal, even a terrorist suspect, all those civilian rights attach.

So this bill is trying to create a process that if you are captured in the United States, this legislation says

that you will be presumptively put in military custody because that is the only way we can hold you and interrogate you because under domestic criminal law, that is not available, nor should it be.

There is a waiver provision here. If the administration believes that military custody is not the right way to go, they can waive that. But the day you turn someone over to civilian authorities for the purpose of prosecution, you have a very limited window to gather intelligence because all the criminal rules apply. And what we are trying to do is to make sure we can defend ourselves and not overly criminalize the war. That is why this is so important.

As to the White House concerns—they wanted to have that flexibility without any statutory involvement—I believe this will serve the Nation well long after President Obama leaves office. I don't know who the next President will be, but I do believe this: We will be under threat and siege by an enemy bent on our destruction.

So if you believe, as I do, that we are at war but it is a different kind of war, please give your Nation—our Nation—the ability to defend us. And the best way to be safe in the war on terror is to gather good intelligence and hit them and stop them before they hit you because they could care less about dying. So intelligence gathering is the way to keep us safe.

Most enemy prisoners captured in traditional wars never go to court. The last thing I am worried about is how you prosecute these guys. The first thing I worry about is, what do they know, and what is coming our way?

So the provisions of 1032 apply to captures within the United States. And we are saying that when an al-Qaida operative suspected of being involved in a terrorist act—a very limited class of cases, by the way—is captured on our soil, we would like them to be in military custody from the get-go. But we have provisions that say: You don't have to make that decision or interrupt an interrogation. There is a window of time in which you can deal with the case without having to make the waiver. We are not impeding interrogations, and we are not saying you have to stay in military custody forever because we give this administration and future administrations the flexibility to waive that provision if it makes sense.

To the Christmas Day Bomber—he was read his Miranda rights within an hour, his family was involved, and it turned out that he pled guilty. I am not a professional interrogator, but I do know this: You don't read an enemy prisoner their rights when you capture them on the battlefield in a war. The question is, Is the United States part of the battlefield? That is really what this is about. Are we going to allow the enemy to get here, and all of a sudden all the rules change because they made it to our homeland? I would argue that the closer they are to us, the more we want to know. So it would be an absurd outcome that if somehow the enemy could find a way to get to our homeland, all the rules change because if you capture one of these guys in Yemen, nobody is suggesting you have to give them a lawyer.

Well, when you get to the United States, what we are suggesting is that we have a legal system that understands the difference between fighting a war and fighting a crime, and if you are suspected of being an al-Qaida member, citizen or not, we are going to find out what you know through lawful interrogation techniques. That has to be done under the military system because civilian domestic criminal law doesn't allow that to be done.

That is what we created here—a bifurcated system with waivers. If we don't have this in place, we are going to lose intelligence and our Nation is going to be at risk. People are going to get killed if we lose good intelligence.

So, to me, the idea of reading someone their Miranda rights doesn't make a lot of sense, but you have the flexibility to do that, if you choose, out in the field. You just have to get a waiver. So when you capture somebody on the homeland, I don't want our people to think that you have to give them a lawyer and read them their rights and that you can't question them about what they know about attacks against our homeland. That is dumb. That doesn't make us a better people, that makes us less safe. Let's put them in military custody, with the right to waive that. Let's give our interrogators plenty of time to find out what is going on. Then we will make a decision about where to prosecute.

I believe Federal courts have a role in the war on terror. There have been plenty of cases involving terrorism that went to Federal court where you had a good outcome. There have been cases going to Federal court where you had less than a stellar outcome. The key is, if you are holding an enemy combatant for 4 or 5 years under the law of war, I don't think it makes sense to put them in civilian court. You should put them in military commissions. And we are talking about people we have been holding for a period of time because we looked at them as a military threat, not as a common criminal.

So the provisions in 1032 are good law that will stand the test of time. It will allow us on our homeland to do what we can do overseas. Wouldn't it be odd not to be able to protect yourself because the enemy got to the United States less than you could if you captured them overseas?

Now let's talk a little bit about American citizens. There are a few people—and I give them credit for having passionate, honest-held beliefs that the President of the United States doesn't have the authority to designate an American citizen who has now joined al-Qaida—to issue an order to kill him—this al-Awlaki guy who was in Yemen. The bottom line is, the President, through a legal process we created years ago, made a determination that an American citizen has joined the enemy forces, and he issued an order through a legal process that says: If you find this guy, you can capture or kill him.

Now, wouldn't it be odd if you had a law that says you can kill somebody, but when you capture them, you can't hold them for a very long time, you can't indefinitely detain them? Well, death is pretty indefinite. So if you can kill a guy, why in the world can't you hold them and interrogate them to find out what they know about this attack or future attacks?

So let's be consistent. It makes sense to me that if an American citizen wants to join al-Qaida, they are no longer our friend, they are our enemy. And if the evidence is solid and it has gone through a legal process and this President or any other President determined that an American citizen is now operating abroad trying to harm us, joining al-Qaida, I believe they have the absolute legal and moral authority to identify that person as a threat to the United States; kill or capture. And if you don't agree with me, fine. I think about 80 percent of my fellow citizens do. It would be absurd not to be able to have that ability. Citizenship is something to be respected. It is something to be cherished. It is not a ''get out of jail free'' card when you turn on your fellow citizens.

So at the end of the day, we have a system in place now that I am very proud of.

To Senator LEVIN, we have negotiated and we have compromised because the administration had some legitimate concerns. They had some legitimate concerns about Congress overly mandating how you detain, interrogate, and try prisoners. What we have come up with is the balance I have been seeking for 5 years. If you capture someone in the United States, you start with the presumption that you are going to gather intelligence in a lawful manner and prosecution is a secondary concern. We give the executive branch the ability to waive that requirement, and we have conditions on that requirement that will not interrupt an interrogation.

But we need to let this President know, and every other President, that if you capture someone in the homeland, on our soil—American citizen or not—who is a member of al-Qaida, you do not have to give them a lawyer or read them the rights automatically. You can treat them as a military threat under military custody, just like if you captured them overseas.

So this provision that Senators LEVIN, MCCAIN AYOTTE, and all of us have worked on makes perfect sense to me. It is a balance between protecting our homeland, living within our values, and giving the executive branch the flexibility they need to protect us, but just using good old-fashioned common

sense. Under domestic criminal law, you cannot hold someone indefinitely without giving them a lawyer or reading them their rights, nor should you. But under military law, if you have evidence that the person is a military threat, you don't have to give them a lawyer. That makes no sense whether you capture them here or overseas.

Everyone held as an unlawful enemy combatant has the right to access our Federal courts. Under this bill, it is not just one time you get to go to court. We create an annual review process so that if you are held as an enemy combatant in military prison or civilian prison, you will get an annual review. We don't want you to go into a black legal hole. We don't want an enemy combatant determination to be a de facto life sentence.

I am proud of this work product. We go further than what the courts require. The courts require a habeas review of any person held as an enemy combatant. But at the end of the day, we say you have an annual review.

That requirement is for people captured in the United States, held at Gitmo. It doesn't apply to people held in Afghanistan. Thank God it doesn't. But in circumstances where someone is captured in the United States, held at Guantanamo Bay, every person will have their day in court to challenge the status of enemy combatant, and if they are going to be held indefinitely, they are going to get an annual review process as to whether it makes sense to hold them for 1 year.

Again, I wish to emphasize in war we do not have to let people go who are a danger. Most of these cases are intel cases. We are not fighting a crime, we are fighting a war. If the intelligence is good enough to convince a Federal judge that this person is a military threat, why in God's name would you want to let him go because of the passage of time? Our message to al-Qaida recruits is don't join al-Qaida because you could get killed or wind up dying in jail. Isn't that the message we want to send? Why in the world would we require our Nation to release somebody when the evidence presented to a Federal judge is convincing enough for him to sign off on what the military determined at an arbitrary point in time? That doesn't make us better people. It would make us less safe.

This bill is a very sound, balanced work product, and I will stand by it, I will fight for it, and I respect those who may disagree. But why did we take out the language Senator LEVIN wanted me to put in about an American citizen could not be held indefinitely if caught in the homeland? The administration asked us to do that. Why did they ask us to do that? It makes perfect sense. If American citizens have joined the enemy and we captured them at home, we want to make sure we know what they are up to, and we do not want to be required, under our law, to turn them over to a criminal court, where you have to provide them a lawyer at an arbitrary point in time. So the administration was probably right to take this out.

Simply stated, if you are an American citizen and you want to join al-Qaida: Bad decision; you could get killed or you could spend the rest of your life in military prison as a military threat or you could wind up in an article 3 court and maybe get the death penalty. I want people to know there is a downside to joining the enemy. I want to give our country the tools we need as a nation to fight an enemy and do it within our values. I don't want to waterboard people, but I don't want the only interrogation tool to be the Army Field Manual, online where anybody can read it. I wish to make sure everybody has a chance to say: I am not an enemy combatant. But I don't want to criminalize the war by capturing somebody on our soil and saying: You have a right to remain silent, when we would never read that right and present that to them if we captured them overseas.

We want to make sure we can gather intelligence, whether we capture them at home or abroad, whether they are an American citizen or not, if there is evidence they have joined al-Qaida.

To my colleagues, if you join al-Qaida, no matter where you join, no matter where you take up arms against the United States, we have every right in the world to treat you as a military threat. People who have joined al-Qaida are not members of a mob. They are not trying to enrich themselves. They are trying to put the world into darkness. Our laws need to distinguish the difference between a guy who robbed a liquor store and somebody who wants to blow up an airplane over Detroit or blow up innocent people in Times Square. If you do not understand that difference and if you do not have a legal system that can recognize that difference, then we have failed the American people.

This is a good work product. It has strong bipartisan support. We worked with the administration. But we are in a long war where a lot is at stake. I have tried to be as reasonable as I know how to be, and this work product is the best effort of a lot of well-meaning people, Republicans and Democrats. I will defend it. If you want to keep arguing about it, some people suggested we will talk a long time about this—yes, we will talk a long time about this. We will have a good discussion among ourselves as to whether an al-Qaida operative caught in the United States gets more rights than if we caught him overseas. We will have an argument among ourselves as to whether our military should be able to gather intelligence to protect us, regardless of where the person is captured, and the question for the nation is: Is America part of the battlefield? You better believe it is part of the battlefield. This is where they want to come. This is where they want to hurt us the most. If they make it here, they should not get more rights than they would get if they attacked us overseas.

They should not be tortured because it is about us, not about them. The reason I don't want to torture anybody is because I like being an American. I think it makes us stronger than our enemies. There are ways to get good intelligence from the enemy without having to mimic their behavior. I do believe the military's work product should be judged and reviewed in Federal court in a reasoned way. That is part of this legislation. I do not want anybody to be sitting in jail forever without some review process so that one day maybe they could get out.

But here is what I will not tolerate. I will not criminalize what is a war. I will not put this Nation in the box of having captured a terrorist, when the evidence is solid that we know they are part of the enemy trying to kill us and say we have to give them a lawyer or let them go because of the passage of time. That makes no sense.

Senator LEVIN, Senator MCCAIN, this is a product we should be proud of. We should fight for it, and we are going to fight. If you want to make it a long fight, it will be a long fight. We are not giving up.

Mr. MCCAIN. Will the Senator yield for a question?

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Arizona.

Mr. GRAHAM. Yes.

Mr. MCCAIN. I am a little puzzled. Maybe the Senator from South Carolina has a response to this. Perhaps Chairman LEVIN does. We did give a national security waiver, which is very generous, in that the President just has to certify that it is in the national interest.

Mr. GRAHAM. Right.

Mr. MCCAIN. Why does he think that would not be acceptable if there were a case where an individual would be held by civilian authorities rather than military authorities?

Mr. GRAHAM. The only answer I can give to Senator MCCAIN is that there is a legitimate concern about encroaching on executive power. I have that concern. The executive branch is the lead agency in this war. They are the lead agency when it comes to prosecuting crime. But what I am trying to do, along with his help and that of Senator LEVIN, is to create statutory authority for this President and future Presidents that will serve the Nation well.

Congress has been too quiet and too silent. During the Bush years, we did not assert ourselves enough. We let things go. We were reluctant to get involved. Now we are involved in a constructive way.

What we have said as a Congress, if this bill passes, is that the executive branch has flexibility, but the Congress of the United States—which has powers when it comes to war—believes that an al-Qaida operative, those associated with al-Qaida, should be initially held in military custody because we are trying to gather intelligence. As I tried to

explain, if you turn them over to civilian authorities for law enforcement purposes, then the whole process of intelligence gathering stops. You have to read Miranda rights. There is a very limited public safety exception. We allow a waiver if that is in the best interests of our national security. We have requirements in the bill not to impede interrogation. That is why we are doing this, because we want a process that will allow us to deal with people caught in the United States in a consistent way from administration to administration and understand the distinction between gathering intelligence to defend yourself in a war and prosecuting a crime.

Mr. MCCAIN. Everyone we capture may not be as stupid as the couple who waived their Miranda rights. One of them is going to be pretty smart and certainly not waive their Miranda rights. Wouldn't that make sense over time?

Mr. GRAHAM. The Senator is absolutely right. The flexibility of whether to Mirandize somebody exists. I don't know what is the best way. I do believe the best start is to take the Christmas Day Bomber off the plane and interrogate him in terms of what he knows about future attacks, how he planned this attack, and worry about prosecution in a secondary fashion. The only way you can do that is through a military custody intelligence-gathering process.

At the end of the day, I do believe it makes a lot of sense for the Congress to weigh in. We have not done it before. We have balanced this out. The administration's concerns have been met as much as I know how to meet them, and I am very proud of the work product.

Mr. LEVIN. Will the Senator yield for a question?

Mr. GRAHAM. Yes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. The Christmas Day Bomber, I believe he was taken off that plane in Detroit, he was interrogated by the FBI; is that correct?

Mr. GRAHAM. Yes, I believe so.

Mr. LEVIN. There was nothing wrong with that. That was the choice of the executive branch. It worked here.

Mr. GRAHAM. Nothing wrong with that.

Mr. LEVIN. We make it flexible. This is something which I heard today from the supporters of this amendment. They want flexibility.

Mr. GRAHAM. Right.

Mr. LEVIN. That is exactly what we provide in this amendment. That is the question Senator MCCAIN just asked: If this administration or any administration decides that they want to provide the civilians with opportunity to interrogate, for whatever length of time they want, they are going to set the procedures under this language in our bill; is that not correct? The President will determine the procedures. If he wants those procedures to be civilian control until some point, that is going to be up to the President. We may disagree with that or not.

Mr. GRAHAM. Exactly.

Mr. LEVIN. There are Members of our body who very strongly disagree with that.

Mr. GRAHAM. Right.

Mr. LEVIN. But that is not who is going to decide. We are not going to make the decision that the person is going to be given or not given civilian interrogation. That decision is going to be made by a President who sets the procedures for interrogation and will decide whether to provide a waiver; is that correct?

Mr. GRAHAM. That is contract. If I might continue the conversation for a minute, if you don't mind. Would the Senator agree with me that if we all of a sudden required our soldiers to read Miranda warnings to an al-Qaida operative caught in Afghanistan, people would think we were crazy?

Mr. LEVIN. I would think it would be a very bad policy.

Mr. GRAHAM. OK. What if we have the very same person who made it out of Afghanistan and makes it to America. I think most people would want us to gather intelligence to find out what is coming next. Would the Senator agree with me, if you put someone in civilian control for the purpose of prosecution, intelligence gathering becomes very difficult?

Mr. LEVIN. Not necessarily. I think there are occasions where the civilian interrogation may be actually more workable.

Mr. GRAHAM. OK. Fair enough. But does the Senator agree with me that you cannot indefinitely hold someone under domestic criminal law without presenting them to court or reading them Miranda rights?

Mr. LEVIN. That is correct—indefinitely. But how long that lasts is a procedure the President is going to determine.

Mr. GRAHAM. Right. But here is the point we are going to make. Some of us believe that presentment to a court and a Miranda warning may not be the best way to go, in terms of gathering intelligence. Under military custody for intelligence gathering there is no right to remain silent; does the Senator agree with that?

Mr. LEVIN. Under military custody, yes.

Mr. GRAHAM. So we are starting the game with military custody but for the reasons the Senator just said—and they may be good reasons, to say that is not the right way to go—they can go down another path. That is all we are trying to do. Because there is a sort of a gap when it comes to someone caught in the United States. We are trying to provide clarity, what to do with an al-Qaida member caught in the United States, to create flexibility but start the process with intelligence gathering because, in the United States, if you hold someone, under the law enforcement model, caught in the United States, you have to read them their rights. You have to present them to court.

If they are in military custody, you don't have to do that. But what system fits the situation best should be left to the executive branch. We are just creating an avenue for military custody that can be waived.

Mr. LEVIN. That is correct, providing flexibility which we should provide in order for the executive branch to have what they want, which is the flexibility. There, I think, many of our colleagues believe there is too much flexibility. But whether that is right or——

Mr. GRAHAM. Oh, yes, they are over here. There are plenty of them.

Mr. LEVIN. But whether they are right or wrong, the facts are in this bill there is flexibility. It is carefully laid out. The President will lay out the procedures and notify the Congress of those procedures. But the point is, we do provide the very flexibility that the President of the United States has sought. We give them that flexibility, and it seems to me for the characterization of this bill to be that there is no flexibility, that somebody must go into military detention, is inaccurate. We ought to debate policy, but we should not debate what the words of a bill are.

One other thing. Is it not correct that when it is said, as the Senator from California did, that this provision has unprecedented and new authority for indefinite detention of American citizens without trial, that as a matter of fact we had in section 1031, in the bill filed months ago, language which would have exempted American citizens? It was the administration that wrote 1031 the way it is now and has approved of that language; is that not correct?

Mr. GRAHAM. That is absolutely correct. Let's talk about indefinite detention and what it means. When someone is captured as a member of al-Qaida—the Bush administration has had people at Guantanamo Bay for years. They are being held under the law of war. Does the Senator agree with that?

Mr. LEVIN. I am sorry?

Mr. GRAHAM. The Bush administration has had prisoners held at Guantanamo Bay for years now who have not been prosecuted. They are held under the law of war.

Mr. LEVIN. That is correct.

Mr. GRAHAM. The Obama administration has continued to hold at least 48 under that same theory.

Mr. LEVIN. And believes they have that authority.

Mr. GRAHAM. I believe they are right. All the Congress is saying to the President—this one and future Presidents—is we agree with you, that if the person is a member of al-Qaida or an affiliated group, you can hold them as an enemy combatant without the requirement to let them go at an arbitrary point in time, but under the law, if they are at Guantanamo Bay or captured in the United States, they have a

habeas right to appeal that determination to a judge.

Under our bill, does the Senator agree with me, we have done more than that? We have created an annual review process so the person being indefinitely held will have some due process every year?

Mr. LEVIN. The Senator is correct. The Senator has led the way to have this kind of additional protection for those prisoners. There is greater protection in this bill because of that review process than there is without this bill.

Mr. GRAHAM. Right. And we should do that.

Mr. LEVIN. If I could, one other question, because the Senator is an expert on this subject. Is it also not true for the first time in terms of determining whether a person is, in fact, somebody who needs to be detained under the law of war—for the first time when that determination is made, that person is entitled to a lawyer and entitled to a military judge?

Mr. GRAHAM. Let me tell the Senator how he is dead right. I offered an amendment to the first bill we put on the table here on the floor about this, and I had a requirement of a military lawyer being given to the respondent at a combat status review tribunal. Every person being held as an enemy combatant by our military gets a combat status review tribunal. We are saying that tribunal has to be chaired by a military judge, and we are saying they can access a lawyer. That, to me, is a welcomed change.

The Obama administration and the Bush administration decided to put the military judge requirement in place. But this now is a statutory requirement, so the next President is going to be bound to do that. We are trying to create a process to allow a status tribunal hearing to be done in a more due-process friendly fashion. We require a judge and we provide access to counsel. To me that is a giant step forward.

Mr. LEVIN. And it is the law for the first time; is that not correct?

Mr. GRAHAM. For the first time it is now not the whim of the administration. It will be the law of the land.

Mr. MCCAIN. If this bill is enacted.

Mr. GRAHAM. If this bill is enacted.

Mr. MCCAIN. To kind of summarize this issue for our colleagues, we believe an al-Qaida operative is an enemy combatant and, therefore, the assumption should be that that enemy combatant should be under military custody whether it be in the United States or any place else?

Mr. GRAHAM. That is correct.

Mr. MCCAIN. I would argue especially in the United States since that poses the greatest threat. However, with our assumption that that person should be held under military custody, we still give a very wide waiver in case there are extenuating circumstances.

In other words, we are saying that we assume an al-Qaida operative, or a suspected al-Qaida operative, is an enemy combatant wherever they are on Earth and, therefore, they should be under military custody unless there is some reason that the President determines otherwise.

The counterargument we are hearing, in summary, is that because that al-Qaida operative is apprehended in the United States, therefore, they should fall under civil authority, thereby negating the assumption that he is an enemy combatant; he is a common criminal. This is a very important principle in this discussion we are having.

How do you treat a suspected al-Qaida terrorist who wants to, in the case of the Underwear Bomber, blow up a plane with 100 some-odd passengers on it? Shouldn't that person be treated as an enemy combatant and, therefore, subject to all of the rules of military people who are under the supervision of the military? Isn't that what we are debating here? The ACLU and the left, with all due respect, feel that person should be—first of all, that al-Qaida operatives should be treated under our criminal system rather than treated as an enemy combatant who wants to do great harm to the United States of America. Is that an accurate description of what we are talking about here?

Mr. GRAHAM. Yes, with one caveat. There is a line of thinking that we should be using Federal courts exclusively, that military commissions are not appropriate in any circumstance, and that we should be using the law enforcement model once we deal with an al-Qaida operative, particularly here in the United States.

What we are saying in this legislation is that the battlefield includes our own homeland. So that argument being made by the ACLU, I think, will bear that because most Americans feel we are not dealing with somebody who robbed a liquor store. These people present a military threat, and we should be able to gather intelligence in a lawful way.

The administration's concern was, are we overstepping Executive power. I have, quite frankly, said I am concerned about that. Peter was concerned about that; Dave was concerned about that; I have been concerned about that because I don't believe you can have 535 attorneys general or commanders in chief.

What we did to accommodate that concern is what the Senator from Arizona said, we started out with a military custody requirement that can be waived and the procedures to be waived are in the hands of the executive branch. As Senator LEVIN has indicated, this, to me, is very flexible and is so flexible that I feel very good about it.

If it were a mandate to put everybody in military custody and try them in military commissions, even though I think that is the best thing to do, I would object, because the flexibility to make those decisions needs to be had in the executive branch. There may be a time when an article 3 court is better than a military commission court for an al-Qaida operative. I don't want the Congress to say article 3 courts could never be used. I don't want the Congress to say military commissions are bad. We now have a good military commission system. We have a process where the homeland is part of the battlefield. The individual being captured on our homeland can be held to gather intelligence under military law. And if somebody is smarter than us and believes that is not the right model, they can change the model.

That is the best we can do, and that is the best I am going to do because I am very worried that in the future we are going to lock ourselves down into policies that would have an absurd outcome that if you made it to America, we cannot gather intelligence, which would be crazy. There is no good reason for that.

Mr. LEVIN. Would the Senator yield?

Mr. GRAHAM. Yes.

Mr. LEVIN. In addition to providing in this bill that the determination as to whether somebody is al-Qaida is to be made through procedures which the President will adopt, No. 1, which is flexibility.

Mr. GRAHAM. Right.

Mr. LEVIN. No. 2, that determination shall not interfere with any interrogation which is undertaken by civilian or any other authorities; is that not correct? And, finally, on top of that, there is a waiver that is provided. We have all of that protection. So the statements that are made on this floor and in some of the press that somehow or other we are pushing everybody who is determined to be al-Qaida into the military detention system is not accurate because we have those three protections, the procedures for that decision as to whether someone is al-Qaida, our procedures, which the President is going to adopt; secondly, we only apply this to al-Qaida, not to everybody who might be captured; and, third, we have a waiver for triple protection to protect what the Senator rightly is sensitive to, and that is there be flexibility in the executive branch.

All of us may say we want it done one way or another. We may presume it be done one way or another, we may wish that it be done one way, civilian or military. Some of us may have different opinions. That is not the point. That is not the issue. The issue is what does this bill provide. This bill provides a reasonable amount of flexibility and does not tell the President you must turn somebody who is suspected of being al-Qaida over to the civilians at any point or to the military at any point.

Mr. GRAHAM. If I may add another layer of process here. Some people on our side say that is way too much. You should throw these people in military—Senator LIEBERMAN, my dear friend, if you left it up to him, everybody caught as an al-Qaida operative would be thrown in military custody and would

be held as long as we need to hold them and would be tried by military commissions.

At the end of the day that is sort of where I come out, but I am not going to create a 535-commander-in-chief body here because there are times when that may not work. What we have done is what the Senator said. If you capture someone at home, it is as the Senator described. The reason, to my colleagues on this side, I wanted to build in the things the Senator described is because I am very worried about crossing over out of our lane into the executive lane. I think we have created a great process.

But here is what happens to that al-Qaida operative. Not only does the executive branch have the flexibility to go one way versus the other, starting with the idea of military custody, but all the things the Senator said are true.

What do they have beyond that? If someone is being held as an enemy combatant, there are regulations requiring that they be presented to a combat status review tribunal, now with a military judge, access to counsel—I think it is within 60—I cannot remember the time period. That is done. Then they have the right to take that decision and appeal it to a habeas Federal district court judge.

No one in America is going to be held as an enemy combatant who doesn't get their day in Federal court. But their day in Federal court is a habeas proceeding, not a criminal trial. If the judge agrees with the United States that you are, in fact, an enemy combatant, then you can be held indefinitely, but we require an annual review. If the judge lets you go, they have to let you go. This is the best we can do. This is a hybrid system. In no other war do you have access to a Federal court.

As I said before, this is war without end, and if we don't watch it, an enemy combatant determination can be a de facto life sentence because there will never be an end to these hostilities probably in my lifetime. I recognize that. And in working with the Senator from Michigan and Peter and others, we have come up with a process now that allows the Federal court to review the military decision. We will have an annual review process if the judge agrees with the military. That, to me, is due process that makes sense in a war without an end; something you would not do in World War II, but something we need to do here.

So to the critics, please read the damn bill. I apologize for saying it that way, but you are talking about things that don't exist. There is plenty of flexibility and waiver requirements in this bill. No one is being held indefinitely without due process. Not only is this due process you wouldn't get in any other war, this is due process beyond what exists today only if we can pass this bill.

I don't mind being considered by some of my colleagues as maybe too friendly to due process. The reason I am so passionate about this is what we do sets a precedent for the world and the future. If one of our guys is captured, I can look the other people in the eye—al-Qaida could care less, but other people might—and say we are a rule of law nation. I believe in the rule of law, but there is a difference between the rule of law of fighting a crime and fighting a war.

I am proud of the military legal system. I do believe the military justice system has a role to play in this war. In military commissions, the judges are the same judges who administer justice to our own troops, the same prosecutors, the same defense attorneys, the same jurors. I am proud of the military legal system. I am proud of the Federal court system. I want to use both.

Senator LEVIN, we have been working on this for years. This is the best work product I have seen. I hope my colleagues will understand we have thought long and hard about this, and if we don't get a process in place that has some definition, some certainty, some guidance, we are letting our Nation down.

This is a good bill, and I hope people will vote for it.

Mr. LEVIN. If this bill contained the provisions as described by our friend from California, I would vote against our bill.

Mr. GRAHAM. So would I, at my own detriment.

I don't want to mandate the executive branch to do everything as LINDSEY GRAHAM would like. I want to start with a theory that makes sense and provides flexibility to change it if that makes sense. I don't want anybody to be in jail because somebody in the military said they are an enemy combatant. I want a Federal judge involved in a sensible way. I want due process to make sure we can tell the world: You are not sitting in a jail because somebody said you were guilty of something. You had a chance to challenge that. But to the critics: I will not stand for the idea that we can't defend ourselves under the law of war, because I believe we are at war. In war, we have the right to hold enemy prisoners. We don't have to let them go to kill again. In war, you can hold people and gather intelligence in a human way.

That is what we are able to do under this bill—fight a war within our values.

I yield.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I see the Senator from Illinois on the Senate floor, whom I know is very heavily involved in this issue. I think we have been debating this amendment now for about 3 hours, at least, and we have had a number of speakers from both sides.

I hope that perhaps we can go ahead and vote on this amendment. I was informed and the chairman was informed by Senator REID that there is a limited amount of time that can be spent on this bill. I realize how important it is to him, but we have no further speakers right now. I know the Senator from Illinois wishes to speak on it. But would it be agreeable that after we have exhausted the number of speakers that we could go ahead and vote on the amendment?

Mr. DURBIN. No. It is not pending.

Mr. MCCAIN. It is too bad. Let me just say to the Senator from Illinois, this is an important issue, and I understand how important it is to him. But this legislation has a lot to do with defending this country. For the Senator to hold up the entire bill because he doesn't think it has been discussed enough is a disservice to the men and women in the military whose concerns and needs this bill addresses, as well as the needs of the Nation's security.

So we took up this amendment in the belief that we were going to go ahead and debate it and vote on it. So the Senator from Illinois, if we are forced to not be able to complete work on this legislation, I think bears a pretty heavy burden because we have a lot of other provisions in this bill that are also vitally important to the security of this Nation.

We have had spirited debate. I have been involved in this legislation of the national defense authorization bill for a quarter of a century. We have moved forward and we have had debate and we have had votes. I hope we can do that now so we can move forward to other issues.

The Senator from Kentucky is on the Senate floor with an amendment he would like to have debated and voted on, and we have about 100 more. So I say to the Senator from Illinois that after we have had sufficient debate, I hope we can go ahead and vote on the amendment.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I don't know—I now have the floor, so I will proceed.

First, let me thank the Senator from Arizona. We have served together in the House and in the Senate. I respect him very much. I certainly have the highest respect, as well, for the Senator from Michigan. But I will tell my colleagues this: If the argument is, if we don't vote on this amendment tonight the security of the United States is in peril, that is a little hard to make because we are not going to finish this bill tonight, No. 1. No. 2, it is pretty clear the administration opposes this particular amendment, at least I have been told they do. No. 3, if we are talking about something as fundamental as changing some laws in this country relative to the U.S. Constitution, I have to agree with Senator LEAHY, the chairman of the Judiciary Committee, and Senator FEINSTEIN, the chairman of the Intelligence Committee, that this great body should take the time, debate the issue, and vote on it in a timely fashion.

I am not here to filibuster this matter, but I am here to discuss it.

To those who have come to the floor and said it is imperative to move now to change the way we deal with terrorist detainees in the United States, I would like to make a record for them.

For the record, over the last 10 years we have dealt with alleged terrorists in the United States. During that 10-year period of time 300 alleged terrorists have been successfully prosecuted in the criminal courts of America and incarcerated safely in American prisons—300. During that same 10-year period of time, six—count them, six—have been subjected to prosecution through military tribunals. So the score is 300 to 6 for those who want to change the system, with 300 saying we have a pretty darn good Federal Bureau of Investigation, we have excellent lawyers at the Department of Justice, and the American court system has responded well to keep us safe. So the notion that this has to be changed tonight to keep America safe, I don't know there is any evidence to support that.

I listened to some of the arguments on the Senate floor, and I wish to call to the attention of my colleagues that this is not an insignificant change in the law. If section 1031 is enacted into law, for the first time we will be saying in the law that we can detain indefinitely an alleged terrorist who is an American citizen within the United States of America.

Mr. GRAHAM. Would the Senator yield?

Mr. DURBIN. I will yield after I complete my point. I believe most of us feel if someone is charged with terrorism—an American citizen—that normally they would be subjected to constitutional protections and rights as American citizens. For those who believe in military tribunals—and I know the Senator from South Carolina does because he has been engaged in them personally and feels they are an honorable and effective way of prosecuting individuals—he knows, as I do, we have gone through in the last 10 years a series of Supreme Court cases that have questioned whether we are handling military tribunals in the right fashion.

The law is not settled when it comes to military tribunals, but the law is clearly settled when it comes to article 3 criminal courts, to the point that 300 alleged terrorists have been successfully prosecuted and convicted.

So I think this is worthy of debate. It is a valid issue. The security of America will always be a valid issue on the floor of the Senate. But let's do it in a thoughtful way. This matter was not referred to the Senate Judiciary Committee. It was not referred to the Senate Intelligence Committee. It was decided by the Armed Services Committee. As good as they are, as great as the people are who serve on that committee, there are others who should have a voice in the process.

I yield to the Senator from South Carolina if he has a question he would like to direct through the Chair.

Mr. GRAHAM. I thank the Senator from Illinois. I wish to respond. No. 1, it is good to debate. It is good to have discussions about important matters. The Senator from Illinois is right. There is nothing more important than defending the homeland.

Now, let me just state the law as I understand it. The Hamdi case was an American citizen captured in—

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Would my friend from South Carolina allow a unanimous consent request?

Mr. GRAHAM. Absolutely.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2112

Mr. REID. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 2112, an act making consolidated appropriations for the Departments of Agriculture, Commerce, Justice, Transportation, and Housing and Urban Development and related programs; that there be up to 90 minutes of debate, equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on the adoption of the conference report; further, that the vote on adoption be subject to a 60 affirmative-vote threshold.

Before there is a response to my request, I would tell everyone we are going to be in session tomorrow. I have spoken to the two managers of the bill. We will likely not have votes tomorrow. In fact, I don't think we will have votes tomorrow. But I would say to all Senators if they have amendments to offer, they should offer them because the time for the Defense authorization bill is winding down. People can't sit around and say we will do something next week because next week may be a lot shorter.

Mr. LEVIN. Will the leader yield for a question?

Mr. REID. I would like to change that from 90 minutes to 120 minutes.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Mr. President, reserving the right to object.

Mr. LEVIN. Would the Senator yield for a question? I think I may be able to satisfy Senator PAUL, I hope.

Mr. PAUL. Yes.

Mr. LEVIN. Would the leader make that unanimous consent effective after there is 5 more minutes of discussion between ourselves?

Mr. REID. We can make it effective after a half hour of discussion.

Mr. LEVIN. And after Senator PAUL calls up an amendment and after Senator MERKLEY calls up an amendment and then lay them aside.

The PRESIDING OFFICER. Is there objection to the modified request?

Mr. LEVIN. Would that be acceptable?

Mr. REID. I accept the modification with pleasure.

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

Mr. REID. Finally, we will get some people offering some amendments.

Mr. LEVIN. If I could just comment very quickly to my friend from Illinois.

Mr. REID. Can we get the consent?

Mr. LEVIN. I think the Chair ordered it.

The PRESIDING OFFICER. Yes.

Mr. REID. The Senator from South Carolina has the floor.

Mr. GRAHAM. I yield if it will make this proceed faster.

Mr. LEVIN. I just wanted to ask the Senator a question.

Mr. REID. I would say to my friend, my friend from South Carolina yielded to me for a unanimous consent request.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. GRAHAM. If I may respond to my friend from Illinois, Hamdi was an American citizen captured in Afghanistan. He had joined al-Qaida—the Taliban, I guess in that case. We captured him when we went into Afghanistan. We brought him back and we held him as an enemy combatant for intelligence-gathering purposes. His case went to the Supreme Court. The Supreme Court said we could hold an American citizen as an unlawful enemy combatant, we just have to create procedures, a due process requirement. Eventually, the court said every unlawful enemy combatant has a habeas right.

The law of the land is clear that an American citizen helping the enemy overseas can be held indefinitely. But they have the right to petition a judge as to whether the initial determination was correct. If the habeas judge believes there is not enough evidence to hold this enemy combatant, then they have to release them. But if the judge agrees with the government that there is enough evidence to hold them as an enemy combatant, they can be held indefinitely. This President is holding 48 people at Guantanamo Bay who have never seen a criminal courtroom because of the theory of law of war.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I say to the Senator from South Carolina, I yielded for a question.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Can the Senator bring it to a question?

Mr. GRAHAM. The question is—I forget what I said.

Mr. DURBIN. Let me just say to my colleague, whom I respect and count as a friend, the critical difference between the Senator from Michigan and the Senator from South Carolina is this: The Hamdi case involved an American citizen, part of the Taliban, arrested in Afghanistan, OK? The Senator from South Carolina made that point when he said the word ''overseas.'' Unfortunately, section 1031 does not create

that distinction. An American citizen arrested in the United States, charged with terrorism, without any connection to overseas conduct—having been arrested overseas, I should say—is still going to be subject to indefinite detention.

The only thing I would add is this: I think this is a good exchange, and I think we need more. The notion that we have to hurry up and get this done in the next 5 minutes is not, I don't think, an appropriate way to deal with this. I know Senator PAUL and Senator MERKLEY are waiting, and I am prepared to yield the floor at this point.

If this matter comes up again this evening, I hope we can engage in further discussion.

Mr. LEVIN. I just have a question, if the Senator would yield, of the Senator from Illinois.

Mr. DURBIN. Sure.

Mr. LEVIN. Is the Senator aware of the fact that section 1031 in the bill we adopted months ago in the committee had exactly the language that the Senator from Illinois thinks should be in this section 31, which would make an exception for U.S. citizens in lawful residence? That was in our bill. I am wondering if the Senator is aware that the administration asked us to strike that language from section 1031 so that the bill in front of us now does not have the very exception the Senator from Illinois would like to see in there.

Mr. DURBIN. I have the greatest respect for the Senator and the administration, but I think I am also entitled to my own conclusion.

Mr. LEVIN. No, I understand. But I am just asking the Senator, is the Senator aware it was the administration that asked us to strike that language, the exception for U.S. citizens?

Mr. DURBIN. Not being a member of the committee, I did not follow it as closely as the Senator did. I respect him very much and take his word.

Mr. LEVIN. I thank the Senator.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Kentucky.

AMENDMENT NO. 1064

Mr. PAUL. Mr. President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 1064.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. PAUL], for himself and Mrs. GILLIBRAND, proposes an amendment numbered 1064.

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

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

The amendment is as follows:

(Purpose: To repeal the Authorization for Use of Military Force Against Iraq Resolution of 2002)

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

**SEC. 1230. REPEAL OF AUTHORIZATION FOR USE OF MILITARY FORCE AGAINST IRAQ.**

The Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 116 Stat. 1498; 50 U.S.C. 1541 note) is repealed effective on the date of the enactment of this Act or January 1, 2012, whichever occurs later.

Mr. PAUL. Mr. President, this amendment will call for a formal end to the war in Iraq. Our Founding Fathers intended the power to commit the Nation to war be lodged in Congress, and that is what the Constitution says. The power to declare war is one of the most important powers given to Congress, and it should remain in Congress.

James Madison wrote at the beginning in the Federalist Papers that ''[t]he Constitution supposes what history demonstrates, that the Executive is the branch most prone to war . . . therefore the Constitution has with studied care vested that power [to declare war] in the Legislature.''

We are calling for a formal end to the war in Iraq as the troops come home, as the President has planned by January 1. This will reclaim the power to declare war that is vested in Congress. It allows for checks and balances and is an important milestone and an important retaining of power for Congress. So I will ask very careful deliberation of a formal end to the war in Iraq by supporting this amendment.

At this time, I would like to yield the floor to Senator MERKLEY.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, just briefly, I would ask the indulgence of the Senator from Oregon. I just would ask the Senator from South Carolina if he would finish the response, and I am sure it would only take him 2 or 3 minutes to finish.

Mr. GRAHAM. I promise, I will.

Mr. MCCAIN. So I ask unanimous consent that Senator MERKLEY be recognized after the Senator from South Carolina speaks for a couple minutes.

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

Mr. MCCAIN. I thank the Senator from Oregon.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, the exchange with Senator DURBIN was very good. The law of the land is pretty clear—unequivocal, in my view—that an American citizen captured overseas can be held as an enemy combatant, and every enemy combatant held at Guantanamo Bay or captured in the United States has habeas rights. The Padilla case involves an individual who was captured in the United States, suspected of being an al-Qaida operative, and was held for 4 years. He appealed his case to the Fourth Circuit, and the Fourth Circuit said: You have a right to a lawyer to prepare your habeas case, but you do not have a right to a lawyer to interrupt the interrogation. You can be held as an enemy combatant, and they can gather intelligence for an indefinite period.

That is the law of the land, and that is why the administration came over and said the provision that Carl and I were talking about really would change the law. They are preserving the ability, if they want to—they do not have to do this—basically, to hold an American.

Here is the thought process for the body and the Nation: If you capture somebody—not just involved in terrorism; that is not just what we are talking about—al-Qaida operatives involved in an attack on the United States, if they are an American citizen—who cares?—if they are doing that, we want to know what they know, interrogate them and hold them for prosecution, or just hold them so they will not go back to the fight. That is the law.

All we are doing is creating a procedure for that system to be followed. We are not doing anything different than already exists. This notion, somehow, that the homeland is not part of the battlefield is absurd. Why in the world would we give somebody rights who came to America to attack us different than we would if we caught them overseas, when the point is, they are involved with the enemy—American citizen or not. We are just creating a procedure that will allow that situation to be handled. So that is why the administration objected to our language, and I think they are right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 1174

Mr. MERKLEY. Mr. President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 1174.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for himself, Mr. LEE, Mr. UDALL of New Mexico, Mr. PAUL, and Mr. BROWN of Ohio, proposes an amendment numbered 1174.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress regarding the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan)

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

**SEC. 1230. SENSE OF CONGRESS ON TRANSITION OF MILITARY AND SECURITY OPERATIONS IN AFGHANISTAN.**

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

(1) After al Qaeda attacked the United States on September 11, 2001, the United States Government rightly sought to bring to justice those who attacked us, to eliminate al Qaeda's safe havens and training camps in Afghanistan, and to remove the terrorist-allied Taliban government.

(2) Members of the Armed Forces, intelligence personnel, and diplomatic corps have skillfully achieved these objectives, culminating in the death of Osama bin Laden.

(3) Operation Enduring Freedom is now the longest military operation in United States history.

(4) United States national security experts, including Secretary of Defense Leon E. Panetta, have noted that al Qaeda's presence in Afghanistan has been greatly diminished.

(5) Over the past ten years, the mission of the United States has evolved to include a prolonged nation-building effort in Afghanistan, including the creation of a strong central government, a national police force and army, and effective civic institutions.

(6) Such nation-building efforts in Afghanistan are undermined by corruption, high illiteracy, and a historic aversion to a strong central government in that country.

(7) Members of the Armed Forces have served in Afghanistan valiantly and with honor, and many have sacrificed their lives and health in service to their country.

(8) The United States is now spending nearly $10,000,000,000 per month in Afghanistan at a time when, in the United States, there is high unemployment, a flood of foreclosures, a record deficit, and a debt that is over $15,000,000,000,000 and growing.

(9) The continued concentration of United States and NATO military forces in one region, when terrorist forces are located in many parts of the world, is not an efficient use of resources.

(10) The battle against terrorism is best served by using United States troops and resources in a counterterrorism strategy against terrorist forces wherever they may locate and train.

(11) The United States Government will continue to support the development of Afghanistan with a strong diplomatic and counterterrorism presence in the region.

(12) President Barack Obama is to be commended for announcing in July 2011 that the United States would commence the redeployment of members of the United States Armed Forces from Afghanistan in 2011 and transition security control to the Government of Afghanistan.

(13) President Obama has established a goal of removing all United States combat troops from Afghanistan by December 2014.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should expedite the transition of the responsibility for military and security operations in Afghanistan to the Government of Afghanistan;

(2) the President should devise a plan based on inputs from military commanders, the diplomatic missions in the region, and appropriate members of the Cabinet, along with the consultation of Congress, for expediting the drawdown of United States combat troops in Afghanistan and accelerating the transfer of security authority to Afghan authorities prior to December 2014; and

(3) not later than 90 days after the date of the enactment of this Act, the President should submit to Congress a plan with a timetable and completion date for the accelerated transition of all military and security operations in Afghanistan to the Government of Afghanistan.

Mr. MERKLEY. Mr. President, I offer this amendment with several original cosponsors: Senator MIKE LEE, Senator RAND PAUL, Senator TOM UDALL, and Senator SHERROD BROWN. I would like to thank them for joining in this effort to address our military presence in Afghanistan and the fact that our military forces have done such an excellent job of completing the original missions of destroying al-Qaida training camps and bringing justice to those responsible for 9/11.

But over this past decade, our mission has changed to one of nation building—a mission that is obstructed by vast corruption, by extraordinary traditional cultural resistance to a strong central government, and by a very high illiteracy rate. These factors should have us rethinking how to have the most effective use of our military forces, our intelligence assets, in taking on the war on terror, and that we should be engaging in counterterrorist efforts using our resources wherever the terrorist threat emerges across the world rather than concentrating these vast resources in Afghanistan.

Our sons and daughters, fathers and mothers, sisters and brothers could not have done a better job in their military mission. But it is right that now we do less nation building abroad and we do more nation building at home. It is right that now we refocus our effort to have the most effective strategy to take on terrorism around the world. It is in that philosophy that we come together in a bipartisan fashion to propose this amendment. We ask that colleagues take a chance to consider it and join us in redirecting our efforts to be more effective.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I ask unanimous consent to add Senators AKAKA, CHAMBLISS, BLUMENTHAL, INHOFE, GILLIBRAND, BEN NELSON, STABENOW, and MARK UDALL as cosponsors of amendment No. 1092, which is the pending Levin-McCain amendment on counterfeit parts.

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

Mr. LEVIN. Secondly, Mr. President, we are going to move now, I believe, to the conference report. But I do want to remind folks of what Senator MCCAIN said; which is, we will be here tomorrow morning. We are here to try to clear amendments. We want to be able to give our colleagues as much opportunity as possible to debate and to clear amendments. But we have to move this bill. We are not going to be given a whole week after we come back to get this bill passed, hopefully.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. S. 1867 is still pending.

Mr. MCCAIN. Is not the Paul amendment the pending business?

The PRESIDING OFFICER. The Merkley amendment is pending.

Mr. MCCAIN. The Merkley amendment is pending.

Mr. President, I ask unanimous consent that the Paul amendment be the—

Mr. LEVIN. No. Regular order.

Mr. MCCAIN. OK, that the regular order be—

The PRESIDING OFFICER. The Levin amendment is now pending.

Mr. LEVIN. The Levin-McCain amendment.

The PRESIDING OFFICER. The Levin-McCain amendment is now pending.

Mr. MCCAIN. I thank the Presiding Officer.

AMENDMENT NO. 1064

I would just like to say a couple words about the Paul amendment. I would just like to point out, we will still have 16,500 Americans in Iraq for an extended period of time. Now, whether they should be there is the subject of another debate on another day. But to then not be able to do whatever is necessary to protect the lives and safety of those men and women who will continue to serve the country, sometimes in variously difficult circumstances—I think this amendment is unwarranted.

Finally, I would like to ask my colleagues who have further views on the detainee issue if they would come over and add their voices to the debate and discussion because we would like to dispose of this amendment. I respect the desire of the Senator from Illinois that everybody be allowed to speak. We have been now speaking on this single amendment for, I believe, well over 3 hours.

So if there is further discussion on the Udall amendment, I would very much like to have a vote on it so we can bring other important issues before the body.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I ask unanimous consent to enter into a colloquy with my colleague from New Hampshire.

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

Mr. GRAHAM. We are talking about this amendment. Let's debate this amendment. Let's vote on this amendment. But the heart of the issue is whether the United States is part of the battlefield in the war on terror. The statement of authority I authored in 1031, with cooperation from the administration, clearly says someone captured in the United States is considered part of the enemy force regardless of the fact they made it on our home soil. The law of war applies inside the United States not just overseas. The authorization to use military force right after the war began allowed us to go into Afghanistan and use detention and capture and military force to deal with the enemy in Afghanistan and other places overseas.

To my colleague from New Hampshire, does she believe al-Qaida considers American soil part of the battlefield?

Ms. AYOTTE. In response to the Senator from South Carolina, I would say, unfortunately, our country is the goal for al-Qaida, and we saw that with September 11 and the horrible attacks on

our country that day that killed Americans.

They want to come here and harm us and hit us where it hurts us the most. So, unfortunately, America is part of the battlefield. To put ourselves in a position where we would not allow our military intelligence, law enforcement, to have the tools they need to gather the most intelligence to protect Americans on our soil would lead to an absurd result.

Mr. GRAHAM. Does the Senator agree that with Senator LEVIN and a very bipartisan work product we have now created a legal system that says the following: If a U.S. citizen, a non-U.S. citizen is involved in an al-Qaida attack on our Nation, and is captured within the United States, we are allowing our military the ability to hold them as part of the enemy force, to question and interrogate them for intelligence gathering, and that right we have overseas to hold somebody now exists in the United States because the threat is the same?

Ms. AYOTTE. I would say to my colleague from South Carolina, when he spoke on the floor he captured the most important part of this; that is, without the amendment we have been debating, we do not even give our military, law enforcement, intelligence officials the ability to decide which system is best in each incident. Rightly so, when you are in our country, when you are an American citizen, you are given your Miranda rights. You are told: You have the right to remain silent. You have the right to have a lawyer. We need to make sure we do not create a distinction where if you are captured abroad, you are treated one way—and we are giving our officials maximum flexibility to gather as much information as possible to protect our country—but if you make it here, the rules are different, and we do not give the officials who are set to protect us every day, both from a military and law enforcement end, the flexibility they need to gather maximum intelligence.

It would just be an absurd result to treat it differently. It would almost encourage: Come to America—unfortunately—to attack us because you will actually be given greater rights if the attack occurs here.

Mr. GRAHAM. Would the Senator agree that what we have been able to do on the committee is basically say, in law for the first time, that the homeland is part of the battlefield; that military custody is available to hold a suspected al-Qaida operative caught in the United States—American citizen or not—but we are going to allow the administration—this administration and all future administrations—to change that model if they believe it is best?

To me, we have created a right by our intelligence community, law enforcement community, to do at home what they can do overseas. If we do not do that, that would just not only be absurd, I think it would make us all less safe for no higher purpose. So to my colleagues who believe we are changing something, all we are trying to do is make sure that when the enemy makes it to America, we can hold them and gather intelligence to protect ourselves, no more and no less.

We start with the presumption of military custody. But if the experts in the field, this administration or future administrations, believe that model is not best, they can seek a waiver. That, to me, is what we should have been doing for years. Because the battlefield, to those who are listening, is an idea, not a country. We are battling an idea; that is, a terrible idea.

Their idea is, if you are a moderate Muslim seeking to worship God a different way, you are not worthy of living. If you are a Jew or a Gentile, you name it, if you do not bow to their view of religion, then you are going to live in hell. So that is what we are fighting. At the end of the day, this legislation creates a process to deal with the threats in our own backyard and, unfortunately, does the Senator from New Hampshire agree, that there is going to be further radicalization, that homegrown terror is where this war is going to?

Ms. AYOTTE. I would agree with the Senator from South Carolina that unfortunately there are threats we face within our own country from homegrown radicalism. But also let's not forget, this amendment, in terms of the military custody, applies to members of al-Qaida or associated forces who have planned an attack against our country or our coalition partners and are not U.S. citizens. So in this provision we are talking about foreigners coming to our country who are members of al-Qaida and who want to harm Americans, if we think about what happened on September 11.

I would also add, I think it is very important what is in this important provision of the Defense Authorization Act, in response to the Senator from California, who raised the case of Zazi as an example where she thought that case would be impacted by this amendment, that is simply, with all respect to the Senator from California, not the case.

Because if one looks at the language in our amendment, we have given flexibility to the executive branch to conduct the interrogations, to have surveillance. So in the Zazi case, there was surveillance undertaken. We put express language in here allowing the executive branch to allow law enforcement to conduct surveillance, to conduct interrogation.

I would point out that provision in terms of the amount of flexibility we have actually given the executive branch. But most importantly, we have dealt with the issue the Senator talked about, which is, in the absence of this provision, when terrorists come to our country and attack us, we are in a position where, under our law enforcement system, they have to give Miranda rights. They have the right to presentment. We are simply saying they have the option to make sure they can put intelligence gathering as the top priority.

So this, as the Senator has identified and talked about, is a very reasonable compromise. As the Senator knows, my colleague from South Carolina, I would have actually liked to have seen this go further. But it is very important that we bring this forward.

Mr. GRAHAM. I would add that Senator LIEBERMAN would have gone further than the Senator. There is nobody whom I respect more than Senator LIEBERMAN, but we are trying to find a balanced way.

So in summary, 1032, the military custody provision, which has waivers and a lot of flexibility, does not apply to American citizens, and 1031, the statement of authority to detain, does apply to American citizens. It designates the world as the battlefield, including the homeland.

Are you familiar with the Padilla case? That is a Federal court case involving an American citizen captured in the United States who was held for several years as an enemy combatant. His case went to the Fourth Circuit. The Fourth Circuit Court of Appeals said: An American citizen can be held by our military as an enemy combatant, even if they are caught in the United States, because once they join the enemy forces, then they present a military threat and their citizenship is not a sort of a get-out-of-jail-free card; that the law of the land is that an American citizen can be held as an enemy combatant. That went to the Fourth Circuit. That, as I speak, is the law of the land.

Ms. AYOTTE. That is right. That is the law of the land. That is what is reflected in this provision in the Defense Authorization Act. It is reflective of case law issued by our U.S. Supreme Court, which in not only that case but in subsequent cases basically said, in those instances, you do have to provide habeas-type relief.

Mr. GRAHAM. In the Padilla case, that went to the Fourth Circuit. The Hamdan case went to the Supreme Court. That was capture overseas. But the Fourth Circuit ruling stands that an American citizen captured in the United States can be held as an enemy combatant.

But 1032, requiring military custody, is only for noncitizens captured in the United States. So the bottom line is, I think we have constructed a very sound, solid system that deals with homeland captures and homeland threats. We have created due process that understands this is a war without end, that no one is going to be held in jail indefinitely without going to a Federal court to make their case that they are unfairly held, that if the Federal court rules with the government, there is an annual review process that would allow the opportunity to get out

in the future based on an evaluation of the case.

From a due process point of view, I am very proud of the work product. I think it makes sense. I think it is a balance between our right to be safe and our rights to provide individuals with due process. But the big breakthrough is that we are now, for the first time as a Congress, creating a system that not only will allow this President flexibility and guidance, but future Presidents, and it will help us in further court challenges.

Quite frankly, the Congress is saying, through this bill, if someone is caught in the United States, citizen or not, joining al-Qaida, trying to do harm to our Nation, we are going to create a system where you can be held, you can be prosecuted, you can be interrogated within our values, and we are not going to create an absurd result that if you make it here, none of that applies. That is all we are trying to do. Does the Senator agree with that?

Ms. AYOTTE. I would agree with that. The Senator has already pointed out how important it is to have these provisions in place to give the officials who do this work every day whom we have so much respect for the ability to gather intelligence.

We need this provision to protect our country from attacks on our homeland. It is so important. I would ask one question of the Senator from South Carolina. He is familiar with the military commissions.

Mr. GRAHAM. If I may, I think we need to move to the appropriations conference report. We will do it very quickly.

Ms. AYOTTE. I will ask the Senator quickly. The Senator from Illinois said we have only had six civilian trials with terrorists.

Mr. GRAHAM. Military commissions.

Ms. AYOTTE. Six military commission trials and hundreds of civilian trials of terrorists. I would ask the Senator, did the administration suspend military commission trials for a period of time?

Mr. GRAHAM. The reason we have not had more is because the Obama administration withdrew charges. Thank goodness they have reinstated charges. There are military commission hearings going on as we speak. I am in the camp of ''all the above.''

Sometimes article 3 courts are the best venue, sometimes military commissions. The Ghailani case was someone we held as an enemy combatant for years, took to Federal court and 200-and-something charges and got convicted on 1. Our Federal courts are not set up to deal with people who have been held as enemy combatants under the law of war, then tried in civilian systems.

The Christmas Day Bomber, it made perfect sense to me to put him in an article 3 court. We found out he was a low-level guy, not one of the higher-ups. But if we catch someone here at home or overseas who is involved deeply in terrorism in terms of what they know, then we would hold them for a period of time to question them.

Then, if you wanted to decide to prosecute, military commissions make the most sense. So the only reason we have not had more military commission trials is because they have been stopped. I am not saying Federal courts are not an appropriate venue sometimes. I am saying that when you hold someone under the law of war for years to gather intelligence, which you have a right to do, we need to keep them in the same system, and you see what happens when you mix systems.

I am very proud of the bill, great debate to have, long overdue. If we can get this enacted into law, I will say this: Americans can look anyone in the world in the eye and say: We have robust due process. We can also tell the people in this country whom we are sworn to protect that we have a system that recognizes the difference between an al-Qaida operative trying to kill us and destroy our way of life and a common criminal. We need to do both.

I yield the floor.

Mr. SHELBY. Mr. President, I rise to speak regarding the Agriculture-CJS-THUD Appropriations Conference Report that the Senate will be voting on today. I was the only conferee not to sign this conference report and I regret to say that I have serious concerns with provisions in this bill.

The conference report contains language that will raise the loan limits for FHA to over $729,000. I strongly oppose this language for three reasons. First, this change means that FHA, along with the GSEs will continue to crowd out the private sector. The government currently accounts for 96 percent of mortgage-backed security issuance in this country. We desperately need private sector investment to return so that we can finally achieve sustained growth in the housing market. Second, raising the loan limits for only FHA puts further pressure on the FHA and the taxpayer. Just this week, we learned that there is nearly a 50 percent chance the taxpayers will need to bail out the FHA. Increasing the loan limit only increases the risk that the taxpayer will have to bail out FHA. Finally, this will cause the American taxpayer to subsidize homes for wealthy buyers. Helping affluent people buy homes worth over three quarters of a million dollars is directly at odds with FHA's mission to develop affordable housing.

It is a shame that this bill contains these ill-advised provisions, as there is so much worthwhile contained elsewhere within the text. I particularly want to commend Chairman INOUYE and Vice Chairman COCHRAN, and CJS Subcommittee Chair MIKULSKI and Ranking Member HUTCHISON, for the great work they did in supporting the Space Launch System, SLS, NASA's heavy lift rocket. The bill we will vote on this evening provides $1.86 billion to support SLS, $60 million above the President's request. The bill puts us on a path towards regaining our rightful place as the world's lead spacefaring nation. SLS will take us beyond low Earth orbit, where we have been stuck for decades, and once again make the American space program the envy of the world.

It is only as a result of continual pressure from both houses of Congress that the U.S. has not completely forfeited space supremacy to the Russians and the Chinese. The Obama administration's 2009 plan would have abandoned NASA's focus on manned exploration and instead subsidized so-called ''commercial'' space companies to perform endless taxi missions to low Earth orbit. Apollo astronaut Eugene Cernan, rightfully called the Obama plan a ''pledge to mediocrity.''

Fortunately, Congress has pushed back hard. Many of my Senate colleagues and I joined to pass authorization and appropriations legislation requiring NASA to develop a 130 metric ton heavy lift vehicle that will take America's next generation of astronauts to the moon and beyond. In countless hearings and private meetings with NASA and the administration we have come to an agreement that the primary purpose of NASA is to expand human frontiers, not serve as a grant administrator for speculative private ventures. Thankfully, after more than 2 years of continual pressure from Congress and the American people, we appear to have achieved a breakthrough. NASA is moving ahead with SLS and this CJS Appropriations bill will ensure that they have the resources to implement the plans the Administrator has laid out.

It is important to note that the recently announced SLS acquisition strategy goes to great lengths to control cost and technical risk. The strategy makes maximum use of existing contracts and flight-tested hardware from the Constellation and Shuttle programs while leaving room for competition where appropriate. Neil Armstrong recently told a House panel: ''Predicting the future is inherently risky, but the proposed Space Launch System includes many proven and reliable components which suggest that its development could be relatively trouble free.''

Mr. President, SLS is a bold and workable plan with strong support in both chambers and both parties. Although I have serious reservations about the overall legislation, I thank my colleagues on the CJS Subcommittee for embracing American leadership and the promise of American ingenuity through their support for SLS.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES PROGRAMS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2012, AND FOR OTHER PURPOSES—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of conference report to accompany H.R. 2112, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2112), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes, having met, have agreed and do recommend to their respective Houses that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same; that the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Ms. MIKULSKI. I ask unanimous consent that committee report be considered as read.

The PRESIDING OFFICER. The report is considered read. Under the previous order, there will be 2 hours of debate, equally divided, between the two leaders or their designees.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak on behalf of the conference committee. I rise as the chair of the Subcommittee on Commerce, Justice, and Science, one of the three subcommittees in the conference report. The other is agriculture. Senator KOHL will be coming to the floor to speak on behalf of his bill that is part of the conference, and others will speak.

I wish to speak on the Commerce-Justice bill. I am pleased the Senate is considering the conference agreement on fiscal year 2012. As I said, I am CJS. Senator KOHL will speak on agriculture. Senator PATTY MURRAY managed the bill on transportation and housing. She is the chair, and I am sure either she or her designee will speak about a subcommittee we affectionally call THUD.

But let me talk about the CJS conference agreement. This is a great agreement. It is the product of bipartisan and bicameral compromise and cooperation. I wish to thank my ranking member, Senator KAY BAILEY HUTCHISON and her excellent staff. We worked hand in hand on this bill.

I wish to talk about our colleagues in the House. Much is made about the prickly situation sometimes between the House and the Senate. But I wish to thank Chairman FRANK WOLF and ranking member CHAKA FATTAH for their bipartisan support. There was give and take; sometimes stormy exchanges. But at the end of the day, we worked cooperatively and collegially.

So as we look at the process, what I wish to say is that the conference agreement itself is a good one. Our bill, the CJS bill, totals $52.7 billion in discretionary spending. We were frugal. It is $600 million below the 2011 level, and it is $5 billion below the President's request.

The purpose of this bill is to help create American jobs, make our streets and our neighborhoods safe from violent crime and terrorism, and to support innovation and technology so America can continue to be an exceptional Nation.

It also promotes trade. We do this through our Federal agencies: the Commerce Department, through its Economic Development Administration, Patent Office, International Trade Administration, and the Census Bureau. It also has important agencies related to innovation: the National Institutes of Standards and the National Oceanic and Atmospheric Administration.

Our bill also has in it the Department of Justice, NASA, and the National Science Foundation.

It has a lot of important things in it. It is also a bill that promotes justice, including the Commission on Civil Rights, the Equal Employment Opportunity Commission, and the Legal Services Corporation.

Within shrinking funding levels, the CJS conference agreement prioritizes activities that focused on creating jobs, saving lives, protecting communities, and looking out for the future of our country.

The subcommittee faced two very pressing problems that are critical to life and safety. One, our weather satellites. We had to come up with a substantial chunk of money to make sure we had those important new weather satellites that tell us about hurricanes, tornadoes, and other things that are coming. Also, we had a real challenge in providing adequate funding for America's prison population.

These activities are not considered mandatory for budget purposes, but they are not truly discretionary. We had an obligation to fund them. We also had an obligation to provide security funding to the two conventions, to help them underwrite their security concerns.

Together, the bare minimum needed for the new JPSS satellite and prison expenses is nearly $800 million—$350 million for prisons—and we were able to meet that obligation.

We also looked out for our law enforcement, for our State and local police departments. This bill provides $2.2 billion to support our Blue Line to keep our police safe, to protect them with the equipment they need, such as bulletproof vests, so they can protect us with modern tools relating to crime scene analysis, forensic science, and enough cops on the beat.

We funded Byrne grants at $370 million, a main Federal tool for State and local police operations.

In terms of Federal law enforcement, we met obligations to the FBI and funded them at $8 billion; our Drug Enforcement Agency at $2 billion; the Bureau of Alcohol, Tobacco, and Firearms and the Marshals Service, each at $1.2 billion. Our marshals no longer necessarily ride the planes, but what they are out there doing is serving the warrants that go after sexual predators and also make sure they fulfill their responsibility to protect our Federal judiciary at the courthouses. Those Federal law enforcement actions are at our borders, in our streets, in our communities, and in important task forces protecting our communities.

In terms of science and innovation, I am proud of what we did with NASA—from the space shuttle legacy to our new vehicles for space exploration. We also funded the James Webb Space Telescope, which will be the successor to the Hubble. It is 100 times more powerful and will assure America's place as a leader in astronomy for the next 30 years.

Our conference agreement was $17.8 billion. It is a balanced space program. It ensures the continuity or continuation of human space flight, does important work in space science, and also bold research in aeronautics, so we can be at the cutting edge.

We also funded the National Science Foundation, which continues to do that groundbreaking innovative work that the private sector works off of. This year, three Americans shared the Nobel Prize for physics. One was Dr. Adam Riess at Johns-Hopkins. He used the Hubble space telescope to look out for dark energy, to look at decaying supernovas, and found out that the expansion of the universe was speeding up.

The 2011 Nobel Prize in chemistry winner, Dr. Dan Shechtman, was working at the National Institute of Standards and Technology—which this bill also funds—when he discovered new subatomic particles. Both discoveries were considered unexpected and even game changers. These Nobel Prize winners were those wonderful Americans who make use of whether it was the Hubble telescope or the kind of work that goes on in our chemistry labs. So we are out there winning the Nobel Prizes, but our bill lays the groundwork for winning the markets.

On the floor is the chairman of the full committee, Senator INOUYE, and also Senator KOHL, who managed the bill and will speak for Agriculture. There are many things I could say about what we did in the bill, but I think I have summarized the basic themes.

I will be available to answer any questions from colleagues. I also want the chairman of the full committee to have an opportunity to speak and certainly Senator KOHL and Senator BLUNT. I want to say to Senator BLUNT, when Senator KOHL had to be temporarily off the floor, I thank him for working with me. We moved this bill and showed we knew how to govern and move legislation. If we work this way, we will get America moving again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, first I thank Chairman BARBARA MIKULSKI for her valiant work in the conference.

As we are all aware, the congressional budget process has faced unprecedented obstacles over the past year. We have struggled to find common ground on one of the most basic responsibilities of Congress—funding the operations of the Federal Government.

Earlier this year, we saw politically charged threats of government shutdowns, culminating with an irresponsible debt ceiling standoff that brought our economy to the brink of disaster. The American people are deeply frustrated that many in Congress put partisanship ahead of the national interest.

Yet, despite these challenges, we now consider legislation that reflects the good-faith efforts and input of Members of both sides of the aisle in both the House and Senate. Given current fiscal and political realities, this is no small accomplishment.

The conference report before us today includes three fiscal year 2012 appropriations measures: Agriculture; Commerce, Justice, Science; and Transportation, Housing and Urban Development. This legislation also includes a continuing resolution that funds government operations through December 16, giving Congress time to finish its work on the remaining funding bills.

These bills are focused on a number of basic priorities: job creation, public safety, science, nutrition, housing, and transportation. Due to the stringent funding limits included in the Budget Control Act, which established a discretionary spending level that is $7 billion below last year's level, many items in these bills are not funded to the levels I would prefer.

As we all await the outcome of the supercommittee, I again remind my colleagues that we cannot balance the Nation's books on the back of nondefense discretionary spending.

Despite our reduced spending levels, I am pleased that we have been able to maintain investments in several critical areas.

Public safety is a top priority of this bill. The conference report before us provides the resources necessary for the Food and Drug Administration to begin implementation of the Food Safety Modernization Act, which will better protect the American people from foodborne illnesses.

The funding levels provided in the conference agreement for the Federal Bureau of Investigation; the Drug Enforcement Agency; Bureau of Alcohol, Tobacco, Firearms and Explosives; and the U.S. Marshals Service will prevent layoffs and furloughs of Federal agents, enabling the agencies to continue their critical missions with regard to public safety.

The funds provided will also allow for increased law enforcement on the Southwest border. I note that the bill maintains funding for COPS hiring grants, which were eliminated in the original House bill.

The conference report before us funds an additional 11,000 new housing vouchers for homeless veterans. It includes $500 million for competitive TIGER surface transportation grants, as well as nearly $2 billion for new transit rail projects, and it maintains Federal support for Amtrak.

This bill includes more than $12 billion for basic research at the National Institute of Standards and Technology, the National Science Foundation, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration.

This research will plant the seeds for new discoveries that not only win Nobel Prizes, but also earn profits and create American jobs in our highly competitive global economy.

The conference report before us represents thousands of compromises on issues large and small. It represents, in no small measure, the way the Congress of the United States is meant to function.

The credit for this accomplishment rests with the members of the subcommittees and their staffs. I thank the leadership of the three subcommittees, Senators KOHL, MIKULSKI, MURRAY, BLUNT, HUTCHISON, and COLLINS for their exceptional efforts in completing these three bills.

We all recognize that we would not have been able to accomplish this task without the countless hours put in by the staff of the subcommittee. I want to take a moment—I think it is important—to recognize them for their efforts.

I want to publicly thank Galen Fountain, Jessica Arden Frederick, Dianne Nellor, Bob Ross, Molly Barackman-Eder, Gabrielle Batkin, Jessica Berry, Jeremy Weirich, Jean Toal-Eisen, Molly O'Rourke, Alex Keenan, Meaghan McCarthy, Rachel Milberg, Dabney Hegg, Stacy McBride, Rachel Jones, James Christoferson, Allen Cutler, Goodloe Sutton, Courtney Stevens, Heideh Shahmoradi, Brooke Hayes Stringer, Carl Barrick, and Mike Clarke. They are the ones who should be receiving the medal this evening.

This conference report is the culmination of a process that includes countless hours of hearings, markups, debate, negotiations, and posting online—and I underline this—all of the hearing testimony and legislative text for any citizen to review. Finally, it represents the one essential ingredient to a functioning democracy that has been in short supply in recent months: compromise.

I urge my colleagues to vote in favor of this measure and send it to the President for his signature.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, this conference report contains agreements between the House and Senate on three appropriations bills.

These bills support a wide range of important Federal Government activities. It also includes an extension of the continuing resolution that expires on Friday.

The conference report is the product of negotiations that have taken place with the other body's conferees over the past several weeks.

I commend the chairmen and ranking members of each of the subcommittees for the thoughtful manner in which they have undertaken their responsibilities. I also thank the staff members for their diligence and the many long hours they have spent in the performance of their duties and bringing us to this point.

The practice of combining multiple appropriations bills into a single package is not ideal, nor should it be encouraged. I would prefer, and I know other Senators would as well, that we have the opportunity to consider, offer amendments, and vote on the bills individually.

This summer, the months during which we normally debate appropriations bills, Congress and the President were wrangling over legislation to increase the debt ceiling and other matters. While the committee moved quickly to report bills in September, we are now more than a month into the new fiscal year and are only now approaching enactment of the first three appropriations bills. I don't know how or when we will be able to actually complete action on all these measures, but I want the Senate to know that the members of this committee, under the very able and distinguished leadership of Senator INOUYE from Hawaii, have done everything within our power to try to get the Senate to move quickly but carefully to approve these bills.

So, Mr. President, without prolonging the debate and knowing other Senators are here to speak, let me just say that we have the restraints of the Budget Control Act, which were respected by the Appropriations Committee. Caps were included that locked in recent cuts in discretionary spending, and that is holding future discretionary growth below the rate of inflation. The act we are passing will bring discretionary spending as a percentage of GDP to the lowest levels since the Eisenhower administration.

I am confident the House and Senate will work together in the coming weeks to complete our negotiations on these and other appropriations bills that will fully comply with the guidance set out in the Budget Control Act. Today, we are making a good start with these three appropriations bills, and I urge support for the conference report.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I support the conference report, which includes appropriations for Agriculture, Rural Development, and the Food and Drug

Administration. I am pleased that we followed the regular process to get to this point. It has not always been an easy process, but it has produced a good and well-balanced bill.

Overall spending levels in this bill are closer to the Senate bill than the House-passed bill. The conference bill is consistent with our allocation and includes a nondisaster spending level of $19.565 billion, compared to $19.78 billion in the Senate and $17.253 billion in the House. This funding level allowed us to protect important ongoing programs, while continuing to reduce spending from last year.

Some of the highlights of the conference report funding levels are as follows:

For the WIC Program, we were able to provide an additional $36 million above the Senate, bringing total funding to $570 million above the House level.

The Emergency Food Assistance Program, which provides assistance to food pantries, is funded at the fully authorized level of $140 million.

The Food and Drug Administration is funded at the Senate level of $2.497 billion, including increased funding to begin implementation of the Food Safety and Modernization Act.

The Food Safety and Inspection Service is funded at $1.004 billion, an increase of more than $32 million above the House level.

The Public Law 480 Program, which provides international food assistance, is funded at $1.466 billion, an increase of $426 million above the House level.

Agricultural research funded through the Agricultural Research Service and the National Institute of Food and Agriculture is funded at $2.297 billion, an increase of $282 million above the House level.

Disaster relief funds for the Emergency Watershed Protection Program, Emergency Conservation Program, and the Emergency Forest Restoration Program were provided based on the latest USDA estimates.

Beyond these important funding items, we also rejected many of the controversial policy riders that were included in the House bill. Among them were a provision prohibiting any food aid for North Korea, which would tie the hands of U.S. negotiators; a provision blocking enforcement of the Energy Independence and Security Act; and a provision blocking participation in a global climate change task force, as well as others.

Again, I think this is a well-balanced bill. We worked hard with our House counterparts to identify and maintain priorities that benefit the American people. I would like to again thank Senator BLUNT for his help during this entire process. His insights were extremely valuable.

Mr. President, I urge my colleagues to vote in favor of this conference report.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I am pleased to join Senator KOHL in supporting the conference report, and I particularly want to talk about the agricultural programs in the report.

This is my first year as the ranking member of the agriculture subcommittee, and I have certainly enjoyed working with the chairman. He has been generous and kind to me, including me in many of these discussions.

In these days, it is no small feat for an appropriations bill to get through the Senate in what is pretty close to regular order, and so I am glad we were able to work closely together to get that done. I hope we can do the same thing next year and have hearings and floor time to pass the Agriculture, Rural Development, FDA bill again next year and maybe in a way that is even closer to the timing and the order we would like to see.

The conference report we are considering today reminds us that we can and should return to the regular way of doing business on appropriations bills. Even though the conference report includes three separate bills, they were all vigorously debated on the floor, and more than two dozen amendments were accepted. The process has certainly yielded a better outcome than a large omnibus appropriations bill would have.

The chairman has reviewed the details of the Agriculture bill, so I will touch on only a few of the highlights.

Discretionary spending for agriculture programs is $350 million below the fiscal year 2011 level and significantly below the fiscal year 2010 level. We are slowly but surely reining in discretionary spending.

To reduce overall spending, we have made difficult decisions. Most programs in the bill that related to agriculture were reduced by 5 percent. We have, however, prioritized those programs that protect the public health and help maintain the strength of our Nation's agricultural economy.

I am particularly pleased we have been able to maintain funding for formula research and competitive agricultural research programs in this bill. Smart investments in American agriculture have been made by the Federal Government for well over a century now, and this bill continues that process of promoting competitiveness and is critical to helping our farmers increase production and produce a food supply that is safe, abundant, and affordable.

With unemployment still hovering around 9 percent, now is not the time to place unnecessary restrictions on the competitive marketplace. Therefore, this plan prohibits the Department of Agriculture from moving forward with a costly and burdensome rule—GIPSA—that Agriculture released earlier this year. This rule would have negatively impacted poultry and livestock markets and damaged the overall strength of the farm economy.

I am also glad the Agriculture bill includes funding to help farmers and communities recover from natural disasters. Missouri has seen unprecedented devastation from both tornadoes and flooding this year. Funding included in this bill for the Emergency Watershed Protection Program and the Emergency Conservation Program is necessary to help those areas recover. It is important that we support our farmers as they clear debris and as they regrade and rehabilitate their land for the next growing season.

As the ranking member of the agriculture subcommittee, I have limited my comments to agricultural funding, but I would be remiss if I didn't point out the significant contributions of the Commerce, Justice, Science Subcommittee and the Transportation, and Housing and Urban Development Subcommittee in developing this conference report.

This bill, although it may have been referred to as the agriculture minibus, doesn't do justice to the great efforts of my colleagues, Senators MIKULSKI, MURRAY, HUTCHISON, and COLLINS, and their staffs. They have all contributed a lot of time and effort to get this report this far. It is not exactly what any of us would have done, but none of us are exactly in charge of doing it all by ourselves.

I hope my colleagues will join me and join Senator KOHL in supporting this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate the distinguished Senator from Missouri for managing the bill for our side because there are three appropriations bills included in this package. I am also pleased that we are actually passing appropriations bills that have been amended and debated in the Senate the way it ought to be done.

I am also very pleased to talk about the Commerce, Justice, Science, and Related Agencies bill, which is the subcommittee on which I am the ranking member. The chairman, Senator MIKULSKI, has already spoken earlier this evening on the bill and what is in it and how we put it all together.

I can't thank Senator MIKULSKI enough for being the kind of chairman who could really bring people together, bring the House Members together, where we had some significant differences. I believe she and I were on the same page, that we have national priorities in this bill, and we ensured that those priorities were met because they are so important for our country. It wasn't easy. As has been said by everyone who has spoken, difficult choices had to be made. We had an allocation that was $583 million below the fiscal year 2011 continuing resolution level. It was $4.7 billion below the President's request.

This bill is also in accordance with the Budget Control Act that passed on August 2, 2011. I just want to mention

on that point that all of the appropriations bills that have gone through the Appropriations Committee this year have met the Budget Control Act requirements. That is something I think we should have done and certainly something we were expected to do.

There are some Members, however, who will be speaking against these bills. They wanted a different standard from the standard we set, which was below the fiscal year 2011 continuing resolution and below the President's request. But that is the standard we should have met, and we did.

We struck a balance between the competing interests of law enforcement, terrorism, research, and competitiveness through investing in science. I think the chairman, Senator MIKULSKI, spoke about the specifics of that, but I want to highlight some of the programs of national interest that I was particularly insistent that we focus on.

We have worked hard to ensure that law enforcement receives the priority funding needed to protect our Nation, our communities, our children, and the victims of crime. That was a particular point that Senator MIKULSKI made and with which I agree.

We have also made sure the FBI has the resources it needs to continue its major role in the global mission of counterterrorism and counterintelligence. Director Robert Mueller has seen the largest transition of the agency certainly in modern times, but maybe ever—a transformation from a traditional crime-fighting organization into an intelligence-driven, threat-focused law enforcement organization and a full member of the U.S. intelligence community since 9/11.

A lot of people are going to say: Well, gosh, why would you increase the FBI? Well, because they are a part of our national security today. They are no longer just a domestic crime-fighting agency—though very important but nevertheless a smaller function. They are part of our U.S. intelligence agencies that are helping us fight terrorism all over the world. So we funded them, and I am glad we did.

We have also included language to encourage the Department of Justice to maintain its current fiscal year 2011 level of funding that focuses on the southwest border. This is so important, as we read about the atrocities happening in Mexico and on our border, some of which have begun to spread across the border, and drug cartels are becoming increasingly emboldened.

I was talking to someone in the law enforcement community today who has had very high positions in our government, and he said those drug cartels are terrorists. I agree with him. Those drug cartels are terrorists. What they are doing to innocent people is atrocious. So we are encouraging and we have given the money to the Justice Department for the southwest border.

The El Paso Intelligence Center is another important program that is one of our first safeguards along the border. It is a national tactical intelligence center that supports law enforcement in the United States, Mexico, and the whole Western Hemisphere. It is the Drug Enforcement Administration's most important intelligence-sharing entity focusing on all things related to our borders.

Another important program in this bill is the State Criminal Alien Assistance Program which we funded to provide Federal assistance to the States and localities that are incurring the costs of incarcerating undocumented criminal aliens who have been accused or convicted of State and local offenses. We know there are counties throughout our country that do not have big budgets. Yet we have illegal alien criminals who are being put in county jails and city jails and it is important for the Federal Government and it is the Federal Government's responsibility to pay for housing those illegal alien criminals. We have done so in this bill.

I was also pleased to work with Senator MIKULSKI and JON KYL, the Senator from Arizona, to include more money for the U.S. Marshals Service for its mission along the southwest border, including detention construction and security upgrades in southwest border Federal courthouses.

The last thing I wish to mention is that we had a very moving ceremony yesterday honoring the significant astronauts—they are all significant, but some of those who took the first chance to go where no human being had ever been, and we honored them with the Congressional Gold Medal, which is the highest honor Congress can bestow on a civilian: John Glenn, the first American to orbit the Earth, Neil Armstrong and Buzz Aldrin, the first and second men to walk on the Moon, the Americans who did that, and they were ferried there by Michael Collins, who landed Apollo 11.

We talked, and the speeches were very uplifting, about the importance of space exploration and what it has done for our country. It has clearly been an economic boon to this country. It has created jobs, it has created better quality of life, and it has also inspired generations of scientists. With the significant support of Senator MIKULSKI, we were able to give NASA the funding it needs to assure that we have not only the vision that was established by Congress in the 2010 authorization bill but the funding to achieve the vision going forward.

Since our space shuttle program has been shut down, we are now on a mission to provide a commercial crew vehicle to take our astronauts to the space station, where we are doing scientific research, and we have fully funded the launch vehicle that is going to take our astronauts beyond Earth orbit and into the asteroid and, hopefully, Mars. That funding has started with this appropriations bill that is going through this year.

So we will have our launch system and our Orion capsule that will be the next generation of space exploration for our country, and Senator MIKULSKI and I agreed on that priority, along with the Webb telescope, which is a very significant scientific priority, that we would assure that those priorities were met. We support the emerging commercial space companies to bring cargo and astronauts to the space station, and our investment for discovery on the space station as well as the science that is gotten from these wonderful, incredible telescopes that fly out there in space and gather information.

NASA has now released its design for the heavy launch vehicle that will be able to carry our astronauts in the Orion crew vehicle to the Moon, the asteroid, and beyond. Now that that decision has been made, we can focus on the future and on moving human exploration forward. NASA has announced its commitment to the path that Congress authorized, and now we are providing the funds to accomplish the development of that rocket.

Chairman MIKULSKI and I have strived to produce a bill that reflects not only the Senate's priorities but the needs of our Nation. Not only do I commend her and all the Senators who have a part in passing these bills and the House Members who also have a significant part, but our staffs did a lot of the work in making sure these priorities were met. Her staff, Gabrielle Batkin, Jessica Berry, Jean Toal Eisen, Jeremy Weirich, and Molly O'Rourke did wonderful work and were so close in concept and in close relationships and working relationships with my staff, James Christoferson, Goodloe Sutton, and Allen Cutler.

I recommend our bill. I think we stayed within the budget resolution, the Budget Control Act we passed, but we set the priorities, and I am very pleased to offer it to the Senate tonight.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask to be notified after 5 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. SESSIONS. I appreciate the work of the sponsors on this difficult piece of legislation.

There is so much we would like to do. But every American knows that when they are in debt, they have to cut back on spending. But Washington remains in denial. This bill is a statement that Washington does not take seriously the extraordinary dangers imposed by our debt. It is bizarre that we passed on to a committee of 12 the job of achieving deficit reduction while at the same time working to increase the deficit with bills such as this one.

After the first 2 years of the Obama administration in which nondefense discretionary spending surged 24 percent—not counting the stimulus—it

should not be difficult for us to find reductions that can be achieved in these three bills that have been cobbled together as a mini omnibus. But instead of doing the hard work and finding things we can reduce the spending for and bringing this bill in with a reduction—a real reduction—in spending, we now have a piece of legislation that is moving forward with increases. In fact, what this amounts to and what we are seeing in the committee of 12, the supercommittee, in their secret work is apparently a demand by our Democratic colleagues that taxes be substantially increased to fund the spending level we have been on.

I recently also addressed some of the gimmicks I believe this bill uses to conceal more spending than is apparent. One of these gimmicks, creating the false appearance of cash savings in mandatory spending, was actually increased, in this current version of the bill, in conference. That is why I introduced the Honest Budget Act: to confront these continuing problems.

Senator OLYMPIA SNOWE and I believe these kind of gimmicks, such as on mandatory spending and claims of reductions that are not real, need to be eliminated from our process as they help cause the great deficit we are in.

I think it is particularly offensive that the bill is being represented as a spending cut, even though that was the most minute spending cut of $1 billion, when, in truth, it clearly increases spending. We need real cuts, not minuscule cuts and certainly not increases.

With the President at the helm of the ship of State, Washington is continuing to steer toward financial disaster. We must get off this path. The American people know it. I believe they spoke clearly last November. We still have not gotten the message. We still remain in denial.

Some say: Oh, the tea party. You shouldn't pay attention to them. They were angry people. I think they were deeply frustrated people and, yes, somewhat angry. Why should they not be when the people they have elected to Congress, they now discover, are spending billions and billions of dollars day after day, week after week, borrowing 40 cents of every dollar that is spent? How can we defend that? How can we defend to any American citizen our behavior that has allowed such a debt situation to occur? We have had three consecutive trillion-dollar deficits, and this fiscal year we are expecting to have another trillion-dollar deficit. It is an unacceptable course.

I will oppose the legislation and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, as the ranking member of the Transportation, Housing and Urban Development Appropriations Subcommittee, I rise in support of this conference report, and I encourage our colleagues to join me in voting for this measure.

Let me first thank Chairman PATTY MURRAY and her staff who worked collaboratively with me and with my talented staff throughout this entire process. I also wish to thank Chairman KOHL, Ranking Member BLUNT, Chairman MIKULSKI, Ranking Member HUTCHISON, and of course the leaders of the full Appropriations Committee, Senator INOUYE and Senator COCHRAN. All of us have worked closely together to usher this first group of appropriations bills to final passage.

I am particularly pleased that we brought these appropriations bills to the floor through the regular order enabling members to examine, debate, and vote in a fair and transparent process. That is a big change from the approach that has, unfortunately, marred the process in previous years when all the appropriations bills—or nearly all of them—were bundled into one enormous omnibus bill that was considered at the last moment in a rushed manner and without the opportunity for full and fair debate and amendment. We didn't do it that way this time, and I think that represents progress.

I am also pleased this conference report contains provisions that are important to the State of Maine.

The Transportation-HUD bill recognizes the fiscal reality of what is now an unsustainable $15 trillion debt, while making critical infrastructure and economic development investments that will help to create jobs. In this bill, we are also meeting our responsibility to very vulnerable populations in our country. The bill strikes the right balance between thoughtful investment and fiscal restraint, thereby setting the stage for future economic growth. The proposed nonemergency funding levels for fiscal year 2012 in this bill are nearly $13 billion below fiscal year 2010, a reduction of nearly one-fifth in 2 years' time. These significant savings represent an unmistakable commitment and movement in the direction of fiscal responsibility.

For those reasons, and for many more, I urge my colleagues to vote in favor of this conference report.

Mr. COBURN. Mr. President, I want to spend a minute because I do not think the American public knows how badly they have been hoodwinked by Congress. The Budget Control Act told the American people that we cut $1 trillion. That is what the claims were. The fact is, under the Budget Control Act spending, discretionary spending will still rise by $850 billion over the next 10 years. That is the truth.

We hear in the bills that are coming up the word ''emergency.'' One of the things the American people cannot quite understand is—when they have an emergency what they do is they end up having to make choices. They do not have a bank that will loan them money regardless of whether they are worthy of paying it back, and that is where we are. We are not worthy of paying the money back that we are borrowing now. That is going to become acutely obvious over the next 18 months in our country as we see our interest rates rise.

We have a bill on the floor that meets the numbers and meets what the Budget Control Act said but totally denies what the American people are expecting. Let me talk about what I mean by that. There are five major problems with this bill.

No. 1, it claims to cut spending when in fact it does not. When you take all spending, it does not cut spending. We are going to hear and we have heard already how it cuts spending but usually with the caveat ''not counting emergency spending.'' So the first thing it does is not to address any of the problems our country has in terms of having to deal with real cuts in spending, not decreases in the rate of growth of spending. We have to have real cuts if we are going to create a future for our kids. If we are going to be able to borrow money in the future at an affordable interest rate, we are going to have to have real cuts. We have to quit playing the game to the American people and start talking to them as adults, not playing the game and actually being dishonest with them about what we are doing.

This bill also continues to demonstrate that we are shirking our duties in terms of doing oversight. We have provided funding for things that obviously need to be corrected but we will not correct them. We do not eliminate the wasteful programs. There is nothing in here, not one duplicative program in any of these three segments of appropriations bills, that is eliminated. Yet we know there is over $200 billion a year in duplication costs to the Federal Government on programs that do exactly the same thing. Yet we did not do any of it. It is no wonder you can't cut spending if you don't get rid of programs that do the same thing, none of which or 80 percent of which never accomplish their goals or never have been measured as to whether they accomplish their goals. That is the third thing.

The fourth thing this bill does is absolutely ignore FHA's condition. It was announced they are about to run out of money. What do we do? We raise the amount of money that people can borrow from the FHA at the time when FHA is running out of money. The only problem with that is FHA has a very friendly banker which the Congress has no control over because when FHA runs out of money, do you know what they do? They go and get it from the Treasury and we cannot stop it.

What we have done is we have raised the loan limit for FHA homes to $729,000 in this bill. FHA is going to be out of money this year. They will have no capital to protect the $1.1 trillion worth of loans they are guaranteeing, and they will go get the money. Where is that money going to come from? That money is going to come from—we are going to borrow it from the Chinese. So we are going to compound the

very problem we have today. It is absolutely ignoring what the real situation is on the ground, ignoring the real complications of not acting, and consequently we actually make it worse for our kids and our country.

Finally, it includes very few of the amendments that were passed by wide margins in the Senate. One of mine is there. I am very thankful for it. I think it is an appropriate amendment. But several others are not, that were good, commonsense amendments. Yet somebody in the Appropriations Committee decided even though they may have voted for it, they pulled it out. It was not the majority on the other side who insisted it come out because I checked.

What we have done is we are up here and we are going to pass this bill. I have no doubt about it. But we are continuing down the road of, No. 1, being dishonest with the American people about what we are doing, how we are doing it; No. 2, we are shirking our responsibility to eliminate the wasteful portions of the Federal Government which at least are $350 billion a year, when you combine waste, fraud, and duplication. None of that was attacked in this bill, none of it. Then we are lying to them about whether we are actually increasing spending or not increasing spending.

Our time is shortening. If you look at what happened in Europe in the last 2 weeks, to the bond yields for Italy, to the bond yields for Spain, we know what is coming. How bad does it have to get or how close does it have to get to us before we will act in the best interests of the country instead of the best interests of partisanship or the best interests of our careers?

This is not a bad bill. It just doesn't do what the American people need us to do right now, which is start cutting out the waste, fraud, and duplication in the Federal Government so that their children will have an opportunity to live in a country of opportunity.

This bill fails on that count. It should be defeated and a bill coming back here with $10 or $12 or $15 billion less is what ought to come back here. That is what ought to happen, if we were going to be truly honest. Either I am being dishonest about the situation facing our country or you are being dishonest in what you are bringing as the answer on the floor. One of us is not telling the truth and I guarantee the markets are going to prove me right. When we can no longer borrow, as the Chairman of the Federal Reserve said, we are going to eventually fix all this, regardless of the politicians. Do you know why we are going to fix it? Because they are going to quit loaning us money. And we have done nothing with this bill to solve the very real and immediate problems in front of this country.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri.

Mr. BLUNT. Mr. President, we are going to move this bill this evening. I think we have other people who wish to speak and there is no reason they should not come and speak. I encourage them to come over here and say what needs to be said so we can get our work done. We have a few people who still have opportunities to make a plane. We are not going to be voting tomorrow. We plan to be voting here in the next 30 minutes or so. I hope people come to the floor and speak on the bill. This bill has gone through a process with lots of amendments, lots of debate. It went through a conference committee. It is not perfect by anyone's standard of perfect, but legislation seldom is.

It is under the level that was established in the debt ceiling agreement that also established how we deal with emergency spending. Of course, many of our colleagues did not vote for that. They did not agree with that at the time. It has only been a few weeks ago, but it is the standard that the House and Senate worked on. These numbers should be below that number. They are a little lower than the Senate number which was at that number but higher than the House number. I wish we could have been closer to the House number, but the House has a different majority than the Senate does.

The real point is, if people want to come speak on this bill, the vote is scheduled here in about a half hour or so and I hope people will come on over and have their say on this bill, let the people know in addition to their vote where they stand. We are waiting for a couple of people to come. This would be a good time for them to do that.

I yield, and we will be waiting.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Washington.

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

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

Mrs. MURRAY. I rise to speak about the transportation-housing title of the bill before the Senate. It has broad bipartisan support because it addresses the very real housing and transportation needs of American families across the Nation.

This is not a perfect bill, but there is a lot to be proud of in the conference report, and I am pleased with what we have been able to accomplish with my colleague Senator COLLINS, because she has worked so hard in a bipartisan way to get us to this point, and Chairman LATHAM and Congressman OLVER on the House side and all of their staff.

This bill makes needed investments in our transportation infrastructure and creates critical jobs, while also supporting housing and services for our Nation's most vulnerable.

This bill touches the lives of all Americans in ways they can appreciate every day, whether it is a parent who commutes every day and needs safe roads or new public transportation options so they can spend more time with their family, a business that depends on a solid infrastructure to move goods and attract customers, young families searching for safe and affordable communities to raise their children or a repeatedly laid-off worker who needs help to keep his or her family in their home. This bill has a real impact on Americans who are struggling in these troubling economic times.

Our bill takes a balanced approach that addresses the most critical needs we face in both transportation and housing, while remaining financially responsible and staying within the constraints of the budget.

The bill contains improvement investments for our Nation, including $500 million for the competitive, multimodal TIGER Program to help improve our Nation's infrastructure, including rail transportation projects; $1.4 billion for Amtrak, including funding for State-supported services; sufficient funding to preserve housing for our Nation's low-income families, elderly, disabled, and veterans who rely on HUD's housing and rental assistance programs; $39.8 billion to continue the Federal-Aid Highway Program at current levels; $45 million for housing counseling; and $75 million for 11,000 new vouchers for homeless veterans.

The bill also addresses the needs of communities that have been hit by disasters this year, providing $1.7 billion in emergency relief highway funding and up to $400 million in CDBG funding for areas that have been most impacted by recent disasters.

It is not a perfect bill, but it is a good bill. It represents a fair, bipartisan compromise that makes investments in our infrastructure and protects the most vulnerable, while living within our funding restraints. Our bill helps commuters, homeowners, and the most vulnerable in our society. Most importantly, it creates jobs and supports the continued recovery of the national economy.

I look forward to having it reach the President's desk soon for his signature, and before I close I again thank my colleague Senator COLLINS and all of her staff for all of their very hard work on this bill. I also thank all of my staff members who worked beyond reasonable hours to get this bill to this point tonight to be able to send it to the President. They are Alex Keenan, Megan McCarthy, Dabney Hegg, Rachel Milberg, Molly O'Rourke, Travis Lumpkin, Evan Schatz, and Lauren Overman. I thank all of them for their hard work and all of Senator COLLINS' staff as well as our chairman, Senator INOUYE, and look forward to the passage of this bill this evening.

Thank you, Mr. President.

Ms. COLLINS. Mr. President, I wanted to add to my earlier remarks in support of the FY 2012 conference report which includes language I co-authored

along with Senator LEAHY allowing the heaviest trucks to travel on the interstate highways in Maine and Vermont rather than forcing them onto secondary roads and downtown streets.

Currently, the heaviest trucks in Maine are diverted onto secondary roadways that cut through our downtowns on narrow streets. This creates a major safety concern. It simply makes no sense to force heavier trucks off the highway and onto our smaller roads, jeopardizing the safety of both drivers and pedestrians.

In 2009, I authored a pilot project that allowed trucks weighing up to 100,000 pounds to travel on Maine's Federal interstates for 1 year. According to the Maine Department of Transportation, the number of accidents involving trucks decreased. During the 1-year period covered by the pilot, the number of crashes involving trucks on Maine's local roads was reduced by 72 compared to a 5-year average. This information and other data gathered during the pilot provide proof that this language will increase safety.

In a case study of a freight trip following this route from Hampden to Houlton, when these trucks were allowed to use I–95 rather than Route 2, the driver avoided 300 intersections, 4 hospitals, 30 traffic lights, 9 school crossings, 4 railroad crossings, and 86 crosswalks.

Virtually every safety group in Maine supports this language. These groups include the Maine Association of Police, the Maine State Police, the State Troopers Association, the Maine Department of Public Safety, and the Maine Chiefs of Police. This language is also supported by education and child advocacy groups such as Maine Parent Teachers Association and the Maine School Superintendents Association.

Let me make clear: my amendment does not increase the size or weight of Maine trucks. The only question is on which roads they are allowed to travel.

This has been a long and hard-fought battle. But I am delighted that I was able to convince my colleagues in both the House and Senate to support my provision to allow the heaviest trucks to drive on Federal highways in Maine.

I also want to voice my support for the Agriculture Appropriations title of this legislation. I am particularly appreciative of the efforts of the chairman and ranking member of the Agriculture Subcommittee, Senators KOHL and BLUNT, and their staffs for their diligent work to move this legislation forward.

I also want to thank my colleague, Senator MARK UDALL, for joining me in co-authoring an amendment to ensure that schools continue to have the flexibility they need to serve children nutritious meals at an affordable cost. We worked with Members from both sides of the aisle and from across the country in crafting a bipartisan amendment that achieves this goal.

Our efforts will go a long way in ensuring that schools can serve healthy meals that meet the nutritional needs of students in a way that fits their budgets. The language overturns arbitrary restrictions proposed by the USDA that would have so restricted the use of potatoes in the school lunch program that a school could not have served a baked potato and an ear of fresh corn in the same week—an absurd result.

We heard from many school advocacy organizations and school and school food service professionals that the rule as proposed was too prescriptive, too limiting, and too expensive. USDA estimates that the opposed rule would have cost as much as $6.8 billion over 5 years. The lion's share of these costs would have been incurred by the state and local agencies.

We were pleased to have the support of the American Association of School Administrators, National School Boards Association, Council of the Great City Schools, National Association of Elementary School Principals, Maine Parent Teacher Association, Maine School Management Association, Maine Principals Association, Maine Department of Education, and so many more.

Mr. President, for these and many other reasons I am proud to support the FY 2012 conference report.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

Mr. REID. Mr. President, we would yield back whatever time is left on the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded back on the Democratic side.

Mr. REID. Mr. President, we are going to continue to work tomorrow on the DOD authorization bill. Everyone has been told by the two managers of this bill that if they have amendments, they should offer them.

We are working on the Energy and Water bill. While we are making progress on that with Senators FEINSTEIN and LAMAR ALEXANDER, we have some nominations we are working on.

The next vote will be at 5:30 on November 28.

We will be in session tomorrow.

Mr. BLUNT. Mr. President, I yield back the Republican time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report to accompany H.R. 2112.

Mr. BLUNT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 70, nays 30, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—70

| | | |
|---|---|---|
| Akaka | Graham | Murkowski |
| Alexander | Hagan | Murray |
| Baucus | Harkin | Nelson (NE) |
| Begich | Hoeven | Nelson (FL) |
| Bennet | Hutchison | Pryor |
| Bingaman | Inouye | Reed |
| Blumenthal | Johanns | Reid |
| Blunt | Johnson (SD) | Roberts |
| Boozman | Kerry | Rockefeller |
| Boxer | Klobuchar | Sanders |
| Brown (MA) | Kohl | Schumer |
| Brown (OH) | Kyl | Shaheen |
| Cantwell | Landrieu | Snowe |
| Cardin | Lautenberg | Stabenow |
| Carper | Leahy | Tester |
| Casey | Levin | Udall (CO) |
| Cochran | Lieberman | Udall (NM) |
| Collins | Manchin | Warner |
| Conrad | McCaskill | Webb |
| Coons | McConnell | Whitehouse |
| Durbin | Menendez | Wicker |
| Feinstein | Merkley | Wyden |
| Franken | Mikulski | |
| Gillibrand | Moran | |

NAYS—30

| | | |
|---|---|---|
| Ayotte | Enzi | McCain |
| Barrasso | Grassley | Paul |
| Burr | Hatch | Portman |
| Chambliss | Heller | Risch |
| Coats | Inhofe | Rubio |
| Coburn | Isakson | Sessions |
| Corker | Johnson (WI) | Shelby |
| Cornyn | Kirk | Thune |
| Crapo | Lee | Toomey |
| DeMint | Lugar | Vitter |

The PRESIDING OFFICER. On this vote the yeas are 70, the nays are 30. Under the previous order requiring 60 votes for the adoption of this conference report, the conference report is agreed to.

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

Mr. MENENDEZ. I move to lay that motion upon the table.

The motion to lay on the table was agreed to.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—Continued

Mr. LEVIN. Mr. President, if I could, there are a number of Senators here who want to offer their amendments and make them pending tonight. That is fine with us. Then if they have speeches, I would suggest that they withhold speeches until everybody who has amendments here can offer them and set them aside so that we can allow people to leave and then have the speeches come, if there are speeches tonight, after anybody who wants to make their amendment pending has that opportunity.

That is the process I would suggest, and Senator MCCAIN is supportive of that process. So that is my suggestion: that the Chair recognize people as the Chair wishes, call up your amendment, set it aside, let the next person call up their amendment, set it aside, and if there are any speeches, that they come after everybody who is recognized to call up their amendment has that opportunity.

Now, one other thing. This relates to what will happen, hopefully, tonight and tomorrow; that is, we are going to try to clear amendments, if we can, tonight and tomorrow. We will be here at 9 o'clock, and we are going to try to clear as many amendments as we can because we have to make progress on this bill.

I just want to thank Senator MCCAIN for all he is doing to help that process and help our leaders.

Mr. MCCAIN. Mr. President, I understand we have a couple of amendments already from Senator CARDIN, No. 1073 and 1188.

Mr. LEVIN. Are his two amendments cleared on your side? We have cleared one.

Mr. MCCAIN. We should momentarily.

The PRESIDING OFFICER. The Senator from California.

AMENDMENTS NOS. 1125 AND 1126

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the pending amendments be set aside in order to call up amendments Nos. 1125 and 1126.

I further ask that Senators LEAHY, DURBIN, and UDALL of Colorado be added as cosponsors to both amendments.

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

The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes en bloc amendments numbered 1125 and 1126.

The amendments are as follows:

AMENDMENT NO. 1125

(Purpose: To clarify the applicability of requirements for military custody with respect to detainees)

On page 361, line 9, insert ''abroad'' after ''is captured''.

AMENDMENT NO. 1126

(Purpose: To limit the authority of the Armed Forces to detain citizens of the United States under section 1031.)

On page 360, between lines 21 and 22, insert the following:

(e) APPLICABILITY TO CITIZENS.—The authority described in this section for the Armed Forces of the United States to detain a person does not include the authority to detain a citizen of the United States without trial until the end of the hostilities.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1107

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendment No. 1107 be called up.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. UDALL] proposes an amendment numbered 1107.

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

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

The amendment is as follows:

(Purpose: To revise the provisions relating to detainee matters)

Strike subtitle D of title X and insert the following:

**Subtitle D—Detainee Matters**

**SEC. 1031. REVIEW OF AUTHORITY OF THE ARMED FORCES OF THE UNITED STATES TO DETAIN COVERED PERSONS PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with appropriate officials in the Executive Office of the President, the Director of National Intelligence, the Secretary of State, the Secretary of Homeland Security, and the Attorney General, submit to the appropriate committees of Congress a report setting forth the following:

(1) A statement of the position of the Executive Branch on the appropriate role for the Armed Forces of the United States in the detention and prosecution of covered persons (as defined in subsection (b)).

(2) A statement and assessment of the legal authority asserted by the Executive Branch for such detention and prosecution.

(3) A statement of any existing deficiencies or anticipated deficiencies in the legal authority for such detention and prosecution.

(b) COVERED PERSONS.—A covered person under this section is any person, other than a member of the Armed Forces of the United States, whose detention or prosecution by the Armed Forces of the United States is consistent with the laws of war and based on authority provided by any of the following:

(1) The Authorization for Use of Military Force (Public Law 107–40).

(2) The Authorization for Use of Military Force Against Iraq Resolution 2002 (Public Law 107–243).

(3) Any other statutory or constitutional authority for use of military force.

(c) CONGRESSIONAL ACTION.—Each of the appropriate committees of Congress may, not later than 45 days after receipt of the report required by subsection (a), hold a hearing on the report, and shall, within 45 days of such hearings, report to Congress legislation, if such committee determines legislation is appropriate and advisable, modifying or expanding the authority of the Executive Branch to carry out detention and prosecution of covered persons.

(d) 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 Judiciary, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1115

(Purpose: To reauthorize and improve the SBIR and STTR programs, and for other purposes)

Ms. LANDRIEU. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 1115, and I ask to make it pending on behalf of myself, Senator SNOWE, and I appreciate the cosponsorship of Senators SHAHEEN, BROWN of Ohio, and KERRY.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] for herself and Ms. SNOWE, proposes an amendment numbered 1115.

Ms. LANDRIEU. I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Ms. LANDRIEU. This is an amendment which would reauthorize two of the most important research programs for small businesses of this country.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 1197

Mr. FRANKEN. I ask unanimous consent to set aside the pending amendment and call up my amendment No. 1197.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. FRANKEN] proposes an amendment numbered 1197.

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

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

The amendment is as follows:

(Purpose: To require contractors to make timely payments to subcontractors that are small business concerns)

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

**SEC. 889. TIMELY PAYMENT OF SMALL BUSINESS CONCERNS.**

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(s) REGULATIONS RELATING TO TIMELY PAYMENTS.—

''(1) REGULATIONS REQUIRED.—Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget, in consultation with the Administrator, shall issue regulations that require any prime contractor awarded a contract by the Federal Government to make timely payments to subcontractors that are small business concerns.

''(2) CONSIDERATIONS.—In issuing the regulations under paragraph (1), the Director of the Office of Management and Budget, in consultation with the Administrator, shall consider—

''(A) requiring a prime contractor to pay a subcontractor that is a small business concern not later than 30 days after the date on which the prime contractor receives a payment from the Federal Government;

''(B) developing—

''(i) incentives for prime contractors that pay subcontractors in accordance with the regulations; or

''(ii) penalties for prime contractors that do not pay subcontractors in accordance with the regulations; and

''(C) requiring that any subcontracting plan under paragraph (4) or (5) of section 8(d) contain a detailed description of when and how each subcontractor will be paid.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8(d)(6) of the Small Business Act (15 U.S.C. 638(d)(6)) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G)(ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) any information required to be included under the regulations issued under section 15(s).''.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 1073

Mr. CARDIN. Mr. President, I ask unanimous consent that the pending amendments be set aside so I may offer my first amendment, No. 1073.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself and Ms. MIKULSKI, proposes an amendment numbered 1073.

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

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

The amendment is as follows:

(Purpose: To prohibit expansion or operation of the District of Columbia National Guard Youth Challenge Program in Anne Arundel County, Maryland)

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

**SEC. 1088. PROHIBITION ON EXPANSION OR OPERATION OF DISTRICT OF COLUMBIA NATIONAL GUARD YOUTH CHALLENGE PROGRAM IN ANNE ARUNDEL COUNTY, MARYLAND.**

Notwithstanding any other provision of law, no funds may be used to expand or operate the District of Columbia National Guard Youth Challenge Program in Anne Arundel County, Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 1188

Mr. CARDIN. I ask unanimous consent that the amendment now be set aside so I can offer amendment No. 1188.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. CARDIN], for himself, Mr. WICKER, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. CASEY, and Mr. BURR, proposes an amendment numbered 1188.

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

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

The amendment is as follows:

(Purpose: To expand the Operation Hero Miles program to include the authority to accept the donation of travel benefits in the form of hotel points or awards for free or reduced-cost accommodations)

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

**SEC. 1049. EXPANSION OF OPERATION HERO MILES.**

(a) EXPANDED DEFINITION OF TRAVEL BENEFIT.—Subsection (b) of section 2613 of title 10, United States Code, is amended to read as follows:

''(b) TRAVEL BENEFIT DEFINED.—In this section, the term 'travel benefit' means—

''(1) frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public; and

''(2) points or awards for free or reduced-cost accommodations issued by an inn, hotel, or other commercial establishment that provides lodging to transient guests.''.

(b) CONDITION ON AUTHORITY TO ACCEPT DONATION.—Subsection (c) of such section is amended—

(1) by striking ''the air or surface carrier'' and inserting ''the business entity referred to in subsection (b)'';

(2) by striking ''the surface carrier'' and inserting ''the business entity''; and

(3) by striking ''the carrier'' and inserting ''the business entity''.

(c) ADMINISTRATION.—Subsection (e)(3) of such section is amended by striking ''the air carrier or surface carrier'' and inserting ''the business entity referred to in subsection (b)''.

(d) STYLISTIC AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**''§ 2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families''.**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 155 of such title is amended by striking the item relating to section 2613 and inserting the following new item:

''2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families.''.

Mr. LEVIN. Mr. President, on No. 1188, I believe this amendment has been cleared on both sides, and we could actually agree to it tonight, right now.

The PRESIDING OFFICER. Is there further debate on the amendment?

The amendment (No. 1188) was agreed to.

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

Mr. LEVIN. I move to lay that motion upon the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1114

Mr. BEGICH. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 1114.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. BEGICH], for himself, Ms. SNOWE, Mr. CASEY, Mr. GRASSLEY, Mr. LEAHY, Mr. GRAHAM, and Ms. MURKOWSKI, proposes an amendment numbered 1114.

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

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

The amendment is as follows:

(Purpose: To amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents)

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

**SEC. 346. ELIGIBILITY OF RESERVE MEMBERS, GRAY-AREA RETIREES, WIDOWS AND WIDOWERS OF RETIRED MEMBERS, AND DEPENDENTS FOR SPACE-AVAILABLE TRAVEL ON MILITARY AIRCRAFT.**

(a) ELIGIBILITY.—

(1) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641b the following new section:

**''§ 2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members; and dependents**

''(a) RESERVE MEMBERS.—A member of a reserve component holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(b) RESERVE RETIREES UNDER APPLICABLE ELIGIBILITY AGE.—A member or former member of a reserve component who, but for being under the eligibility age applicable to the member under section 12731 of this title, otherwise would be eligible for retired pay under chapter 1223 of this title shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(c) WIDOWS AND WIDOWERS OF RETIRED MEMBERS.—

''(1) IN GENERAL.—An unremarried widow or widower of a member of the armed forces described in paragraph (2) shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(2) MEMBERS COVERED.—A member of the armed forces referred to in paragraph (1) is a member who—

''(A) is entitled to retired pay;

''(B) is described in subsection (b);

''(C) dies in the line of duty while on active duty and is not eligible for retired pay; or

''(D) in the case of a member of a reserve component, dies as a result of a line of duty condition and is not eligible for retired pay.

''(d) DEPENDENTS.—A dependent of a member or former member described in subsection (a) or (b) or of an unremarried widow or widower described in subsection (c) holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis, if the dependent is accompanying the member.

''(e) SCOPE.—Space-available travel required by this section includes travel to and from locations within and outside the continental United States.

''(f) PRIORITY.—The priority level and category for space-available travel for the eligible members described in subsection (a), (b), (c), and (d) shall be determined by the Secretary of Defense.

''(g) DEFINITION OF DEPENDENT.—In this section, the term 'dependent' has the meaning given that term in section 1072 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641b the following new item:

''2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members; and dependents.''.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement section 2641c of title 10, United States Code, as added by subsection (a).

AMENDMENT NO. 1149

Mr. BEGICH. I ask unanimous consent that the current amendment be set aside for one more.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. BEGICH] proposes an amendment numbered 1149.

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

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

The amendment is as follows:

(Purpose: To authorize a land conveyance and exchange at Joint Base Elmendorf Richardson, Alaska)

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

**SEC. 2823. LAND CONVEYANCE AND EXCHANGE, JOINT BASE ELMENDORF RICHARDSON, ALASKA.**

(a) CONVEYANCES AUTHORIZED.—

(1) IN GENERAL.—In an effort to reduce Federal expenses, resolve evolving land use conflicts, and maximize the beneficial use of real property resources by and between Joint Base Elmendorf Richardson (in this section referred to as the ''JBER''); the Municipality of Anchorage, an Alaska municipal corporation (in this section referred to as the ''Municipality''); and Eklutna, Inc., an Alaska Native village corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) (in this section referred to as ''Eklutna''), the following conveyances are authorized:

(A) The Secretary of the Air Force may, in consultation with the Secretary of the Interior, convey to the Municipality all right, title, and interest of the United States in and to all or any part of a parcel of real property, including any improvements thereon, consisting of approximately 220 acres at JBER situated to the west of and adjacent to the Anchorage Regional Landfill in Anchorage, Alaska, for solid waste management purposes, including reclamation thereof, and for alternative energy production, and other related activities. This authority may not be exercised unless and until the March 15, 1982, North Anchorage Land Agreement is amended by the parties thereto to specifically permit the conveyance under this subparagraph.

(B) The Secretary of the Air Force may, in consultation with the Secretary of the Interior, upon terms mutually agreeable to the Secretary of the Air Force and Eklutna, convey to Eklutna all right, title, and interest of the United States in and to all or any part of a parcel of real property, including any improvements thereon, consisting of approximately 130 acres situated on the northeast corner of the Glenn Highway and Boniface Parkway in Anchorage, Alaska, or such other property as may be identified in consultation with the Secretary of the Interior, for any use compatible with JBER's current and reasonably foreseeable mission as determined by the Secretary of the Air Force.

(2) RIGHT TO WITHHOLD TRANSFER.—The Secretary may withhold transfer of any portion of the real property described in paragraph (1) based on public interest or military mission requirements.

(b) TRANSFER OF ADMINISTRATIVE CONTROL.—

(1) REAL PROPERTY ACTIONS.—The Secretary of the Interior shall complete any real property actions necessary to allow the Secretary of the Air Force to convey property under this section.

(2) ADMINISTRATIVE JURISDICTION.—The Secretary of Interior, acting through the Bureau of Land Management, shall, upon request from the Secretary of the Air Force, transfer administrative jurisdiction over any requested parcel of property to the Secretary of the Air Force for purposes of carrying out the conveyances authorized under subsection (a).

(c) CONSIDERATION.—

(1) MUNICIPALITY PROPERTY.—As consideration for the conveyance under subsection (a)(1), the Secretary of the Air Force may receive in-kind solid waste management services at the Anchorage Regional Landfill, and such other consideration as determined satisfactory by the Secretary.

(2) EKLUTNA PROPERTY.—As consideration for the conveyance under subsection (a)(2), the Secretary of the Air Force is authorized to receive, upon terms mutually agreeable to the Secretary and Eklutna, such interests in the surface estate of real property owned by Eklutna and situated at the northeast boundary of JBER and other consideration as considered satisfactory by the Secretary.

(d) RESPONSIBILITY FOR ENVIRONMENTAL CLEANUP.—The Secretary of the Air Force shall retain liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and any other applicable environmental statute or regulation, for any environmental hazard on the properties conveyed under subsection (a) as of the date or dates of conveyance, unless such liability is conveyed in consideration for the exchanged property.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Municipality and Eklutna to reimburse the Secretary to cover costs (except costs for environmental remediation of the property) to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsection (a), including survey costs, costs for environmental documentation, and any other administrative costs related to the conveyance.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States as consideration for the conveyances under subsection (a) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B) of such subsection.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and of the real property interests to be acquired under subsection (b) shall be determined by surveys satisfactory to the Secretary.

(h) OTHER OR ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, if there is no one else who wishes to offer amendments—

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1120

Mrs. SHAHEEN. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 1120.

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

The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mrs. SHAHEEN], for herself, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BLUMENTHAL, Ms. STABENOW, and Mr. DURBIN, proposes an amendment numbered 1120.

Mrs. SHAHEEN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To exclude cases in which pregnancy is the result of an act of rape or incest from the prohibition on funding of abortions by the Department of Defense)

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

**SEC. 714. USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.**

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ''or in a case in which the pregnancy is the result of an act of rape or incest''.

Mr. CARDIN. Mr. President, first, let me thank Senator LEVIN and Senator MCCAIN with regard to amendment No. 1188, which was my Hotels for Heroes amendment. I am going to be very brief.

Hotels for Heroes follows on Hero Miles, a successful program which allows our wounded warriors and their families to use frequent flyer miles that are donated for trips to military care facilities. I compliment my colleague in the House, Congressman DUTCH RUPPERSBERGER, for his work on establishing that program.

The amendment which was just accepted, which Senators WICKER, FEINSTEIN, MIKULSKI, ROCKEFELLER, CASEY, and BURR cosponsored, expands that program to include hotel points so that family members can use the donated hotel points for housing so they can be near and visit their wounded warriors who are on rest and recuperative leave, emergency leave, convalescent leave, or another form of authorized leave necessary because of an injury or illness incurred or aggravated in the line of duty in support of a contingency operation.

I also want to comment very briefly on the other amendment I filed, which is No. 1073, that Senator MIKULSKI cosponsored. This amendment would prohibit the District of Columbia's National Guard from operating or expanding its Youth Challenge Program in Anne Arundel County because there is also a better alternative already in place.

The DC National Guard currently partners with the Maryland National Guard to provide valuable service to at-risk children through the Youth Challenge Program at Aberdeen Proving Grounds in Harford County, MD. I have visited the two programs at that site, and that is where I think it is logical to see an expansion.

Here's the problem with the so-called Oak Hill facility in Anne Arundel County, which is what this amendment deals with: that parcel of land borders the National Security Agency (NSA), which will need more space. This is Federal property located in the State of Maryland that is important for our national security.

In the 1920s, the District of Columbia got permission from Congress to place on that property—and please understand I am quoting from the original authorizing language—a facility for children that are ''feeble-minded.'' That was the exact language contained in the fiscal year 1924 District of Columbia appropriations bill.

Since that time, the District, without our knowledge, constructed a juvenile detention facility and now wants to add the Youth Challenge Program, which is doing just fine at Aberdeen. The purpose of this amendment is to say: Look, we already have a place where the Youth Challenge Program should be and can expand as necessary. We should not be using this other Federal land in the State of Maryland adjacent to NSA for this type of expansion without working with the appropriate State and local officials, as well as federal officials.

I hope this amendment can get cleared. But I wanted to explain the reason I filed it and called it up. I thank the Chair for your attention.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, the amendment I offered—

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. FRANKEN. I yield.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. MCCAIN. Mr. President, I would just say that we have the Senator from Maine here. I thought we were going to go through the process of pending amendments before we spoke. I think the Senator's amendment is already pending.

Mr. FRANKEN. It is. Because the Senator from Maryland spoke to his amendment, I thought that process was over. I apologize.

Mr. MCCAIN. Not at all. It is no big deal at all. Maybe the Senator from Maine could make her amendments pending.

Mr. LEVIN. Would the Senator from Maine yield?

I wanted to thank the Senator from Minnesota for his courtesy because he had no way of knowing that the Senator from Maine was here to offer her amendments. I just want to thank the Senator.

Mr. FRANKEN. I would like to thank the Senator from Michigan for thanking me.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NOS. 1105, 1155, 1158, AND 1180

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside so I could call up to make pending en bloc amendments Nos. 1105, 1155, 1158, and 1180, which are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments en bloc.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS] proposes en bloc amendments numbered 1105, 1155, 1158, and 1180.

The amendments are as follows:

AMENDMENT NO. 1105

(Purpose: To make permanent the requirement for certifications relating to the transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities)

On page 365, line 12, strike ''for fiscal year 2012''.

AMENDMENT NO. 1155

(Purpose: To authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy)

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

**SEC. 547. EDUCATIONAL ASSISTANCE FOR ADVANCED DEGREES IN PHYSICAL THERAPY AND OCCUPATIONAL THERAPY UNDER THE ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.**

(a) IN GENERAL.—In accordance with guidance issued by the Secretary of Defense for purposes of this section, assistance under the Armed Forces Health Professions Scholarship program under subchapter I of chapter 105 of title 10, United States Code, shall be available for pursuit of a master's degree and a doctoral degree in the disciplines as follows:

(1) Physical therapy.

(2) Occupational therapy.

(b) TERMINATION.—The guidance under subsection (a) shall provide that the availability of assistance as described in that subsection for pursuit of a degree in a discipline covered by that subsection shall cease when the Secretary certifies to Congress that there no longer exists a current or projected shortfall in qualified personnel in that discipline in either of the following:

(1) The military departments.

(2) Any major military medical treatment facility specializing in the rehabilitation of wounded members of the Armed Forces.

AMENDMENT NO. 1158

(Purpose: To clarify the permanence of the prohibition on transfers of recidivist detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and entities)

On page 367, strike line 11 and all that follows through ''Guantanamo'' on line 18 and insert the following:

(c) PERMANENT PROHIBITION IN CASES OF PRIOR CONFIRMED RECIDIVISM.—

(1) PERMANENT PROHIBITION.—Except as provided in paragraph (2) and subject to subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year to transfer an individual detained at Guantanamo

AMENDMENT NO. 1180

(Purpose: Relating to man-portable air-defense systems originating from Libya)

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

**SEC. 1243. MAN-PORTABLE AIR-DEFENSE SYSTEMS ORIGINATING FROM LIBYA.**

(a) STATEMENT OF POLICY.—Pursuant to section 11 of the Department of State Authorities Act of 2006 (22 U.S.C. 2349bb–6), the following is the policy of the United States:

(1) To reduce and mitigate, to the greatest extent feasible, the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft by man-portable air-defense systems (MANPADS) that were in Libya as of March 19, 2011.

(2) To seek the cooperation of, and to assist, the Government of Libya and governments of neighboring countries and other countries (as determined by the President) to secure, remove, or eliminate stocks of man-portable air-defense systems described in paragraph (1) that pose a threat to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft.

(3) To pursue, as a matter of priority, an agreement with the Government of Libya and governments of neighboring countries and other countries (as determined by the Secretary of State) to formalize cooperation with the United States to limit the availability, transfer, and proliferation of man-portable air-defense systems described in paragraph (1).

(b) INTELLIGENCE COMMUNITY ASSESSMENT ON MANPADS IN LIBYA.—

(1) IN GENERAL.—The Director of National Intelligence shall submit to Congress an assessment by the intelligence community that accounts for the disposition of, and the threat to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft, posed by man-portable air-defense systems that were in Libya as of March 19, 2011. The assessment shall be submitted as soon as practicable, but not later than the end of the 45-day period beginning on the date of the enactment of this Act.

(2) ELEMENTS.—The assessment submitted under this subsection shall include the following:

(A) An estimate of the number of man-portable air-defense systems that were in Libya as of March 19, 2011.

(B) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that are currently in the secure custody of the Government of Libya, the United States, an ally of the United States, a member of the North Atlantic Treaty Organization (NATO), or the United Nations.

(C) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disabled, or otherwise rendered unusable during Operation Unified Protector.

(D) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disarmed, or otherwise rendered unusable following Operation Unified Protector.

(E) An assessment of the number of man-portable air-defense systems that is the difference between the number of man-portable air-defense systems in Libya as of March 19, 2011, and the cumulative number of man-portable air-defense systems accounted for under subparagraphs (B) through (D), and the current disposition and locations of such man-portable air-defense systems.

(F) An assessment of the number of man-portable air-defense systems that are currently in the custody of militias in Libya.

(G) A list of any organizations designated as terrorist organizations by the Department of State, or affiliate organizations or members of such organizations, that are known or believed to have custody of any man-portable air-defense systems that were in the custody of the Government of Libya as of March 19, 2011.

(H) An assessment of the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from unsecured man-portable air-defense systems (as defined in section 11 of the Department of State Authorities Act of 2006) originating from Libya.

(I) An assessment of the effectiveness of efforts undertaken by the United States, Libya, Mauritania, Egypt, Algeria, Tunisia, Mali, Morocco, Niger, Chad, the United Nations, the North Atlantic Treaty Organization, and any other country or entity (as determined by the Director) to reduce the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(J) An assessment of the effect of the proliferation of man-portable air-defense systems that were in Libya as of March 19, 2011, on the price and availability of man-portable air-defense systems that are on the global arms market.

(3) NOTICE REGARDING DELAY IN SUBMITTAL.—If, before the end of the 45-day period specified in paragraph (1), the Director determines that the assessment required by that paragraph cannot be submitted by the end of that period as required by that paragraph, the Director shall (before the end of that period) submit to Congress a report setting forth—

(A) the reasons why the assessment cannot be submitted by the end of that period; and

(B) an estimated date for the submittal of the assessment.

(4) FORM.—The assessment under this subsection shall be submitted in unclassified form, but may include a classified annex.

(c) COMPREHENSIVE STRATEGY ON THREAT OF MANPADS ORIGINATING FROM LIBYA.—

(1) STRATEGY REQUIRED.—The President shall develop and implement, and from time to time update, a comprehensive strategy, pursuant to section 11 of the Department of State Authorities Act of 2006, to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(2) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than 45 days after the assessment required by subsection (b) is submitted to Congress, the President shall submit to Congress a report setting forth the strategy required by paragraph (1).

(B) ELEMENTS.—The report required by this paragraph shall include the following:

(i) A timeline for future efforts by the United States, Libya, and neighboring countries to—

(I) secure, remove, or disable any man-portable air-defense systems that remain in Libya;

(II) counter proliferation of man-portable air-defense systems originating from Libya that are in the region; and

(III) disrupt the ability of terrorists, non-state actors, and state sponsors of terrorism to acquire such man-portable air-defense systems.

(ii) A description of any additional funding required to address the threat of man-portable air-defense systems originating from Libya.

(iii) A summary of United States Government efforts, and technologies current available, to reduce the susceptibility and vulnerability of civilian aircraft to man-portable air-defense systems, including an assessment of the feasibility of using aircraft-based anti-missile systems to protect United States passenger jets.

(iv) Recommendations for the most effective policy measures that can be taken to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(v) Such recommendations for legislative or administrative action as the President considers appropriate to implement the strategy required by paragraph (1).

(C) FORM.—The report required by this paragraph shall be submitted in unclassified form, but may include a classified annex.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENTS NOS. 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, AND 1093

Mr. INHOFE. Mr. President, I ask unanimous consent to set aside the pending amendment for the purpose of the consideration of 10 amendments en bloc. I will read these: 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, and 1093.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes en bloc amendments numbered 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, and 1093.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1094

(Purpose: To include the Department of Commerce in contract authority using competitive procedures but excluding particular sources for establishing certain research and development capabilities)

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

**SEC. 889. INCLUSION OF DEPARTMENT OF COMMERCE IN CONTRACT AUTHORITY USING COMPETITIVE PROCEDURES BUT EXCLUDING PARTICULAR SOURCES FOR ESTABLISHING CERTAIN RESEARCH AND DEVELOPMENT CAPABILITIES.**

Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) The Secretary of Commerce shall be treated as the head of an agency for purposes of procurements under paragraph (1) that are covered by a determination under subparagraph (C) of that paragraph.''.

AMENDMENT NO. 1095

(Purpose: To express the sense of the Senate on the importance of addressing deficiencies in mental health counseling)

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

**SEC. 1088. MENTAL HEALTH COUNSELING TRAINING FOR MILITARY CHAPLAINS.**

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

(1) A decade of deployments for the United States Armed Forces has led to significant increases in traumatic stress for members of the Armed Forces and their families.

(2) Increases in the severity and frequency of stress for members of the Armed Forces and their families has driven up demand for mental health counseling services by specially trained counselors and military chaplains.

(3) The emotional needs, mental strain, and interpersonal issues that arise among soldiers and their families before, during, and after deployment are highly unique. It is critical that military counselors and chaplains have a specialized understanding of the total deployment experience.

(4) The military chaplain's corps for all military services has experienced significant shortfalls in personnel. The Army and Army National Guard have been especially affected by the inability to field needed personnel.

(5) A muted ability to field qualified military health counselors and chaplains has an adverse affect on the mental and emotional health of members of the Armed Forces and their families.

(6) The United States Army Chaplain Center and School, United States Navy Chaplaincy School and Center, and other military chaplaincy schools rely on accredited universities, seminaries, and religious schools to produce qualified counselors and chaplain candidates.

(7) It is important that accredited universities, seminaries, and religious schools producing chaplain candidates or providing post-graduate education and supplemental training adequately prepare students with the training required to address the needs of members of the Armed Forces and their families.

(8) There is both opportunity and need for the Chaplain Corps of the United States Armed Forces to work with accredited universities, seminaries, and religious schools to produce qualified counselors and chaplain candidates and provide post-graduate education and supplemental training, and to do so in a way that is cost effective.

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

(1) the Secretary of Defense, in conjunction with the Chief of Chaplains for each military service, should produce a plan to ensure sustainable throughput of qualified chaplains in the military chaplain centers and schools; and

(2) the plan should include integration of accredited universities, seminaries, and religious schools to include programmatic augmentation when efficient and fiscally advantageous.

AMENDMENT NO. 1096

(Purpose: To express the sense of the Senate on treatment options for members of the Armed Forces and veterans for Traumatic Brain Injury and Post Traumatic Stress Disorder)

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

**SEC. 723. SENSE OF SENATE ON TREATMENT OPTIONS FOR MEMBERS OF THE ARMED FORCES AND VETERANS FOR TRAUMATIC BRAIN INJURY AND POST TRAUMATIC STRESS DISORDER.**

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

(1) Approximately 1,400,000 Americans experience Traumatic Brain Injury (TBI) each year, and an estimated 3,200,000 Americans are living with long-term, severe disabilities as a result of brain injury. Another approximate 360,000 men and women are estimated to have been experienced a Traumatic Brain Injury in the conflicts in Iraq and Afghanistan to date.

(2) Congressional funding for Traumatic Brain Injury activities began with Public Law 104–166 (commonly referred to as the ''Traumatic Brain Injury Act of 1996'') and has subsequently been addressed in title XIII of Public Law 106–310 (commonly referred to as the ''Traumatic Brain Injury Act Amendments of 2000''), which mandated reports and requirements for mild Traumatic Brain Injury, and in Acts authorizing and appropriating funds for the Department of Defense to date.

(3) In 1992 during the Persian Gulf War, Congress created the Defense and Veterans Head Injury Program (DVHIP) to integrate specialized Traumatic Brain Injury care, research, and education across the military and veteran medical care systems.

(4) With Congressional oversight and appropriations, the Department of Defense subsequently transitioned the Defense and Veterans Head Injury Program to the Defense and Veterans Brain Injury Center (DVBIC) in order improve the military and veterans medical communities ability to develop and provide advanced Traumatic Brain Injury-specific evaluation, treatment, and follow-up care for military personnel, their beneficiaries, and veterans with mild to severe Traumatic Brain Injury.

(5) Though Congress, the Department of Defense, and the Department of Veterans Affairs have increased the capacity to provide health services, particularly in the areas of mental health and Traumatic Brain Injury, gaps in access and quality remain, to include a selected method for diagnosing a Traumatic Brain Injury, a consistent process for treatment for a Traumatic Brain Injury, availability of providers, shortages of personnel, organizational deficiencies, cultural understanding and acceptance, and available technology in diagnosis and treatment.

(6) Gaps in quality of care and limited access to proper care remain for both members of the Armed Forces and veterans, especially veterans who are demobilized members of the National Guard and Reserve. Some estimates indicate that approximately 57 percent of those returning from Iraq and Afghanistan are not being evaluated by a physician for a brain injury.

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

(1) the Department of Defense and Department of Veterans Affairs should be commended for increasing the treatment options for Traumatic Brain Injury that are available to veterans;

(2) the Secretary of Defense should, in consultation with the Secretary of Veterans Affairs, continue to test, prove, and make available viable treatment options for Traumatic Brain Injury, including alternative treatment methods that have been determined, through testing, to be an effective form of treatment; and

(3) the Secretary of Defense and the Secretary of Veterans Affairs should take actions to ensure that existing veteran and medical benefits cover the use of viable available treatment options for Traumatic Brain Injury, including alternative treatment methods.

AMENDMENT NO. 1097

(Purpose: To eliminate gaps and redundancies between the over 200 programs within the Department of Defense that address psychological health and traumatic brain injury)

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

**SEC. 723. PLAN FOR STREAMLINING PROGRAMS THAT ADDRESS PSYCHOLOGICAL HEALTH AND TRAUMATIC BRAIN INJURY.**

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

(1) There are over 200 programs within the Department of Defense that address psychological health and traumatic brain injury (TBI).

(2) The number of programs reflects the seriousness with which the Department and the United States Government and people take the treatment of the invisible wounds of the wars in Iraq and Afghanistan.

(3) Notwithstanding the proliferation of programs, there are still gaps in the treatment of our wounded warriors.

(4) Because of the proliferation of programs, redundancies and inefficiencies exist and waste resources that would otherwise be used to effectively treat members of the Armed Forces suffering from psychological health and traumatic brain injuries.

(5) Section 1618 of the Wounded Warriors Act (title XVI of Public Law 110–181; 122 Stat. 450; 10 U.S.C. 1071 note) required the Secretary of Defense to submit a comprehensive plan for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, research, and otherwise respond to traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces.

(6) The plan required in that Act was to assess the capabilities of the Department, identify capability gaps, identify resources required, and identify appropriate leadership that would coordinate the various programs.

(7) Section 1621 of the Wounded Warriors Act (title XVI of Public Law 110–181; 122 Stat. 453; 10 U.S.C. 1071 note) established the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury (DCoE) to implement the Department's comprehensive plan and strategy.

(b) STREAMLINING PLAN.—

(1) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan to streamline programs currently sponsored or funded by the Department to address psychological health and traumatic brain injury.

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

(A) A complete catalog of programs currently sponsored or funded by the Department to address psychological health and traumatic brain injury, including details of the intended function of each program.

(B) An analysis of gaps in the delivery of services and treatments identified by the complete catalog required under subparagraph (A).

(C) An analysis of redundancies identified in the complete catalog required under subparagraph (A).

(D) A plan for eliminating redundancies and mitigating the gaps identified in the plan.

(E) Identification of the official within the Department that will be responsible for enactment of the plan.

(F) A timeline for enactment of the plan.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on progress in implementing the plan required under subsection (b).

AMENDMENT NO. 1098

(Purpose: To require a report on the impact of foreign boycotts on the defense industrial base)

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

**SEC. 889. REPORT ON IMPACT OF FOREIGN BOYCOTTS ON THE DEFENSE INDUSTRIAL BASE.**

(a) IN GENERAL.—Not later than February 1, 2012, the Comptroller General of the United States shall submit to the appropriate congressional committees a report setting forth an assessment of the impact of foreign boycotts on the defense industrial base.

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

(1) a summary of foreign boycotts that posed a material risk to the defense industrial base from January 2008 to the date of the enactment of this Act;

(2) the apparent objection of each such boycott;

(3) an assessment of harm to the defense industrial base as a result of each such boycott;

(4) an assessment of the sufficiency of Department of Defense and Department of State efforts to mitigate the material risks of any such foreign boycott to the defense industrial base; and

(5) recommendations of the Comptroller General to reduce the material risks of foreign boycotts to the defense industrial base, including recommendations for changes to legislation, regulation, policy, or procedures.

(c) CONFIDENTIALITY.—The Comptroller General shall not publicly disclose the names of any person, organization, or entity involved in or affected by any foreign boycott identified in the report required under subsection (a) without the express written approval of the person, organization, or entity concerned.

(d) DEFINITIONS.—In this section:

(1) FOREIGN BOYCOTT.—The term ''foreign boycott'' means any policy or practice adopted by a foreign government or foreign business enterprise intended to directly penalize, disadvantage, or harm any contractor or subcontractor of the Department of Defense, or otherwise dissociate the foreign government or foreign business enterprise from such a contractor or subcontractor on account of the provision by that contractor or subcontractor of any product or service to the Department.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

AMENDMENT NO. 1099

(Purpose: To express the sense of Congress that the Secretary of Defense should implement the recommendations of the Comptroller General of the United States regarding prevention, abatement, and data collection to address hearing injuries and hearing loss among members of the Armed Forces)

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

**SEC. 714. SENSE OF CONGRESS ON ADOPTION BY DEPARTMENT OF DEFENSE OF RECOMMENDATIONS BY GAO REGARDING HEARING LOSS PREVENTION.**

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

(1) The advent of the jet engine and more powerful munitions has increased the instance of auditory injury to members of the Armed Forces.

(2) Since 2005, the most common service-connected disabilities for which veterans received compensation under laws administered by the Secretary of Veterans Affairs have been auditory impairments, including hearing loss and tinnitus. The number of veterans receiving such compensation for auditory impairment has risen each year since 2005, increasing the number and cost of compensation claims paid by the Secretary and prompting a series of reports on the subject, include a January 2011 report by the Comptroller General of the United States entitled ''Hearing Loss Prevention: Improvements to DOD Hearing Conservation Programs Could Lead to Better Outcomes''.

(3) Costs to the Department of Veterans Affairs relating to compensation for hearing-related disabilities are expected to double between 2009 and 2014, exceeding $2,000,000,000 by 2014.

(4) There is a growing body of peer reviewed literature indicating a direct connection between traumatic brain injury, post traumatic stress disorder, and auditory disorders.

(5) 70 percent of members of the Armed Forces who are exposed to a blast report auditory disorders within 72 hours of the exposure.

(6) Section 721 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4506) requires the Secretary of Defense to establish a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injury.

(7) There is no cure for tinnitus, which consists of an often debilitating ringing in the ear. The projected effect of tinnitus on veterans, rise in new cases of tinnitus-related service-connected disabilities among veterans, and the correlating rise in disability claims and cost to the Department of Veterans Affairs make finding effective treatment, abatement options, and a cure for tinnitus a priority.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should, in cooperation with the Secretary of Veterans Affairs and the Director of the Hearing Center of Excellence of the Department of Defense, implement the recommendations of the Comptroller General of the United States in the January 2011 report of the Comptroller General entitled ''Hearing Loss Prevention: Improvements to DOD Hearing Conservation Programs Could Lead to Better Outcomes'' that address prevention, abatement, data collection, and the need for a new interagency data sharing system so that sufficient information is available to address and track hearing injuries and loss.

AMENDMENT NO. 1100

(Purpose: To extend to products and services from Latvia existing temporary authority to procure certain products and services from countries along a major route of supply to Afghanistan)

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

**SEC. 808. TEMPORARY AUTHORITY TO ACQUIRE CERTAIN PRODUCTS AND SERVICES PRODUCED IN LATVIA.**

Section 801(d) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2400) is amended by striking ''or Turkmenistan'' and inserting ''Turkmenistan, or Latvia''.

AMENDMENT NO. 1101

(Purpose: To strike section 156, relating to a transfer of Air Force C–12 aircraft to the Army)

Strike section 156.

AMENDMENT NO. 1102

(Purpose: To require a report on the feasibility of using unmanned aerial systems to perform airborne inspection of navigational aids in foreign airspace)

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

**SEC. 1080. REPORT ON FEASIBILITY OF USING UNMANNED AERIAL SYSTEMS TO PERFORM AIRBORNE INSPECTION OF NAVIGATIONAL AIDS IN FOREIGN AIRSPACE.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on the feasibility of using unmanned aerial systems to perform airborne flight inspection of electronic signals-in-space from ground-based navigational aids that support aircraft departure, en route, and arrival flight procedures in foreign airspace in support of United States military operations.

AMENDMENT NO. 1093

(Purpose: To require the detention at United States Naval Station, Guantanamo Bay, Cuba, of high-value enemy combatants who will be detained long-term)

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

**SEC. 1038. REQUIREMENT FOR DETENTION AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, OF HIGH-VALUE DETAINEES WHO WILL BE DETAINED LONG-TERM.**

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

(1) The United States is still in a global war on terror and engaged in armed conflict with terrorist organizations, and will continue to capture terrorists who will need to be detained in a secure facility.

(2) Since 2002, enemy combatants have been captured by the United States and its allies and detained in facilities at the Guantanamo Bay Detention Facility (GTMO) at United States Naval Station, Guantanamo Bay, Cuba.

(3) The United States has detained almost 800 al-Qaeda and Taliban combatants at the Guantanamo Bay Detention Facility.

(4) More than 600 detainees have been tried, transferred, or released from the Guantanamo Bay Detention Facility to other countries.

(5) The last enemy combatant brought to the Guantanamo Bay Detention Facility for detention was brought in June 2008.

(6) The military detention facilities at the Guantanamo Bay Detention Facility meet the highest international standards, and play a fundamental part in protecting the lives of Americans from terrorism.

(7) The Guantanamo Bay Detention Facility is a state-of-the-art facility that provides humane treatment for all detainees, is fully compliant with the Geneva Convention, and provides treatment and oversight that exceed any maximum-security prison in the world, as attested to by human rights organizations, the International Committee of the Red Cross, Attorney General Holder, and an independent commission led Admiral Walsh.

(8) The Guantanamo Bay Detention Facility is a secure location away from population centers, provides maximum security required to prevent escape, provides multiple levels of confinement opportunities based on the compliance of detainees, and provides medical care not available a majority of the population of the world.

(9) The Expeditionary Legal Complex (ELC) at the Guantanamo Bay Detention Facility is the only one of its kind in the world. It provides a secure location to secure and try detainees charged by the United States Government, full access to sensitive and classified information, full access to defense lawyers and prosecution, and full media access by the press.

(10) The Guantanamo Bay Detention Facility is the single greatest repository of human intelligence in the war on terror.

(11) The intelligence derived from the Guantanamo Bay Detention Facility has prevented terrorist attacks and saved lives in the past and continues to do so today.

(12) The intelligence obtained from questioning detainees at the Guantanamo Bay Detention Facility includes information on the following:

(A) The organizational structure of al-Qaeda, the Taliban, and other terrorist groups.

(B) The extent of the presence of terrorists in Europe, the United States, and the Middle East, and elsewhere around the globe.

(C) The pursuit of weapons of mass destruction by al-Qaeda.

(D) The methods of recruitment by al-Qaeda and the locations of its recruitment centers.

(E) The skills of terrorists, including general and specialized operative training.

(F) The means by which legitimate financial activities are used to hide terrorist operations.

(13) Key intelligence used to find Osama bin Laden was obtained at least in part through the use of enhanced interrogation of detainees at the Guantanamo Bay Detention Facility, with Leon Panetta, Director of the Central Intelligence Agency, acknowledging that ''[c]learly some of it came from detainees and the interrogation of detainees. . .'' and confirming that ''they used these enhanced interrogation techniques against some of those detainees''.

(b) REQUIREMENT.—Each high-value enemy combatant who is captured or otherwise taken into long-term custody or detention by the United States shall, while under such detention of the United States, be detained at the Guantanamo Bay Detention Facility (GTMO) at United States Naval Station, Guantanamo Bay, Cuba.

(c) HIGH-VALUE ENEMY COMBATANT DEFINED.—In this section, the term ''high-value enemy combatant'' means an enemy combatant who—

(1) is a senior member of al-Qaeda, the Taliban, or any associated terrorist group;

(2) has knowledge of an imminent terrorist threat against the United States or its territories, the Armed Forces of the United States, the people or organizations of the United States, or an ally of the United States;

(3) has, or has had, direct involvement in planning or preparing a terrorist action against the United States or an ally of the United States or in assisting the leadership of al-Qaeda, the Taliban, or any associated terrorist group in planning or preparing such a terrorist action; or

(4) if released from detention, would constitute a clear and continuing threat to the United States or any ally of the United States.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, the amendment I offered, No. 1197, will help small businesses. Small businesses often serve as subcontractors, or suppliers, to large corporations that have a primary government contract. My amendment would help guarantee that small businesses get paid by these large corporations in a timely way. More specifically, my amendment would require the Office of Management and Budget to issue regulations in the next year to do this.

This amendment sounds simple. There is a reason for that. It is. It is something we can do here today that will offer real and significant help to small businesses. It is going to offer predictability and certainty to them.

Anyone who owns a small business will tell you that they can't hire more people or plan for the future if they don't know when their next paycheck is coming. Getting their money more predictably and quickly will enable them to make the investments they need to grow, thrive, and hire more people.

The administration has recognized that small businesses are the engine that drives our economy. According to the U.S. Census Bureau, small businesses create an overwhelming majority of all new jobs. Small businesses are also responsible for producing half of the private sector GDP.

Given this, it makes sense to me that we need to figure out how to make sure small businesses are getting paid on

time. OMB recognized this and issued a new policy statement that will require all Federal agencies to make payments to their small business contractors within 15 days of receiving an invoice. But the fact is, a lot of small businesses serve as subcontractors to direct prime contractors. It only makes sense that we should require our large prime contractors to play by the same rules we play by and to pay their suppliers in a timely manner.

When Congress passed the Prompt Payments Act back in 1983, it recognized that the Federal Government needed to lead by example, and that we should be paying all of our contractors in no more than 30 days after the contractor sent an invoice our way. Congress went back in 1988 to create an obligation on construction contractors that they pay their suppliers within 7 days of the government paying them. But no other contractors were under the same commonsense obligation. I think that is a mistake we should correct, especially as we are pouring billions and billions of government dollars into contingency operations overseas—and all sorts of other projects that have nothing to do with construction. All suppliers working with these contractors deserve to be paid on time. I am hoping one day we can tackle this problem for all subcontractors, not just small businesses that are contractors.

For now, my amendment takes a modest approach and focuses on the biggest problem—creating certainty and predictability for small business subcontractors.

The National Federation of Independent Business recently conducted a survey, and they found nearly 40 percent of firms reported that receivables are coming in at a slower pace. I have heard stories from companies that have not been paid in 90 days or 120 days after they have invoiced. This is unacceptable.

These sorts of delays affect cashflow for these small businesses and make it tough for these businesses to meet payroll obligations and pay their other basic bills, such as their rent.

I want to tell a personal story that relates to small businesses and how important it is to them to be paid on time or how important cashflow is. My uncle, Lionel Kunst, was a small businessman. He died in 1994. I went to his funeral. At the funeral were a number of his business associates—people who supplied him. He made fabric, quilting. These were people who supplied him and people whom he supplied. One after another got up and testified how quickly he paid, or how, if they could not pay on time, he would cut them some slack. That is how important this is. That is how important it was to them. My uncle was a mensch. It was a big deal. These guys got up and all talked about this.

This is what we should do. We should do it for these small business subcontractors—make sure they get paid on time. That is all.

This is a sensible, simple solution to a real problem that small businesses are confronting. I urge my colleagues to support me in this effort.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CASEY. 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. CASEY. Mr. President, I would first of all like to thank Chairman LEVIN and Ranking Member MCCAIN for their work on this national defense authorization bill, and tonight I will speak to an amendment I filed. I will not call it up for now. I just want to speak to it. This is a critically important debate for the country, and I know the chairman and ranking member have worked very hard on it.

I have had the honor and the pleasure to work with Senator LEVIN on a number of measures over the years, and one of the real concerns we all have is what is happening to our troops as it relates to IEDs—improvised explosive devices. It has been central to the work many of us have done, certainly my work as a member of the Foreign Relations Committee, and, of course, Chairman LEVIN and so many others working on this bill for a long time.

It does have a daily impact, obviously, on our troops and on their families. Often the best words about our soldiers and the war itself come from Lincoln when he talked about those who lose their life in battle, those who gave, as he said, ''the last full measure of devotion to their country.'' But he also talked about those who served and are wounded and who come back. His words to describe those soldiers, when he spoke of them, was ''him who has borne the battle.''

I think about those words when I consider those who have borne the battle and come back with not just injuries but with grievous injuries—sometimes almost irreparable harm done to them because of the explosion they lived through from an IED.

I was in Bethesda Naval Hospital a couple weeks ago. It is one of the real privileges of serving in the Senate that we are given the opportunity to meet so many brave young men and women who serve—those who serve and are never hurt, those who serve and are wounded, and, of course, unfortunately, we meet the families of those who lose their life in battle. But as I said, a couple weeks ago, at Bethesda Naval Hospital, I walked into the room of a soldier who had been injured and was recovering. His parents and his brother were in the room with him. One is always worried about staying too long because you feel like you are almost intruding. But for some reason, that night, I didn't feel I was intruding because this wounded soldier wanted to talk. He wanted to talk about his service, he wanted to talk about his love for his country, how he was injured, and he also talked about the future—what he wanted to do when he left that hospital bed.

It was a stunning moment for me to hear—from a soldier who is looking up from his hospital bed—of the optimism he displayed about his future. The calm with which he could speak about his service was, to me, stunning. He talked as if he were just recovering from a minor injury. Halfway through my visit, I almost had to remind myself of the injuries he was suffering from. He had both legs blown off below the knee from an IED blast. But despite that, despite the horror of it, despite the damage done to his body—a 20-year-old soldier—he was talking about the future, what he was going to do when he left that hospital, and he was talking about his service.

So when we see soldiers such as him, I think it inspires us all the more and compels us to do more when it comes to protecting our troops against the scourge of IEDs. We know, and so many people here know, that they are the top killer of our troops in Afghanistan. The primary ingredient in IEDs found in Regional Command South, in Afghanistan—where the Presiding Officer and I were in August—is a fertilizer called calcium ammonium nitrate, known by the acronym CAN. It is banned in Afghanistan but unfortunately is produced in a few factories in Pakistan. Just a small percentage of what is produced in Pakistan finds its way into Afghanistan and becomes the main ingredient in the IEDs. Most of the calcium ammonium nitrate used in IEDs, unfortunately, comes from Pakistan.

Over the past 2 years, I have led an effort to urge Pakistan to do more to address this threat. I have sent letters, we passed a resolution in the Senate, and I traveled to Afghanistan and Pakistan last August to make the case directly to the leaders in Islamabad, the capital of Pakistan. As I mentioned, the Presiding Officer, Senator BENNET, along with Senators BLUMENTHAL of Connecticut and WHITEHOUSE of Rhode Island traveled with me. We spent a good deal of time in Pakistan—3 days. I think we were pretty consistent in the delivery of that message; that we were not only providing a sense of urgency but almost a directive, as best we could, urging and pushing their government as hard as we could to help us and to help themselves, by the way, because a lot of Pakistanis lose their lives this way as well.

So during these meetings, Senators BENNET, BLUMENTHAL, WHITEHOUSE, and I heard good things; that the Pakistani Government had developed a plan, a strategy to deal with this—a plan to tighten their borders, a plan to regulate the sale of calcium ammonium nitrate and other IED precursor materials, and a plan which included

conducting a public relations campaign to sensitize the Pakistani people to the dangers posed by these materials. This political commitment was encouraging, but given the ongoing and increasing threat to our troops, we need to maintain a sense of urgency about it. I think we owe our troops nothing less than that sense of urgency.

During our meetings in Islamabad, we also discussed the serious threat IEDs pose to the Pakistani people, as I mentioned a moment ago. More than 500 Pakistanis have been killed by IEDs since the beginning of this calendar year. This is a common threat that requires a common solution. This is something we can and should work on together.

It is no secret the relationship between the United States and Pakistan is not a good relationship right now. It is a vast understatement to say it has soured dramatically. There is an awful lot of tension and mistrust and a real breakdown in this relationship. One of the ways—not the only way but one of the ways—we can build some confidence so we can begin to work together on a common threat is for the Pakistani Government to take concerted action on the question of IEDs.

I do want to commend and thank those three Senators I mentioned who were on the trip with me—Senator BENNET of Colorado, the Presiding Officer, who was there for every meeting and worked very hard with us; Senator WHITEHOUSE as well, from Rhode Island; and Senator BLUMENTHAL was also with us, who spoke today about this today. I didn't hear him give his remarks on the floor, but my staff told me about them, and I thank him for those words and for the dedication to this issue he and Senators BENNETT and WHITEHOUSE have given during our trip in August and since that trip. I am proud to join them on this effort today and every day that we have been working on it. I also thank Senator BARRASSO from Wyoming for his leadership and willingness to work with us on this amendment.

This is a critical issue for our troops and for their families. I think it was so important that we delivered during our trip, and continue to deliver thereafter, a strong bipartisan message to the Pakistani Government and to any official in their government who has anything to do with this issue. I think we can deliver another message by way of this amendment on this bill. This amendment will hold Pakistan to its commitments—the commitments it already made to its strategic plan to counter IEDs.

As we know well, these IEDs are killing and injuring our troops at a terribly alarming rate. While we can never completely eradicate the component parts of IEDs, we can make life difficult for the bombmaker if we pass this amendment. We should recommit ourselves to this important mission and redouble our efforts to limit the availability of these component parts on the battlefield. Again, we owe nothing less than that to our troops.

Often, I have said that when we talk about the commitment and the sacrifice of our troops, we should also talk about praying for them, and we all do that. Thank goodness, the American people pray on a regular basis for our troops. But I think we should also, once in a while, pray for ourselves; that we may be worthy of the valor of our troops. There aren't a lot of ways to prove yourself worthy of the valor of our troops, but one way Members of the Senate and House can prove ourselves worthy of that valor is to pass amendments, such as this amendment, to force, as best we can, officials in Pakistan to do what is right for our troops and their families, for our country but also to do what is right for their own people—the people in Pakistan who are threatened every day by IEDs.

I will conclude by saying we have an opportunity to prove ourselves worthy of the valor of our troops, and passing this amendment is one such way to do it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CASEY. 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. CASEY. I ask unanimous consent to set aside the pending amendment.

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

AMENDMENTS NOS. 1215, 1139, AND 1140

Mr. CASEY. Mr. President, I call up three amendments.

The first amendment is amendment No. 1215, the second is amendment No. 1139, and the third is amendment No. 1140.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. CASEY] proposes amendments numbered 1215, 1139, and 1140.

The amendments are as follows:

AMENDMENT NO. 1215

(Purpose: To require a certification on efforts by the Government of Pakistan to implement a strategy to counter improvised explosive devices)

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

**SEC. 1230. CERTIFICATION REQUIREMENT REGARDING EFFORTS BY GOVERNMENT OF PAKISTAN TO IMPLEMENT A STRATEGY TO COUNTER IMPROVISED EXPLOSIVE DEVICES.**

(a) CERTIFICATION REQUIREMENT.—

(1) IN GENERAL.—None of the amounts authorized to be appropriated under this Act for the Pakistan Counterinsurgency Fund may be made for the Government of Pakistan until the Secretary of Defense, in consultation with the Secretary of State, certifies to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that the Government of Pakistan is demonstrating a continuing commitment to and is making significant efforts towards the implementation of a strategy to counter improvised explosive devices (IEDs).

(2) SIGNIFICANT IMPLEMENTATION EFFORTS.—For purposes of this subsection, significant implementation efforts include attacking IED networks, monitoring of known precursors used in IEDs, and the development of a strict protocol for the manufacture of explosive materials, including calcium ammonium nitrate, and accessories and their supply to legitimate end users.

(b) WAIVER.—The Secretary of Defense, in consultation with the Secretary of State, may waive the requirements of subsection (a) if the Secretary determines it is in the national security interest of the United States to do so.

AMENDMENT NO. 1139

(Purpose: To require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies)

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

**SEC. 889. SUBCONTRACTOR NOTIFICATIONS.**

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) NOTIFICATION REQUIREMENT.—An offeror with respect to a contract let by a Federal agency that is to be awarded pursuant to the negotiated method of procurement that intends to identify a small business concern as a potential subcontractor in the offer relating to the contract shall notify the small business concern that the offeror intends to identify the small business concern as a potential subcontractor in the offer.

''(14) REPORTING BY SUBCONTRACTORS.—The Administrator shall establish a reporting mechanism that allows a subcontractor to report fraudulent activity by a contractor with respect to a subcontracting plan submitted to a procurement authority under paragraph (4)(B).''.

AMENDMENT NO. 1140

(Purpose: To require a report by the Comptroller General on Department of Defense military spouse employment programs)

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

**SEC. 577. COMPTROLLER GENERAL OF THE UNITED STATES REPORT ON DEPARTMENT OF DEFENSE MILITARY SPOUSE EMPLOYMENT PROGRAMS.**

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a review of all current Department of Defense military spouse employment programs.

(b) ELEMENTS.—The review required by subsection (a) shall, address, at a minimum, the following:

(1) The efficacy and effectiveness of Department of Defense military spouse employment programs.

(2) All current Department programs to support military spouses or dependents for the purposes of employment assistance.

(3) The types of military spouse employment programs that have been considered or used in the past by the Department.

(4) The ways in which military spouse employment programs have changed in recent years.

(5) The benefits or programs that are specifically available to provide employment assistance to spouses of members of the Armed Forces serving in Operation Iraqi Freedom, Operation Enduring Freedom, or Operation

New Dawn, or any other contingency operation being conducted by the Armed Forces as of the date of such review.

(6) Existing mechanisms available to military spouses to express their views on the effectiveness and future direction of Department programs and policies on employment assistance for military spouses.

(7) The oversight provided by the Office of Personnel and Management regarding preferences for military spouses in Federal employment.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the review carried out under subsection (a). The report shall set forth the following:

(1) The results of the review concerned.

(2) Such clear and concrete metrics as the Comptroller General considers appropriate for the current and future evaluation and assessment of the efficacy and effectiveness of Department of Defense military spouse employment programs.

(3) A description of the assumptions utilized in the review, and an assessment of the validity and completeness of such assumptions.

(4) Such recommendations as the Comptroller General considers appropriate for improving Department of Defense military spouse employment programs.

(d) DEPARTMENT OF DEFENSE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the number (or a reasonable estimate if a precise number is not available) of military spouses who have obtained employment following participation in Department of Defense military spouse employment programs. The report shall set forth such number (or estimate) for the Department of Defense military spouse employment programs as a whole and for each such military spouse employment program.

Mr. CASEY. Mr. President, I ask unanimous consent to set those three amendments aside.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

## AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. LEVIN. I ask unanimous consent that on Thursday, November 17, 2011, Senator BENNET be authorized to sign duly enrolled bills or joint resolutions.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## AMENDMENT NO. 1092

Mr. LEVIN. Mr. President, I ask for the regular order on the Levin-McCain amendment.

The PRESIDING OFFICER. The amendment is the regular order. It is now pending.

## MORNING BUSINESS

Mr. LEVIN. 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.

## INTENTION TO OBJECT

Mr. GRASSLEY. Mr. President, I would like to alert my colleagues that I intend to object to any unanimous consent agreement for the consideration of S. 1793 or its companion, H.R. 2076, the Investigative Assistance for Violent Crimes Act of 2011. Unless changes are made to address my concerns with the legislation, I will continue to object.

I oppose S. 1793/H.R. 2076 in its current form because it would expand the jurisdiction of the Federal Bureau of Investigation by giving it authority to conduct investigations of State crimes, and I believe that that is a bad precedent to set. The FBI should not be turned into a roving national police force.

I do believe in allowing Federal law enforcement agencies to assist State and local agencies, when requested. Agents providing assistance should be afforded civil liability protection.

Unfortunately, the bill excludes all other Federal law enforcement agencies that routinely provide law assistance to local law enforcement when requested. For example, local police believed the Secret Service possessed the expertise they needed to assist in their investigation of the Boston ''Craigslist Killer.'' As a result of this expert assistance, the killer was captured. There is no reason to limit States and localities to the assistance of the FBI alone, when other agencies may have the particular expertise that is needed.

Too many people think that only the FBI helps local law enforcement. That's simply not true. State and local officers develop positive relationships with their Federal law enforcement counterparts. When a violent crisis occurs, they often request assistance from the Federal agents they already work with.

I support the idea behind the legislation: to allow State and local agencies to request the assistance of Federal law enforcement to address serious State and local crimes. But that should apply to all agencies, and should be done without expanding the authority of any Federal law enforcement agency to conduct investigations of State and local crimes on its own, at the expense of other State, local, and Federal law enforcement agencies.

The bill as reported also contains an ill-advised requirement that the Bureau cannot provide assistance to State or local law enforcement agencies unless three persons have died. Given that the bill purports to permit assistance in the case of attempted mass murder, a requirement that three people have died before assistance can be provided, is flawed. Moreover, there have been serious crimes involving mass shootings in which, fortunately, no one has died. No assistance could be provided to investigate such crimes under the bill in its current form.

Until these concerns are addressed and further changes are included in the bill, I support holding this legislation on the Senate floor.

## TRIBUTE TO DANA SINGISER

Mr. LEAHY. Mr. President, I would like to take this opportunity to honor a dear friend and native Vermonter, Dana Singiser. Dana has accepted the position of Vice President for Public Policy and Government Affairs for Planned Parenthood, and while I am sorry to see her leave President Obama's administration, I am proud to recognize Dana's hard work and wish her continued success in her career.

Dana was raised in the small rural town of Mendon, VT, where her mother—the Mendon town clerk—instilled in her the values of democracy and the importance of staying engaged in her community. Dana carried this spirit with her in her career on Capitol Hill and on several presidential campaigns. Dana came to my office as an intern in the summer of 1991 while attending Brown University. I was immediately impressed with her intelligence, work ethic, and gregarious personality. I knew she would go on to accomplish great things, and indeed she has. After graduating from Brown, she attended law school at Georgetown University and spent 7 years at a law firm before her return to public service, where she has remained.

Dana served as the Director of Women's Outreach for Hillary Clinton's presidential bid—an opportunity that allowed her to grow her career in politics. She later also quickly proved herself a valuable asset to President Obama's campaign, and following his election she was appointed Special Assistant to the President for Legislative Affairs, where she has served for the last 3 years.

While she has enjoyed her time at the White House, Dana has also gained immeasurable experience that will certainly add to her already successful career. In Dana's new role with Planned Parenthood, she can continue her long fight to protect women's rights, and I am glad to see her continue to follow her passion. Vermonters are proud to recognize Dana Singiser's hard work, and we wish her continued success in her career.

I ask unanimous consent that an article about her achievements, from The

National Journal, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUT OF THE FRYING PAN, INTO THE FIRE

[From the National Journal, Nov. 7, 2011]

(By Naureen Khan)

Dana Singiser remembers the glamour of her first job out of college: running a tiny field office in Vermont for Bill Clinton's 1992 presidential campaign for $300 a month. Luckily, Singiser was a local and her mother was on hand to bring her laboring daughter dinner every night.

Public service was always a natural inclination for Singiser, she said. She was, after all, raised by parents who were actively involved in the small rural community of Mendon, Vt., population 1,056. Mom was the town clerk and a small-business owner while Dad kept busy with church activities.

An internship with Sen. Patrick Leahy, D–Vt., while she was still an undergraduate at Brown University gave Singiser her first taste of D.C. and there was no turning back. After working on Clinton's 1992 race, she landed a job in the White House with presidential personnel and packed her bags for Washington—''The last meritocracy,'' according to Singiser, ''where you can work hard and get recognized.''

Twenty years later, after jobs on several presidential campaigns, on Capitol Hill, and most recently with the Obama administration as special assistant to the president for legislative affairs, Singiser is headed to Planned Parenthood as vice president of public policy and government affairs.

''It's been great, and you can never leave a White House job without feeling incredibly bittersweet about it,'' Singiser said. ''I feel like a mere mortal, and I can't keep up these hours and this intensity forever.''

Not that Singiser is expecting an easy road ahead at Planned Parenthood. She becomes the organization's chief advocate and liaison to both state and national policymakers as the group continues to come under attack as one of the largest legal providers of abortion. The issue has become a lightning rod over the past several months as Republican lawmakers, GOP presidential candidates, and conservative activists have called for federal defunding of Planned Parenthood. Singiser said she hopes to help reframe the conversation in her new role.

''Those attacks are just misplaced,'' she said, pointing to the range of primary-care services that Planned Parenthood provides for men, women, and children. ''The result of those sorts of efforts would be to erode women's health.''

Singiser has been well-prepared for the role, working in both policy and politics for the past decade. After her stint with the Clinton administration, Singiser got her law degree from Georgetown University in December 1998 and practiced at the Washington firm Akin Gump Strauss Hauer & Feld for five years, doing regulatory and lobbying work.

When the political bug bit her again, she went to work on Howard Dean's short-lived presidential campaign before a Senate job vacancy caught her eye. For three years, she was staff director for the Senate Democratic Steering and Outreach Committee under then-Sen. Hillary Rodham Clinton, D–N.Y.

From there, Singiser went to work for Clinton's 2008 presidential campaign, focusing on women's outreach. When Clinton bowed out of the race and endorsed Barack Obama, her former rival, Singiser got on a plane almost immediately for Chicago to lend a hand to Obama's general-election effort.

She has been with the Obama administration since Day One, becoming an expert on everything from financial reform to health care as the president tackled an ambitious legislative agenda in his first two years in office.

''I'm really proud and honored to have served President Obama for three years, but I'm really excited to go on to this next chapter,'' she added.

## FOSSIL ENERGY FUNDING

Mr. ROCKEFELLER. Mr. President, I rise today to speak about the fossil energy funding in the Energy and Water Appropriations bill.

Fossil energy is a critical resource that we should not and can not just throw away. Providing the majority of our energy, we need to use these resources in a safe and responsible way. Harnessing domestic fossil energy could create jobs, lift up struggling communities, and provide jobs for our strong and dedicated workforce.

I know there are people who remain very much opposed to funding fossil energy research who want to move away from fossil fuels as quickly as possible. But the fact of the matter is that, at this time, our Nation is not capable of quickly moving away from fossil fuels, which provides that majority of the energy we use. We need fossil energy to help us move forward, and we should not pretend otherwise.

While I believe that our country will continue using fossil fuels for many decades, it is my hope that we will also continually seek better ways for using these resources.

We need to find more efficient ways of burning coal that emit fewer pollutants and protect public health. We need to find more environmentally friendly ways to extract natural gas and oil. And we need to find ways to design and build carbon capture and sequestration facilities that will allow us to reduce the impacts of using fossil fuels on the climate.

This is the type of work that fossil energy research and development goes towards, and work that I believe we must continue to support. Without it, we are only putting our country at a disadvantage.

In Morgantown, WV, the National Energy Technology Laboratory or NETL is doing this work and pioneering fossil energy research and development activities that are lighting a pathway for a new era of energy use that is critical to West Virginia and our nation.

Unfortunately, the Energy and Water Appropriations bill slashes fossil energy funding by 25 percent in just 1 year. In Fiscal Year 2011 the overall fossil energy Budget was $586 million. The President only requested $452.9 million for Fiscal Year 2012 and this bill only contains $445.5 million.

In comparison, the overall Energy and Water bill cuts spending by less than 1 percent. The nuclear section of this bill cuts funding by 20 percent and the renewable section of this bill remains flat—not facing any cut this year.

I recognize that in this budgetary climate cuts may be inevitable to many programs. But I firmly believe that in the Department of Energy budget no one account can be asked to shoulder that burden alone. But if cuts must be made they should be done in fair and reasonable way, when compared to funding for other energy programs.

Unfortunately, the fossil energy cuts in this bill are neither fair nor reasonable. The cuts to fossil energy in this bill are disproportionate compared to funding levels for other areas of research.

To correct this situation, I have introduced an amendment that would restore $30 million to the fossil energy account, $10 million for natural gas, $10 million for unconventional fossil fuels and $10 million for advanced energy systems in coal areas.

Again, I understand the budgetary times that we are facing in Washington. I understand that cuts have to be made. But what I strongly disagree with is the idea that fossil energy must shoulder more than its fair share of cuts.

Therefore, I ask my colleagues to join with me to restore a portion of funding for the fossil energy program.

Mr. ROCKEFELLER. Mr. President, last week, the Senate Armed Services Committee held a hearing on whether to elevate the Chief of the National Guard Bureau to the Joint Chiefs of Staff. This was an important hearing for the men and women of our armed services, and I am grateful that the committee allowed me to submit a statement for the hearing record. In light of the upcoming National Defense Authorization Act, in which I expect these provisions to pass, I ask unanimous consent that my statement be printed in the RECORD before the full Senate, so that the rest of my colleagues may have a chance to read it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON ARMED SERVICES

Chairman Levin, Senator McCain, Members of the Committee—thank you for holding this hearing on whether the Chief of the National Guard Bureau should be a member of the Joint Chiefs of Staff. And thanks to all of the Chiefs of our armed forces—both active duty and reserve—for being here today. There is no question—as a matter of both principle and of national security—that the Chief of the National Guard Bureau should be elevated to the Joint Chiefs of Staff. The Guardians of Freedom Act, which passed overwhelmingly in the House of Representatives on May 25, would accomplish this goal. I hope that today's hearing will lead to swift action on this important legislation, and I look forward to the testimony of each of the witnesses.

It is important to acknowledge that the role of the National Guard has evolved over the last ten years. Since 9/11, National Guardsmen have mobilized more than 700,000 times to support overseas and domestic missions. They have played an essential role in the conflicts in both Afghanistan and Iraq

and are a critical operational reserve for our armed forces. Today's National Guard accounts for more than 460,000 service members from every state in the Union—roughly 25 percent of all of our 1.9 million-member force.

The Guard has also become an essential part of our nation's response to both manmade and natural disasters. This August, when Hurricane Irene slammed the East Coast, the National Guard responded by calling up over 11,000 soldiers and airmen from 24 states to coordinate the relief efforts. Our Guard is being trained to respond to chemical, biological, nuclear and radiological attacks. It is being trained to deal with pandemics. It is asked to be the first on the scene after major earthquakes, snowstorms, and hurricanes. These homeland defense responsibilities will continue to increase, as well.

The National Guard also brings capabilities and efficiencies to the table that we need in these tough economic times. For example, the Air National Guard provides 35 percent of the total Air Force capability for seven percent of the cost. And, the Army National Guard provides 40 percent of the Army's capability for just 11 percent of the Army budget. Together, 464,900 members of the National Guard provide a capable, operational and affordable military force—at just six percent of the Pentagon's annual budget.

The absence of the National Guard from the Joint Chiefs of Staff has very real consequences. Full membership of the National Guard in the Joint Chiefs could have better prepared the Marines' response to the 1992 riots in Los Angeles, our nation's initial response to the 9/11 attacks, or our response to Hurricane Katrina.

In October of 2005, the Government Accountability Office called into question the Army National Guard's ability to carry out its domestic mission. Then, just like now, there is no permanent system in place to replenish necessary equipment once it is removed from Guard units in individual states. And, the Pentagon has required National Guard units to leave behind critical equipment in Iraq and Afghanistan. A drastic shortfall in equipment levels has led to a drop in mission readiness. As a result, the Guard's ability to respond to domestic emergencies has been severely inhibited. I find it hard to believe this would be the case if the Guard had a seat at the Joint Chiefs of Staff.

With no seat at the table, the National Guard Chief must rely solely on active duty military leaders to make funding decisions. Under the circumstances, General McKinley can do nothing to stop the Joint Chiefs if they put recommend cutting a key program or ignore an opportunity to maintain critical operational capability.

In many ways, the Guard has earned the right to be in the room. Today, the Chief of the National Guard Bureau wears four stars. He attends regular Joint Chiefs meetings. While I understand that General McKinley enjoys a good relationship with Chairman Dempsey, personalities can't be everything. Now, it's time to give the National Guard a seat at the table. We need to make sure the National Guard has the voice it needs—not just to protect its capability, but because of its increasingly active role in overseas operations, because of its role in homeland security initiatives, and because of the cost efficiencies it can offer in these turbulent economic times.

Ultimately, I understand that change is hard. Some may argue that these changes are not necessary. Some may argue that the National Guard does not deserve a seat at the table, that the National Guard is well-represented on the Joint Chiefs of Staff, or that the National Guard has the resources it needs.

Critics may say that elevating the National Guard would provide a ''second voice'' to the Army and Air Force. That is wrong. The National Guard's participation would be no different than that of the Marine Corps, which is both part of the Navy and has its own seat on the Joint Chiefs of Staff. Today, as we all know, the Commandant is a valued member of the Joint Chiefs of Staff, and no one would argue that his advice over the last 30 years has not been valuable.

Some may counter that elevating the National Guard could muddy the Guard's dual commitments to member states and the federal government. In reality, it would not alter lines of authority, but better enable the Guard to provide unfiltered advice on its capabilities and resources. The Guard wouldn't just have its domestic responsibilities—it would have the capabilities, clout, and access to do them better.

Critics may also say that the Chief of the National Guard Bureau has no budgetary authority, but that argument is misleading. The role of the Joint Chiefs is to provide sound, useful advice to the President. In fact, the perspective of the Chief of the National Guard Bureau could save our country billions of dollars. Earlier this year, for example, the Air National Guard Bureau offered a proposal that would have saved up to $42 billion. Unfortunately, the Air Force dismissed it almost immediately—likely, I've been told, for turf reasons. That would not have happened had the Chief of the National Guard Bureau been able to make his case, offer his perspective, and share his expertise with our planners at the Pentagon. The National Guard can help the Pentagon cut costs without cutting capabilities—but only if it is an equal partner in the decision-making process.

Some may argue that a seat on the Joint Chiefs of Staff would give the National Guard too much influence at the active-duty components' expense. But we know better than that. Look at the size of the services' Congressional liaison staff, the military fellows in our offices and the attaches in the halls—or even the number of Senators, including many on this Committee, who are former active-duty service members. An enhanced role for the National Guard would not diminish the active-duty services' clout among lawmakers.

Now is the time to give the National Guard the voice it needs on the Joint Chiefs of Staff and to give the President a broader perspective of the capabilities and resources at his disposal. Now is the time to use all of the tools in our arsenal to create a more secure homeland.

Mr. Chairman, Senator McCain, Members of the Committee—thank you for holding this hearing. I look forward to swift passage of the Guardians of Freedom Act. And thank you to my good friend, Senator Leahy, for his leadership on this important issue.

We have given the National Guard the right to be in the room. Now, let's give them a seat at the table.

Thank you.

## RECOGNIZING CONTRIBUTIONS OF COMMUNITY FOUNDATIONS

Mr. SCHUMER. Mr. President, I rise today in honor of National Community Foundations Week. This week, we recognize the millions of Americans who have joined together to make their communities a better place through donations of their time and resources. The generosity and willingness of individuals to work together for the common good has been a hallmark of the American character since our Nation's founding.

Every day volunteer organizations across the country make substantial contributions to our Nation's well-being in countless areas—from education and the arts to economic development and environmental protection. Many of these associations are community foundations—local charitable organizations formed to provide financial support to valuable programs across their communities. Last year alone, community foundations gave approximately $4 billion to various local nonprofit activities.

Led by private citizens, community foundations provide effective support to communities across the United States, often supplementing both public and private programs to provide their friends and neighbors with the maximum level of support necessary to build strong and vibrant communities. With 700 community foundations across the Nation, they are one of the fastest growing forms of philanthropy in the United States.

One such community foundation which exemplifies the virtues of charity and giving back is the New York Community Trust. Established in 1924, the New York Community Trust is one of the oldest and largest community foundations in the Nation—providing $141 million in grants to community organizations in 2010 alone. The trust currently invests in various programs to build a better New York, such as helping to reemploy New Yorkers through the New York Alliance for Careers in Health Care, NYACH, a project that assesses gaps in the labor market and provides workforce training to both assist individuals in getting in-demand jobs and simultaneously alleviate the skills gap in the health care industry. Through its commitment to the Juvenile Justice Advocacy and Action Project, the New York Community Trust is also dedicated to finding alternatives to prison for nonviolent, delinquent youth. The trust's grants are also cleaning up the Harlem River, removing tens of thousands of pounds of debris from Swindler Cove and transforming it into a 5-acre park with a children's garden and a boathouse.

Mr. President, I urge my colleagues to join me in recognizing this week of November 12 through November 18, 2011, as National Community Foundation Week so we may continue to honor the important work that charity and private citizens play in making our Nation a better place.

## END UNNECESSARY MAILERS ACT

Mr. CASEY. Mr. President, I firmly believe that members of the public must have access to the information contained in annual consumer confidence reports, which are required by the Safe Drinking Water Act's right-to-know provisions. For the past 11 years, the Environmental Protection Agency has required community water systems

to provide customers with an annual report on the quality of their drinking. Currently, large water systems, those serving 10,000 people or more, are required to mail copies of the entire report to every customer.

Today, believing wholeheartedly that public access to consumer confidence reports is critical and must be maintained, I am cosponsoring Senator TOOMEY's bill, S. 1578. Under this bill, community water systems would be required to send reports in the mail if a violation of the maximum contaminant level occurs during the year. However, if there is no violation, water systems could post the reports online and only mail hard copies upon request. I believe that S. 1578 draws attention to an area in which our Federal policy might benefit from discussion, debate, and potential modernization. Since Internet access has increased dramatically since 1999, the option of reviewing reports online is likely far more appealing to consumers than it once was. Also, amendments to the current requirements have the potential to reduce paper waste and to reduce unnecessary administrative burden and expense by providing customers with the ability to choose whether or not to receive the report in the mail.

## TRIBUTE TO THE MONTFORD POINT MARINES

Mrs. HAGAN. Mr. President, today I wish to recognize the dedication and selfless service of the Montford Point Marines. The Montford Point Marines were the first African-American men to serve in the U.S. Marine Corps after President Franklin Roosevelt issued Executive Order No. 8802 on June 25, 1941. This brave group of men were trained at Camp Montford Point, near the New River in Jacksonville, NC. In total, 19,168 African-American marines received training at Montford Point between 1942 and 1949. Many of these ''Montford Marines'' went on to serve in the Pacific Theatre Campaign of World War II—at Iwo Jima, Saipan, Okinawa—as well as in Korea and in Vietnam.

Although these men served our country with both honor and distinction, they often faced adversity and racism during their time in uniform. Despite their training, they were prohibited from serving in combat units—working instead in the service and supply units. They were not afforded opportunities other marines enjoyed, such as entering nearby Camp Lejeune, without a White counterpart to escort them. The courage and dedication with which these brave men served our country despite these challenges is nothing less than heroic.

As the first African Americans in our Marine Corps, they join the Tuskegee Airmen of the Air Force and the Buffalo Soldiers of the Army as heroes who not only forged a new path within our armed services but who brought our country closer to our ideals that ''all men are created equal.'' Many Americans credit the historic firsts—such as Howard P. Perry of Charlotte, NC—who was the first African-American marine private to set foot on Montford Point, and Frederick C. Branch, the first African-American marine second lieutenant at the Marine Base in Quantico, VA—for creating the opportunity they have to serve today.

The time has come for us to give these American heroes their long overdue recognition by awarding them the Congressional Gold Medal, the highest civilian award in the United States. I congratulate my colleagues for unanimously passing this legislation on November 9, 2011. It is my personal honor and privilege to recognize the Montford Point Marines.

## REMEMBERING PAT TAKASUGI

Mr. RISCH. Mr. President, I rise to recognize a great loss suffered by the people of Idaho and the Takasugi family in particular. Last week, Idaho State Representative Pat Takasugi passed away after a 3-year battle with cancer. During that fight he was fortunate to have the loving support of his wife Suzanne, his three children, and his parents.

When I was Governor, I had the great fortune to appoint Pat to my cabinet to serve as my director of the department of agriculture. Pat was an unwearying advocate for agriculture. He understood what farmers faced, since he was one of them. He started farming in 1977 and successfully grew his business from 32 acres to a 1,500-acre operation.

Pat served as the director of the department of agriculture for 10 years, and during that time he worked tirelessly in promoting the products grown in Idaho. In 2003, before the local food movement became popular, he instituted the Idaho Preferred brand to help consumers identify locally grown products.

He had numerous accomplishments as director that moved Idaho's agricultural industry forward. He created the Idaho Food Quality Assurance Lab, established the Seed Indemnity Fund, pushed cooperative weed management, and streamlined regulations, among others.

Pat encouraged the next generation of farmers to be involved in various agricultural boards and commissions and to become leaders in their community. Pat walked his talk, as he was a member of numerous local and national organizations, including a term as president of the National Association of State Departments of Agriculture.

His service continued when he decided to step down as the agriculture director and run for the Idaho House of Representatives. He was handily elected in 2008 and again in 2010, and he was a strong advocate for lower taxes and less government regulations.

For those of us who knew Pat, it was not hard to see why he was so popular. He had an infectious sense of humor, great optimism about life, and truly cared about the well-being of others. It can be said that his smalltown roots had something to do with that.

Pat grew up in the Wilder, ID, area and attended schools there before graduating from Vallivue High School. He attended the local college, the College of Idaho in Caldwell, which is an outstanding educational institution.

He volunteered for the U.S. Army after graduating and served a total of 10 years in Active and Reserve Duty. Pat was promoted to the rank of captain and qualified for Airborne wings, the Ranger tab, and Special Forces Green Beret. Pat loved his country and was grateful for the opportunities he had to succeed through his own efforts and hard work.

Mr. President, while it is difficult to sum up all that Pat Takasugi did for agriculture in Idaho and the many lives he touched through his service, let me conclude by saying that he was a great American. Vicki and I extend our condolences on behalf of all Idahoans to Suzanne and all of the family for their loss.

## REMEMBERING GILBERT CALVIN STEINDORFF, JR.

Mr. SHELBY. Mr. President, I rise today to pay tribute to Mr. Gilbert Calvin Steindorff, Jr. who passed away on Monday, November 14, 2011, at the age of 86. Calvin lived a life dedicated to service to his country, and I am glad to have known and become friends with such an inspirational individual.

Gilbert Calvin Steindorff, Jr. served in the military with the U.S. Army in World War II in European theatre of operations. Upon his return, Calvin was appointed as the tax assessor of Butler County, a role he served for 28 years. He was appointed as probate judge of Butler County in 1975 and served in that role until his retirement in 1995. Calvin had a fierce dedication to public service and was a member of many civic organizations.

A truly selfless individual, Calvin also served as secretary at The First Christian Church, where he was an elder, providing guidance for those in his church community. For his career in public service and the invaluable role that he played in the community, Calvin was named Greenville's ''Man of the Year.''

Calvin is loved and will be missed by his wife, Maxine Darby Steindorff, and his son, Gilbert C. Steindorff, III, and many more family members and friends. My thoughts and prayers are with them as they mourn the death of a wonderful husband, father and friend. Calvin was a role model to many and a compassionate community leader who was devoted to the service of Baldwin County. His presence in Alabama will be greatly missed.

## NATIVE AMERICAN HERITAGE MONTH

Mr. UDALL of Colorado. Mr. President, I rise to join my fellow Coloradans, my colleagues in the United States Congress and others across the country in celebration of Native American Heritage Month.

Throughout this month we acknowledge the many accomplishments and contributions of the American Indian community in the United States. In Colorado, from the windswept plains in the east to mountains and plateaus in the west, Native American history has formed a strong part of our shared history. Today Colorado's native communities play an equally strong role in preserving our shared cultural heritage.

Just this month, as the chairman of the National Parks Subcommittee of the Energy and Natural Resources Committee, I held a hearing at Mesa Verde National Park that highlighted the importance of how this cultural landmark and others in the region can be better protected through cooperative efforts of our National Parks System and the region's tribes. Improved collaboration and consultation can be a positive step in achieving the goal of protecting these invaluable resources. Tribes have also worked independently to conserve and protect cultural resources that are important to our shared past. A strong example of these efforts has taken shape over many years in Southwestern Colorado where the Ute Mountain Ute tribe has worked to protect acres of sacred and historically important sites that are connected to the cultural resources that exist within Mesa Verde National Park.

The Ute Mountain Ute Tribal Park, situated on the Ute Mountain reservation, serves not only as a means to protect important resources, but also as a means to educate and develop an economic base for the tribe and the region as a whole. Also in Southwestern Colorado, the Southern Ute Indian Tribe has worked to protect important cultural resources. Just this year, the tribe opened a state-of-the-art cultural center that is dedicated to telling the story of the Ute people, providing another cultural draw to Southwestern Colorado.

These are examples of how shared goals of cultural preservation can work symbiotically, and I believe that through close collaboration, the federal government and tribes throughout the country can better protect cultural resources while developing other opportunities in economic development and education.

This relationship will be crucial in creating new jobs both on and off tribal lands while building opportunities for the next generation. For example, the Ute Mountain Ute and the Southern Ute are among the region's largest employers, each employing more than 1,000 workers and generating millions of dollars in economic activity that benefit the entire Southwest region of Colorado. Their success is a reminder that Indian Country is a strong economic driver that can play a critical role in our economic recovery.

Of course respect for government-to-government relations between tribes and the federal government extends to other issues. As we celebrate Native American Heritage month, we must remind ourselves of this relationship and the trust responsibility that exists between our Federal government and tribal nations. This is especially important when addressing issues that have hit the Indian country especially hard, such as unemployment, access to health care, education and housing, reliable law enforcement and access to justice. The federal government's trust responsibility is a call to work together to address these issues. Upholding this responsibility is vital to respecting tribal sovereignty and protecting tribes' ability to determine what is in the best interest of their communities. Cooperation and collaboration are paramount in maintaining a strong government-to-government relationship, and it is in our shared interest to advance the goal of empowering America's Native communities.

Mr. President, to close, I want to highlight a prominent figure in Colorado who we lost earlier this year named Ernest House, Sr. He was a stalwart defender of American Indian sovereignty and a champion of cultural preservation. Mr. House was a former Chairman of the Ute Mountain Ute Tribe and he represented the tribe before national, state-wide, and private organizations for more than 50 years. Chairman House's passing was a great loss for the Ute Mountain Ute Tribe, Indian Country and for Colorado. I would like to recognize his contributions as part of Native American Heritage Month. I have no doubt that his legacy will be a strong part of our lives in Colorado and my thoughts continue to be with his family.

I am proud to join my fellow Coloradans in celebration of Native American Heritage Month. As we celebrate the many contributions of Colorado's American Indian community, I hope that we will call to mind the long history of America's Native Americans and their continued contributions to Colorado and our Nation.

Thank you, Mr. President.

# ADDITIONAL STATEMENTS

## CONGRATULATING MOUNT NOTRE DAME VOLLEYBALL

● Mr. PORTMAN. Mr. President, today I wish to congratulate the Mount Notre Dame High School Volleyball team for winning their sixth Ohio Division I State volleyball title on Saturday, November 12, 2011. Mount Notre Dame is an all-girls Catholic school located in Cincinnati, OH.

The Mount Notre Dame Cougars prevailed in the championship match by winning three out of four sets against defending State champions Toledo St. Ursula. Led by coach Joe Burke, who has won four state titles with Mount Notre Dame, the team's mantra was ''believe.''

Mount Notre Dame has become one of the most successful programs in high school women's volleyball in the State of Ohio, and I congratulate the Mount Notre Dame Cougars on their hard-fought victory.●

## TRIBUTE TO MAJOR GENERAL RAYMOND W. CARPENTER

● Mr. JOHNSON of South Dakota. Mr. President, I rise today to pay tribute to Major General Raymond W. Carpenter and his faithful service to our country. After 44 years of service to our Nation and the State of South Dakota, General Carpenter will soon retire from the United States Army.

Gen. Carpenter began his military service in 1967 when he enlisted in the South Dakota Army National Guard. General Carpenter later joined the United States Navy and put his photographic memory to work learning the Vietnamese language in preparation for his assignment at the Naval Support Activity in Danang, South Vietnam. Upon completion of his Naval service, he returned to the South Dakota Army National Guard where he was commissioned in 1974. He has commanded at all levels, from Lieutenant to Colonel.

General Carpenter is an engineer by formal training, tirelessly devising, planning and building. He was a founding member of the Director of the Army National Guard's Engineer Advisory Team and went on to be the chairman until May 2006. Engineering and organizational skills aside, General Carpenter is most passionate about soldiers: the Nation's sons and daughters who are in his care. I have seen this firsthand and have also witnessed his dedication to our Nation's veterans as he assisted me in awarding Korean War medals to veterans in South Dakota.

For the past 2½ years, Gen. Carpenter has ably served as the Acting Director, Army National Guard. In this capacity, he has led more than 350,000 National Guard soldiers from the 54 states, territories and the District of Columbia. As Chairman of the Military Construction and VA Appropriations Subcommittee, I have worked with Gen. Carpenter to fund important National Guard construction projects, and I was proud to have him testify before my subcommittee. He has represented our home State well and has been a tireless advocate for the members of the Army National Guard. He is truly a soldier's soldier. On occasion, when Big Army concocted some sort of short-sighted plan, there was Gen. Carpenter ''standing like a stone wall'' to look out for the interest of his soldiers and his country.

For his efforts, General Carpenter has received numerous awards and

decorations at every phase of his stellar career, including Legions of Merits, Meritorious Service Medals, the Vietnam Service Medal, Army Commendation Medals, Army Achievement Medals, Army Reserve Components Achievement Medals, and the National Defense Service Medals, among many others.

Today I join my fellow Americans and stand with proud South Dakotans in congratulating Gen. Carpenter on an impressive military career. In 2011 our Nation is most assuredly safer, stronger, and more secure because of this dedicated soldier, gifted engineer, and superb leader. I am grateful for Gen. Carpenter's service to our country, and to his wife, Mary, for her tireless support of her husband and his mission. After years of dedicated service, I wish Major General Carpenter a relaxing retirement, filled with many joyful hours on his Harley.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT RELATIVE TO EXTENDING THE PERIOD OF PRODUCTION OF THE NAVAL PETROLEUM RESERVES FOR A PERIOD OF THREE YEARS FROM APRIL 5, 2012—PM 34

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

*To the Congress of the United States:*

Consistent with section 7422(c)(2) of title 10, United States Code, I am informing you of my decision to extend the period of production of the Naval Petroleum Reserves for a period of 3 years from April 5, 2012, the expiration date of the currently authorized period of production.

Attached is a copy of the report investigating continued production of the Reserves, consistent with section 7422(c)(2)(B) of title 10. In light of the findings contained in the report, I certify that continued production from the Naval Petroleum Reserves is in the national interest.

BARACK OBAMA.

THE WHITE HOUSE, *November 17, 2011.*

## MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 822. An act to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

H.R. 1791. An act to designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the ''Alto Lee Adams, Sr., United States Courthouse''.

H.R. 2415. An act to designate the facility of the United States Postal Service located at 11 Dock Street in Pittston, Pennsylvania, as the ''Trooper Joshua D. Miller Post Office Building''.

H.R. 2660. An act to designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the ''Tomball Veterans Post Office''.

H.R. 3004. An act to designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the ''Private First Class Alejandro R. Ruiz Post Office Building''.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes.

## ENROLLED BILLS SIGNED

At 12:54 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1412. An act to designate the facility of the United States Postal Service located at 462 Washington Street, Woburn, Massachusetts, as the ''Officer John Maguire Post Office''.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUYE).

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At 4:38 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2112) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2012, and for other purposes.

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At 8:02 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2112. An act making consolidated appropriations for the Departments of Agriculture, Commerce, Justice, Transportation, and Housing and Urban Development, and related programs for the fiscal year ending September 30, 2012, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. BENNET).

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 822. An act to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State; to the Committee on the Judiciary.

H.R. 1791. An act to designate the United States courthouse under construction at 101 South United States Route 1 in Fort Pierce, Florida, as the ''Alto Lee Adams, Sr., United States Courthouse''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2415. An act to designate the facility of the United States Postal Service located at 11 Dock Street in Pittston, Pennsylvania, as the ''Trooper Joshua D. Miller Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2660. An act to designate the facility of the United States Postal Service located at 122 North Holderrieth Boulevard in Tomball, Texas, as the ''Tomball Veterans Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3004. An act to designate the facility of the United States Postal Service located at 260 California Drive in Yountville, California, as the ''Private First Class Alejandro R. Ruiz Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

## ENROLLED BILL PRESENTED

The Secretary of the Senate announced that on today, November 17, 2011, she had presented to the President of the United States the following enrolled bill:

S. 1412. An act to designate the facility of the United States Postal Service located at 462 Washington Street, Woburn, Massachusetts, as the ''Officer John Maguire Post Office''.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3973. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled ''Virginia Graeme Baker Pool and Spa Safety Act; Incorporation by Reference of Successor Standard'' (16 CFR Part 1450) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3974. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety and Health Requirements Related to

Camp Cars'' (RIN2130–AC13) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3975. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Conductor Certification'' (RIN2130–AC08) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3976. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Exports and Reexports to the Principality of Liechtenstein'' (RIN0694–AF33) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3977. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Commercial Driver's License Information System State Procedures Manual, Release 5.2.0'' (RIN2126–AB33) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3978. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Western Pacific Pelagic Fisheries; American Samoa Longline Gear Modifications to Reduce Turtle Interactions'' (RIN0648–AY27) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3979. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Harvesting Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XA790) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3980. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA791) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3981. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Western Pacific Bottomfish and Seamount Groundfish Fisheries; 2011–12 Main Hawaiian Islands Deep 7 Bottomfish Annual Catch Limits and Accountability Measures'' (RIN0648–XA470) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3982. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Correction'' (RIN0648–BA01) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3983. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Amendments 20 and 21; Trawl Rationalization Program; Correcting Amendments'' (RIN0648–BB31) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3984. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 7'' (RIN0648–BA46) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3985. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA757) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3986. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 1A'' (RIN0648–XA764) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3987. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod and Octopus in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA794) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3988. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA782) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3989. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA783) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3990. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Crab Prohibited Species Catch Allowances in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA784) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3991. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the Atlantic Herring Management Area 1A Sub-Annual Catch Limit'' (RIN0648–XA767) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3992. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Gulf of Mexico Reef Fish Fishery; Closure of the 2011 Gulf of Mexico Commercial Sector for Greater Amberjack'' (RIN0648–XA766) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3993. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Snapper-Grouper Fishery of the South Atlantic; Closure of the 2011–2012 Recreational Sector for Black Sea Bass in the South Atlantic'' (RIN0648–XA686) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3994. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Cod by Vessels Harvesting Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XA759) received in the Office of the President of the Senate on November 9, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3995. A communication from the Deputy Assistant General Counsel for the Office of Aviation Enforcement Proceedings, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Enhancing Airline Passenger Protections: Limited Delay of Effective Date for Certain Provisions'' (RIN2105–AD92) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3996. A communication from the Deputy Assistant General Counsel for the Office of Aviation Enforcement Proceedings, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Enhancing Airline Passenger Protections'' (RIN2105–AD92) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3997. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Brunswick, ME'' ((RIN2120–AA66) (Docket No. FAA–2011–0116)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3998. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; El Dorado, KS'' ((RIN2120–AA66) (Docket No. FAA–2011–0213)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–3999. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Mobridge, SD'' ((RIN2120–AA66) (Docket No. FAA–2011–0134)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4000. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Harrisonville, MO'' ((RIN2120–AA66) (Docket No. FAA–2011–0251)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4001. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Cleveland, MS'' ((RIN2120–AA66) (Docket No. FAA–2011–0102)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4002. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Denton, TX'' ((RIN2120–AA66)(Docket No. FAA–2010–1327)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4003. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Removal of Class D and E Airspace; Willow Grove, PA'' ((RIN2120–AA66)(Docket No. FAA–2011–0355)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4004. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (87); Amdt. No. 3448'' (RIN2120–AA65) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4005. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (40); Amdt. No. 3449'' (RIN2120–AA65) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4006. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes with Supplemental Type Certificate (STC) SA03674AT'' ((RIN2120–AA64)(Docket No. FAA–2011–0687)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4007. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sicma Aero Seat Passenger Seat Assemblies Installed on Various Transport Category Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0040)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4008. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE SYSTEMS (Operations) Limited Model 4101 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0306)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4009. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0312)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4010. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries Powered Sailplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0811)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4011. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0264)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4012. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–1161)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4013. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B4–103, B4–203, and B4–2C Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0478)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4014. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2011–0564)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC–4015. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dowty Propellers Type R212/4–30–4/22 and R251/4–30–4/49 Propeller Assemblies'' ((RIN2120–AA64)(Docket No. FAA–2011–0735)) received in the Office of the President of the Senate on November 10, 2011; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2012'' (Rept. No. 112–95).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1301, a bill to authorize appropriations for fiscal years 2012 through 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes (Rept. No. 112–96).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 347. A bill to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

H.R. 2076. A bill to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 2189. A bill to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

S. 1793. A bill to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 1794. A bill to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. LEE):

S. 1883. A bill to provide for the sale of approximately 30 acres of Federal land in Uinta-Wasatch-Cache National Forest in Salt Lake County, Utah, to permit the establishment of a minimally invasive transportation alternative called ''SkiLink'' to connect 2 ski resorts in the Wasatch Mountains, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. KIRK):

S. 1884. A bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELLER:

S. 1885. A bill to provide for a temporary extension of unemployment insurance, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. BENNET, and Mr. BLUMENTHAL):

S. 1886. A bill to prevent trafficking in counterfeit drugs; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 1887. A bill to protect children from abuse and neglect; to the Committee on the Judiciary.

By Mr. CASEY (for himself and Mr. HARKIN):

S. 1888. A bill to amend the Food, Conservation, and Energy Act of 2008 to establish a program to provide loans for local farms, ranches, and market gardens to improve public health and nutrition, reduce energy consumption, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. BOXER:

S. 1889. A bill to protect children from neglect and abuse on Federal property; to the Committee on the Judiciary.

By Mr. BEGICH:

S. 1890. A bill to prevent forfeited fishing vessels from being transferred to private parties and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. LIEBERMAN, Mr. CARDIN, Mr. AKAKA, Mr. WARNER, Mr. REED, Mr. LAUTENBERG, Mr. KERRY, Mr. WHITEHOUSE, Mr. MENENDEZ, Mr. DURBIN, Mrs. BOXER, Mr. HARKIN, Mr. WEBB, Mr. MERKLEY, Mrs. HAGAN, and Mrs. GILLIBRAND):

S. 1891. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

By Mr. FRANKEN (for himself, Ms. COLLINS, and Ms. MIKULSKI):

S. 1892. A bill to protect the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. REED:

S. 1893. A bill to amend titles 5, 10, and 32, United States Code, to eliminate inequities in the treatment of National Guard technicians, to reduce the eligibility age for retirement for non-Regular service, and for other purposes; to the Committee on Armed Services.

By Mr. SCHUMER (for himself, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. KYL, Mr. HATCH, and Mr. CORNYN):

S. 1894. A bill to deter terrorism, provide justice for victims, and for other purposes; to the Committee on the Judiciary.

By Mrs. GILLIBRAND:

S. 1895. A bill to require the Secretary of Commerce to establish a program for the award of grants to States to establish revolving loan funds for small and medium-sized manufacturers to improve energy efficiency and produce clean energy technology, to provide a tax credit for farmers' investments in value-added agriculture, and for other purposes; to the Committee on Finance.

By Ms. AYOTTE (for herself and Mr. JOHNSON of Wisconsin):

S. 1896. A bill to eliminate the automatic inflation increases for discretionary programs built into the baseline projections and require budget estimates to be compared with the prior year's level; to the Committee on the Budget.

By Mr. CASEY:

S. 1897. A bill to amend Public Law 101–377 to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI (for herself and Mr. BEGICH):

S. 1898. A bill to provide for the conveyance of certain property from the United States to the Maniilaq Association located in Kotzebue, Alaska; to the Committee on Indian Affairs.

By Mr. BOOZMAN (for himself and Mr. PRYOR):

S. 1899. A bill to require that members of the Armed Forces who were killed or wounded in the attack that occurred at a recruiting station in Little Rock, Arkansas, on June 1, 2009, are treated in the same manner as members who are killed or wounded in a combat zone; to the Committee on Armed Services.

By Mr. MENENDEZ (for himself, Mr. NELSON of Florida, and Mr. LAUTENBERG):

S. 1900. A bill to amend title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals; to the Committee on Finance.

By Mr. UDALL of Colorado (for himself and Mr. CRAPO):

S. 1901. A bill to amend the Internal Revenue Code of 1986 to increase the limitations on the amount excluded from the gross estate with respect to land subject to a qualified conservation easement; to the Committee on Finance.

By Mr. KIRK (for himself and Mr. DURBIN):

S. 1902. A bill to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the State of Illinois, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND (for herself, Mr. TESTER, Ms. STABENOW, Mr. DURBIN, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. RUBIO, and Mr. BLUMENTHAL):

S. 1903. A bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DEMINT (for himself, Mr. LEE, Mr. VITTER, Mr. PAUL, Mr. SESSIONS, Mr. GRAHAM, Mr. INHOFE, and Mr. COBURN):

S. 1904. A bill to provide information on total spending on means-tested welfare programs, to provide additional work requirements, and to provide an overall spending limit on means-tested welfare programs; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HAGAN (for herself and Mr. KIRK):

S. Res. 332. A resolution supporting the goals and ideals of American Education Week; considered and agreed to.

By Mrs. FEINSTEIN (for herself and Mr. INHOFE):

S. Res. 333. A resolution welcoming and commending the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, family members, and descendants; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 235

At the request of Mrs. MCCASKILL, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 235, a bill to provide personal jurisdiction in causes of action against contractors of the United States performing contracts abroad with respect to members of the Armed Forces, civilian employees of the United States, and United States citizen employees of companies performing work for the United States in connection with contractor activities, and for other purposes.

S. 384

At the request of Mrs. HUTCHISON, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 384, a bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

S. 671

At the request of Mr. SESSIONS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 671, a bill to authorize the United States Marshals Service to issue administrative subpoenas in investigations relating to unregistered sex offenders.

S. 672

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 672, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 933

At the request of Mr. SCHUMER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 933, a bill to amend the Internal Revenue Code of 1986 to extend and increase the exclusion for benefits provided to volunteer firefighters and emergency medical responders.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1025

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1025, a bill to amend title 10, United States Code, to enhance the

national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1048

At the request of Mr. MENENDEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. 1154

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1154, a bill to require transparency for Executive departments in meeting the Government-wide goals for contracting with small business concerns owned and controlled by service-disabled veterans, and for other purposes.

S. 1265

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1265, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 1335

At the request of Mr. INHOFE, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 1335, a bill to amend title 49, United States Code, to provide rights for pilots, and for other purposes.

S. 1350

At the request of Mr. COONS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1350, a bill to expand the research, prevention, and awareness activities of the Centers for Disease Control and Prevention and the National Institutes of Health with respect to pulmonary fibrosis, and for other purposes.

S. 1355

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1355, a bill to regulate political robocalls.

S. 1421

At the request of Mr. PORTMAN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1534

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1534, a bill to prevent identity theft and tax fraud.

S. 1541

At the request of Mr. BENNET, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1541, a bill to revise the Federal charter for the Blue Star Mothers of America, Inc. to reflect a change in eligibility requirements for membership.

S. 1578

At the request of Mr. TOOMEY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1578, a bill to amend the Safe Drinking Water Act with respect to consumer confidence reports by community water systems.

S. 1616

At the request of Mr. MENENDEZ, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

S. 1632

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1632, a bill to amend the Internal Revenue Code of 1986 to provide a look back rule in the case of federally declared disasters for determining earned income for purposes of the child tax credit and the earned income credit, and for other purposes.

S. 1680

At the request of Mr. CONRAD, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of S. 1680, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1776

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1776, a bill to amend title 10, United States Code, to expand the Operation Hero Miles program to include the authority to accept the donation of travel benefits in the form of hotel points or awards for free or reduced-cost accommodations.

S. 1792

At the request of Mr. WHITEHOUSE, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 1792, a bill to clarify the authority of the United States Marshals Service to assist other Federal, State, and local law enforcement agencies in the investigation of cases involving sex offenders and missing children.

S. 1794

At the request of Mr. BLUMENTHAL, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1794, a bill to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

S. 1798

At the request of Mr. UDALL of New Mexico, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1798, a bill to direct the Secretary of Veterans Affairs to establish an open burn pit registry to ensure that members of the Armed Forces who may have been exposed to toxic chemicals and fumes caused by open burn pits while deployed to Afghanistan or Iraq receive information regarding such exposure, and for other purposes.

S. 1804

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1804, a bill to amend title IV of the Supplemental Appropriations Act, 2008 to provide for the continuation of certain unemployment benefits, and for other purposes.

S. 1831

At the request of Mr. THUNE, the names of the Senator from Kentucky (Mr. MCCONNELL), the Senator from Pennsylvania (Mr. TOOMEY), the Senator from Utah (Mr. HATCH), the Senator from Texas (Mrs. HUTCHISON), the Senator from Nebraska (Mr. JOHANNS), the Senator from Oklahoma (Mr. INHOFE), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Wyoming (Mr. BARRASSO), the Senator from Kansas (Mr. ROBERTS), the Senator from Indiana (Mr. COATS), the Senator from Mississippi (Mr. WICKER), the Senator from Arkansas (Mr. BOOZMAN), the Senator from North Dakota (Mr. HOEVEN), the Senator from Indiana (Mr. LUGAR), the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. MCCAIN), the Senator from Florida (Mr. RUBIO), the Senator from North Carolina (Mr. BURR), the Senator from Missouri (Mr. BLUNT), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Nevada (Mr. HELLER), the Senator from Alabama (Mr. SESSIONS) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1831, a bill to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D.

S. 1847

At the request of Mr. RUBIO, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1847, a bill to amend title 38, United States Code, to reinstate criminal penalties for persons charging veterans unauthorized fees, and for other purposes.

S. 1850

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor

of S. 1850, a bill to expand and improve opportunities for beginning farmers and ranchers, and for other purposes.

S. 1868

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1868, a bill to establish within the Smithsonian Institution the Smithsonian American Latino Museum, and for other purposes.

S. 1871

At the request of Mr. BROWN of Massachusetts, the names of the Senator from Nevada (Mr. HELLER) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of S. 1871, a bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

S. 1872

At the request of Mr. CASEY, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Missouri (Mr. BLUNT), the Senator from Massachusetts (Mr. BROWN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1876

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1876, a bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act.

At the request of Mr. BROWN of Ohio, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1876, supra.

S. 1882

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1882, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that valid generic drugs may enter the market.

S. RES. 320

At the request of Ms. SNOWE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Res. 320, a resolution designating November 26, 2011, as ''Small Business Saturday'' and supporting efforts to increase awareness of the value of locally owned small businesses.

S. RES. 331

At the request of Mr. KIRK, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Delaware (Mr. COONS) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Res. 331, a resolution expressing the sense of the Senate that Congress should ''Go Big'' in its attempts toward deficit reduction.

AMENDMENT NO. 976

At the request of Mr. BLUNT, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 976 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 982

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of amendment No. 982 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1010

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of amendment No. 1010 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1039

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 1039 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1049

At the request of Mr. BAUCUS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 1049 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. KIRK):

S. 1884. A bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1884

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''School Access to Emergency Epinephrine Act''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) According to research funded by the Food Allergy Initiative and conducted by Northwestern University and Children's Memorial Hospital, nearly 6,000,000 children in the United States have food allergies.

(2) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes.

(3) More than 15 percent of school-aged children with food allergies have had an allergic reaction in school.

(4) Teenagers and young adults with food allergies are at the highest risk of fatal food-induced anaphylaxis.

(5) Individuals with food allergies who also have asthma may be at increased risk for severe or fatal food allergy reactions.

(6) Studies have shown that 25 percent of epinephrine administrations in schools involve individuals with a previously unknown allergy.

(7) The National Institute of Allergy and Infectious Diseases (''NIAID'') has reported that delays in the administration of epinephrine to patients in anaphylaxis can result in rapid decline and death. NIAID recommends that epinephrine be given promptly to treat anaphylaxis.

(8) Physicians can provide standing orders to furnish a school with epinephrine for injection, and several States have passed laws to authorize this practice.

(9) The American Academy of Allergy, Asthma, and Immunology recommends that epinephrine injectors should be included in all emergency medical treatment kits in schools.

(10) The American Academy of Pediatrics recommends that an anaphylaxis kit should be kept with medications in each school and made available to trained staff for administration in an emergency.

(11) According to the Food Allergy and Anaphylaxis Network, there are no contraindications to the use of epinephrine for a life-threatening reaction.

**SEC. 3. PREFERENCE FOR STATES REGARDING ADMINISTRATION OF EPINEPHRINE BY SCHOOL PERSONNEL.**

Section 399L of the Public Health Service Act (42 U.S.C. 280g(d)) is amended—

(1) in subsection (a), by redesignating the second paragraph (2) and paragraph (3) as paragraphs (3) and (4), respectively; and

(2) by striking subsection (d) and inserting the following:

''(d) PREFERENCE FOR STATES REGARDING MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

''(1) PREFERENCE.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies each of the following requirements:

''(A) SELF-ADMINISTRATION OF MEDICATION.—

''(i) IN GENERAL.—The State shall require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if—

''(I) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

''(II) the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed;

''(III) the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

''(IV) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under subclause (III) and other documents related to liability.

''(ii) SCOPE.—An authorization granted under clause (i) shall allow the student involved to possess and use the student's medication—

''(I) while in school;

''(II) while at a school-sponsored activity, such as a sporting event; and

''(III) in transit to or from school or school-sponsored activities.

''(iii) DURATION OF AUTHORIZATION.—An authorization granted under clause (i)—

''(I) shall be effective only for the same school and school year for which it is granted; and

''(II) must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

''(iv) BACKUP MEDICATION.—The State shall require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has prompt access in the event of an asthma or anaphylaxis emergency.

''(v) MAINTENANCE OF INFORMATION.—The State shall require that information described in clauses (i)(III) and (i)(IV) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

''(vi) RULE OF CONSTRUCTION.—Nothing in this subparagraph creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

''(B) SCHOOL PERSONNEL ADMINISTRATION OF EPINEPHRINE.—

''(i) IN GENERAL.—The State shall require that each public elementary school and secondary school in the State—

''(I) permit authorized personnel to administer epinephrine to any student believed in good faith to be having an anaphylactic reaction; and

''(II) maintain in a secure and easily accessible location a supply of epinephrine that—

''(aa) are prescribed under a standing protocol from a licensed physician; and

''(bb) are accessible to authorized personnel for administration to a student having an anaphylactic reaction.

''(ii) LIABILITY AND STATE LAW.—

''(I) GOOD SAMARITAN LAW.—The State shall have a State law ensuring that elementary school and secondary school employees and agents, including a physician providing a prescription for school epinephrine, will incur no liability related to the administration of epinephrine to any student believed in good faith to be having an anaphylactic reaction, except in the case of willful or wanton conduct.

''(II) STATE LAW.—Nothing in this subparagraph shall be construed to preempt State law, including any State law regarding whether students with allergy or asthma may possess and self-administer medication.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) The terms 'elementary school' and 'secondary school' have the meaning given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965.

''(B) The term 'health care practitioner' means a person authorized under law to prescribe drugs subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

''(C) The term 'medication' means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and epinephrine.

''(D) The term 'self-administration' means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.

''(E) The term 'authorized personnel' means the school nurse or, if the school nurse is absent, an individual who has been designated by the school nurse and has received training in the administration of epinephrine.''.

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By Mr. LEAHY (for himself, Mr. GRASSLEY, Mr. BENNET, and Mr. BLUMENTHAL):

S. 1886. A bill to prevent trafficking in counterfeit drugs; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, few things are more important to consumer well being than ensuring the safety of our pharmaceutical supply chain. Yet today, the penalties for counterfeit drug offenses are outdated and insufficient to deter this epidemic problem. As a result, counterfeit medicines reportedly lead to 100,000 deaths globally each year, with upwards of 90 percent of drug sales estimated to be counterfeit.

Similarly, few things are more important to the American economy and long-term job creation than protecting our companies' intellectual property. Yet businesses manufacturing and selling counterfeit drugs reportedly generate more than $75 billion in annual revenue. This means lost profits for American businesses and lost jobs for American workers. Such staggering numbers would be unacceptable in any economic climate, and they are devastating today.

Combating the sale of counterfeit drugs is increasingly difficult. Whether it is the prevalence of Internet pharmacies, or the new and sophisticated methods of manufacturing, packaging and distributing counterfeit drugs, the obstacles to safeguarding the pharmaceutical supply chain in today's economy are many. As a result, large counterfeit drug enterprises are being funded on the backs of consumers, both in Vermont and around the country, whose health and safety are at stake.

Under current law, it is illegal to introduce counterfeit drugs into interstate commerce, but the penalties are no different than those assessed for trafficking other counterfeit products, such as handbags or sneakers. While the manufacture and sale of any counterfeit product is a serious crime, counterfeit medication poses a grave danger to public health that warrants a harsher punishment. Legislation is needed to raise counterfeit drug penalties to a level commensurate with the severity of the offense in order to deter an epidemic problem.

Today, I am introducing the bipartisan Counterfeit Drug Penalty Enhancement Act, which will raise the maximum penalties for counterfeit drug offenses, and direct the United States Sentencing Commission to consider amending its guidelines and policy statements to reflect the serious nature of these crimes.

This legislation will protect the safety of American consumers, and the investment that American pharmaceutical companies make in developing the quality medicines that lead to reputable brands. Ensuring patient safety and combating intellectual property theft are not uniquely Democratic or Republican priorities, these are bipartisan priorities, and I hope that we can quickly take up and consider this much needed legislation.

We should not expect that enactment of this or any legislation will completely deter this serious problem. But this bill is an important step towards countering a problem that harms American consumers, American businesses, and American jobs.

I thank Senator GRASSLEY and Senator BENNET for working with me on this legislation, and I look forward to working with all Senators to pass this important, bipartisan legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1886

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Counterfeit Drug Penalty Enhancement Act of 2011''.

**SEC. 2. COUNTERFEIT DRUG PREVENTION.**

Section 2320(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

''(2) COUNTERFEIT DRUGS.—

''(A) IN GENERAL.—Whoever commits an offense in violation of paragraph (1) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

''(i) if an individual, be fined not more than $4,000,000, imprisoned not more than 20 years, or both; and

''(ii) if a person other than an individual, be fined not more than $10,000,000.

''(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

''(i) if an individual, shall be fined not more than $8,000,000, imprisoned not more than 20 years, or both; and

''(ii) if other than an individual, shall be fined not more than $20,000,000.''; and

(3) in paragraph (3)(B), as redesignated, by striking ''paragraph (1)'' and inserting ''paragraph (1) or (2)''.

**SEC. 3. SENTENCING COMMISSION DIRECTIVE.**

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense under section

2320(a)(2) of title 18, United States Code, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

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By Mr. FRANKEN (for himself, Ms. COLLINS, and Ms. MIKULSKI):

S. 1892. A bill to protect the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRANKEN. Mr. President, nobody should have to choose between safety and shelter. Yet 48 percent of homeless women in Minnesota previously had stayed in abusive situations because they did not have safe housing options available to them. Twenty-nine percent of homeless adult women in my State are fleeing domestic violence, and more than half of those women are living with children. That simply is not acceptable.

This problem is not unique to Minnesota. Far from it. National studies establish an undeniable link between homelessness and domestic and sexual violence. By one account, two in five women who experience domestic violence will become homeless at some point in their lives.

Not surprisingly, once a woman becomes homeless, she becomes vulnerable to further violence and exploitation. In fact, nine in ten homeless women have experienced severe physical or sexual abuse. During a hearing last week, the Executive Director of the Minnesota Indian Women's Resource Center explained that perpetrators of sexual violence often prey on homeless women.

Of course, we all know that this problem is not about statistics. It is about the real people with real stories who are behind the numbers. It is about the woman in California who was evicted for ''causing a nuisance'' after the police responded to an incident of domestic violence in her Low Income Housing Tax Credit unit—where she was the victim.

It is about the mother of five in Florida who received a termination notice after her ex-husband broke down her door and assaulted her. It is about the 83-year-old woman in Minnesota who was threatened with eviction from her Section 202 housing unit because of disturbances caused by her abuser.

Though the link between homelessness and domestic and sexual violence is undeniable, it is not unbreakable. Advocates across the country work tirelessly to ensure that victims of domestic and sexual violence have the shelter and support they need. Local law enforcement officials and prosecutors are dedicated to ending the cycle of abuse and homelessness. Property owners, too, often work with victims, advocates, and local authorities to find solutions to the problem.

Here in Congress, we have made efforts to break the link between domestic and sexual violence and homelessness as well. The 2005 Violence Against Women Act included important protections that made it unlawful to deny someone housing assistance under certain federal prorams just because the individual is a victim of domestic violence, dating violence, or stalking. From conversations with experts in Minnesota, I know that those protections have been invaluable.

The Violence Against Women Act is now up for reauthorization. That occasion provides us an opportunity to build on the successes of the 2005 bill and to address its shortcomings. That is why today I have introduced the Housing Rights for Victims of Domestic and Sexual Violence Act. This bill is for every woman who has hesitated to call the police to enforce a protective order because she was afraid that she would be evicted if she did so. The bill rests on the simple premise that a woman should not lose her home just because she is a victim of domestic or sexual violence.

The Violence Against Women Act currently protects tenants of only two federal housing programs—those provided under Sections 6 and 8 of the U.S. Housing Act of 1937. These protections were an important first step. But we can do better. A woman's rights should not depend on the type of housing assistance she receives.

So my bill extends VAWA's housing protections to the Low Income Housing Tax Credit program, the Rural Housing Services program, the Housing Opportunities for Persons with AIDS program, the Section 811 Supportive Housing Program for persons with disabilities, and five additional Federal housing programs. The Congressional Research Service estimates that the bill will cover more than 4 million housing units that are not included in existing law.

In addition, current law fails to secure housing rights for victims of sexual assault. My bill fixes that problem. It makes it unlawful to deny a woman federally assisted housing just because she is a victim of sexual assault. As the National Alliance to End Sexual Violence explains, too many victims become homeless as a result of sexual assault, and, once homeless, they are further to sexual victimization. My bill recognizes that victims of sexual assault require safe housing just as do victims of domestic violence, dating violence, and stalking—groups that already are covered by existing law.

My bill also takes an important new step toward ensuring that victims of domestic and sexual violence do not end up on the streets. It requires managers of federally supported housing units to adopt emergency transfer policies for women who would be in imminent danger were they to stay in their current homes. Under these policies, a victim of domestic or sexual violence could move to safe, federally subsidized housing unit instead of staying in harm's way.

I am proud to introduce this legislation with Senator COLLINS and Senator MIKULSKI, both of whom are true champions of women's rights. Both are advocates for victims of domestic and sexual violence. In 2005, both cosponsored the Violenc Against Women Act reauthorization bill. They were leaders in this area then, and they have stepped forward to lead again today. I thank them for their help.

The Housing Rights for Victims of Domestic and Sexual Violence Act is preventive, proven, and precedented.

It is preventive because it will keep women and children in their homes at a time when they are vulnerable—when they need a roof over their heads the most. It is no secret that shelters and transitional housing programs are overextended. This legislation addresses a victim's housing needs before she becomes homeless and requires those services.

The protections contained in the bill are proven. Advocacy groups from Minnesota and throughout the country—the people most familiar with the problem—have weighed in on this bill. It already has been endorsed by 23 organizations, including the National Network to End Domestic Violence, the National Alliance to End Sexual Violence, the National Women's Law Center, the National Housing Law Project, and the National Low Income Housing Coalition.

The bill is unprecedented, too. We are not reinventing the wheel here. The bill builds upon housing protections that were incduded in the 2005 VAWA reauthorization bill, which passed the Senate with unanimous consent and was signed into law by President George W. Bush. Though many say the political climate here in Washington has changed for the worse in the years since then, I am hopeful that the goals underlying VAWA once again will transcend partisanship.

We have worked together to address the unique housing needs facing domestic and sexual violence victims in the past. We need to do so again today.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1892

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Housing Rights for Victims of Domestic and Sexual Violence Act of 2011''.

**SEC. 2. DENIAL OR TERMINATION OF ASSISTANCE AND EVICTION PROTECTIONS.**

(a) AMENDMENT.—Subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e et seq.) is amended—

(1) by inserting after the subtitle heading the following:

**''CHAPTER 1—GRANT PROGRAMS'';**

(2) in section 41402 (42 U.S.C. 14043e–1), in the matter preceding paragraph (1), by striking ''subtitle'' and inserting ''chapter'';

(3) in section 41403 (42 U.S.C. 14043e–2), in the matter preceding paragraph (1), by striking ''subtitle'' and inserting ''chapter''; and

(4) by adding at the end the following:

**''CHAPTER 2—HOUSING RIGHTS**

**''SEC. 41411. HOUSING RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.**

''(a) DEFINITIONS.—In this chapter:

''(1) APPROPRIATE AGENCY.—The term 'appropriate agency' means, with respect to a covered housing program, the Executive department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.

''(2) COVERED HOUSING PROGRAM.—The term 'covered housing program' means—

''(A) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

''(B) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

''(C) the program under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

''(D) the program under subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.);

''(E) the program under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.);

''(F) the program under paragraph (3) of section 221(d) of the National Housing Act (12 U.S.C. 1715l(d)) that bears interest at a rate determined under the proviso under paragraph (5) of such section 221(d);

''(G) the program under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

''(H) the programs under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and 1437g);

''(I) rural housing assistance provided under sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486, 1490m, and 1490p–2); and

''(J) the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986.

''(3) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' means, with respect to an individual—

''(A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom such individual stands in loco parentis;

''(B) any individual living in the household of such individual who is related to such individual by blood or marriage; or

''(C) any individual living in the household of such individual who is related to such individual by affinity whose close association or intimate relationship with such individual is the equivalent of a family relationship.

''(b) PROHIBITED BASIS FOR DENIAL OR TERMINATION OF ASSISTANCE OR EVICTION.—

''(1) IN GENERAL.—An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

''(2) CONSTRUCTION OF LEASE TERMS.—An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as—

''(A) a serious or repeated violation of a lease for housing assisted under a covered housing program by the victim or threatened victim of such incident; or

''(B) good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the victim or threatened victim of such incident.

''(3) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—

''(A) DENIAL OF ASSISTANCE, TENANCY, AND OCCUPANCY RIGHTS PROHIBITED.—No person may deny assistance, tenancy, or occupancy rights to housing assisted under a covered housing program to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an immediate family member of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

''(B) BIFURCATION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), an owner or manager of housing assisted under a covered housing program may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an immediate family member or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing.

''(ii) EFFECT OF EVICTION ON OTHER TENANTS.—If an owner or manager of housing assisted under a covered housing program evicts, removes, or terminates assistance to an individual under clause (i), and the individual is the sole tenant eligible to receive assistance under a covered housing program, the owner or manager of housing assisted under the covered housing program shall provide any remaining tenant an opportunity to establish eligibility for the covered housing program. If a tenant described in the preceding sentence cannot establish eligibility, the owner or manager of the housing shall provide the tenant a reasonable time, as determined by the appropriate agency, to find new housing or to establish eligibility for housing under another covered housing program.

''(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed—

''(i) to limit the authority of an owner or manager of housing assisted under a covered housing program, when notified of a court order, to comply with a court order with respect to—

''(I) the rights of access to or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

''(II) the distribution or possession of property among members of a household in a case;

''(ii) to limit any otherwise available authority of an owner or manager of housing assisted under a covered housing program to evict or terminate assistance to a tenant for any violation of a lease not premised on the act of violence in question against the tenant or an immediate family member of the tenant, if the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

''(iii) to limit the authority to terminate assistance to a tenant or evict a tenant from housing assisted under a covered housing program if the owner or manager of the housing can demonstrate that an actual and imminent threat to other tenants or individuals employed at or providing service to the property would be present if the assistance is not terminated or the tenant is not evicted; or

''(iv) to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

''(c) DOCUMENTATION.—

''(1) REQUEST FOR DOCUMENTATION.—If an applicant for or tenant of housing assisted under a covered housing program represents to the owner or manager of the housing that the individual is entitled to protection under subsection (b), the owner or manager may request, in writing, that the tenant submit to the owner or manager a form of documentation described in paragraph (3).

''(2) FAILURE TO PROVIDE CERTIFICATION.—If a tenant does not provide the documentation requested under paragraph (1) within 14 business days after the tenant receives a request in writing for such certification from the owner or manager of the housing, nothing in this chapter may be construed to limit the authority of the owner or manager to evict any tenant or lawful occupant that commits violations of a lease. The owner or manager of the housing may extend the 14-day deadline at its discretion.

''(3) FORM OF DOCUMENTATION.—A form of documentation described in this paragraph is—

''(A) a certification form approved by the appropriate agency that—

''(i) states that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

''(ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b); and

''(iii) at the option of the applicant or tenant, includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking;

''(B) a document that—

''(i) is signed by—

''(I) an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom an applicant or tenant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse; and

''(II) the applicant or tenant; and

''(ii) states under penalty of perjury that the individual described in clause (i)(I) believes that the incident of domestic violence, dating violence, sexual assault, or stalking

that is the ground for protection under subsection (b) meets the requirements under subsection (b);

''(C) a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

''(D) at the discretion of an owner or manager of housing assisted under a covered housing program, a statement or other evidence provided by an applicant or tenant.

''(4) CONFIDENTIALITY.—Any information submitted to an owner or manager under this subsection, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence by the owner or manager and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is—

''(A) requested or consented to by the individual in writing;

''(B) required for use in an eviction proceeding under subsection (b); or

''(C) otherwise required by applicable law.

''(5) DOCUMENTATION NOT REQUIRED.—Nothing in this subsection shall be construed to require an owner or manager of housing assisted under a covered housing program to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

''(6) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with subsection (b) by an owner or manager of housing assisted under a covered housing program based on documentation received under this subsection shall not be sufficient to constitute evidence of an unreasonable act or omission by the owner or manager or an employee or agent of the owner or manager. Nothing in this paragraph shall be construed to limit the liability of an owner or manager of housing assisted under a covered housing program for failure to comply with subsection (b).

''(7) PREEMPTION.—Nothing in this subsection shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

''(d) NOTIFICATION.—Each owner or manager of housing assisted under a covered housing program shall provide to each applicant for or tenant of such housing notice of the rights of individuals under this section, including the right to confidentiality and the limits thereof, together with the form described in subsection (c)(3)(A)—

''(1) at the time the individual applies to live in a dwelling unit assisted under the covered housing program;

''(2) at the time the individual is admitted to a dwelling unit assisted under the covered housing program;

''(3) with any notification of eviction or notification of termination of assistance;

''(4) in multiple languages, consistent with guidance issued by the Secretary of Housing and Urban Development in accordance with Executive Order 13166 (42 U.S.C. 2000d–1 note; relating to access to services for persons with limited English proficiency); and

''(5) by posting the notification in a public area of such housing.

''(e) EMERGENCY TRANSFERS.—Notwithstanding any other provision of law, each owner or manager of housing assisted under a covered program shall adopt an emergency transfer policy for tenants who are victims of domestic violence, dating violence, sexual assault, or stalking that—

''(1) allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit assisted under a covered housing program if—

''(A) the tenant expressly requests the transfer; and

''(B)(i) the tenant reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit assisted under a covered housing program; or

''(ii) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90 day period preceding the request for transfer; and

''(2) incorporates reasonable confidentiality measures to ensure that the owner or manager does not disclose the location of the dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

''(f) POLICIES AND PROCEDURES FOR EMERGENCY TRANSFER.—The Secretary of Housing and Urban Development shall establish policies and procedures under which a victim requesting an emergency transfer under subsection (e) may receive, subject to the availability of tenant protection vouchers, assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

''(g) IMPLEMENTATION.—The appropriate agency with respect to each covered housing program shall implement this section, as this section applies to the covered housing program.''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 6.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(A) in subsection (c)—

(i) by striking paragraph (3); and

(ii) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(B) in subsection (l)—

(i) in paragraph (5), by striking '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(ii) in paragraph (6), by striking ''; except that'' and all that follows through ''stalking.''; and

(C) by striking subsection (u).

(2) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(A) in subsection (c), by striking paragraph (9);

(B) in subsection (d)(1)—

(i) in subparagraph (A), by striking ''and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission''; and

(ii) in subparagraph (B)—

(I) in clause (ii), by striking '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(II) in clause (iii), by striking '', except that:'' and all that follows through ''stalking.'';

(C) in subsection (f)—

(i) in paragraph (6), by adding ''and'' at the end;

(ii) in paragraph (7), by striking the semicolon at the end and inserting a period; and

(iii) by striking paragraphs (8), (9), (10), and (11);

(D) in subsection (o)—

(i) in paragraph (6)(B), by striking the last sentence;

(ii) in paragraph (7)—

(I) in subparagraph (C), by striking ''and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(II) in subparagraph (D), by striking ''; except that'' and all that follows through ''stalking.''; and

(iii) by striking paragraph (20);

(E) by striking subsection (ee).

(3) RULE OF CONSTRUCTION.—Nothing in this Act, or the amendments made by this Act, shall be construed—

(A) to limit the rights or remedies available to any person under section 6 or 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f), as in effect on the day before the date of enactment of this Act; or

(B) to limit any right, remedy, or procedure otherwise available under any provision of part 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—

(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 2960) or an amendment made by that Act; and

(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act.

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By Mr. REED:

S. 1893. A bill to amend titles 5, 10, and 32, United States Code, to eliminate inequities in the treatment of National Guard technicians, to reduce the eligibility age for retirement for non-Regular service, and for other purposes; to the Committee on Armed Services.

Mr. REED. Mr. President, today I introduce the National Guard Technician Equity Act to correct inconsistencies in the dual-status technician program.

Over 48,000 National Guard dual-status technicians serve our Nation. They are a distinct group of workers, as civilians, they work for the reserve components, performing administrative duties, providing training, and maintaining and repairing equipment. However, as a condition of their civilian position, they are also required to maintain military status, attending weekend drills and annual training, deploying to Iraq and Afghanistan, and responding to domestic disasters and emergencies, thereby creating their ''dual-status.''

Because of their unique position, dual-status technicians are caught between the provisions that govern the federal civilian workforce and the military in numerous ways. First, under existing law, a dual-status technician who is no longer fit for military duty must be fired from their technician position, even if they are still fully capable of performing their civilian duties. This bill would give technicians the option of remaining in their civilian position if they have 20 years of service as

a dual-status technician. This way we will retain the experience and skills of these dedicated employees.

Second, dual-status technicians do not have the same appeal rights as most other federal employees, including those civilians in other Department of Defense positions. Federal employees who are covered by a collective bargaining agreement have the right to file a grievance and proceed to arbitration, or file a case with the Merit Systems Protection Board, MSPB, a neutral Federal agency. Dual-status technicians may appeal to the Adjutant General in their state, but not to any neutral third party. This bill would allow them to also appeal to the MSPB for grievances unrelated to their military service.

Third, most reserve component members are able to obtain health care coverage through the TRICARE Reserve Select program. However, dual-status technicians are ineligible, despite their mandatory military status and reserve service, because they can participate in the Federal Employees Health Benefit Program, FEHBP. FEHBP plans can be more expensive than TRICARE Reserve Select, thereby adding costs and limiting health care options for these Guard technicians. My legislation simply calls for the Department of Defense to study the feasibility of converting the coverage for National Guard dual-status technicians from FEHBP to TRICARE Reserve Select.

The National Guard Technician Equity Act also corrects other inconsistencies by providing greater civilian and military retirement parity, providing eligibility to retain certain military bonuses and benefits, and increasing leave time for required military training.

I urge my colleagues to support and cosponsor the National Guard Technician Equity Act. I will also be working to include provisions of this bill in the National Defense Authorization Act, which the Senate has begun to consider, and I hope my colleagues can work together on this effort.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1893

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''National Guard Technician Equity Act''.

**SEC. 2. TITLES 10 AND 32, UNITED STATES CODE, AMENDMENTS REGARDING NATIONAL GUARD TECHNICIANS AND RELATED PROVISIONS.**

(a) AUTHORITY TO EMPLOY TECHNICIAN AS NON-DUAL STATUS TECHNICIAN AFTER 20 YEARS OF CREDITABLE SERVICE.—Subsection (c) of section 709 of title 32, United States Code, is amended to read as follows:

''(c) A person shall have the right to be employed under subsection (a) as a non-dual status technician (as defined by section 10217 of title 10) if—

''(1) the technician position occupied by the person has been designated by the Secretary concerned to be filled only by a non-dual status technician; or

''(2) the person occupying the technician position has at least 20 years of creditable service as a military technician (dual status).''.

(b) EXCEPTION TO DUAL-STATUS EMPLOYMENT CONDITION OF MEMBERSHIP IN SELECTED RESERVE.—Section 10216 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(B), by inserting ''subject to subsection (d),'' before ''is required''; and

(2) in subsection (d)(1), by striking ''Unless specifically exempted by law'' and inserting ''Except as provided in section 709(c)(2) of title 32 or as otherwise specifically exempted by law''.

(c) CONTINUED COMPENSATION AFTER LOSS OF MEMBERSHIP IN SELECTED RESERVE.—Subsection (e) of section 10216 of title 10, United States Code, is amended to read as follows:

''(e) CONTINUED COMPENSATION AFTER LOSS OF MEMBERSHIP IN SELECTED RESERVE.—Funds appropriated for the Department of Defense may continue to be used to provide compensation to a military technician who was hired as a military technician (dual status), but who is no longer a member of the Selected Reserve.''.

(d) REPEAL OF PERMANENT LIMITATIONS ON NUMBER OF NON-DUAL STATUS TECHNICIANS.—Section 10217 of title 10, United States Code, is amended by striking subsection (c).

(e) TECHNICIAN RESTRICTED RIGHT OF APPEAL AND ADVERSE ACTIONS COVERED.—

(1) RIGHTS OF GRIEVANCE, ARBITRATION, APPEAL, AND REVIEW BEYOND AG.—Section 709 of title 32, United States Code, is amended—

(A) in subsection (f)—

(i) in the matter preceding paragraph (1), by striking ''Notwithstanding any other provision of law and under'' and inserting ''Under''; and

(ii) in paragraph (4), by striking ''a right of appeal'' and inserting ''subject to subsection (j), a right of appeal''; and

(B) by adding at the end the following new subsection:

''(j)(1) Notwithstanding subsection (f)(4) or any other provision of law, a technician and a labor organization that is the exclusive representative of a bargaining unit including the technician shall have the rights of grievance, arbitration, appeal, and review extending beyond the adjutant general of the jurisdiction concerned and to the Merit Systems Protection Board and thereafter to the United States Court of Appeals for the Federal Circuit, in the same manner as provided in sections 4303, 7121, and 7701–7703 of title 5, with respect to a performance-based or adverse action imposing removal, suspension for more than 14 days, furlough for 30 days or less, or reduction in pay or pay band (or comparable reduction).

''(2) This subsection does not apply to a technician who is serving under a temporary appointment or in a trial or probationary period.''.

(2) ADVERSE ACTIONS COVERED.—Section 709(g) of title 32, United States Code, is amended by striking ''7511, and 7512''.

(3) CONFORMING AMENDMENT.—Section 7511(b) of title 5, United States Code, is amended—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) through (10) as paragraphs (5) through (9), respectively.

(f) TECHNICIAN SENIORITY RIGHTS DURING RIF.—Subsection (g) of section 709 of title 32, United States Code, as amended by subsection (e)(2), is amended to read as follows:

''(g) Section 2108 of title 5 does not apply to a person employed under this section.''.

(g) AVAILABILITY OF CERTAIN ENLISTMENT, REENLISTMENT, AND STUDENT LOAN BENEFITS FOR MILITARY TECHNICIANS.—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) ELIGIBILITY FOR BONUSES AND OTHER BENEFITS.—(1) If an individual becomes employed as a military technician (dual status) while the individual is already a member of a reserve component, the Secretary concerned may not require the individual to repay any enlistment, reenlistment, or affiliation bonus provided to the individual in connection with the individual's enlistment or reenlistment before such employment.

''(2) Even though an individual employed as a military technician (dual status) is required as a condition of that employment to maintain membership in the Selected Reserve, the individual shall not be precluded from receiving an enlistment, reenlistment, or affiliation bonus nor be denied the opportunity to participate in an educational loan repayment program under chapter 1609 of this title as an additional incentive for the individual to accept and maintain such membership''.

(h) REPEAL OF PROHIBITION AGAINST OVERTIME PAY FOR NATIONAL GUARD TECHNICIANS.—Section 709(h) of title 32, United States Code, is amended by striking the second sentence and inserting the following new sentence: ''The Secretary concerned shall pay a technician for irregular or overtime work at a rate equal to one and one-half times the rate of basic pay applicable to the technician, except that, at the request of the technician, the Secretary may grant the technician, instead of such pay, an amount of compensatory time off from the technician's scheduled tour of duty equal to the amount of time spent in such irregular or overtime work.''.

**SEC. 3. TITLE 5, UNITED STATES CODE, AMENDMENTS REGARDING NATIONAL GUARD TECHNICIANS AND RELATED PROVISIONS.**

(a) LOWERING RETIREMENT AGE.—

(1) AMENDMENT TO FERS.—Subsection (c) of section 8414 of title 5, United States Code, is amended to read as follows:

''(c)(1) Under the circumstances described in paragraph (2), an employee who is separated from service as a military technician (dual status) is entitled to an annuity if the separation is by reason of either—

''(A) separating from the Selected Reserve; or

''(B) ceasing to hold the military grade specified by the Secretary concerned for the position involved.

''(2) Except as provided in paragraph (3), paragraph (1) applies to a military technician (dual status) who is separated—

''(A) after completing 25 years of service as such a technician, or

''(B) after becoming 50 years of age and completing 20 years of service as such a technician.

''(3) Paragraph (1) does not apply if separation or removal is for cause on charges of misconduct or delinquency.''.

(2) AMENDMENT TO CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(q)(1) Under the circumstances described in paragraph (2), an employee who is separated from service as a military technician (dual status) is entitled to an annuity if the separation is by reason of either—

''(A) separating from the Selected Reserve; or

''(B) ceasing to hold the military grade specified by the Secretary concerned for the position involved.

''(2) Except as provided in paragraph (3), paragraph (1) applies to a military technician (dual status) who is separated—

''(A) after completing 25 years of service as such a technician, or

''(B) after becoming 50 years of age and completing 20 years of service as such a technician.

''(3) Paragraph (1) does not apply if separation or removal is for cause on charges of misconduct or delinquency.''.

(b) ADEQUATE LEAVE TIME FOR MILITARY ACTIVATIONS.—Section 6323(a)(1) of title 5, United States Code, is amended by striking the last sentence and inserting the following new sentence: ''Leave under this subsection accrues for an employee or individual at the rate of 30 days per fiscal year and, to the extent that such leave is not used by the employee or individual during the fiscal year accrued, accumulates without limitation for use in succeeding fiscal years.''.

(c) IMPROVED HEALTH CARE BENEFITS.—

(1) FEHBP CHANGES.—Subparagraph (B) of section 8906(e)(3) of title 5, United States Code, is amended to read as follows:

''(B) An employee referred to in subparagraph (A) is an employee who—

''(i) is enrolled in a health benefits plan under this chapter;

''(ii) is a member of a reserve component of the Armed Forces;

''(iii) is placed on leave without pay or separated from service to perform the active duty or other duties described in clause (iv); and

''(iv) is called or ordered to—

''(I) active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

''(II) active duty for a period of more than 30 consecutive days;

''(III) active duty under section 12406 of title 10;

''(IV) perform training or other duties described under paragraph (1) or (2) of section 502(f) of title 32; or

''(V) while not in Federal service, perform duties related to an emergency declared by the chief executive of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.''.

(2) STUDY AND REPORT.—

(A) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Defense and the Director of the Office of Personnel Management shall jointly conduct a study and submit to Congress a report—

(i) evaluating the feasibility of converting military technicians from FEHBP coverage to coverage provided under the TRICARE or TRICARE Reserve Select program (or both); and

(ii) identifying any problems associated with the conversion of military technicians from FEHBP coverage to coverage provided under chapter 55 of title 10, United States Code, during contingency operations.

(B) DEFINITIONS.—For purposes of this subsection—

(i) the term ''FEHBP coverage'' means coverage provided under chapter 89 of title 5, United States Code; and

(ii) the term ''contingency operation'' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

**SEC. 4. REDUCTION IN ELIGIBILITY AGE FOR RETIREMENT FOR NON-REGULAR SERVICE.**

Section 12731(f) of title 10, United States Code, is amended by striking ''60 years of age'' both places it appears and inserting ''55 years of age''.

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By Mr. SCHUMER (for himself, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. KYL, Mr. HATCH, and Mr. CORNYN):

S. 1894. A bill to deter terrorism, provide justice for victims, and for other purposes, to the Committee on the Judiciary.

Mr. SCHUMER. Mr. President, I rise today to introduce the Justice Against Sponsors of Terrorism Act, or JASTA. JASTA is a bipartisan effort to make modest changes to the Foreign Sovereign Immunities Act, or FSIA, and the Anti-Terrorism Act, or ATA, in order to ensure that the victims of terrorism in the United States can hold the foreign sponsors of that terrorism to account in American courts.

I am especially proud to be introducing this measure with such a bipartisan and diverse group of Judiciary Committee colleagues: Myself and Senator WHITEHOUSE on the Democratic side, and Senators GRAHAM, HATCH, KYL, and CORNYN on the Republican side.

This legislation has become necessary due to flawed court decisions that have deprived the victims of terrorism on American soil, including those injured by the terrorist attacks of September 11, 2001, of their day in court. Unfortunately, and contrary to the clear intent of Congress, some courts have concluded that Americans who were injured due to terrorist attacks in the United States have no recourse against the foreign states that sponsor those attacks. This conclusion is contrary to the plain language of the FSIA and ATA, and it is bad policy.

Let me explain the legal background. Originally passed in 1976, the FSIA abrogates the sovereign immunity of foreign countries and permits suit against them in Federal court when, among other things, a foreign country or its instrumentalities commit a tort that results in injury on our soil, this is known as the ''tort exception'' to the FSIA. In addition, the ATA authorizes suit in Federal court by any U.S. national injured ''by reason of an act of international terrorism'' and permits the recovery of damages in U.S. courts.

Thus, taken together, the FSIA and ATA were designed to enable terrorism victims to bring suit against foreign states and terror sponsors when they support terrorism against the United States. I am introducing this bill because I want the survivors of the 9/11 tragedy to have their day in court—and they were deprived of this by a court ruling that contorted the language and purpose of the FSIA and the ATA. As we all know, nearly 3,000 innocent victims died that day, and the Nation suffered $10 billion in property and other commercial damage alone—all at the hands of al-Qaeda and its funders.

In 2002, these plaintiffs sued, among other defendants, the Kingdom of Saudi Arabia, several Saudi officials, and a purported charity under the control of the Kingdom known as the Saudi High Commission for Relief of Bosnia and Herzegovina. Substantial evidence establishes that these defendants had provided funding and sponsorship to al-Qaeda without which it could not have carried out the attacks.

But the Second Circuit threw out this case, based on two flawed conclusions. First, the court ruled that the tort exception to the FSIA did not apply, and barred their case because the Saudi entities and individuals were not on the State Department's list. Second, the court ruled that there was no personal jurisdiction over the Saudis because while they certainly could ''foresee'' that their support would lead to terrorist acts, they did not ''direct'' the terrorist acts. There is another reason that I am introducing this bill. I am introducing this bill because we need to cut off the flow of money to terrorists by shutting down the reservoir—not just turning off the faucet. We need to use every tool at our disposal to hit terrorism at its very root, including the United States Federal courts.

You don't have to take my word for it. This focus on terrorist financing channels has been a major national security priority since the September 11 attacks. As the Treasury Department's former Under Secretary for Terrorism and Financial Intelligence has observed, ''the terrorist operative who is willing to strap on a suicide belt is not susceptible to deterrence, but the individual donor who wants to support violent jihad may well be,'' Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, before the Senate Committee on Finance, April 1, 2008.

It should be clear that the public interest is served when American citizens have the right to seek compensation for their injuries and that this right serves a dual purpose of deterring bad conduct. Yet we are here today introducing this bill, JASTA, because the courts have misconstrued our statutes.

Before closing, let me address one concern I have heard that deserves a response. There are those who worry that restoring Americans' right to bring these suits will interfere with our foreign affairs. I simply do not think that is the case. First of all, if Americans have been injured in the United States by foreign terrorism, they have the right to seek redress. But it is also important to remember that this law does not prevent the Executive Branch from espousing claims brought by Americans against foreign states and settling them through an executive agreement. This is an executive authority that has been recognized and utilized going back to the administration of George Washington, and nothing in JASTA interferes with it. Nothing in this act would interfere with the execution of our foreign policy.

To conclude, JASTA will restore the rights of the victims of terrorism and deter international terrorist financing, and it will have the related benefit of enabling the victims of the September 11 Attacks to proceed with their case, as Congress had intended. It does so without in any way threatening sensitive National security or diplomatic priorities of the nation. In fact, it makes the Nation stronger.

I urge my colleagues to support these modest, but critical, amendments.

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By Mr. CASEY:

S. 1897. A bill to amend Public Law 101–377 to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes, to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, this Saturday, November 19, marks the 148 Anniversary of the Gettysburg Address. In this address, President Abraham Lincoln famously said, ''The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us the living rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain, that this nation under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth.''

In advance of this important historic occasion, I am introducing the Gettysburg National Military Park Expansion Act. If enacted, this legislation would expand the boundaries of Gettysburg National Military Park to include the historic Gettysburg Railroad Station and an additional 45 acres of land at the southern end of the battlefield. Through these acquisitions, the between 1.5 to 3 million people that visit Gettysburg each year will enjoy a more complete experience. Passage of this legislation is very important, especially right now as the Park prepares for the 150 Anniversary of the Battle of Gettysburg.

The Gettysburg Railroad Station, which is also known as the Lincoln Train Station, is located in downtown Gettysburg, Pennsylvania. It was built in 1858 and is listed in the National Register of Historic Places. During the Battle of Gettysburg, the building served as a train station to transport thousands of troops and also as a hospital. Perhaps more important historically, this station was the site to which President Lincoln arrived on the day before he delivered the Gettysburg Address in 1863. This station is currently operated by the National Trust for Historic Gettysburg and is open to the public year round. It also serves as the home to the Pennsylvania Abraham Lincoln Bicentennial Commission, which organized and held events in 2009 to commemorate the 200th anniversary of Lincoln's birth. The station was renovated in 2006 using state grant money to serve as an information and orientation center, but currently does not serve as such because of a lack of funds to manage its day-to-day operations. The Gettysburg Borough Council voted in 2008 to transfer the station to the National Park Service so that it could be used as a visitor center for tourists coming to the Gettysburg area.

The Gettysburg National Military Park Expansion Act would also expand the boundary of the Gettysburg National Military Park to include 45 acres of land at the southern end of the battlefield. This area is both historically and environmentally significant. It was where cavalry skirmishes during the Battle for Gettysburg occurred and is also home to wetlands and wildlife habitat related to the Plum Run stream that runs through the National Park. The forty five acres were donated in April of 2009 and as a result no federal funding or land acquisition would be required to obtain the property and incorporate it into the National Park.

The Gettysburg National Military Park Expansion Act would help preserve different sites that are historically significant while protecting the environment. The Civil War was a monumental moment in our Nation's history and because of this we must take steps to preserve the area's historical sites.

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By Mr. KIRK (for himself and Mr. DURBIN):

S. 1902. A bill to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the State of Illinois, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KIRK. Mr. President, today I am pleased to join with Senator DURBIN to introduce a bill in support of New Philadelphia, the first town founded by a freed African-American. This bipartisan legislation would initiate a feasibility study in order to determine whether or not this area should be designated as a unit of the National Park System.

The town of New Philadelphia, Illinois, established in 1836, became the first known town platted and officially registered by an African-American prior to the Civil War. New Philadelphia became a place where European Americans, free-born African-Americans, and formerly enslaved individuals could live together in community during a time of intense racial strife that transpired before, during, and after the Civil War.

Frank McWorter, the founder of New Philadelphia and a former slave himself, saved money from neighboring labor jobs to purchase his own freedom and the freedom of fifteen other family members. Subsequently, Mr. McWorter purchased a sparse plot of land between the Illinois and Mississippi Rivers in Pike County, Illinois to establish the town of New Philadelphia, which also became a station along the Underground Railroad.

In 2005, the town of New Philadelphia is designated a National Historic Place and more recently, it was designated a National Historic Landmark in 2009. Being designated a unit of the National Park System will preserve the historical significance of New Philadelphia and allow its legacy to continue to inspire current and future generations to understand the struggle for freedom and opportunity.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1902

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''New Philadelphia, Illinois, Study Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) Frank McWorter, an enslaved man, bought his freedom and the freedom of 15 family members by mining for crude niter in Kentucky caves and processing the mined material into saltpeter;

(2) New Philadelphia, founded in 1836 by Frank McWorter, was the first town planned and legally registered by a free African-American before the Civil War;

(3) the first railroad constructed in the area of New Philadelphia bypassed New Philadelphia, which led to the decline of New Philadelphia; and

(4) the New Philadelphia site—

(A) is a registered National Historic Landmark;

(B) is covered by farmland; and

(C) does not contain any original buildings of the town or the McWorter farm and home that are visible above ground.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STUDY AREA.—The term ''Study Area'' means the New Philadelphia archeological site and the surrounding land in the State of Illinois.

**SEC. 4. SPECIAL RESOURCE STUDY.**

(a) STUDY.—The Secretary shall conduct a special resource study of the Study Area.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the Study Area;

(2) determine the suitability and feasibility of designating the Study Area as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Study Area by—

(A) Federal, State, or local governmental entities; or

(B) private and nonprofit organizations;

(4) consult with—

(A) interested Federal, State, or local governmental entities;

(B) private and nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the

Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

(e) FUNDING.—The study authorized under this section shall be carried out using existing funds of the National Park Service.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 332—SUPPORTING THE GOALS AND IDEALS OF AMERICAN EDUCATION WEEK

Mrs. HAGAN (for herself and Mr. KIRK) submitted the following resolution; which was considered and agreed to:

S. RES. 332

Whereas the National Education Association has designated November 13 through November 19, 2011, as the 90th annual observance of American Education Week;

Whereas public schools are the backbone of the Nation's democracy, providing young people with the tools they need to maintain the Nation's precious values of freedom, civility, and equality;

Whereas by equipping young people in the United States with both practical skills and broader intellectual abilities, public schools give them hope for, and access to, a productive future;

Whereas people working in the field of public education, be they teachers, principals, higher education faculty and staff, custodians, substitute educators, bus drivers, clerical workers, food service professionals, workers in skilled trades, health and student service workers, security guards, technical employees, or librarians, work tirelessly to serve children and communities throughout the Nation with care and professionalism; and

Whereas public schools are community linchpins, bringing together adults, children, educators, volunteers, business leaders, and elected officials in a common enterprise: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of American Education Week; and

(2) encourages the people of the United States to observe National Education Week by reflecting on the positive impact of all those who work together to educate children.

### SENATE RESOLUTION 333—WELCOMING AND COMMENDING THE GOVERNMENT OF JAPAN FOR EXTENDING AN OFFICIAL APOLOGY TO ALL UNITED STATES FORMER PRISONERS OF WAR FROM THE PACIFIC WAR AND ESTABLISHING IN 2010 A VISITATION PROGRAM TO JAPAN FOR SURVIVING VETERANS, FAMILY MEMBERS, AND DESCENDANTS

Mrs. FEINSTEIN (for herself and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Whereas the United States and Japan have enjoyed a productive and successful peace for over six decades, which has nurtured a strong and critical alliance and deep economic ties that are vitally important to both countries, the Asia-Pacific region, and the world;

Whereas the United States-Japan alliance is based on shared interests, responsibilities, and values and the common support for political and economic freedoms, human rights, and international law;

Whereas the United States-Japan alliance has been maintained by the contributions and sacrifices of members of the United States Armed Forces dedicated to Japan's defense and democracy;

Whereas, from December 7, 1941, to August 15, 1945, the Pacific War caused profound damage and suffering to combatants and noncombatants alike;

Whereas, among those who suffered and sacrificed greatly were the men and women of the United States Armed Forces who were captured by Imperial Japanese forces during the Pacific War;

Whereas many United States prisoners of war were subject to brutal and inhumane conditions and forced labor;

Whereas, according to the Congressional Research Service, an estimated 27,000 United States prisoners of war were held by Imperial Japanese forces and nearly 40 percent perished;

Whereas the American Defenders of Bataan and Corregidor and its subsequent Descendants Group have worked tirelessly to represent the thousands of United States veterans who were held by Imperial Japanese forces as prisoners of war during the Pacific War;

Whereas, on May 30, 2009, an official apology from the Government of Japan was delivered by Japan's Ambassador to the United States Ichiro Fujisaki to the last convention of the American Defenders of Bataan and Corregidor stating, ''Today, I would like to convey to you the position of the government of Japan on this issue. As former Prime Ministers of Japan have repeatedly stated, the Japanese people should bear in mind that we must look into the past and to learn from the lessons of history. We extend a heartfelt apology for our country having caused tremendous damage and suffering to many people, including prisoners of wars, those who have undergone tragic experiences in the Bataan Peninsula, Corregidor Island, in the Philippines, and other places.'';

Whereas, in 2010, the Government of Japan through its Ministry of Foreign Affairs has established a new program of remembrance and understanding that, for the first time, includes United States former prisoners of war and their family members or other caregivers by inviting them to Japan for exchange and friendship;

Whereas six United States former prisoners of war, each of whom was accompanied by a family member, and two descendants of prisoners of war participated in Japan's first Japanese/American POW Friendship Program from September 12, 2010, to September 19, 2010;

Whereas Japan's Foreign Minister Katsuya Okada on September 13, 2010, apologized to all United States former prisoners of war on behalf of the Government of Japan stating, ''You have all been through hardships during World War II, being taken prisoner by the Japanese military, and suffered extremely inhumane treatment. On behalf of the Japanese government and as the foreign minister, I would like to offer you my heartfelt apology.'';

Whereas Foreign Minister Okada stated that he expects the former prisoners of war exchanges with the people of Japan will ''become a turning point in burying their bitter feelings about the past and establishing a better relationship between Japan and the United States'';

Whereas Japan's Deputy Chief Cabinet Secretary Tetsuro Fukuyama on September 13, 2010, apologized to United States former prisoners of war for the ''immeasurable damage and suffering'' they experienced;

Whereas the participants of the first Japanese/American POW Friendship Program appreciated the generosity and hospitality they received from the Government and people of Japan during the Program and welcomed the apology offered by Foreign Minister Okada and Deputy Chief Cabinet Secretary Fukuyama;

Whereas the participants encourage the Government of Japan to continue this program of visitation and friendship and expand it to support projects for remembrance, documentation, and education; and

Whereas the United States former prisoners of war of Japan still await apologies and remembrance from the successor firms of those private entities in Japan that, in violation of the Third Geneva Convention and in unmerciful conditions, used their labor for economic gain to sustain war production: Now, therefore, be it

*Resolved*, That the Senate—

(1) welcomes and commends the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, their families, and descendants;

(2) appreciates the recent efforts by the Government of Japan toward historic apologies for the maltreatment of United States former prisoners of war;

(3) requests that the Government of Japan continue its new Japanese/American POW Friendship Program of reconciliation and remembrance and expand it to educate the public and its school children about the history of prisoners of war in Imperial Japan;

(4) requests that the Government of Japan respect the wishes and sensibilities of the United States former prisoners of war by supporting and encouraging programs for lasting remembrance and reconciliation that recognize their sacrifices, history, and forced labor;

(5) acknowledges the work of the Department of State in advocating for the United States prisoners of war from the Pacific War; and

(6) applauds the persistence, dedication, and patriotism of the members and descendants of the American Defenders of Bataan and Corregidor for their pursuit of justice and lasting peace.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1062. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1063. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1064. Mr. PAUL (for himself, Mrs. GILLIBRAND, Mr. WYDEN, Mr. LEAHY, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1065. Ms. AYOTTE (for herself, Mr. MCCAIN, and Mr. REED) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1066. Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1067. Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1068. Ms. AYOTTE (for herself, Mr. CHAMBLISS, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1069. Ms. KLOBUCHAR (for herself, Mr. THUNE, Mr. JOHNSON of South Dakota, Mr. FRANKEN, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 957 proposed by Mr. REID to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1070. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1071. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1072. Mr. LEAHY (for himself, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. AYOTTE, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COATS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CRAPO, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. INOUYE, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEE, Mr. LUGAR, Mr. MANCHIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. RISCH, Mr. SANDERS, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. UDALL of Colorado, Mr. VITTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Mr. TOOMEY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1073. Mr. CARDIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1074. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1075. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1076. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1077. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1078. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1079. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1080. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1081. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1082. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1083. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1084. Mr. MCCONNELL (for Mr. KIRK (for himself, Mr. JOHANNS, Mr. MANCHIN, Mr. HELLER, Mr. BLUNT, Mr. ROBERTS, Mr. RUBIO, Mr. BROWN of Massachusetts, Mr. COATS, and Mr. TESTER)) proposed an amendment to the bill S. 1867, supra.

SA 1085. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1086. Mr. ROBERTS (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1087. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1088. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1089. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1090. Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1091. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 957 proposed by Mr. REID to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1092. Mr. LEVIN (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. CHAMBLISS, Mr. BLUMENTHAL, Mr. INHOFE, Mrs. GILLIBRAND, Mr. NELSON of Nebraska, Ms. STABENOW, Mr. UDALL of Colorado, Mr. WEBB, Mr. MANCHIN, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 1093. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1094. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1095. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1096. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1097. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1098. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1099. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1100. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1101. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1102. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1103. Mr. CARDIN (for himself, Mr. WICKER, Mrs. FEINSTEIN, Ms. MIKULSKI, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1104. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1105. Ms. COLLINS (for herself, Mr. BEGICH, and Mr. MANCHIN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 1106. Mr. MCCAIN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1107. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1108. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1109. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1110. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1111. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1112. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1113. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1114. Mr. BEGICH (for himself, Ms. SNOWE, Mr. CASEY, Mr. GRASSLEY, Mr. LEAHY, Mr. GRAHAM, Ms. MURKOWSKI, Mr. AKAKA, Mr. PRYOR, Mr. BROWN of Massachusetts, Mr. MANCHIN, and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1115. Ms. LANDRIEU (for herself, Ms. SNOWE, Mrs. SHAHEEN, Mr. BROWN of Massachusetts, and Mr. KERRY) submitted an

amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1116. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1117. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1118. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1119. Mr. BROWN, of Massachusetts (for himself and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1120. Mrs. SHAHEEN (for herself, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BLUMENTHAL, Ms. STABENOW, Mr. DURBIN, Mr. TESTER, Mr. FRANKEN, and Mr. COONS) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1121. Mrs. SHAHEEN (for herself, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BLUMENTHAL, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1122. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1123. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1124. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1125. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1126. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1127. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2056, to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes; which was referred to the Committee on Banking, Housing, and Urban Affairs.

SA 1128. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1129. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1130. Mr. REID (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1131. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1132. Mr. MCCAIN (for himself and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1133. Mr. BLUNT (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1134. Mr. BLUNT submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1135. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1136. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1137. Mr. HELLER (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1138. Mr. HELLER (for himself, Mr. BROWN of Massachusetts, Mr. BOOZMAN, Mr. BLUMENTHAL, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1139. Mr. CASEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1140. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1141. Mrs. BOXER (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1142. Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1143. Mrs. HAGAN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1144. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1145. Mr. TESTER (for himself, Mrs. HUTCHISON, and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1146. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1147. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1148. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1149. Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1150. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1151. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1152. Mr. PRYOR (for himself, Mr. BOOZMAN, Mr. CRAPO, Mr. GRASSLEY, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Mr. LEAHY, Mr. SESSIONS, Mrs. SHAHEEN, Ms. SNOWE, Mr. TESTER, Mr. THUNE, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1153. Mr. UDALL, of New Mexico (for himself, Mr. HELLER, Mr. BINGAMAN, Mrs. GILLIBRAND, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1154. Mr. UDALL, of New Mexico (for himself, Mr. CORKER, Mrs. MCCASKILL, Mr. BINGAMAN, Mr. ALEXANDER, Mr. NELSON of Florida, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1155. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1156. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1157. Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1158. Ms. COLLINS (for herself, Mr. BEGICH, and Mr. MANCHIN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1159. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1160. Mr. WYDEN (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1161. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1162. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1163. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1164. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1165. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1166. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1167. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1168. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1169. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1170. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1171. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1172. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1173. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1174. Mr. MERKLEY (for himself, Mr. LEE, Mr. UDALL of New Mexico, Mr. PAUL, and Mr. BROWN of Ohio) proposed an amendment to the bill S. 1867, supra.

SA 1175. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1176. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1177. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1178. Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1179. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1180. Ms. COLLINS (for herself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra.

SA 1181. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1182. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1183. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1184. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1185. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1186. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1187. Mrs. GILLIBRAND (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1188. Mr. CARDIN (for himself, Mr. WICKER, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. CASEY, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1189. Mrs. MURRAY (for herself, Mrs. GILLIBRAND, and Mrs. MCCASKILL) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1190. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1191. Mr. RUBIO submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1192. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1193. Mr. DURBIN (for himself, Mr. KIRK, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1194. Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1195. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1196. Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1197. Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 1867, supra.

SA 1198. Mrs. HUTCHISON (for herself, Mr. JOHNSON of South Dakota, Mr. THUNE, and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1199. Mrs. HUTCHISON (for herself, Mr. BLUNT, Mr. MANCHIN, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1200. Mr. CORNYN (for himself, Mr. MENENDEZ, Mr. INHOFE, Mr. LIEBERMAN, Mr. WYDEN, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1201. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 1072 submitted by Mr. LEAHY (for himself, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. AYOTTE, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COATS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CRAPO, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. INOUYE, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEE, Mr. LUGAR, Mr. MANCHIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. RISCH, Mr. SANDERS, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. UDALL of Colorado, Mr. VITTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Mr. TOOMEY, and Mr. KERRY) to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1202. Mr. UDALL of New Mexico (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1203. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1204. Mr. REED (for himself, Ms. AYOTTE, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Mr. LEAHY, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1205. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1206. Mrs. BOXER (for herself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mrs. MCCASKILL, Mr. AKAKA, Mr. FRANKEN, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1207. Mr. COBURN (for himself, Mr. LEVIN, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1208. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

SA 1209. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1210. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1211. Mrs. GILLIBRAND (for herself and Mr. BLUNT) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1212. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1213. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1214. Ms. SNOWE (for herself, Ms. COLLINS, Mrs. MURRAY, Ms. MIKULSKI, and Mr. CARDIN) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1215. Mr. CASEY (for himself, Mr. BARRASSO, Mr. BLUMENTHAL, Mr. BENNET, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 1867, supra.

SA 1216. Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1217. Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1218. Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1219. Mr. LEVIN (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1220. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1221. Mr. LEVIN proposed an amendment to the bill H.R. 2056, to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.

SA 1222. Mr. LEVIN (for Mrs. FEINSTEIN (for herself and Ms. CANTWELL)) proposed an amendment to the bill H.R. 3321, to facilitate the hosting in the United States of the 34th America's Cup by authorizing certain eligible vessels to participate in activities related to the competition, and for other purposes.

SA 1223. Mr. LEVIN (for Mr. BINGAMAN (for himself and Ms. MURKOWSKI)) proposed an

amendment to the bill S. 99, to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes.

SA 1224. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1225. Ms. KLOBUCHAR (for herself, Mrs. FEINSTEIN, Mr. JOHNSON of South Dakota, and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1226. Ms. KLOBUCHAR (for herself, Mr. THUNE, Mr. JOHNSON of South Dakota, Mr. FRANKEN, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1062.** Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1031.

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**SA 1063.** Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1005. AUDIT READINESS OF FINANCIAL STATEMENTS OF DEPARTMENT OF DEFENSE.**

Section 1003(a)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2440; 10 U.S.C. 2222 note) is amended by striking ''September 30, 2017'' and inserting ''September 30, 2014''.

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**SA 1064.** Mr. PAUL (for himself, Mrs. GILLIBRAND, Mr. WYDEN, Mr. LEAHY, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1230. REPEAL OF AUTHORIZATION FOR USE OF MILITARY FORCE AGAINST IRAQ.**

The Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 116 Stat. 1498; 50 U.S.C. 1541 note) is repealed effective on the date of the enactment of this Act or January 1, 2012, whichever occurs later.

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**SA 1065.** Ms. AYOTTE (for herself, Mr. MCCAIN, and Mr. REED) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 136. STRATEGIC AIRLIFT AIRCRAFT FORCE STRUCTURE.**

Section 8062(g)(1) of title 10, United States Code, is amended—

(1) by striking ''October 1, 2009'' and inserting ''October 1, 2011''; and

(2) by striking ''316 aircraft'' and inserting ''301 aircraft''.

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**SA 1066.** Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1005. AUDIT READINESS OF FINANCIAL STATEMENTS OF DEPARTMENT OF DEFENSE.**

Section 1003(a)(2)(A)(ii) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2440; 10 U.S.C. 2222 note) is amended by inserting '', and that a complete and validated full statement of budget resources is ready by not later than September 30, 2014'' after ''validated as ready for audit by not later than September 30, 2017''.

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**SA 1067.** Ms. AYOTTE submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1038. REQUIRED NOTIFICATION OF CONGRESS WITH RESPECT TO THE INITIAL CUSTODY AND FURTHER DISPOSITION OF MEMBERS AL-QAEDA AND AFFILIATED ENTITIES.**

(a) REQUIRED NOTIFICATION WITH RESPECT TO INITIAL CUSTODY.—

(1) IN GENERAL.—When a covered person, as defined in subsection (c), is taken into the custody of the United States Government, the Secretary of Defense and the Director of National Intelligence shall notify the specified congressional committees, as defined in subsection (d), within 10 days.

(2) REPORTING REQUIREMENT.—The notification submitted pursuant to paragraph (1) shall be in classified form and shall include, at a minimum, the suspect's name, nationality, date of capture or transfer to the United States, location of capture, places of custody since capture or transfer, suspected terrorist affiliation and activities, and agency responsible for interrogation.

(b) REQUIRED NOTIFICATION WITH RESPECT TO FURTHER DISPOSITION.—

(1) IN GENERAL.—Not later than 60 days after the United States Government takes custody of a covered person, the Secretary of Defense and the Director of National Intelligence shall notify and inform the specified congressional committees of the intended disposition of the covered person under section 1031(c).

(2) REPORTING REQUIREMENT.—The notification required under paragraph (1) shall be in classified form and shall include the relevant facts, justification, and rationale that serves as the basis for the disposition option chosen.

(c) COVERED PERSONS.—For the purposes of this section, a covered person is an individual suspected of being—

(1) a member of, or part of, al-Qaeda or an affiliated entity; and

(2) a participant in the course of planning or carrying out an attack or attempted attack against the United States or its coalition partners.

(d) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term ''specified congressional committees'' means—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.

(e) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of this Act, and shall apply with respect to persons described in subsection (c) who are taken into the custody or brought under the control of the United States on or after that date.

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**SA 1068.** Ms. AYOTTE (for herself, Mr. CHAMBLISS, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1038. AUTHORITY FOR LAWFUL INTERROGATION METHODS IN ADDITION TO THE INTERROGATION METHODS AUTHORIZED BY THE ARMY FIELD MANUAL.**

(a) AUTHORITY.—Notwithstanding section 1402 of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), the personnel of the United States Government specified in subsection (c) are hereby authorized to engage in interrogation for the purpose of collecting foreign intelligence information using methods set forth in the classified annex required by subsection (b) provided that such interrogation methods comply with all applicable laws, including the laws specified in subsection (d).

(b) CLASSIFIED ANNEX.—Not later than 90 days after the date of the enactment of this Act, and on such basis thereafter as may be necessary for the effective collection of foreign intelligence information, the Secretary of Defense shall, in consultation with the Director of National Intelligence and the Attorney General, ensure the adoption of a classified annex to Army Field Manual 2-22.3 that sets forth interrogation techniques and approaches, in addition to those specified in Army Field Manual 2-22.3, that may be used for the effective collection of foreign intelligence information.

(c) COVERED PERSONNEL.—The personnel of the United States Government specified in this subsection are the officers and employees of the elements of the intelligence community that are assigned to or support the entity responsible for the interrogation of high value detainees (currently known as the ''High Value Detainee Interrogation Group''), or a successor entity.

(d) SPECIFIED LAWS.—The law specified in this subsection is as follows:

(1) The United Nations Convention Against Torture, signed at New York, February 4, 1985.

(2) Chapter 47A of title 10, United States Code, relating to military commissions (as amended by the Military Commissions Act of 2009 (title XVIII of Public Law 111–84)).

(3) The Detainee Treatment Act of 2005 (title XIV of Public Law 109–163).

(4) Section 2441 of title 18, United States Code.

(e) SUPERSEDURE OF EXECUTIVE ORDER.—The provisions of Executive Order No. 13491, dated January 22, 2009, shall have no further force or effect, to the extent such provisions are inconsistent with the provisions of this section.

(f) DEFINITIONS.—In this section:

(1) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''element of the intelligence community'' means an element of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) FOREIGN INTELLIGENCE INFORMATION.—The term ''foreign intelligence information'' has the meaning given that term in section 101(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e)).

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**SA 1069.** Ms. KLOBUCHAR (for herself, Mr. THUNE, Mr. JOHNSON of South Dakota, Mr. FRANKEN, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 957 proposed by Mr. REID to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, between lines 15 and 16, insert the following:

SEC. 2____. None of the funds appropriated or otherwise made available by this Act for ongoing construction work on rural water regional programs of the Bureau of Reclamation that is in addition to the amount requested in the annual budget submission of the President (including funds for related settlements) shall be used by the Secretary of the Interior to carry out any rural water supply project (as defined in section 102 of the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. 2401)) that is authorized after the date of enactment of this Act unless the Secretary of the Interior, not later than 60 days after the date of enactment of this Act, issues a work plan prioritizing funding of rural water supply projects carried out by the Bureau of Reclamation based on the following criteria to better utilize taxpayer dollars:

(1) The percentage of the rural water supply project to be carried out that is complete (as of the date of enactment of this Act) or will be completed by September 30, 2012.

(2) The number of people served or expected to be served by the rural water supply project.

(3) The amount of non-Federal funds previously provided or certified as available for the cost of the rural water supply project.

(4) The extent to which the rural water supply project benefits tribal components.

(5) The extent to which there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs of the population served by the rural water supply project.

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**SA 1070.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1080. REPORT ON MANPADS IN LIBYA.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and semiannually thereafter for three years, the Secretary of State, in consultation with the Secretary of Defense and the Director of National Intelligence, shall submit to Congress a report in classified and unclassified form on the disposition of and accounting for the Man Portable Air Defense Systems (MANPADS) that were under the control of the Government of Libya during the regime of Colonel Muammar Gaddafi.

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

(1) Intelligence estimates as to the number of MANPADS under the control of the Government of Libya prior to February 16, 2011.

(2) A summary of United States and NATO efforts to account for all of the MANPADS, and ancillary equipment necessary to operate the MANPADS, following the beginning of NATO's intervention in Libya.

(3) The comprehensive strategy to prevent terrorist organizations from gaining control of the MANPADS.

(4) An assessment of the probability of and threat posed by an air defense weapons system like MANPADS being obtained and used by a terrorist organization.

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**SA 1071.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 889. OVERSIGHT OF AND REPORTING REQUIREMENTS WITH RESPECT TO EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM.**

The Secretary of Defense shall—

(1) redesignate the Evolved Expendable Launch Vehicle program as a major defense acquisition program not in the sustainment phase under section 2430 of title 10, United States Code; or

(2) require the Evolved Expendable Launch Vehicle program—

(A) to provide to the congressional defense committees all information with respect to the cost, schedule, and performance of the program that would be required to be provided under sections 2431 (relating to weapons development and procurement schedules), 2432 (relating to Select Acquisition Reports, including updated program life-cycle cost estimates), and 2433 (relating to unit cost reports) of title 10, United States Code, with respect to the program if the program were designated as a major defense acquisition program not in the sustainment phase; and

(B) to provide to the Under Secretary of Defense for Acquisition, Technology, and Logistics—

(i) a quarterly cost and status report, commonly known as a Defense Acquisition Executive Summary, which serves as an early-warning of actual and potential problems with a program and provides for possible mitigation plans; and

(ii) earned value management data that contains measurements of contractor technical, schedule, and cost performance.

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**SA 1072.** Mr. LEAHY (for himself, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. AYOTTE, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN, of Massachusetts, Mr. BROWN, of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COATS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CRAPO, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. INOUYE, Mr. JOHANNS, Mr. JOHNSON, of Wisconsin, Mr. JOHNSON, of South Dakota, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEE, Mr. LUGAR, Mr. MANCHIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Mrs. MURRAY, Mr. NELSON, of Nebraska, Mr. PRYOR, Mr. RISCH, Mr. SANDERS, Mr. SCHUMER, Mrs. SHAHEEN, Ms. STABENOW, Mr. TESTER, Mr. UDALL, of Colorado, Mr. VITTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Mr. TOOMEY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follow:

At the end of division A, add the following:

**TITLE XVI—NATIONAL GUARD EMPOWERMENT**

**SEC. 1601. SHORT TITLE.**

This title may be cited as the ''National Guard Empowerment and State-National Defense Integration Act of 2011''.

**SEC. 1602. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU AND TERMINATION OF POSITION OF DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.**

(a) REESTABLISHMENT AND TERMINATION OF POSITIONS.—Section 10505 of title 10, United States Code, is amended to read as follows:

**''§ 10505. Vice Chief of the National Guard Bureau**

''(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

''(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

''(C) are in a grade above the grade of brigadier general.

''(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

''(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

''(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

''(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

''(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

''(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 10502 of such title is amended by striking subsection (e).

(2) Section 10506(a)(1) of such title is amended by striking ''and the Director of the Joint Staff of the National Guard Bureau'' and inserting ''and the Vice Chief of the National Guard Bureau''.

(c) CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of section 10502 of such title is amended to read as follows:

**''§ 10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade''.**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1011 of such title is amended—

(A) by striking the item relating to section 10502 and inserting the following new item:

''10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade.'';

and

(B) by striking the item relating to section 10505 and inserting the following new item:

''10505. Vice Chief of the National Guard Bureau.''.

**SEC. 1603. MEMBERSHIP OF THE CHIEF OF THE NATIONAL GUARD BUREAU ON THE JOINT CHIEFS OF STAFF.**

(a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(7) The Chief of the National Guard Bureau.''.

(b) CONFORMING AMENDMENTS.—Section 10502 of such title, as amended by section 2(b)(1) of this Act, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) MEMBER OF JOINT CHIEFS OF STAFF.—The Chief of the National Guard Bureau shall perform the duties prescribed for him or her as a member of the Joint Chiefs of Staff under section 151 of this title.''.

**SEC. 1604. CONTINUATION AS A PERMANENT PROGRAM AND ENHANCEMENT OF ACTIVITIES OF TASK FORCE FOR EMERGENCY READINESS PILOT PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) CONTINUATION.—

(1) CONTINUATION AS PERMANENT PROGRAM.—The Administrator of the Federal Emergency Management Agency shall continue the Task Force for Emergency Readiness (TFER) pilot program of the Federal Emergency Management Agency as a permanent program of the Agency.

(2) LIMITATION ON TERMINATION.—The Administrator may not terminate the Task Force for Emergency Readiness program, as so continued, until authorized or required to terminate the program by law.

(b) EXPANSION OF PROGRAM SCOPE.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall carry out the program in at least five States in addition to the five States in which the program is carried out as of the date of the enactment of this Act.

(c) ADDITIONAL FEMA ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall—

(1) establish guidelines and standards to be used by the States in strengthening the planning and planning capacities of the States with respect to responses to catastrophic disaster emergencies; and

(2) develop a methodology for implementing the Task Force for Emergency Readiness that includes goals and standards for assessing the performance of the Task Force.

(d) NATIONAL GUARD BUREAU ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Chief of the National Guard Bureau shall—

(1) assist the Administrator in the establishment of the guidelines and standards, implementation methodology, and performance goals and standards required by subsection (c);

(2) in coordination with the Administrator—

(A) identify, using catastrophic disaster response plans for each State developed under the program, any gaps in State civilian and military response capabilities that Federal military capabilities are unprepared to fill; and

(B) notify the Secretary of Defense, the Commander of the United States Northern Command, and the Commander of the United States Pacific Command of any gaps in capabilities identified under subparagraph (A); and

(3) acting through and in coordination with the Adjutants General of the States, assist the States in the development of State plans on responses to catastrophic disaster emergencies.

(e) ANNUAL REPORTS.—The Administrator and the Chief of the National Guard Bureau shall jointly submit to the appropriate committees of Congress each year a report on activities under the Task Force for Emergency Readiness program during the preceding year. Each report shall include a description of the activities under the program during the preceding year and a current assessment of the effectiveness of the program in meeting its purposes.

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

(1) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives.

**SEC. 1605. REPORT ON COMPARATIVE ANALYSIS OF COSTS OF COMPARABLE UNITS OF THE RESERVE COMPONENTS AND THE REGULAR COMPONENTS OF THE ARMED FORCES.**

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a comparative analysis of the costs of units of the regular components of the Armed Forces with the costs of similar units of the reserve components of the Armed Forces. The analysis shall include a separate comparison of the costs of units in the aggregate and of the costs of units solely when on active duty.

(2) SIMILAR UNITS.—For purposes of this subsection, units of the regular components and reserve components shall be treated as similar if such units have the same general structure, personnel, or function, or are substantially composed of personnel having identical or similar military occupational specialties (MOS).

(b) ASSESSMENT OF INCREASED RESERVE COMPONENT PRESENCE IN TOTAL FORCE STRUCTURE.—The Secretary shall include in the report required by subsection (a) an assessment of the advisability of increasing the number of units and members of the reserve components of the Armed Forces within the total force structure of the Armed Forces. The assessment shall take into account the comparative analysis conducted for purposes of subsection (a) and such other matters as the Secretary considers appropriate for purposes of the assessment.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth a review of such report by the Comptroller General. The report of the Comptroller General shall include an assessment of the comparative analysis contained in the report required by subsection (a) and of the assessment of the Secretary pursuant to subsection (b).

**SEC. 1606. DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS.**

Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated

expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program.

**SEC. 1607. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.**

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

**SEC. 1608. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.**

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

**SEC. 1609. AVAILABILITY OF FUNDS UNDER STATE PARTNERSHIP PROGRAM FOR ADDITIONAL NATIONAL GUARD CONTACTS ON MATTERS WITHIN THE CORE COMPETENCIES OF THE NATIONAL GUARD.**

The Secretary of Defense shall, in consultation with the Secretary of State, modify the regulations prescribed pursuant to section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note) to provide for the use of funds available pursuant to such regulations for contacts between members of the National Guard and civilian personnel of foreign governments outside the ministry of defense on matters within the core competencies of the National Guard such as the following:

(1) Disaster response and mitigation.

(2) Defense support to civilian authorities.

(3) Consequence management and installation protection.

(4) Chemical, biological, radiological, or nuclear event (CBRNE) response.

(5) Border and port security and cooperation with civilian law enforcement.

(6) Search and rescue.

(7) Medical matters.

(8) Counterdrug and counternarcotics activities.

(9) Public affairs.

(10) Employer and family support of reserve forces.

(11) Such other matters within the core competencies of the National Guard and suitable for contacts under the State Partnership Program as the Secretary of Defense shall specify.

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**SA 1073.** Mr. CARDIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. PROHIBITION ON EXPANSION OR OPERATION OF DISTRICT OF COLUMBIA NATIONAL GUARD YOUTH CHALLENGE PROGRAM IN ANNE ARUNDEL COUNTY, MARYLAND.**

Notwithstanding any other provision of law, no funds may be used to expand or operate the District of Columbia National Guard Youth Challenge Program in Anne Arundel County, Maryland.

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**SA 1074.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

In the matter under the heading ''FOSSIL ENERGY RESEARCH AND DEVELOPMENT'' of title III, before the period at the end, insert the following: '': *Provided further*, That the Secretary of Energy shall allocate an additional $30,000,000 for the fossil energy research and development program of the Department of Energy, of which $10,000,000 shall be for the unconventional fossil energy account, $10,000,000 shall be for the advanced energy systems account, and $10,000,000 shall be for the natural gas technology account, to be derived by the transfer of $30,000,000 from the amount made available under the heading 'ADVANCED RESEARCH PROJECTS AGENCY—ENERGY' ''.

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**SA 1075.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 361, line 9, insert after ''a person who is described in paragraph (2) who is captured'' the following: ''abroad''.

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**SA 1076.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1035.

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**SA 1077.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 359, line 13, insert after ''to detain covered persons (as defined in subsection (b))'' the following: ''who are captured in the course of hostilities''.

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**SA 1078.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1031.

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**SA 1079.** Mr. LEAHY submitted an amendment intended to be proposed by

him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1032.

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**SA 1080.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 361, line 9, insert after ''a person who is described in paragraph (2) who is captured'' the following: ''abroad or on a United States military facility''.

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**SA 1081.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle D of title X.

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**SA 1082.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1033.

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**SA 1083.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1034.

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**SA 1084.** Mr. MCCONNELL (for Mr. KIRK (for himself, Mr. JOHANNS, Mr. MANCHIN, Mr. HELLER, Mr. BLUNT, Mr. ROBERTS, Mr. RUBIO, Mr. BROWN of Massachusetts, Mr. COATS, and Mr. TESTER)) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1243. IMPOSITION OF SANCTIONS ON FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT TRANSACTIONS WITH THE CENTRAL BANK OF IRAN.**

Section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

''(h) IMPOSITION OF SANCTIONS ON FOREIGN FINANCIAL INSTITUTIONS THAT CONDUCT TRANSACTIONS WITH THE CENTRAL BANK OF IRAN.—

''(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, the President shall—

''(A) prohibit the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted any financial transaction with the Central Bank of Iran; and

''(B) freeze and prohibit all transactions in all property and interests in property of each such foreign financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

''(2) EXCEPTION FOR SALES OF FOOD, MEDICINE, AND MEDICAL DEVICES.—The President may not impose sanctions under paragraph (1) on a foreign financial institution for engaging in a transaction with the Central Bank of Iran for the sale of food, medicine, or medical devices to Iran.

''(3) APPLICABILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies with respect to financial transactions commenced on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.

''(B) PETROLEUM TRANSACTIONS.—Paragraph (1) applies with respect to financial transactions for the purchase of petroleum or petroleum products through the Central Bank of Iran commenced on or after the date that is 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.

''(4) WAIVER.—

''(A) IN GENERAL.—The President may waive the application of paragraph (1) with respect to a foreign financial institution for a period of not more than 60 days, and may renew that waiver for additional periods of not more than 60 days, if the President determines and reports to the appropriate congressional committees every 60 days that the waiver is necessary to the national security interest of the United States.

''(B) FORM.—A report submitted pursuant to subparagraph (A) shall be submitted in unclassified form, but may contain a classified annex.

''(5) FOREIGN FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'foreign financial institution' includes a financial institution owned or controlled by a foreign government.''.

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**SA 1085.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

**DIVISION _____—IDENTITY THEFT AND DATA PRIVACY**

**SEC. __01. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.**

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030 (relating to fraud and related activity in connection with computers) if the act is a felony,'' before ''section 1084''.

**SEC. __02. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**

Section 1030(c) of title 18, United States Code, is amended to read as follows:

''(c) The punishment for an offense under subsection (a) or (b) of this section is—

''(1) a fine under this title or imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(1) of this section;

''(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than 3 years, or both, in the case of an offense under subsection (a)(2); or

''(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under paragraph (a)(2) of this section, if—

''(i) the offense was committed for purposes of commercial advantage or private financial gain;

''(ii) the offense was committee in the furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States, or of any State; or

''(iii) the value of the information obtained, or that would have been obtained if the offense was completed, exceeds $5,000;

''(3) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(3) of this section;

''(4) a fine under this title or imprisonment of not more than 20 years, or both, in the case of an offense under subsection (a)(4) of this section;

''(5)(A) except as provided in subparagraph (D), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A) of this section, if the offense caused—

''(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

''(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

''(iii) physical injury to any person;

''(iv) a threat to public health or safety;

''(v) damage affecting a computer used by, or on behalf of, an entity of the United States Government in furtherance of the administration of justice, national defense, or national security; or

''(vi) damage affecting 10 or more protected computers during any 1-year period;

''(B) a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(B), if the offense caused a harm provided in clause (i) through (vi) of subparagraph (A) of this subsection;

''(C) if the offender attempts to cause or knowingly or recklessly causes death from

conduct in violation of subsection (a)(5)(A), a fine under this title, imprisonment for any term of years or for life, or both; or

''(D) a fine under this title, imprisonment for not more than 1 year, or both, for any other offense under subsection (a)(5);

''(6) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(6) of this section; or

''(7) a fine under this title or imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(7) of this section.''.

**SEC. __03. TRAFFICKING IN PASSWORDS.**

Section 1030(a) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

''(6) knowingly and with intent to defraud traffics (as defined in section 1029) in—

''(A) any password or similar information through which a protected computer as defined in subparagraphs (A) and (B) of subsection (e)(2) may be accessed without authorization; or

''(B) any means of access through which a protected computer as defined in subsection (e)(2)(A) may be accessed without authorization.''.

**SEC. __04. CONSPIRACY AND ATTEMPTED COMPUTER FRAUD OFFENSES.**

Section 1030(b) of title 18, United States Code, is amended by inserting ''for the completed offense'' after ''punished as provided''.

**SEC. __05. CRIMINAL AND CIVIL FORFEITURE FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.**

Section 1030 of title 18, United States Code, is amended by striking subsections (i) and (j) and inserting the following:

''(i) CRIMINAL FORFEITURE.—

''(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

''(A) such person's interest in any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of such violation; and

''(B) any property, real or personal, constituting or derived from any gross proceeds, or any property traceable to such property, that such person obtained, directly or indirectly, as a result of such violation.

''(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property, and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

''(j) CIVIL FORFEITURE.—

''(1) The following shall be subject to forfeiture to the United States and no property right, real or personal, shall exist in them:

''(A) Any property, real or personal, that was used, or intended to be used, to commit or facilitate the commission of any violation of this section, or a conspiracy to violate this section.

''(B) Any property, real or personal, constituting or derived from any gross proceeds obtained directly or indirectly, or any property traceable to such property, as a result of the commission of any violation of this section, or a conspiracy to violate this section.

''(2) Seizures and forfeitures under this subsection shall be governed by the provisions in chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed on the Secretary of the Treasury under the customs laws described in section 981(d) of title 18, United States Code, shall be performed by such officers, agents and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General.''.

**SEC. __06. DAMAGE TO CRITICAL INFRASTRUCTURE COMPUTERS.**

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

**''SEC. 1030A. AGGRAVATED DAMAGE TO A CRITICAL INFRASTRUCTURE COMPUTER.**

''(a) DEFINITIONS.—In this section—

''(1) the terms 'computer' and 'damage' have the meanings given such terms in section 1030; and

''(2) the term 'critical infrastructure computer' means a computer that manages or controls systems or assets vital to national defense, national security, national economic security, public health or safety, or any combination of those matters, whether publicly or privately owned or operated, including—

''(A) gas and oil production, storage, and delivery systems;

''(B) water supply systems;

''(C) telecommunication networks;

''(D) electrical power delivery systems;

''(E) finance and banking systems;

''(F) emergency services;

''(G) transportation systems and services; and

''(H) government operations that provide essential services to the public.

''(b) OFFENSE.—It shall be unlawful to, during and in relation to a felony violation of section 1030, intentionally cause or attempt to cause damage to a critical infrastructure computer, and such damage results in (or, in the case of an attempt, would, if completed have resulted in) the substantial impairment—

''(1) of the operation of the critical infrastructure computer; or

''(2) of the critical infrastructure associated with the computer.

''(c) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not less than 3 years nor more than 20 years, or both.

''(d) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

''(1) a court shall not place on probation any person convicted of a violation of this section;

''(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment, including any term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony violation section 1030;

''(3) in determining any term of imprisonment to be imposed for a felony violation of section 1030, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the United States Sentencing Commission pursuant to section 994 of title 28.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following:

''Sec. 1030A. Aggravated damage to a critical infrastructure computer.''.

**SEC. __07. LIMITATION ON CERTAIN ACTIONS INVOLVING UNAUTHORIZED USE.**

Section 1030(a)(2) of title 18, United States Code, is amended by striking subsection (a)(2) and inserting the following:

''(2) intentionally accesses a computer —

''(A) without authorization, and thereby obtains—

''(i) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

''(ii) information from any department or agency of the United States; or

''(iii) information from any protected computer; or

''(B) in excess of authorization, thereby obtains—

''(i) information defined in subparagraph (A) (i) through (iii); and

''(ii) the offense involves—

''(I) information that exceeds $5,000 in value;

''(II) sensitive or private information involving an identifiable individual or entity (including such information in the possession of a third party), including medical records, wills, diaries, private correspondence, government-issued identification numbers, unique biometric data, financial records, photographs of a sensitive or private nature, trade secrets, commercial business information, or other similar information;

''(III) information that has been properly classified by the United States Government pursuant to an Executive Order or statute, or determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national security, national defense, or foreign relations, or any restricted data, as defined in paragraph y of section 11 of the Atomic Energy Act of 1954; or

''(IV) information obtained from a computer used by, or on behalf of, a government entity.''.

**SEC. __08. REPORTING OF CERTAIN CRIMINAL CASES.**

Section 1030 of title 18, United States Code, is amended by adding at the end the following:

''(k) REPORTING CERTAIN CRIMINAL CASES.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives the number of criminal cases brought under subsection (a)(2)(B), as amended by this Act.''.

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**SA 1086.** Mr. ROBERTS (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. _____. AUTHORIZATION AND REQUEST FOR AWARD OF MEDAL OF HONOR TO EMIL KAPAUN FOR ACTS OF VALOR DURING THE KOREAN WAR.**

(a) AUTHORIZATION.—Notwithstanding the time limitations specified in section 3744 of title 10, United States Code, or any other time limitation with respect to the awarding of certain medals to persons who served in the Armed Forces, the President is authorized and requested to award the Medal of Honor posthumously under section 3741 of such title to Emil Kapaun for the acts of valor during the Korean War described in subsection (b).

(b) ACTS OF VALOR DESCRIBED.—The acts of valor referred to in subsection (a) are the actions of then Captain Emil Kapaun as a member of the 8th Cavalry Regiment during the Battle of Unsan on November 1 and 2, 1950, and while a prisoner of war until his death on May 23, 1951, during the Korean War.

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**SA 1087.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1044 and insert the following:

**SEC. 1044. TREATMENT UNDER FREEDOM OF INFORMATION ACT OF CERTAIN SENSITIVE NATIONAL SECURITY INFORMATION.**

(a) CRITICAL INFRASTRUCTURE SECURITY INFORMATION.—

(1) IN GENERAL.—The Secretary of Defense may exempt Department of Defense critical infrastructure security information from disclosure under section 552 of title 5, United States Code, upon a written determination that—

(A) the disclosure of such information would reveal vulnerabilities in such infrastructure that, if exploited, could result in the disruption, degradation, or destruction of Department of Defense operations, property, or facilities; and

(B) the public interest in the disclosure of such information does not outweigh the Government's interest in withholding such information from the public.

(2) INFORMATION PROVIDED TO STATE OR LOCAL FIRST RESPONDERS.—Critical infrastructure security information covered by a written determination under this subsection that is provided to a State or local government to assist first responders in the event that emergency assistance should be required shall be deemed to remain under the control of the Department of Defense.

(b) MILITARY FLIGHT OPERATIONS QUALITY ASSURANCE SYSTEM.—The Secretary of Defense may exempt information contained in any data file of the Military Flight Operations Quality Assurance system of a military department from disclosure under section 552 of title 5, United States Code, upon a written determination that the disclosure of such information in the aggregate (and when combined with other information already in the public domain) would reveal sensitive information regarding the tactics, techniques, procedures, processes, or operational and maintenance capabilities of military combat aircraft, units, or aircrews. Information covered by a written determination under this subsection shall be exempt from disclosure under such section 552 even when such information is contained in a data file that is not exempt in its entirety from such disclosure.

(c) DELEGATION.—The Secretary of Defense may delegate the authority to make a determination under subsection (a) or (b) to any civilian official in the Department of Defense or a military department who is appointed by the President, by and with the advice and consent of the Senate.

(d) TRANSPARENCY.—Each determination of the Secretary, or the Secretary's designee, under subsection (a) or (b) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request, through the office of the Assistant Secretary of Defense for Public Affairs.

(e) DEFINITIONS.—In this section:

(1) The term ''Department of Defense critical infrastructure security information'' means sensitive but unclassified information that could substantially facilitate the effectiveness of an attack designed to destroy equipment, create maximum casualties, or steal particularly sensitive military weapons including information regarding the securing and safeguarding of explosives, hazardous chemicals, or pipelines, related to critical infrastructure or protected systems owned or operated by or on behalf of the Department of Defense, including vulnerability assessments prepared by or on behalf of the Department, explosives safety information (including storage and handling), and other site-specific information on or relating to installation security.

(2) The term ''data file'' means a file of the Military Flight Operations Quality Assurance system that contains information acquired or generated by the Military Flight Operations Quality Assurance system, including the following:

(A) Any data base containing raw Military Flight Operations Quality Assurance data.

(B) Any analysis or report generated by the Military Flight Operations Quality Assurance system or which is derived from Military Flight Operations Quality Assurance data.

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**SA 1088.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 325. PUBLIC-PRIVATE COMPETITIONS FOR CONVERSION OF DEPARTMENT OF DEFENSE FUNCTIONS TO PERFORMANCE BY CONTRACTORS.**

Section 325 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2253) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) IMPLEMENTATION OF POLICY ON PUBLIC-PRIVATE COMPETITIONS.—The Secretary of Defense shall prescribe regulations to ensure that the findings in the report required under subsection (b) and any conclusions or recommendations of the Comptroller General included in the report required under subsection (c) are implemented not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012.''; and

(2) by striking subsection (d).

**SA 1089.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 547. DISCLOSURE REQUIREMENTS FOR POST-SECONDARY INSTITUTIONS PARTICIPATING IN DEPARTMENT OF DEFENSE TUITION ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations requiring post-secondary education institutions that participate in Department of Defense tuition assistance programs, as a condition of such participation, to disclose with respect to each student receiving such tuition assistance the following information:

(1) Whether the successful completion of the advertised education or training program by a student meets prerequisites for the purpose of applying for and completing an examination or license required as a precondition for employment in the occupation for which the program is represented to prepare the student.

(2) The completion date of degree, certification, or license sought by the student participating in the tuition assistance program.

(b) APPLICABILITY.—For purposes of this section, the term ''Department of Defense tuition assistance program'' applies to financial tuition assistance provided by the Department of Defense to active duty servicemembers and eligible spouses.

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**SA 1090.** Mr. BROWN of Massachusetts submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

**Subtitle D—Pay and Allowances**

**SEC. 641. NO REDUCTION IN BASIC ALLOWANCE FOR HOUSING FOR NATIONAL GUARD MEMBERS WHO TRANSITION BETWEEN ACTIVE DUTY AND FULL-TIME NATIONAL GUARD DUTY WITHOUT A BREAK IN ACTIVE SERVICE.**

Section 403(g) of title 37, United States Code, is amended by adding at the end the following new paragraph:

''(6) The rate of basic allowance for housing to be paid a member of the Army National Guard of the United States or the Air National Guard of the United States shall not be reduced upon the transition of the member from active duty to full-time National Guard duty, or from full-time National Guard duty to active duty, when the transition occurs without a break in active service.''.

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**SA 1091.** Mr. SANDERS submitted an amendment intended to be proposed to

amendment SA 957 proposed by Mr. REID to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 181, after line 9, insert the following:

SEC. ____. (a) The Comptroller General of the United States shall conduct a study regarding State legislative actions during the 10 years prior to the date of enactment of this Act that may affect voter registration or voting. The study shall identify, by State, what documents are required in order to obtain sufficient identification for registration or voting, the cost to the individual for those documents, and what access is available to the State agencies responsible for providing that documentation, including hours of operation and geographic distribution of the agencies. The study shall identity the States that have passed voter identification legislation, the States that are providing free identification, the number of free identifications that have been provided by each such State, and which agencies in each such State have provided those identifications. The study shall collect data on any prosecutions or convictions for voter impersonation fraud within each State during the 10 years prior to the date of enactment of this Act. The study shall also examine the extent to which each State complies with data requests from the Federal Election Commission. The Comptroller General shall collect this data to the extent available and shall identify any limitations in collecting such data. Not later than 120 days after the date of enactment of this Act, the Government Accountability Office shall provide an interim briefing to the committees of jurisdiction of the Senate and the House of Representatives on the study conducted under this subsection. Members of Congress may request clarifying information as appropriate based on the information provided in the briefing.

(b) Not later than 11 months after the date of enactment of this Act, the Comptroller General shall submit to the committees of jurisdiction of the Senate and the House of Representatives a final report containing the results of the study conducted under subsection (a).

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**SA 1092.** Mr. LEVIN (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. CHAMBLISS, Mr. BLUMENTHAL, Mr. INHOFE, Mrs. GILLIBRAND, Mr. NELSON of Nebraska, Ms. STABENOW, Mr. UDALL of Colorado, Mr. WEBB, Mr. MANCHIN, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 848. DETECTION AND AVOIDANCE OF COUNTERFEIT ELECTRONIC PARTS.**

(a) REVISED REGULATIONS REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to address the detection and avoidance of counterfeit electronic parts.

(2) CONTRACTOR RESPONSIBILITIES.—The revised regulations issued pursuant to paragraph (1) shall provide that—

(A) contractors on Department of Defense contracts for products that include electronic parts are responsible for detecting and avoiding the use or inclusion of counterfeit electronic parts or suspect counterfeit electronic parts in such products and for any rework or corrective action that may be required to remedy the use or inclusion of such parts; and

(B) the cost of counterfeit electronic parts and suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts are not allowable costs under such contracts.

(3) TRUSTED SUPPLIERS.—The revised regulations issued pursuant to paragraph (1) shall—

(A) require that, whenever possible, the Department of Defense and Department of Defense contractors and subcontractors—

(i) obtain electronic parts that are in production or currently available in stock from the original manufacturers of the parts or their authorized dealers, or from trusted suppliers who obtain such parts exclusively from the original manufacturers of the parts or their authorized dealers; and

(ii) obtain electronic parts that are not in production or currently available in stock from trusted suppliers;

(B) establish requirements for notification of the Department of Defense, inspection, test, and authentication of electronic parts that the Department of Defense or a Department of Defense contractor or subcontractor obtains from any source other than a source described in subparagraph (A);

(C) establish qualification requirements, consistent with the requirements of section 2319 of title 10, United States Code, pursuant to which the Department of Defense may identify trusted suppliers that have appropriate policies and procedures in place to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts; and

(D) authorize Department of Defense contractors and subcontractors to identify and use additional trusted suppliers, provided that—

(i) the standards and processes for identifying such trusted suppliers complies with established industry standards;

(ii) the contractor or subcontractor assumes responsibility for the authenticity of parts provided by such supplier as provided in paragraph (2); and

(iii) the selection of such trusted suppliers is subject to review and audit by appropriate Department of Defense officials.

(4) REPORTING REQUIREMENT.—The revised regulations issued pursuant to paragraph (1) shall require that any Department of Defense contractor or subcontractor who becomes aware, or has reason to suspect, that any end item, component, part, or material contained in supplies purchased by the Department of Defense, or purchased by a contractor of subcontractor for delivery to, or on behalf of, the Department of Defense, contains counterfeit electronic parts or suspect counterfeit electronic parts, shall provide a written report on the matter within 30 calendar days to the Inspector General of the Department of Defense, the contracting officer for the contract pursuant to which the supplies are purchased, and the Government-Industry Data Exchange Program or a similar program designated by the Secretary of Defense.

(b) INSPECTION OF IMPORTED ELECTRONIC PARTS.—

(1) INSPECTION PROGRAM.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish a program of enhanced inspection by U.S. Customs and Border Patrol of electronic parts imported from any country that has been determined by the Secretary of Defense to have been a significant source of counterfeit electronic parts or suspect counterfeit electronic parts in the supply chain for products purchased by the Department of Defense over the previous five years.

(2) INFORMATION SHARING.—In carrying out the program required under paragraph (1) and in accordance with regulations issued by the Secretary of Homeland Security, the Secretary is authorized to provide the owner of a copyright or registered mark (as defined in section 1127 of title 15, United States Code) any information appearing on the imported merchandise or its retail packaging, and a sample of such merchandise and its retail packaging in their condition as presented for customs examination, as well as any packing material that bears an accused mark or work, when necessary in the view of the Secretary to assist the Secretary with determining whether the copyright has been pirated or the registered mark has been counterfeited.

(c) CONTRACTOR SYSTEMS FOR DETECTION AND AVOIDANCE OF COUNTERFEIT AND SUSPECT COUNTERFEIT ELECTRONIC PARTS.—

(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall implement a program for the improvement of contractor systems for the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts.

(2) ELEMENTS.—The program developed pursuant to paragraph (1) shall—

(A) require covered contractors to adopt and implement policies and procedures, consistent with applicable industry standards, for the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts, including policies and procedures for training personnel, designing and maintaining systems to mitigate risks associated with parts obsolescence, making sourcing decisions, prioritizing mission critical and sensitive components, ensuring traceability of parts, developing lists of trusted and untrusted suppliers, flowing down requirements to subcontractors, inspecting and testing parts, reporting and quarantining suspect counterfeit electronic parts and counterfeit electronic parts, and taking corrective action;

(B) establish processes for the review and approval or disapproval of contractor systems for the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts, comparable to the processes established for contractor business systems under section 893 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4311; 10 U.S.C. 2302 note); and

(C) effective beginning one year after the date of the enactment of this Act, authorize the withholding of payments as provided in subsection (c) of such section, in the event that a contractor system for detection and avoidance of counterfeit electronic parts is disapproved pursuant to subparagraph (B) and has not subsequently received approval.

(3) COVERED CONTRACTOR AND COVERED CONTRACT DEFINED.—In this subsection, the terms ''covered contractor'' and ''covered contract'' have the meanings given such terms in section 893(f) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4312; 10 U.S.C. 2302 note).

(d) DEPARTMENT OF DEFENSE RESPONSIBILITIES.—Not later than 270 days after the date of the enactment of this Act, the Secretary

of Defense shall take steps to address shortcomings in Department of Defense systems for the detection and avoidance of counterfeit electronic parts and suspect counterfeit electronic parts. Such steps shall include, at a minimum, the following:

(1) Policies and procedures applicable to Department of Defense components engaged in the purchase of electronic parts, including requirements for training personnel, making sourcing decisions, ensuring traceability of parts, inspecting and testing parts, reporting and quarantining suspect counterfeit electronic parts and counterfeit electronic parts, and taking corrective action. The policies and procedures developed by the Secretary under this paragraph shall prioritize mission critical and sensitive components.

(2) The establishment of a system for ensuring that government employees who become aware of, or have reason to suspect, that any end item, component, part, or material contained in supplies purchased by or for the Department of Defense contains counterfeit electronic parts or suspect counterfeit electronic parts are required to provide a written report on the matter within 30 calendar days to the Inspector General of the Department of Defense, the contracting officer for the contract pursuant to which the supplies are purchased, and the Government-Industry Data Exchange Program or a similar program designated by the Secretary of Defense.

(3) A process for analyzing, assessing, and acting on reports of counterfeit electronic parts and suspect counterfeit electronic parts that are submitted to the Inspector General of the Department of Defense, contracting officers, and the Government-Industry Data Exchange Program or a similar program designated by the Secretary of Defense.

(4) Guidance on appropriate remedial actions in the case of a supplier who has repeatedly failed to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts or otherwise failed to exercise due diligence in the detection and avoidance of such parts, including consideration of whether to suspend or debar a supplier until such time as the supplier has effectively addressed the issues that led to such failures.

(e) TRAFFICKING IN COUNTERFEIT MILITARY GOODS OR SERVICES.—Section 2320 of title 18, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) MILITARY GOODS OR SERVICES.—

''(A) IN GENERAL.—A person who commits an offense under paragraph (1) shall be punished in accordance with subparagraph (B) if—

''(i) the offense involved a good or service described in paragraph (1) that if it malfunctioned, failed, or was compromised, could reasonably be foreseen to cause—

''(I) serious bodily injury or death;

''(II) disclosure of classified information;

''(III) impairment of combat operations; or

''(IV) other significant harm to a member of the Armed Forces or to national security; and

''(ii) the person had knowledge that the good or service is falsely identified as meeting military standards or is intended for use in a military or national security application.

''(B) PENALTIES.—

''(i) INDIVIDUAL.—An individual who commits an offense described in subparagraph (A) shall be fined not more than $5,000,000, imprisoned for not more than 20 years, or both.

''(ii) PERSON OTHER THAN AN INDIVIDUAL.—A person other than an individual that commits an offense described in subparagraph (A) shall be fined not more than $15,000,000.

''(C) SUBSEQUENT OFFENSES.—

''(i) INDIVIDUAL.—An individual who commits an offense described in subparagraph (A) after the individual is convicted of an offense under subparagraph (A) shall be fined not more than $15,000,000, imprisoned not more than 30 years, or both.

''(ii) PERSON OTHER THAN AN INDIVIDUAL.—A person other than an individual that commits an offense described in subparagraph (A) after the person is convicted of an offense under subparagraph (A) shall be fined not more than $30,000,000.''; and

(2) in subsection (e)—

(A) in paragraph (1), by striking the period at the end and inserting a semicolon;

(B) in paragraph (3), by striking ''and'' at the end;

(C) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(5) the term 'falsely identified as meeting military standards' relating to a good or service means there is a material misrepresentation that the good or service meets a standard, requirement, or specification issued by the Department of Defense, an Armed Force, or a reserve component; and

''(6) the term 'use in a military or national security application' means the use of a good or service, independently, in conjunction with, or as a component of another good or service—

''(A) during the performance of the official duties of the Armed Forces of the United States or the reserve components of the Armed Forces; or

''(B) by the United States to perform or directly support—

''(i) combat operations; or

''(ii) critical national defense or national security functions.''.

(f) SENTENCING GUIDELINES.—

(1) DEFINITION.—In this subsection, the term ''critical infrastructure'' has the meaning given that term in application note 13(A) of section 2B1.1 of the Federal Sentencing Guidelines.

(2) DIRECTIVE.—The United States Sentencing Commission shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to persons convicted of an offense under section 2320(a) of title 18, United States Code, to reflect the intent of Congress that penalties for such offenses be increased for defendants that sell infringing products to, or for the use by or for, the Armed Forces or a Federal, State, or local law enforcement agency or for use in critical infrastructure or in national security applications.

(3) REQUIREMENTS.—In amending the Federal Sentencing Guidelines and policy statements under paragraph (2), the United States Sentencing Commission shall—

(A) ensure that the guidelines and policy statements, including section 2B5.3 of the Federal Sentencing Guidelines (and any successor thereto), reflect—

(i) the serious nature of the offenses described in section 2320(a) of title 18, United States Code;

(ii) the need for an effective deterrent and appropriate punishment to prevent offenses under section 2320(a) of title 18, United States Code; and

(iii) the effectiveness of incarceration in furthering the objectives described in clauses (i) and (ii);

(B) consider an appropriate offense level enhancement and minimum offense level for offenses that involve a product used to maintain or operate critical infrastructure, or used by or for an entity of the Federal Government or a State or local government in furtherance of the administration of justice, national defense, or national security;

(C) ensure reasonable consistency with other relevant directives and guidelines and Federal statutes;

(D) make any necessary conforming changes to the guidelines; and

(E) ensure that the guidelines relating to offenses under section 2320(a) of title 18, United States Code, adequately meet the purposes of sentencing, as described in section 3553(a)(2) of title 18, United States Code.

(4) EMERGENCY AUTHORITY.—The United States Sentencing Commission shall—

(A) promulgate the guidelines, policy statements, or amendments provided for in this Act as soon as practicable, and in any event not later than 180 days after the date of the enactment of this Act, in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired; and

(B) pursuant to the emergency authority provided under subparagraph (A), make such conforming amendments to the Federal Sentencing Guidelines as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

(g) DEFINITIONS.—

(1) COUNTERFEIT ELECTRONIC PART.—The Secretary of Defense shall define the term ''counterfeit electronic part'' for the purposes of this section. Such definition shall include used electronic parts that are represented as new.

(2) SUSPECT COUNTERFEIT ELECTRONIC PART AND ELECTRONIC PART.—For the purposes of this section:

(A) A part is a ''suspect counterfeit electronic part'' if visual inspection, testing, or other information provide reason to believe that the part may be a counterfeit part.

(B) An ''electronic part'' means an integrated circuit, a discrete electronic component (including but not limited to a transistor, capacitor, resistor, or diode), or a circuit assembly.

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**SA 1093.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1038. REQUIREMENT FOR DETENTION AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, OF HIGH-VALUE DETAINEES WHO WILL BE DETAINED LONG-TERM.**

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

(1) The United States is still in a global war on terror and engaged in armed conflict with terrorist organizations, and will continue to capture terrorists who will need to be detained in a secure facility.

(2) Since 2002, enemy combatants have been captured by the United States and its allies and detained in facilities at the Guantanamo Bay Detention Facility (GTMO) at United States Naval Station, Guantanamo Bay, Cuba.

(3) The United States has detained almost 800 al-Qaeda and Taliban combatants at the Guantanamo Bay Detention Facility.

(4) More than 600 detainees have been tried, transferred, or released from the Guantanamo Bay Detention Facility to other countries.

(5) The last enemy combatant brought to the Guantanamo Bay Detention Facility for detention was brought in June 2008.

(6) The military detention facilities at the Guantanamo Bay Detention Facility meet the highest international standards, and play a fundamental part in protecting the lives of Americans from terrorism.

(7) The Guantanamo Bay Detention Facility is a state-of-the-art facility that provides humane treatment for all detainees, is fully compliant with the Geneva Convention, and provides treatment and oversight that exceed any maximum-security prison in the world, as attested to by human rights organizations, the International Committee of the Red Cross, Attorney General Holder, and an independent commission led Admiral Walsh.

(8) The Guantanamo Bay Detention Facility is a secure location away from population centers, provides maximum security required to prevent escape, provides multiple levels of confinement opportunities based on the compliance of detainees, and provides medical care not available a majority of the population of the world.

(9) The Expeditionary Legal Complex (ELC) at the Guantanamo Bay Detention Facility is the only one of its kind in the world. It provides a secure location to secure and try detainees charged by the United States Government, full access to sensitive and classified information, full access to defense lawyers and prosecution, and full media access by the press.

(10) The Guantanamo Bay Detention Facility is the single greatest repository of human intelligence in the war on terror.

(11) The intelligence derived from the Guantanamo Bay Detention Facility has prevented terrorist attacks and saved lives in the past and continues to do so today.

(12) The intelligence obtained from questioning detainees at the Guantanamo Bay Detention Facility includes information on the following:

(A) The organizational structure of al-Qaeda, the Taliban, and other terrorist groups.

(B) The extent of the presence of terrorists in Europe, the United States, and the Middle East, and elsewhere around the globe.

(C) The pursuit of weapons of mass destruction by al-Qaeda.

(D) The methods of recruitment by al-Qaeda and the locations of its recruitment centers.

(E) The skills of terrorists, including general and specialized operative training.

(F) The means by which legitimate financial activities are used to hide terrorist operations.

(13) Key intelligence used to find Osama bin Laden was obtained at least in part through the use of enhanced interrogation of detainees at the Guantanamo Bay Detention Facility, with Leon Panetta, Director of the Central Intelligence Agency, acknowledging that ''[c]learly some of it came from detainees and the interrogation of detainees. . .'' and confirming that ''they used these enhanced interrogation techniques against some of those detainees''.

(b) REQUIREMENT.—Each high-value enemy combatant who is captured or otherwise taken into long-term custody or detention by the United States shall, while under such detention of the United States, be detained at the Guantanamo Bay Detention Facility (GTMO) at United States Naval Station, Guantanamo Bay, Cuba.

(c) HIGH-VALUE ENEMY COMBATANT DEFINED.—In this section, the term ''high-value enemy combatant'' means an enemy combatant who—

(1) is a senior member of al-Qaeda, the Taliban, or any associated terrorist group;

(2) has knowledge of an imminent terrorist threat against the United States or its territories, the Armed Forces of the United States, the people or organizations of the United States, or an ally of the United States;

(3) has, or has had, direct involvement in planning or preparing a terrorist action against the United States or an ally of the United States or in assisting the leadership of al-Qaeda, the Taliban, or any associated terrorist group in planning or preparing such a terrorist action; or

(4) if released from detention, would constitute a clear and continuing threat to the United States or any ally of the United States.

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**SA 1094.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 889. INCLUSION OF DEPARTMENT OF COMMERCE IN CONTRACT AUTHORITY USING COMPETITIVE PROCEDURES BUT EXCLUDING PARTICULAR SOURCES FOR ESTABLISHING CERTAIN RESEARCH AND DEVELOPMENT CAPABILITIES.**

Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) The Secretary of Commerce shall be treated as the head of an agency for purposes of procurements under paragraph (1) that are covered by a determination under subparagraph (C) of that paragraph.''.

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**SA 1095.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1088. MENTAL HEALTH COUNSELING TRAINING FOR MILITARY CHAPLAINS.**

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

(1) A decade of deployments for the United States Armed Forces has led to significant increases in traumatic stress for members of the Armed Forces and their families.

(2) Increases in the severity and frequency of stress for members of the Armed Forces and their families has driven up demand for mental health counseling services by specially trained counselors and military chaplains.

(3) The emotional needs, mental strain, and interpersonal issues that arise among soldiers and their families before, during, and after deployment are highly unique. It is critical that military counselors and chaplains have a specialized understanding of the total deployment experience.

(4) The military chaplain's corps for all military services has experienced significant shortfalls in personnel. The Army and Army National Guard have been especially affected by the inability to field needed personnel.

(5) A muted ability to field qualified military health counselors and chaplains has an adverse affect on the mental and emotional health of members of the Armed Forces and their families.

(6) The United States Army Chaplain Center and School, United States Navy Chaplaincy School and Center, and other military chaplaincy schools rely on accredited universities, seminaries, and religious schools to produce qualified counselors and chaplain candidates.

(7) It is important that accredited universities, seminaries, and religious schools producing chaplain candidates or providing post-graduate education and supplemental training adequately prepare students with the training required to address the needs of members of the Armed Forces and their families.

(8) There is both opportunity and need for the Chaplain Corps of the United States Armed Forces to work with accredited universities, seminaries, and religious schools to produce qualified counselors and chaplain candidates and provide post-graduate education and supplemental training, and to do so in a way that is cost effective.

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

(1) the Secretary of Defense, in conjunction with the Chief of Chaplains for each military service, should produce a plan to ensure sustainable throughput of qualified chaplains in the military chaplain centers and schools; and

(2) the plan should include integration of accredited universities, seminaries, and religious schools to include programmatic augmentation when efficient and fiscally advantageous.

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**SA 1096.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 723. SENSE OF SENATE ON TREATMENT OPTIONS FOR MEMBERS OF THE ARMED FORCES AND VETERANS FOR TRAUMATIC BRAIN INJURY AND POST TRAUMATIC STRESS DISORDER.**

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

(1) Approximately 1,400,000 Americans experience Traumatic Brain Injury (TBI) each year, and an estimated 3,200,000 Americans are living with long-term, severe disabilities as a result of brain injury. Another approximate 360,000 men and women are estimated to have been experienced a Traumatic Brain Injury in the conflicts in Iraq and Afghanistan to date.

(2) Congressional funding for Traumatic Brain Injury activities began with Public Law 104–166 (commonly referred to as the ''Traumatic Brain Injury Act of 1996'') and has subsequently been addressed in title XIII of Public Law 106–310 (commonly referred to as the ''Traumatic Brain Injury Act Amendments of 2000''), which mandated reports and requirements for mild Traumatic Brain Injury, and in Acts authorizing and appropriating funds for the Department of Defense to date.

(3) In 1992 during the Persian Gulf War, Congress created the Defense and Veterans Head Injury Program (DVHIP) to integrate specialized Traumatic Brain Injury care, research, and education across the military and veteran medical care systems.

(4) With Congressional oversight and appropriations, the Department of Defense subsequently transitioned the Defense and Veterans Head Injury Program to the Defense and Veterans Brain Injury Center (DVBIC) in order improve the military and veterans medical communities ability to develop and provide advanced Traumatic Brain Injury-specific evaluation, treatment, and follow-up care for military personnel, their beneficiaries, and veterans with mild to severe Traumatic Brain Injury.

(5) Though Congress, the Department of Defense, and the Department of Veterans Affairs have increased the capacity to provide health services, particularly in the areas of mental health and Traumatic Brain Injury, gaps in access and quality remain, to include a selected method for diagnosing a Traumatic Brain Injury, a consistent process for treatment for a Traumatic Brain Injury, availability of providers, shortages of personnel, organizational deficiencies, cultural understanding and acceptance, and available technology in diagnosis and treatment.

(6) Gaps in quality of care and limited access to proper care remain for both members of the Armed Forces and veterans, especially veterans who are demobilized members of the National Guard and Reserve. Some estimates indicate that approximately 57 percent of those returning from Iraq and Afghanistan are not being evaluated by a physician for a brain injury.

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

(1) the Department of Defense and Department of Veterans Affairs should be commended for increasing the treatment options for Traumatic Brain Injury that are available to veterans;

(2) the Secretary of Defense should, in consultation with the Secretary of Veterans Affairs, continue to test, prove, and make available viable treatment options for Traumatic Brain Injury, including alternative treatment methods that have been determined, through testing, to be an effective form of treatment; and

(3) the Secretary of Defense and the Secretary of Veterans Affairs should take actions to ensure that existing veteran and medical benefits cover the use of viable available treatment options for Traumatic Brain Injury, including alternative treatment methods.

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**SA 1097.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 723. PLAN FOR STREAMLINING PROGRAMS THAT ADDRESS PSYCHOLOGICAL HEALTH AND TRAUMATIC BRAIN INJURY.**

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

(1) There are over 200 programs within the Department of Defense that address psychological health and traumatic brain injury (TBI).

(2) The number of programs reflects the seriousness with which the Department and the United States Government and people take the treatment of the invisible wounds of the wars in Iraq and Afghanistan.

(3) Notwithstanding the proliferation of programs, there are still gaps in the treatment of our wounded warriors.

(4) Because of the proliferation of programs, redundancies and inefficiencies exist and waste resources that would otherwise be used to effectively treat members of the Armed Forces suffering from psychological health and traumatic brain injuries.

(5) Section 1618 of the Wounded Warriors Act (title XVI of Public Law 110–181; 122 Stat. 450; 10 U.S.C. 1071 note) required the Secretary of Defense to submit a comprehensive plan for programs and activities of the Department of Defense to prevent, diagnose, mitigate, treat, research, and otherwise respond to traumatic brain injury, post-traumatic stress disorder, and other mental health conditions in members of the Armed Forces.

(6) The plan required in that Act was to assess the capabilities of the Department, identify capability gaps, identify resources required, and identify appropriate leadership that would coordinate the various programs.

(7) Section 1621 of the Wounded Warriors Act (title XVI of Public Law 110–181; 122 Stat. 453; 10 U.S.C. 1071 note) established the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury (DCoE) to implement the Department's comprehensive plan and strategy.

(b) STREAMLINING PLAN.—

(1) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan to streamline programs currently sponsored or funded by the Department to address psychological health and traumatic brain injury.

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

(A) A complete catalog of programs currently sponsored or funded by the Department to address psychological health and traumatic brain injury, including details of the intended function of each program.

(B) An analysis of gaps in the delivery of services and treatments identified by the complete catalog required under subparagraph (A).

(C) An analysis of redundancies identified in the complete catalog required under subparagraph (A).

(D) A plan for eliminating redundancies and mitigating the gaps identified in the plan.

(E) Identification of the official within the Department that will be responsible for enactment of the plan.

(F) A timeline for enactment of the plan.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on progress in implementing the plan required under subsection (b).

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**SA 1098.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 889. REPORT ON IMPACT OF FOREIGN BOYCOTTS ON THE DEFENSE INDUSTRIAL BASE.**

(a) IN GENERAL.—Not later than February 1, 2012, the Comptroller General of the United States shall submit to the appropriate congressional committees a report setting forth an assessment of the impact of foreign boycotts on the defense industrial base.

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

(1) a summary of foreign boycotts that posed a material risk to the defense industrial base from January 2008 to the date of the enactment of this Act;

(2) the apparent objection of each such boycott;

(3) an assessment of harm to the defense industrial base as a result of each such boycott;

(4) an assessment of the sufficiency of Department of Defense and Department of State efforts to mitigate the material risks of any such foreign boycott to the defense industrial base; and

(5) recommendations of the Comptroller General to reduce the material risks of foreign boycotts to the defense industrial base, including recommendations for changes to legislation, regulation, policy, or procedures.

(c) CONFIDENTIALITY.—The Comptroller General shall not publicly disclose the names of any person, organization, or entity involved in or affected by any foreign boycott identified in the report required under subsection (a) without the express written approval of the person, organization, or entity concerned.

(d) DEFINITIONS.—In this section:

(1) FOREIGN BOYCOTT.—The term ''foreign boycott'' means any policy or practice adopted by a foreign government or foreign business enterprise intended to directly penalize, disadvantage, or harm any contractor or subcontractor of the Department of Defense, or otherwise dissociate the foreign government or foreign business enterprise from such a contractor or subcontractor on account of the provision by that contractor or subcontractor of any product or service to the Department.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the congressional defense committees; and

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

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**SA 1099.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 714. SENSE OF CONGRESS ON ADOPTION BY DEPARTMENT OF DEFENSE OF RECOMMENDATIONS BY GAO REGARDING HEARING LOSS PREVENTION.**

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

(1) The advent of the jet engine and more powerful munitions has increased the instance of auditory injury to members of the Armed Forces.

(2) Since 2005, the most common service-connected disabilities for which veterans received compensation under laws administered by the Secretary of Veterans Affairs

have been auditory impairments, including hearing loss and tinnitus. The number of veterans receiving such compensation for auditory impairment has risen each year since 2005, increasing the number and cost of compensation claims paid by the Secretary and prompting a series of reports on the subject, include a January 2011 report by the Comptroller General of the United States entitled ''Hearing Loss Prevention: Improvements to DOD Hearing Conservation Programs Could Lead to Better Outcomes''.

(3) Costs to the Department of Veterans Affairs relating to compensation for hearing-related disabilities are expected to double between 2009 and 2014, exceeding $2,000,000,000 by 2014.

(4) There is a growing body of peer reviewed literature indicating a direct connection between traumatic brain injury, post traumatic stress disorder, and auditory disorders.

(5) 70 percent of members of the Armed Forces who are exposed to a blast report auditory disorders within 72 hours of the exposure.

(6) Section 721 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4506) requires the Secretary of Defense to establish a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of hearing loss and auditory system injury.

(7) There is no cure for tinnitus, which consists of an often debilitating ringing in the ear. The projected effect of tinnitus on veterans, rise in new cases of tinnitus-related service-connected disabilities among veterans, and the correlating rise in disability claims and cost to the Department of Veterans Affairs make finding effective treatment, abatement options, and a cure for tinnitus a priority.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should, in cooperation with the Secretary of Veterans Affairs and the Director of the Hearing Center of Excellence of the Department of Defense, implement the recommendations of the Comptroller General of the United States in the January 2011 report of the Comptroller General entitled ''Hearing Loss Prevention: Improvements to DOD Hearing Conservation Programs Could Lead to Better Outcomes'' that address prevention, abatement, data collection, and the need for a new interagency data sharing system so that sufficient information is available to address and track hearing injuries and loss.

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**SA 1100.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 808. TEMPORARY AUTHORITY TO ACQUIRE CERTAIN PRODUCTS AND SERVICES PRODUCED IN LATVIA.**

Section 801(d) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2400) is amended by striking ''or Turkmenistan'' and inserting ''Turkmenistan, or Latvia''.

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**SA 1101.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

Strike section 156.

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**SA 1102.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1080. REPORT ON FEASIBILITY OF USING UNMANNED AERIAL SYSTEMS TO PERFORM AIRBORNE INSPECTION OF NAVIGATIONAL AIDS IN FOREIGN AIRSPACE.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on the feasibility of using unmanned aerial systems to perform airborne flight inspection of electronic signals-in-space from ground-based navigational aids that support aircraft departure, en route, and arrival flight procedures in foreign airspace in support of United States military operations.

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**SA 1103.** Mr. CARDIN (for himself, Mr. WICKER, Mrs. FEINSTEIN, Ms. MIKULSKI, and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1049. EXPANSION OF OPERATION HERO MILES.**

(a) EXPANDED DEFINITION OF TRAVEL BENEFIT.—Subsection (b) of section 2613 of title 10, United States Code, is amended to read as follows:

''(b) TRAVEL BENEFIT DEFINED.—In this section, the term 'travel benefit' means—

''(1) frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public; and

''(2) points or awards for free or reduced-cost accommodations issued by an inn, hotel, or other commercial establishment that provides lodging to transient guests.''.

(b) CONDITION ON AUTHORITY TO ACCEPT DONATION.—Subsection (c) of such section is amended—

(1) by striking ''the air or surface carrier'' and inserting ''the business entity referred to in subsection (b)'';

(2) by striking ''the surface carrier'' and inserting ''the business entity''; and

(3) by striking ''the carrier'' and inserting ''the business entity''.

(c) USE.—Subsection (d) of such section is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) providing humanitarian support to members and eligible beneficiaries receiving care through the military health care system; and

''(4) providing support to allow participation of members and their families in Department of Defense sponsored and authorized programs.''.

(d) ADMINISTRATION.—Subsection (e)(3) of such section is amended by striking ''the air carrier or surface carrier'' and inserting ''the business entity referred to in subsection (b)''.

(e) STYLISTIC AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**''§ 2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families, support members and other beneficiaries of the military health care system, and support participation in authorized programs''.**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 155 of such title is amended by striking the item relating to section 2613 and inserting the following new item:

''2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families, support members and other beneficiaries of the military health care system, and support participation in authorized programs.''.

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**SA 1104.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 181, after line 9, insert the following:

SEC. ___. (a) The Comptroller General of the United States shall conduct a study regarding State legislative actions during the 10 years prior to the date of enactment of this Act that may affect voter registration or voting. The study shall identify, by State, what documents are required in order to obtain sufficient identification for registration or voting, the cost to the individual for those documents, and what access is available to the State agencies responsible for providing that documentation, including hours of operation and geographic distribution of the agencies. The study shall identity the States that have passed voter identification legislation, the States that are providing free identification, the number of free identifications that have been provided by each such State, and which agencies in each such State have provided those identifications. The study shall collect data on any prosecutions or convictions for voter impersonation fraud within each State during the 10 years prior to the date of enactment of this Act. The study shall also examine the extent to which each State complies with data requests from the Election Assistance Commission. The Comptroller General shall collect this data to the extent available and shall identify any

limitations in collecting such data. Not later than 120 days after the date of enactment of this Act, the Government Accountability Office shall provide an interim briefing to the committees of jurisdiction of the Senate and the House of Representatives on the study conducted under this subsection. Members of Congress may request clarifying information as appropriate based on the information provided in the briefing.

(b) Not later than 11 months after the date of enactment of this Act, the Comptroller General shall submit to the committees of jurisdiction of the Senate and the House of Representatives a final report containing the results of the study conducted under subsection (a).

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**SA 1105.** Ms. COLLINS (for herself, Mr. BEGICH, and Mr. MANCHIN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for Defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

On page 365, line 12, strike ''for fiscal year 2012''.

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**SA 1106.** Mr. MCCAIN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1080. REPORT ON STATUS OF IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS IN THE FINAL REPORT OF THE 2010 ARMY ACQUISITION REVIEW PANEL.**

Not later than 1 October 2012, the Secretary of the Army shall submit to the congressional defense committees a report describing the plan and implementation status of the recommendations contained in the Final Report of the 2010 Army Acquisition Review panel (also known as the ''Decker-Wagner Report'') that the Army agreed to implement.

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**SA 1107.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

Strike subtitle D of title X and insert the following:

**Subtitle D—Detainee Matters**

**SEC. 1031. REVIEW OF AUTHORITY OF THE ARMED FORCES OF THE UNITED STATES TO DETAIN COVERED PERSONS PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with appropriate officials in the Executive Office of the President, the Director of National Intelligence, the Secretary of State, the Secretary of Homeland Security, and the Attorney General, submit to the appropriate committees of Congress a report setting forth the following:

(1) A statement of the position of the Executive Branch on the appropriate role for the Armed Forces of the United States in the detention and prosecution of covered persons (as defined in subsection (b)).

(2) A statement and assessment of the legal authority asserted by the Executive Branch for such detention and prosecution.

(3) A statement of any existing deficiencies or anticipated deficiencies in the legal authority for such detention and prosecution.

(b) COVERED PERSONS.—A covered person under this section is any person, other than a member of the Armed Forces of the United States, whose detention or prosecution by the Armed Forces of the United States is consistent with the laws of war and based on authority provided by any of the following:

(1) The Authorization for Use of Military Force (Public Law 107–40).

(2) The Authorization for Use of Military Force Against Iraq Resolution 2002 (Public Law 107–243).

(3) Any other statutory or constitutional authority for use of military force.

(c) CONGRESSIONAL ACTION.—Each of the appropriate committees of Congress may, not later than 45 days after receipt of the report required by subsection (a), hold a hearing on the report, and shall, within 45 days of such hearings, report to Congress legislation, if such committee determines legislation is appropriate and advisable, modifying or expanding the authority of the Executive Branch to carry out detention and prosecution of covered persons.

(d) 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 Judiciary, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

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**SA 1108.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1033 and insert the following:

**SEC. 1033. REQUIREMENTS FOR CERTIFICATIONS RELATING TO THE TRANSFER OF DETAINEES AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, TO FOREIGN COUNTRIES AND OTHER FOREIGN ENTITIES.**

(a) CERTIFICATION REQUIRED PRIOR TO TRANSFER.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise available to the Department of Defense for fiscal year 2012 to transfer any individual detained at Guantanamo to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity unless the Secretary submits to Congress the certification described in subsection (b) not later than 30 days before the transfer of the individual.

(2) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate—

(A) an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction (which the Secretary shall notify Congress of promptly after issuance); or

(B) a pre-trial agreement entered in a military commission case prior to the date of the enactment of this Act.

(b) CERTIFICATION.—A certification described in this subsection is a written certification made by the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of National Intelligence, that the government of the foreign country or the recognized leadership of the foreign entity to which the individual detained at Guantanamo is to be transferred—

(1) is not a designated state sponsor of terrorism or a designated foreign terrorist organization;

(2) maintains control over each detention facility in which the individual is to be detained if the individual is to be housed in a detention facility;

(3) is not, as of the date of the certification, facing a threat that is likely to substantially affect its ability to fulfill the security-related commitments attendant to the transfer;

(4) has taken or agreed to take actions that are likely to be effective in mitigating the risk that the individual will take action to threaten the United States, its citizens, or its allies in the future;

(5) has taken or agreed to take such actions that will mitigate the risk that the individual to be transferred will engage or reengage in any terrorist activity; and

(6) has agreed to share with the United States any information that—

(A) is related to the individual or any associates of the individual; and

(B) could affect the security of the United States, its citizens, or its allies

(c) PROHIBITION IN CASES OF PRIOR CONFIRMED RECIDIVISM.—

(1) PROHIBITION.—Except as provided in paragraph (2) and subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise made available to the Department of Defense for fiscal year 2012 to transfer any individual detained at Guantanamo to the custody or control of the individual's country of origin, any other foreign country, or any other foreign entity if there is a confirmed case of any individual who was detained at United States Naval Station, Guantanamo Bay, Cuba, at any time after September 11, 2001, who was transferred to such foreign country or entity and subsequently engaged in any terrorist activity.

(2) EXCEPTION.—Paragraph (1) shall not apply to any action taken by the Secretary to transfer any individual detained at Guantanamo to effectuate—

(A) a transfer that is in the national security interests of the United States, including any case in which either improvements in governance or the security environment of the country to which the detainee would be transferred have effectively mitigated the risk of recidivism;

(B) an order affecting the disposition of the individual that is issued by a court or competent tribunal of the United States having lawful jurisdiction (which the Secretary

shall notify Congress of promptly after issuance); or

(C) pre-trial agreement entered in a military commission case.

(d) NATIONAL SECURITY WAIVER.—

(1) IN GENERAL.—The Secretary of Defense may waive one or more certification requirements specified in subsection (b) if the Secretary, with the concurrence of the Secretary of State and in consultation with the Director of National Intelligence, determines that—

(A) alternative actions will be taken to address the underlying purpose of the requirement or requirements to be waived; and

(B) the transfer is in the national security interests of the United States.

(2) REPORTS.—Whenever the Secretary makes a determination under paragraph (1), the Secretary shall submit to the congressional defense committees, not later than 30 days before the transfer of the individual concerned, the following:

(A) A copy of the determination and the waiver concerned.

(B) A statement of the basis for the determination, including an explanation why the transfer is in the national security interests of the United States.

(C) A summary of the alternative actions to be taken to address the underlying purpose of, and to mitigate the risks addressed in, the paragraph or subsection to be waived.

(e) DEFINITIONS.—In this section:

(1) The term ''individual detained at Guantanamo'' means any individual located at United States Naval Station, Guantanamo Bay, Cuba, as of October 1, 2009, who—

(A) is not a citizen of the United States or a member of the Armed Forces of the United States; and

(B) is—

(i) in the custody or under the control of the Department of Defense; or

(ii) otherwise under detention at United States Naval Station, Guantanamo Bay, Cuba.

(2) The term ''foreign terrorist organization'' means any organization so designated by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

(f) REPEAL OF SUPERSEDED AUTHORITY.—Section 1033 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4351) is repealed.

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**SA 1109.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 361, line 9, insert after ''a person who is described in paragraph (2) who is captured'' the following: ''abroad''.

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**SA 1110.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 359, line 13, insert after ''covered persons (as defined in subsection (b))'' the following: ''captured abroad''.

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**SA 1111.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1038. SUNSET.**

This subtitle and the amendments made by this subtitle shall expire on September 30, 2012.

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**SA 1112.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1031, add the following:

(f) EXTENSION TO UNITED STATES CITIZENS AND LAWFUL RESIDENT ALIENS.—The authority of the Armed Forces of the United States to detain covered persons under this section extends to citizens of the United States and lawful resident aliens of the United States, except to the extent prohibited by the Constitution of the United States.

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**SA 1113.** Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle D of title X.

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**SA 1114.** Mr. BEGICH (for himself, Ms. SNOWE, Mr. CASEY, Mr. GRASSLEY, Mr. LEAHY, Mr. GRAHAM, Ms. MURKOWSKI, Mr. AKAKA, Mr. PRYOR, Mr. BROWN of Massachusetts, Mr. MANCHIN, and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 346. ELIGIBILITY OF RESERVE MEMBERS, GRAY-AREA RETIREES, WIDOWS AND WIDOWERS OF RETIRED MEMBERS, AND DEPENDENTS FOR SPACE-AVAILABLE TRAVEL ON MILITARY AIRCRAFT.**

(a) ELIGIBILITY.—

(1) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641b the following new section:

**''§ 2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members; and dependents**

''(a) RESERVE MEMBERS.—A member of a reserve component holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(b) RESERVE RETIREES UNDER APPLICABLE ELIGIBILITY AGE.—A member or former member of a reserve component who, but for being under the eligibility age applicable to the member under section 12731 of this title, otherwise would be eligible for retired pay under chapter 1223 of this title shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(c) WIDOWS AND WIDOWERS OF RETIRED MEMBERS.—

''(1) IN GENERAL.—An unremarried widow or widower of a member of the armed forces described in paragraph (2) shall be provided transportation on Department of Defense aircraft, on a space-available basis.

''(2) MEMBERS COVERED.—A member of the armed forces referred to in paragraph (1) is a member who—

''(A) is entitled to retired pay;

''(B) is described in subsection (b);

''(C) dies in the line of duty while on active duty and is not eligible for retired pay; or

''(D) in the case of a member of a reserve component, dies as a result of a line of duty condition and is not eligible for retired pay.

''(d) DEPENDENTS.—A dependent of a member or former member described in subsection (a) or (b) or of an unremarried widow or widower described in subsection (c) holding a valid Uniformed Services Identification and Privilege Card shall be provided transportation on Department of Defense aircraft, on a space-available basis, if the dependent is accompanying the member.

''(e) SCOPE.—Space-available travel required by this section includes travel to and from locations within and outside the continental United States.

''(f) PRIORITY.—The priority level and category for space-available travel for the eligible members described in subsection (a), (b), (c), and (d) shall be determined by the Secretary of Defense.

''(g) DEFINITION OF DEPENDENT.—In this section, the term 'dependent' has the meaning given that term in section 1072 of this title.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641b the following new item:

''2641c. Space-available travel on Department of Defense aircraft: reserve members, reserve members eligible for retired pay but for age; widows and widowers of retired members; and dependents.''.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement section 2641c of title 10, United States Code, as added by subsection (a).

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**SA 1115** Ms. LANDRIEU (for herself, Ms. SNOWE, Mrs. SHAHEEN, Mr. BROWN

of Massachusetts, and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other prposes; as follows:

At the end, add the following:

**DIVISION E—SBIR AND STTR REAUTHORIZATION**

**SEC. 5001. SHORT TITLE.**

This division may be cited as the ''SBIR/STTR Reauthorization Act of 2011''.

**SEC. 5002. DEFINITIONS.**

In this division—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term ''small business concern'' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

**SEC. 5003. REPEAL.**

Subtitle E of title VIII of this Act is amended by striking section 885.

**TITLE LI—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS**

**SEC. 5101. EXTENSION OF TERMINATION DATES.**

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking ''2008'' and inserting ''2019''; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended—

(1) by striking ''IN GENERAL.—'' and all that follows through ''with respect'' and inserting ''IN GENERAL.—With respect'';

(2) by striking ''2009'' and inserting ''2019''; and

(3) by striking clause (ii).

**SEC. 5102. STATUS OF THE OFFICE OF TECHNOLOGY.**

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

''(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

''(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

''(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.''.

**SEC. 5103. SBIR ALLOCATION INCREASE.**

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''Each'' and inserting ''Except as provided in paragraph (2)(B), each'';

(B) in subparagraph (B), by striking ''and'' at the end; and

(C) by striking subparagraph (C) and inserting the following:

''(C) not less than 2.5 percent of such budget in fiscal year 2013;

''(D) not less than 2.6 percent of such budget in fiscal year 2014;

''(E) not less than 2.7 percent of such budget in fiscal year 2015;

''(F) not less than 2.8 percent of such budget in fiscal year 2016;

''(G) not less than 2.9 percent of such budget in fiscal year 2017;

''(H) not less than 3.0 percent of such budget in fiscal year 2018;

''(I) not less than 3.1 percent of such budget in fiscal year 2019;

''(J) not less than 3.2 percent of such budget in fiscal year 2020;

''(K) not less than 3.3 percent of such budget in fiscal year 2021;

''(L) not less than 3.4 percent of such budget in fiscal year 2022; and

''(M) not less than 3.5 percent of such budget in fiscal year 2023 and each fiscal year thereafter,'';

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking ''A Federal agency'' and inserting the following:

''(A) IN GENERAL.—A Federal agency''; and

(C) by adding at the end the following:

''(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

''(i) may not be used for new Phase I or Phase II awards; and

''(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.''; and

(3) by adding at the end the following:

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prohibit a Federal agency from expending with small business concerns an amount of the extramural budget for research or research and development of the Federal agency that exceeds the amount required under paragraph (1).''.

**SEC. 5104. STTR ALLOCATION INCREASE.**

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking ''thereafter.'' and inserting ''through fiscal year 2012;'';

(3) by adding at the end the following:

''(iii) 0.4 percent for fiscal years 2013 and 2014;

''(iv) 0.5 percent for fiscal years 2015 and 2016; and

''(v) 0.6 percent for fiscal year 2017 and each fiscal year thereafter.''; and

(4) by adding at the end the following:

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prohibit a Federal agency from expending with small business concerns an amount of the extramural budget for research or research and development of the Federal agency that exceeds the amount required under paragraph (1).''.

**SEC. 5105. SBIR AND STTR AWARD LEVELS.**

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(c) ANNUAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D), by striking ''once every 5 years to reflect economic adjustments and programmatic considerations'' and inserting ''every year for inflation''; and

(2) in subsection (p)(2)(B)(ix), as amended by subsection (b) of this section, by inserting ''(each of which the Administrator shall adjust for inflation annually)'' after ''$1,000,000,''.

(d) LIMITATION ON SIZE OF AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) LIMITATION ON SIZE OF AWARDS.—

''(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

''(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

''(A) the amount of each award;

''(B) a justification for exceeding the award amount;

''(C) the identity and location of each award recipient; and

''(D) whether an award recipient has received any venture capital investment and, if so, whether the recipient is majority-owned by multiple venture capital operating companies.

''(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.''.

**SEC. 5106. AGENCY AND PROGRAM FLEXIBILITY.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(bb) SUBSEQUENT PHASE II AWARDS.—

''(1) AGENCY FLEXIBILITY.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

''(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received an award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either

the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).

''(3) PREVENTING DUPLICATIVE AWARDS.—Before making an award under paragraph (1) or (2), the head of a Federal agency shall verify that the project to be performed with the award has not been funded under the SBIR program or STTR program of another Federal agency.''.

**SEC. 5107. ELIMINATION OF PHASE II INVITATIONS.**

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking ''to further'' and inserting: ''which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further''; and

(2) in paragraph (6)(B), by striking ''to further develop proposed ideas to'' and inserting ''which shall not include any invitation, prescreening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that''.

**SEC. 5108. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES IN A PORTION OF THE SBIR PROGRAM.**

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(cc) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES IN THE SBIR PROGRAM.—

''(1) AUTHORITY.—Upon a written determination described in paragraph (2) provided to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives not later than 30 days before the date on which an award is made—

''(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 25 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns; and

''(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 15 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies through competitive, merit-based procedures that are open to all eligible small business concerns.

''(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

''(A) induce additional venture capital funding of small business innovations;

''(B) substantially contribute to the mission of the Federal agency;

''(C) demonstrate a need for public research; and

''(D) otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

''(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies and qualified for participation in the program authorized under paragraph (1) shall—

''(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

''(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies.

''(4) COMPLIANCE.—

''(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.

''(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).

''(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1) to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).

''(6) FINAL DECISIONS ON APPLICATIONS UNDER THE SBIR PROGRAM.—

''(A) DEFINITION.—In this paragraph, the term 'covered small business concern' means a small business concern that—

''(i) was not majority-owned by multiple venture capital operating companies on the date on which the small business concern submitted an application in response to a solicitation under the SBIR programs; and

''(ii) on the date of the award under the SBIR program is majority-owned by multiple venture capital operating companies.

''(B) IN GENERAL.—If a Federal agency does not make an award under a solicitation under the SBIR program before the date that is 9 months after the date on which the period for submitting applications under the solicitation ends—

''(i) a covered small business concern is eligible to receive the award, without regard to whether the covered small business concern meets the requirements for receiving an award under the SBIR program for a small business concern that is majority-owned by multiple venture capital operating companies, if the covered small business concern meets all other requirements for such an award; and

''(ii) the head of the Federal agency shall transfer an amount equal to any amount awarded to a covered small business concern under the solicitation to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency, not later than 90 days after the date on which the Federal agency makes the award.

''(7) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital as a criterion for the award of contracts under the SBIR program or STTR program.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term 'venture capital operating company' means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).''.

(c) RULEMAKING TO ENSURE THAT FIRMS THAT ARE MAJORITY-OWNED BY MULTIPLE VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN A PORTION OF THE SBIR PROGRAM.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—It is the stated intent of Congress that the Administrator should promulgate regulations to carry out the authority under section 9(cc) of the Small Business Act, as added by this section, that—

(A) permit small business concerns that are majority-owned by multiple venture capital operating companies to participate in the SBIR program in accordance with section 9(cc) of the Small Business Act;

(B) provide specific guidance for small business concerns that are majority-owned by multiple venture capital operating companies with regard to eligibility, participation, and affiliation rules; and

(C) preserve and maintain the integrity of the SBIR program as a program for small business concerns in the United States, prohibiting large businesses or large entities or foreign-owned businesses or entities from participation in the program established under section 9 of the Small Business Act.

(2) RULEMAKING REQUIRED.—

(A) PROPOSED REGULATIONS.—Not later than 4 months after the date of enactment of this Act, the Administrator shall issue proposed regulations to amend section 121.103 (relating to determinations of affiliation applicable to the SBIR program) and section 121.702 (relating to ownership and control standards and size standards applicable to the SBIR program) of title 13, Code of Federal Regulations, for firms that are majority-owned by multiple venture capital operating companies and participating in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(B) FINAL REGULATIONS.—Not later than 1 year after the date of enactment of this Act, and after providing notice of and opportunity for comment on the proposed regulations issued under subparagraph (A), the Administrator shall issue final or interim final regulations under this subsection.

(3) CONTENTS.—

(A) IN GENERAL.—The regulations issued under this subsection shall permit the participation of applicants majority-owned by multiple venture capital operating companies in the SBIR program in accordance with section 9(cc) of the Small Business Act, as added by this section, unless the Administrator determines—

(i) in accordance with the size standards established under subparagraph (B), that the applicant is—

(I) a large business or large entity; or

(II) majority-owned or controlled by a large business or large entity; or

(ii) in accordance with the criteria established under subparagraph (C), that the applicant—

(I) is a foreign business or a foreign entity or is not a citizen of the United States or alien lawfully admitted for permanent residence; or

(II) is majority-owned or controlled by a foreign business, foreign entity, or person who is not a citizen of the United States or alien lawfully admitted for permanent residence.

(B) SIZE STANDARDS.—Under the authority to establish size standards under paragraphs (2) and (3) of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), the Administrator shall, in accordance with paragraph (1) of this subsection, establish size standards for applicants seeking to participate in the SBIR program solely under the authority under section 9(cc) of the Small Business Act, as added by this section.

(C) CRITERIA FOR DETERMINING FOREIGN OWNERSHIP.—The Administrator shall establish criteria for determining whether an applicant meets the requirements under subparagraph (A)(ii), and, in establishing the criteria, shall consider whether the criteria should include—

(i) whether the applicant is at least 51 percent owned or controlled by citizens of the United States or domestic venture capital operating companies;

(ii) whether the applicant is domiciled in the United States; and

(iii) whether the applicant is a direct or indirect subsidiary of a foreign-owned firm, including whether the criteria should include that an applicant is a direct or indirect subsidiary of a foreign-owned entity if—

(I) any venture capital operating company that owns more than 20 percent of the applicant is a direct or indirect subsidiary of a foreign-owned entity; or

(II) in the aggregate, entities that are direct or indirect subsidiaries of foreign-owned entities own more than 49 percent of the applicant.

(D) CRITERIA FOR DETERMINING AFFILIATION.—The Administrator shall establish criteria, in accordance with paragraph (1), for determining whether an applicant is affiliated with a venture capital operating company or any other business that the venture capital operating company has financed and, in establishing the criteria, shall specify that—

(i) if a venture capital operating company that is determined to be affiliated with an applicant is a minority investor in the applicant, the portfolio companies of the venture capital operating company shall not be determined to be affiliated with the applicant, unless—

(I) the venture capital operating company owns a majority of the portfolio company; or

(II) the venture capital operating company holds a majority of the seats on the board of directors of the portfolio company;

(ii) subject to clause (i), the Administrator retains the authority to determine whether a venture capital operating company is affiliated with an applicant, including establishing other criteria;

(iii) the Administrator may not determine that a portfolio company of a venture capital operating company is affiliated with an applicant based solely on one or more shared investors; and

(iv) subject to clauses (i), (ii), and (iii), the Administrator retains the authority to determine whether a portfolio company of a venture capital operating company is affiliated with an applicant based on factors independent of whether there is a shared investor, such as whether there are contractual obligations between the portfolio company and the applicant.

(4) ENFORCEMENT.—If the Administrator does not issue final or interim final regulations under this subsection on or before the date that is 1 year after the date of enactment of this Act, the Administrator may not carry out any activities under section 4(h) of the Small Business Act (15 U.S.C. 633(h)) (as continued in effect pursuant to the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742)) during the period beginning on the date that is 1 year and 1 day after the date of enactment of this Act, and ending on the date on which the final or interim final regulations are issued.

(5) DEFINITION.—In this subsection, the term ''venture capital operating company'' has the same meaning as in section 3(aa) of the Small Business Act, as added by this section.

(d) ASSISTANCE FOR DETERMINING AFFILIATES.—

(1) CLEAR EXPLANATION REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the Web site of the Administration (with a direct link displayed on the homepage of the Web site of the Administration or the SBIR and STTR Web sites of the Administration)—

(A) a clear explanation of the SBIR and STTR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(B) contact information for officers or employees of the Administration who—

(i) upon request, shall review an issue relating to the rules described in subparagraph (A); and

(ii) shall respond to a request under clause (i) not later than 20 business days after the date on which the request is received.

(2) INCLUSION OF AFFILIATION RULES FOR CERTAIN SMALL BUSINESS CONCERNS.—On and after the date on which the final regulations under subsection (c) are issued, the Administrator shall post on the Web site of the Administration information relating to the regulations, in accordance with paragraph (1).

**SEC. 5109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.**

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

''(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.''.

**SEC. 5110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(dd) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

''(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

''(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

''(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

''(2) PROHIBITION.—No Federal agency shall—

''(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

''(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

''(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

''(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

''(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

''(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.''.

**SEC. 5111. NOTICE REQUIREMENT.**

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency; and''.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

''(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.''.

**SEC. 5112. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD SEQUENTIAL PHASE II AWARDS FOR SBIR OR STTR FUNDED PROJECTS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ee) ADDITIONAL PHASE II SBIR AND STTR AWARDS.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive an additional Phase II SBIR award or Phase II STTR award for that project.''.

## TITLE LII—OUTREACH AND COMMERCIALIZATION INITIATIVES

**SEC. 5201. RURAL AND STATE OUTREACH.**

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.—

''(1) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) APPLICANT.—The term 'applicant' means an entity, organization, or individual that submits a proposal for an award or a cooperative agreement under this subsection.

''(B) FAST PROGRAM.—The term 'FAST program' means the Federal and State Technology Partnership Program established under this subsection.

''(C) RECIPIENT.—The term 'recipient' means a person that receives an award or becomes party to a cooperative agreement under this subsection.

''(D) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

''(E) DEFINITIONS RELATING TO MENTORING NETWORKS.—The terms 'business advice and counseling', 'mentor', and 'mentoring network' have the meanings given those terms in section 34(e).

''(2) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to be known as the Federal and State Technology Partnership Program, the purpose of which shall be to strengthen the technological competitiveness of small business concerns in the States.

''(3) GRANTS AND COOPERATIVE AGREEMENTS.—

''(A) JOINT REVIEW.—In carrying out the FAST program, the Administrator and the program managers for the SBIR program and STTR program at the National Science Foundation, the Department of Defense, and any other Federal agency determined appropriate by the Administrator shall jointly review proposals submitted by applicants and may make awards or enter into cooperative agreements under this subsection based on the factors for consideration set forth in subparagraph (B), in order to enhance or develop in a State—

''(i) technology research and development by small business concerns;

''(ii) technology transfer from university research to technology-based small business concerns;

''(iii) technology deployment and diffusion benefitting small business concerns;

''(iv) the technological capabilities of small business concerns through the establishment or operation of consortia comprised of entities, organizations, or individuals, including—

''(I) State and local development agencies and entities;

''(II) representatives of technology-based small business concerns;

''(III) industries and emerging companies;

''(IV) universities; and

''(V) small business development centers; and

''(v) outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR program or STTR program, including initiatives—

''(I) to make grants or loans to companies to pay a portion or all of the cost of developing SBIR or STTR proposals;

''(II) to establish or operate a Mentoring Network within the FAST program to provide business advice and counseling that will assist small business concerns that have been identified by FAST program participants, program managers of participating SBIR agencies, the Administration, or other entities that are knowledgeable about the SBIR and STTR programs as good candidates for the SBIR and STTR programs, and that would benefit from mentoring, in accordance with section 34;

''(III) to create or participate in a training program for individuals providing SBIR or STTR outreach and assistance at the State and local levels; and

''(IV) to encourage the commercialization of technology developed through funding under the SBIR program or the STTR program.

''(B) SELECTION CONSIDERATIONS.—In making awards or entering into cooperative agreements under this subsection, the Administrator and the program managers referred to in subparagraph (A)—

''(i) may only consider proposals by applicants that intend to use a portion of the Federal assistance provided under this subsection to provide outreach, financial support, or technical assistance to technology-based small business concerns participating in or interested in participating in the SBIR program or STTR program; and

''(ii) shall consider, at a minimum—

''(I) whether the applicant has demonstrated that the assistance to be provided would address unmet needs of small business concerns in the community, and whether it is important to use Federal funding for the proposed activities;

''(II) whether the applicant has demonstrated that a need exists to increase the number or success of small high-technology businesses in the State or an area of the State, as measured by the number of Phase I and Phase II SBIR awards that have historically been received by small business concerns in the State or area of the State;

''(III) whether the projected costs of the proposed activities are reasonable;

''(IV) whether the proposal integrates and coordinates the proposed activities with other State and local programs assisting small high-technology firms in the State;

''(V) the manner in which the applicant will measure the results of the activities to be conducted; and

''(VI) whether the proposal addresses the needs of small business concerns—

''(aa) owned and controlled by women;

''(bb) that are socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A));

''(cc) that are HUBZone small business concerns;

''(dd) located in areas that have historically not participated in the SBIR and STTR programs;

''(ee) owned and controlled by service-disabled veterans;

''(ff) owned and controlled by Native Americans; and

''(gg) located in geographic areas with an unemployment rate that exceeds the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.

''(C) PROPOSAL LIMIT.—Not more than 1 proposal may be submitted for inclusion in the FAST program under this subsection to provide services in any one State in any 1 fiscal year.

''(D) PROCESS.—Proposals and applications for assistance under this subsection shall be in such form and subject to such procedures as the Administrator shall establish. The Administrator shall promulgate regulations establishing standards for the consideration of proposals under subparagraph (B), including standards regarding each of the considerations identified in subparagraph (B)(ii).

''(4) COOPERATION AND COORDINATION.—In carrying out the FAST program, the Administrator shall cooperate and coordinate with—

''(A) Federal agencies required by this section to have an SBIR program; and

''(B) entities, organizations, and individuals actively engaged in enhancing or developing the technological capabilities of small business concerns, including—

''(i) State and local development agencies and entities;

''(ii) State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation (as established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g));

''(iii) State science and technology councils; and

''(iv) representatives of technology-based small business concerns.

''(5) ADMINISTRATIVE REQUIREMENTS.—

''(A) COMPETITIVE BASIS.—Awards and cooperative agreements under this subsection shall be made or entered into, as applicable, on a competitive basis.

''(B) MATCHING REQUIREMENTS.—

''(i) IN GENERAL.—The non-Federal share of the cost of an activity (other than a planning activity) carried out using an award or under a cooperative agreement under this subsection shall be—

''(I) except as provided in clause (iii), 35 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in 1 of the 18 States receiving the fewest Phase I SBIR awards;

''(II) except as provided in clause (ii) or (iii), 1 dollar for each Federal dollar, in the case of a recipient that will serve small business concerns located in 1 of the 16 States receiving the greatest number of Phase I SBIR awards; and

''(III) except as provided in clause (ii) or (iii), 50 cents for each Federal dollar, in the case of a recipient that will serve small business concerns located in a State that is not described in subclause (I) or (II) that is receiving Phase I SBIR awards.

''(ii) LOW-INCOME AREAS.—The non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a qualified census tract, as that term is defined in section 42(d)(5)(B)(ii)(I) of the Internal Revenue Code of 1986. Federal dollars not so allocated by that recipient shall be subject to the matching requirements of clause (i).

''(iii) RURAL AREAS.—

''(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in a rural area.

''(II) ENHANCED RURAL AWARDS.—For a recipient located in a rural area that is located in a State described in clause (i)(I), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this subsection shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in clause (i) to serve small business concerns located in the rural area.

''(III) DEFINITION OF RURAL AREA.—In this clause, the term 'rural area' has the meaning given that term in section 1393(a)(2) of the Internal Revenue Code of 1986.

''(iv) TYPES OF FUNDING.—The non-Federal share of the cost of an activity carried out by a recipient shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

''(v) RANKINGS.—For the first full fiscal year after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and each fiscal year thereafter, based on the statistics for the most recent full fiscal year for which the Administrator has compiled statistics, the Administrator shall reevaluate the ranking of each State for purposes of clause (i).

''(C) DURATION.—Awards may be made or cooperative agreements entered into under this subsection for multiple years, not to exceed 5 years in total.

''(6) ANNUAL REPORTS.—The Administrator shall submit an annual report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives regarding—

''(A) the number and amount of awards provided and cooperative agreements entered

into under the FAST program during the preceding year;

''(B) a list of recipients under this subsection, including their location and the activities being performed with the awards made or under the cooperative agreements entered into; and

''(C) the Mentoring Networks and the mentoring database, as provided for under section 34, including—

''(i) the status of the inclusion of mentoring information in the database required by subsection (k); and

''(ii) the status of the implementation and description of the usage of the Mentoring Networks.

''(7) PROGRAM LEVELS.—

''(A) IN GENERAL.—There is authorized to be appropriated to carry out the FAST program, including Mentoring Networks, under this subsection and section 34, $15,000,000 for each of fiscal years 2011 through 2016.

''(B) MENTORING DATABASE.—Of the total amount made available under subparagraph (A) for fiscal years 2011 through 2016, a reasonable amount, not to exceed a total of $500,000, may be used by the Administration to carry out section 34(d).

''(8) TERMINATION.—The authority to carry out the FAST program under this subsection shall terminate on September 30, 2016.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 34 (15 U.S.C. 657d);

(2) by redesignating sections 35 through 43 as sections 34 through 42, respectively;

(3) in section 9(k)(1)(D) (15 U.S.C. 638(k)(1)(D)), by striking ''section 35(d)'' and inserting ''section 34(d)'';

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

(A) in subsection (c)(1), by striking ''section 34(c)(1)(E)(ii)'' and inserting ''section 9(s)(3)(A)(v)(II)'';

(B) by striking ''section 34'' each place it appears and inserting ''section 9(s)''; and

(C) by adding at the end the following:

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) BUSINESS ADVICE AND COUNSELING.—The term 'business advice and counseling' means providing advice and assistance on matters described in subsection (c)(2)(B) to small business concerns to guide them through the SBIR and STTR program process, from application to award and successful completion of each phase of the program.

''(2) FAST PROGRAM.—The term 'FAST program' means the Federal and State Technology Partnership Program established under section 9(s).

''(3) MENTOR.—The term 'mentor' means an individual described in subsection (c)(2).

''(4) MENTORING NETWORK.—The term 'Mentoring Network' means an association, organization, coalition, or other entity (including an individual) that meets the requirements of subsection (c).

''(5) RECIPIENT.—The term 'recipient' means a person that receives an award or becomes party to a cooperative agreement under this section.

''(6) SBIR PROGRAM.—The term 'SBIR program' has the same meaning as in section 9(e)(4).

''(7) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

''(8) STTR PROGRAM.—The term 'STTR program' has the same meaning as in section 9(e)(6).'';

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

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

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

**SEC. 5202. TECHNICAL ASSISTANCE FOR AWARDEES.**

Section 9(q) of the Small Business Act (15 U.S.C. 638(q)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or STTR program'' after ''SBIR program''; and

(B) by striking ''SBIR projects'' and inserting ''SBIR or STTR projects'';

(2) in paragraph (2), by striking ''3 years'' and inserting ''5 years''; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting ''or STTR'' after ''SBIR''; and

(ii) by striking ''$4,000'' and inserting ''$5,000'';

(B) by striking subparagraph (B) and inserting the following:

''(B) PHASE II.—A Federal agency described in paragraph (1) may—

''(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than $5,000 per year; or

''(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than $5,000 per year, which shall be in addition to the amount of the recipient's award.''; and

(C) by adding at the end the following:

''(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

''(D) LIMITATION.—A Federal agency may not—

''(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

''(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.''.

**SEC. 5203. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking ''PILOT'' and inserting ''READINESS'';

(2) by striking ''Pilot'' each place that term appears and inserting ''Readiness'';

(3) in paragraph (1)—

(A) by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program''; and

(B) by adding at the end the following: ''The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(4) in paragraph (2), by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program'';

(5) by striking paragraphs (5) and (6); and

(6) by inserting after paragraph (4) the following:

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

''(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

''(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

''(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

''(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

''(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

''(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Readiness Program and efforts to transition these technologies into programs of record or fielded systems.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting ''(including awards under subsection (y))'' after ''the number of awards''.

**SEC. 5204. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ff) PILOT PROGRAM.—

''(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

''(A) for awards for technology development, testing, and evaluation of SBIR and STTR Phase II technologies; or

''(B) to support the progress of research or research and development conducted under the SBIR or STTR programs to Phase III.

''(2) APPLICATION BY FEDERAL AGENCY.—

''(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before to the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

''(B) DETERMINATION.—The Administrator shall—

''(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

''(ii) publish the determination in the Federal Register; and

''(iii) make a copy of the determination and any related materials available to the

Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

''(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

''(5) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

''(6) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

''(7) DEFINITIONS.—In this subsection—

''(A) the term 'covered Federal agency'—

''(i) means a Federal agency participating in the SBIR program or the STTR program; and

''(ii) does not include the Department of Defense; and

''(B) the term 'pilot program' means the program established under paragraph (1).''.

**SEC. 5205. ACCELERATING CURES.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 42, as redesignated by section 5201 of this Act, the following:

**''SEC. 43. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**

''(a) NIH CURES PILOT.—

''(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the 'advisory board') to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the 'NIH') institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The advisory board shall consist of—

''(i) the Director of the NIH;

''(ii) the Director of the SBIR program of the NIH;

''(iii) senior NIH agency managers, selected by the Director of NIH;

''(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

''(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

''(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

''(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

''(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academy of Science entitled 'An Assessment of the Small Business Innovation Research Program at the NIH'.

''(c) PILOT PROGRAM.—

''(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

''(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

''(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

''(e) SBIR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall emphasize applications that identify products, processes, technologies, and services that may enhance the development of cures and therapies.

''(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

''(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 90 days.

''(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).''.

(b) PROSPECTIVE REPEAL.—Effective 5 years after the date of enactment of this Act, the Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by striking section 43, as added by subsection (a); and

(2) by redesignating sections 44 and 45 as sections 43 and 44, respectively.

**SEC. 5206. FEDERAL AGENCY ENGAGEMENT WITH SBIR AND STTR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE I AWARDS BUT HAVE NOT BEEN AWARDED PHASE II AWARDS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN PHASE I SBIR AND STTR AWARDEES.—

''(1) DEFINITION.—In this subsection, the term 'covered awardee' means a small business concern that—

''(A) has received multiple Phase I awards over multiple years, as determined by the head of a Federal agency, under the SBIR program or the STTR program of the Federal agency; and

''(B) has not received a Phase II award—

''(i) under the SBIR program or STTR program, as the case may be, of the Federal agency described in subparagraph (A); or

''(ii) relating to a Phase I award described in subparagraph (A) under the SBIR program or the STTR program of another Federal agency.

''(2) PERFORMANCE MEASURES.—The head of each Federal agency that participates in the SBIR program or the STTR program shall develop performance measures for any covered awardee relating to commercializing research or research and development activities under the SBIR program or the STTR program of the Federal agency.''.

**SEC. 5207. CLARIFYING THE DEFINITION OF "PHASE III".**

(a) PHASE III AWARDS.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting ''for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program'' after ''phase'';

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting ''for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program'' after ''phase'';

(3) in paragraph (8), by striking ''and'' at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

''(10) the term 'commercialization' means—

''(A) the process of developing products, processes, technologies, or services; and

''(B) the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) to or use by the Federal Government or commercial markets;''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 9 (15 U.S.C. 638)—

(A) in subsection (e)—

(i) in paragraph (4)(C)(ii), by striking ''scientific review criteria'' and inserting ''merit-based selection procedures'';

(ii) in paragraph (9), by striking ''the second or the third phase'' and inserting ''Phase II or Phase III''; and

(iii) by adding at the end the following:

''(11) the term 'Phase I' means—

''(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

''(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

''(12) the term 'Phase II' means—

''(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

''(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

''(13) the term 'Phase III' means—

''(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

''(B) with respect to the STTR program, the third phase described in paragraph (6)(C).'';

(B) in subsection (j)—

(i) in paragraph (1)(B), by striking ''phase two'' and inserting ''Phase II'';

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking ''the third phase'' each place it appears and inserting ''Phase III''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(II) in subparagraph (D)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II'';

(III) in subparagraph (F), by striking ''the third phase'' and inserting ''Phase III'';

(IV) in subparagraph (G)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(V) in subparagraph (H)—

(aa) by striking ''the first phase'' and inserting ''Phase I'';

(bb) by striking ''second phase'' each place it appears and inserting ''Phase II''; and

(cc) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking ''the first phase (as described in subsection (e)(4)(A))'' and inserting ''Phase I'';

(bb) by striking ''the second phase (as described in subsection (e)(4)(B))'' and inserting ''Phase II''; and

(cc) by striking ''the third phase (as described in subsection (e)(4)(C))'' and inserting ''Phase III''; and

(II) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II'';

(C) in subsection (k)—

(i) by striking ''first phase'' each place it appears and inserting ''Phase I''; and

(ii) by striking ''second phase'' each place it appears and inserting ''Phase II'';

(D) in subsection (l)(2)—

(i) by striking ''the first phase'' and inserting ''Phase I''; and

(ii) by striking ''the second phase'' and inserting ''Phase II'';

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking ''second phase'' and inserting ''Phase II''; and

(ii) in subparagraph (C), by striking ''third phase'' and inserting ''Phase III'';

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking ''the second phase'' and inserting ''Phase II''; and

(bb) by striking ''the third phase'' and inserting ''Phase III''; and

(II) in clause (ix)—

(aa) by striking ''the first phase'' and inserting ''Phase I''; and

(bb) by striking ''the second phase'' and inserting ''Phase II''; and

(ii) in paragraph (3)—

(I) by striking ''the first phase (as described in subsection (e)(6)(A))'' and inserting ''Phase I'';

(II) by striking ''the second phase (as described in subsection (e)(6)(B))'' and inserting ''Phase II''; and

(III) by striking ''the third phase (as described in subsection (e)(6)(A))'' and inserting ''Phase III'';

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''FIRST PHASE'' and inserting ''PHASE I''; and

(II) by striking ''first phase'' and inserting ''Phase I''; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking ''SECOND PHASE'' and inserting ''PHASE II''; and

(II) by striking ''second phase'' and inserting ''Phase II'';

(H) in subsection (r)—

(i) in the subsection heading, by striking ''THIRD PHASE'' and inserting ''PHASE III'';

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking ''for the second phase'' and inserting ''for Phase II'';

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(cc) by striking ''second phase period'' and inserting ''Phase II period''; and

(II) in the second sentence—

(aa) by striking ''second phase'' and inserting ''Phase II''; and

(bb) by striking ''third phase'' and inserting ''Phase III''; and

(iii) in paragraph (2), by striking ''third phase'' and inserting ''Phase III''; and

(I) in subsection (u)(2)(B), by striking ''the first phase'' and inserting ''Phase I''; and

(2) in section 34(c)(2)(B)(vii) (15 U.S.C. 657e(c)(2)(B)(vii)), as redesignated by section 5201 of this Act, by striking ''third phase'' and inserting ''Phase III''.

**SEC. 5208. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.**

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (g)(4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(B) make a final decision on each proposal submitted under the SBIR program—

''(i) not later than 90 days after the date on which the solicitation closes; or

''(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;''; and

(2) in subsection (o)(4)—

(A) by inserting ''(A)'' after ''(4)'';

(B) by adding ''and'' after the semicolon at the end; and

(C) by adding at the end the following:

''(B) make a final decision on each proposal submitted under the STTR program—

''(i) not later than 90 days after the date on which the solicitation closes; or

''(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;''.

(b) NIH PEER REVIEW PROCESS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(hh) NIH PEER REVIEW PROCESS.—The Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 105 of the National Institutes of Health Reform Act of 2006 (42 U.S.C. 284n) is amended—

(A) in subsection (a)(3)—

(i) by striking ''A grant'' and inserting ''Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant''; and

(ii) by striking ''section 402(k)'' and all that follows through ''Act)'' and inserting ''section 402(l) of such Act''; and

(B) in subsection (b)(5)—

(i) by striking ''A grant'' and inserting ''Except as provided in section 9(hh) of the Small Business Act (15 U.S.C. 638(hh)), a grant''; and

(ii) by striking ''section 402(k)'' and all that follows through ''Act)'' and inserting ''section 402(l) of such Act''.

## TITLE LIII—OVERSIGHT AND EVALUATION

**SEC. 5301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.**

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 5102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking ''STTR programs, including the data'' and inserting the following: ''STTR programs, including—

''(A) the data'';

(B) by striking ''(g)(10), (o)(9), and (o)(15), the number'' and all that follows through ''under each of the SBIR and STTR programs, and a description'' and inserting the following: ''(g)(8) and (o)(9); and

''(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority-owned by multiple venture capital operating companies) under each of the SBIR and STTR programs;

''(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

''(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (cc) for firms owned in majority part by venture capital operating companies and participating in the SBIR program;

''(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies; and

''(F) a description''; and

(2) by inserting after paragraph (7) the following:

''(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;''.

**SEC. 5302. DATA COLLECTION FROM AGENCIES FOR SBIR.**

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(3) by inserting after paragraph (7) the following:

''(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an awardee—

''(i) has venture capital or is majority-owned by multiple venture capital operating companies, and, if so—

''(I) the amount of venture capital that the awardee has received as of the date of the award; and

''(II) the amount of additional capital that the awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2011, or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State described in subsection (u)(3); and

''(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;''.

**SEC. 5303. DATA COLLECTION FROM AGENCIES FOR STTR.**

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended by striking paragraph (9) and inserting the following:

''(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an applicant or awardee—

''(i) has venture capital or is majority-owned by multiple venture capital operating companies, and, if so—

''(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

''(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

''(ii) has an investor that—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

''(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

''(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

''(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;''.

**SEC. 5304. PUBLIC DATABASE.**

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

''(i) has venture capital and, if so, whether the small business concern is registered as majority-owned by multiple venture capital operating companies as required under subsection (cc)(4);

''(ii) is owned by a woman or has a woman as a principal investigator;

''(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

''(iv) received assistance under the FAST program under section 34, as in effect on the day before the date of enactment of the SBIR/STTR Reauthorization Act of 2011, or the outreach program under subsection (s); or

''(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

**SEC. 5305. GOVERNMENT DATABASE.**

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''Not later'' and all that follows through ''Act of 2000'' and inserting ''Not later than 90 days after the date of enactment of the SBIR/STTR Reauthorization Act of 2011'';

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

''(A) contains, for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

''(i) the name, size, and location, and an identifying number assigned by the Administration of the small business concern;

''(ii) an abstract of the project;

''(iii) the specific aims of the project;

''(iv) the number of employees of the small business concern;

''(v) the names of key individuals that will carry out the project;

''(vi) the percentage of effort each individual described in clause (iv) will contribute to the project;

''(vii) whether the small business concern is majority-owned by multiple venture capital operating companies; and

''(viii) the Federal agency to which the application is made, and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;'';

(E) by redesignating subparagraphs (D), and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

''(D) includes, for each awardee—

''(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

''(ii) whether the awardee has venture capital, and, if so—

''(I) the amount of venture capital as of the date of the award;

''(II) the percentage of ownership of the awardee held by a venture capital operating company, including whether the awardee is majority-owned by multiple venture capital operating companies; and

''(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

''(iii) the names and locations of any affiliates of the awardee;

''(iv) the number of employees of the awardee;

''(v) the number of employees of the affiliates of the awardee; and

''(vi) the names of, and the percentage of ownership of the awardee held by—

''(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

''(II) any person that is not an individual and is not organized under the laws of a State or the United States;'';

(G) in subparagraph (E), as so redesignated, by striking ''and'' at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting ''; and''; and

(I) by adding at the end the following:

''(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has committed fraud, waste, or abuse relating to the SBIR program or STTR program.''; and

(2) in paragraph (3), by adding at the end the following:

''(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.''.

**SEC. 5306. ACCURACY IN FUNDING BASE CALCULATIONS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 5 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) for the first report submitted under this section, the period beginning on October 1, 2005, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

**SEC. 5307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.**

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

''(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 4 years thereafter—

''(A) continue the most recent study under this section relating to—

''(i) the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1); and

''(ii) the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

''(B) make recommendations with respect to the issues described in subparagraph (A)(ii) and subparagraphs (A), (D), and (E) of subsection (a)(2); and

''(C) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

''(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

''(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).''.

**SEC. 5308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ii) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

''(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

''(2) the name of the small business concern or individual receiving the Phase III award; and

''(3) the dollar amount of the Phase III award.''.

**SEC. 5309. INTELLECTUAL PROPERTY PROTECTIONS.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

**SEC. 5310. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(jj) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—

''(1) ENABLING CONCERN TO GIVE CONSENT.—Each Federal agency required by this section to conduct an SBIR program or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

''(A) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant or an STTR applicant; and

''(B) release the contact information of the concern to such organizations.

''(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).''.

**SEC. 5311. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.**

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(kk) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

''(1) IN GENERAL.—Subject to paragraph (2), for the 3 full fiscal years beginning after the date of enactment of this subsection, the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

''(A) the administration of the SBIR program or the STTR program of the Federal agency;

''(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits and personnel interviews;

''(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

''(D) carrying out the program under subsection (y);

''(E) activities relating to oversight and congressional reporting, including the waste, fraud, and abuse prevention activities described in section 313(a)(1)(B)(ii) of the SBIR/STTR Reauthorization Act of 2011;

''(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse, to ensure compliance with requirements of the SBIR program or STTR program, respectively;

''(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

''(H) carrying out subsection (cc);

''(I) carrying out subsection (ff);

''(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

''(K) funding for additional personnel and assistance with application reviews.

''(2) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

''(3) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(A) in subsection (f)(2)(A), as so designated by section 5103(2) of this Act, by striking ''shall not'' and all that follows through ''make available for the purpose'' and inserting ''shall not make available for the purpose''; and

(B) in subsection (y), as amended by section 203—

(i) by striking paragraph (4);

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsection (f)(2)(A) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (kk)(2) of section 9 of the Small Business Act, as added by subsection (a).

(3) PROSPECTIVE REPEAL.—Effective on the first day of the fourth full fiscal year following the date of enactment of this Act, section 9 of the Small Business Act (15 U.S.C. 638), as amended by paragraph (1) of this section, is amended—

(A) in subsection (f)(2)(A), by striking ''shall not make available for the purpose'' and inserting the following: ''shall not—

''(i) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

''(ii) make available for the purpose''; and

(B) in subsection (y)—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(ii) by inserting after paragraph (3) the following:

''(4) FUNDING.—

''(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to

the Department of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Pilot Program under this subsection.

''(B) LIMITATIONS.—The funds described in subparagraph (A)—

''(i) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

''(ii) shall not be used to make Phase III awards.''.

**SEC. 5312. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT.**

Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company involvement under section 9(cc) of the Small Business Act, as added by section 5108 of this Act; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

**SEC. 5313. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.**

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

(1) GUIDELINES FOR FRAUD, WASTE, AND ABUSE PREVENTION.—

(A) AMENDMENTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(B) CONTENT OF AMENDMENTS.—The amendments required under subparagraph (A) shall include—

(i) definitions or descriptions of fraud, waste, and abuse;

(ii) a requirement that the Inspectors General of each Federal agency that participates in the SBIR program or the STTR program cooperate to—

(I) establish fraud detection indicators;

(II) review regulations and operating procedures of the Federal agencies;

(III) coordinate information sharing between the Federal agencies; and

(IV) improve the education and training of, and outreach to—

(aa) administrators of the SBIR program and the STTR program of each Federal agency;

(bb) applicants to the SBIR program or the STTR program; and

(cc) recipients of awards under the SBIR program or the STTR program;

(iii) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program; and

(iv) a requirement that each Federal agency that participates in the SBIR program or STTR program include the telephone number of the hotline established under paragraph (2)—

(I) on the Web site of the Federal agency; and

(II) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program.

(2) FRAUD, WASTE, AND ABUSE PREVENTION HOTLINE.—

(A) HOTLINE ESTABLISHED.—The Administrator shall establish a telephone hotline that allows individuals to report fraud, waste, and abuse in the SBIR program or STTR program.

(B) PUBLICATION.—The Administrator shall include the telephone number for the hotline established under subparagraph (A) on the Web site of the Administration.

(b) STUDY AND REPORT.—

(1) STUDY.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(A) conduct a study that evaluates—

(i) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(ii) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(iii) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;

(iv) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;

(v) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency; and

(vi) the extent to which the Inspector General of each Federal agency that participates in the SBIR program or STTR program effectively conducts investigations of individuals alleged to have submitted false claims or violated Federal law relating to fraud, conflicts of interest, bribery, gratuity, or other misconduct; and

(B) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under subparagraph (A).

**SEC. 5314. INTERAGENCY POLICY COMMITTEE.**

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy (in this section referred to as the ''Director''), in conjunction with the Administrator, shall establish an Interagency SBIR/STTR Policy Committee (in this section referred to as the ''Committee'') comprised of 1 representative from each Federal agency with an SBIR program or an STTR program and 1 representative of the Office of Management and Budget.

(b) COCHAIRPERSONS.—The Director and the Administrator shall serve as cochairpersons of the Committee.

(c) DUTIES.—The Committee shall review, and make policy recommendations on ways to improve the effectiveness and efficiency of, the SBIR program and the STTR program, including—

(1) reviewing the effectiveness of the public and government databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k));

(2) identifying—

(A) best practices for commercialization assistance by Federal agencies that have significant potential to be employed by other Federal agencies; and

(B) proposals by Federal agencies for initiatives to address challenges for small business concerns in obtaining funding after a Phase II award ends and before commercialization; and

(3) developing and incorporating a standard evaluation framework to enable systematic assessment of the SBIR program and STTR program, including through improved tracking of awards and outcomes and development of performance measures for the SBIR program and STTR program of each Federal agency.

(d) REPORTS.—The Committee shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Science and Technology and the Committee on Small Business of the House of Representatives—

(1) a report on the review by and recommendations of the Committee under subsection (c)(1) not later than 1 year after the date of enactment of this Act;

(2) a report on the review by and recommendations of the Committee under subsection (c)(2) not later than 18 months after the date of enactment of this Act; and

(3) a report on the review by and recommendations of the Committee under subsection (c)(3) not later than 2 years after the date of enactment of this Act.

**SEC. 5315. SIMPLIFIED PAPERWORK REQUIREMENTS.**

Section 9(v) of the Small Business Act (15 U.S.C. 638(v)) is amended—

(1) in the subsection heading, by striking ''SIMPLIFIED REPORTING REQUIREMENTS'' and inserting ''REDUCING PAPERWORK AND COMPLIANCE BURDEN'';

(2) by striking ''The Administrator'' and inserting the following:

''(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator''; and

(3) by adding at the end the following:

''(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than one year after the date of enactment of this paragraph, and after a period of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.''.

## TITLE LIV—POLICY DIRECTIVES

**SEC. 5401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

## TITLE LV—OTHER PROVISIONS

**SEC. 5501. RESEARCH TOPICS AND PROGRAM DIVERSIFICATION.**

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''broad research topics and to topics that further 1 or more critical technologies'' and inserting ''applications to the Federal agency for support of projects relating to nanotechnology, rare diseases, security, energy, transportation, or improving the security and quality of the water supply of the United States, and the efficiency of

water delivery systems and usage patterns in the United States (including the territories of the United States) through the use of technology (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities'';

(B) in subparagraph (A), by striking ''or'' at the end; and

(C) by adding at the end the following:

''(C) the National Academy of Sciences, in the final report issued by the 'America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

''(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

''(E) the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the report entitled 'Transportation Research, Development and Technology Strategic Plan (2006–2010)' issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

''(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;''; and

(2) by adding after paragraph (12), as added by section 5111(a) of this Act, the following:

''(13) encourage applications under the SBIR program (to the extent that the projects relate to the mission of the Federal agency)—

''(A) from small business concerns in geographic areas underrepresented in the SBIR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

''(B) small business concerns owned and controlled by women;

''(C) small business concerns owned and controlled by veterans;

''(D) small business concerns owned and controlled by Native Americans; and

''(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.''.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by section 5111(b) of this Act, is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''broad research topics and to topics that further 1 or more critical technologies'' and inserting ''applications to the Federal agency for support of projects relating to nanotechnology, security, energy, rare diseases, transportation, or improving the security and quality of the water supply of the United States (to the extent that the projects relate to the mission of the Federal agency), broad research topics, and topics that further 1 or more critical technologies or research priorities'';

(B) in subparagraph (A), by striking ''or'' at the end; and

(C) by adding at the end the following:

''(C) the National Academy of Sciences, in the final report issued by the 'America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in any subsequent report by the National Academy of Sciences on sustainability, energy, or alternative fuels;

''(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in any subsequent report by the National Institutes of Health on rare diseases research activities;

''(E) the National Academy of Sciences, in the final report issued by the 'Transit Research and Development: Federal Role in the National Program' project and the report entitled 'Transportation Research, Development and Technology Strategic Plan (2006–2010)' issued by the Research and Innovative Technology Administration of the Department of Transportation, and in any subsequent report issued by the National Academy of Sciences or the Department of Transportation on transportation and infrastructure; or

''(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in any report issued by the National Science and Technology Council Committee on Technology that focuses on areas of nanotechnology identified in such plan;'';

(2) in paragraph (15), by striking ''and'' at the end;

(3) in paragraph (16), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(17) encourage applications under the STTR program (to the extent that the projects relate to the mission of the Federal agency)—

''(A) from small business concerns in geographic areas underrepresented in the STTR program or located in rural areas (as defined in section 1393(a)(2) of the Internal Revenue Code of 1986);

''(B) small business concerns owned and controlled by women;

''(C) small business concerns owned and controlled by veterans;

''(D) small business concerns owned and controlled by Native Americans; and

''(E) small business concerns located in a geographic area with an unemployment rates that exceed the national unemployment rate, based on the most recently available monthly publications of the Bureau of Labor Statistics of the Department of Labor.''.

(c) RESEARCH AND DEVELOPMENT FOCUS.—Section 9(x) of the Small Business Act (15 U.S.C. 638(x)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

**SEC. 5502. REPORT ON SBIR AND STTR PROGRAM GOALS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ll) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

''(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

''(A) are science-based and statistically driven;

''(B) reflect the mission of the Federal agency; and

''(C) include factors relating to the economic impact of the programs.

''(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

''(A) the SBIR program and the STTR program of the Federal agency; and

''(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

''(3) REPORT.—

''(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

''(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

''(C) DEFINITION.—In this paragraph, the term 'appropriate committees of Congress' means—

''(i) the Committee on Small Business and Entrepreneurship of the Senate; and

''(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.''.

**SEC. 5503. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.**

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(mm) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

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**SA 1116.** Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. ____. IMPROVING THE TRANSITION OF MEMBERS OF THE ARMED FORCES WITH EXPERIENCE IN THE OPERATION OF CERTAIN MOTOR VEHICLES INTO CAREERS OPERATING COMMERCIAL MOTOR VEHICLES IN THE PRIVATE SECTOR.**

(a) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall jointly conduct a study to identify the legislative and regulatory actions that can be taken for purposes as follows:

(A) To facilitate the obtaining of commercial driver's licenses (within the meaning of section 31302 of title 49, United States Code) by former members of the Armed Forces who operated qualifying motor vehicles as members of the Armed Forces.

(B) To improve the transition of members of the Armed Forces who operate qualifying motor vehicles as members of the Armed Forces into careers operating commercial motor vehicles (as defined in section 31301 of such title) in the private sector after separation from service in the Armed Forces.

(2) ELEMENTS.—The study required by paragraph (1) shall include the following:

(A) Identification of any training, qualifications, or experiences of members of the

Armed Forces described in paragraph (1)(B) that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code.

(B) Identification of the actions the Secretary of Defense can take to document the training, qualifications, and experiences of such members for the purposes described in paragraph (1).

(C) Identification of the actions the Secretary of Defense can take to modify the training and education programs of the Department of Defense for the purposes described in paragraph (1).

(D) An assessment of the feasibility and advisability of each of the legislative and regulatory actions identified under the study.

(E) Development of recommendations for legislative and regulatory actions to further the purposes described in paragraph (1).

(b) IMPLEMENTATION.—Upon completion of the study required by subsection (a), the Secretary of Defense and the Secretary of Transportation shall carry out the actions identified under the study which the Secretaries—

(1) can carry out without legislative action; and

(2) jointly consider both feasible and advisable.

(c) REPORT.—

(1) IN GENERAL.—Upon completion of the study required by subsection (a)(1), the Secretary of Defense and the Secretary of Transportation shall jointly submit to Congress a report on the findings of the Secretaries with respect to the study.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the legislative and regulatory actions identified under the study.

(B) A description of the actions described in subparagraph (A) that can be carried out by the Secretary of Defense and the Secretary of Transportation without any legislative action.

(C) A description of the feasibility and advisability of each of the legislative and regulatory actions identified by the study.

(D) The recommendations developed under subsection (a)(2)(E).

(d) DEFINITIONS.—In this section:

(1) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on land, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line or custom harvesting farm machinery.

(2) QUALIFYING MOTOR VEHICLE.—The term ''qualifying motor vehicle'' means a motor vehicle or combination of motor vehicles used to transport passengers or property that—

(A) has a gross combination vehicle weight rating of 26,001 pounds or more, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(B) has a gross vehicle weight rating of 26,001 pounds or more;

(C) is designed to transport 16 or more passengers, including the driver; or

(D) is of any size and is used in the transportation of materials found to be hazardous under chapter 51 of title 49, United States Code, and which require the motor vehicle to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations, or any corresponding similar regulation or ruling.

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**SA 1117.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. ___. 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 ''Withdrawal Area'' on the map entitled ''White Sands Military Reservation Withdrawal'' and dated May 3, 2011;

(B) the approximately 37,600 acres of land depicted as ''Parcel 1'', ''Parcel 2'', and ''Parcel 3'' on the map entitled ''Doña Ana County Land Transfer and Withdrawal'' and dated April 20, 2011; 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 3'' on the map described in paragraph (2)(B) 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 1'' on the map described in subsection (a)(2)(B)—

(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).

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**SA 1118.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 346. MODIFICATION OF AVAILABILITY OF SURCHARGES COLLECTED BY COMMISSARY STORES.**

(a) IN GENERAL.—Paragraph (1)(A) of section 2484(h) of title 10, United States Code, is amended by striking clauses (i) and (ii) and inserting the following new clauses:

''(i) to replace, renovate, expand, improve, repair, and maintain commissary stores and central product processing facilities of the defense commissary system;

''(ii) to acquire (including acquisition by lease), convert, or construct such commissary stores and central product processing facilities as are authorized by law;

''(iii) to equip the physical infrastructure of such commissary stores and central product processing facilities; and

''(iv) to cover environmental evaluation and construction costs related to activities described in clauses (i) and (ii), including costs for surveys, administration, overhead, planning, and design.''.

(b) SOURCE AND AVAILABILITY OF CERTAIN FUNDS.—Such section is further amended by adding at the end the following new paragraph:

''(6)(A) There shall be credited to the 'Surcharge Collections, Sales of Commissary Stores, Defense Commissary' account on the books of the Treasury receipts from sources or activities identified in the following:

''(i) Paragraph (5).

''(ii) Subsections (c), (d), and (g).

''(iii) Subsections (e), (g), and (h) of section 2485 of this title.

''(B)(i) Funds may not be appropriated for the account referred to in subparagraph (A), or appropriated for transfer into the account, unless such appropriation or transfer is specifically authorized in an Act authorizing appropriations for military activities of the Department of Defense.

''(ii) Funds appropriated for or transferred into the account in accordance with clause (i) may not be merged with amounts within the account.

''(iii) Funds appropriated for or transferred into the account in accordance with clause (i) shall not be available to acquire, convert, construct, or improve a commissary store or central product processing facility of the defense commissary system unless specifically authorized in an Act authorizing military construction for the Department of Defense.''.

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**SA 1119.** Mr. BROWN, of Massachusetts (for himself and Mr. BOOZMAN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. _____. PROTECTION OF CHILD CUSTODY ARRANGEMENTS FOR PARENTS WHO ARE MEMBERS OF THE ARMED FORCES DEPLOYED IN SUPPORT OF A CONTINGENCY OPERATION.**

(a) CHILD CUSTODY PROTECTION.—Title II of the Servicemembers Civil Relief Act (50 U.S.C. App. 521 et seq.) is amended by adding at the end the following new section:

**''SEC. 208. CHILD CUSTODY PROTECTION.**

''(a) RESTRICTION ON CHANGE OF CUSTODY.—If a motion for change of custody of a child of a servicemember is filed while the servicemember is deployed in support of a contingency operation, no court may enter an order modifying or amending any previous judgment or order, or issue a new order, that changes the custody arrangement for that child that existed as of the date of the deployment of the servicemember, except that a court may enter a temporary custody order if the court finds that it is in the best interest of the child.

''(b) COMPLETION OF DEPLOYMENT.—In any preceding covered under subsection (a), a court shall require that, upon the return of the servicemember from deployment in support of a contingency operation, the custody order that was in effect immediately preceding the date of the deployment of the servicemember be reinstated, unless the court finds that such a reinstatement is not in the best interest of the child, except that any such finding shall be subject to subsection (c).

''(c) EXCLUSION OF MILITARY SERVICE FROM DETERMINATION OF CHILD'S BEST INTEREST.—If a motion for the change of custody of the child of a servicemember is filed, no court may consider the absence of the servicemember by reason of deployment, or possibility of deployment, in determining the best interest of the child.

''(d) NO FEDERAL RIGHT OF ACTION.—Nothing in this section shall create a Federal right of action.

''(e) PREEMPTION.—In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent who is a servicemember than the rights provided under this section, the State or Federal court shall apply the State or Federal standard.

''(f) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code, except that the term may include such other deployments as the Secretary concerned may prescribe.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title II the following new item:

''208. Child custody protection.''.

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**SA 1120.** Mrs. SHAHEEN (for herself, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BLUMENTHAL, Ms. STABENOW, Mr. DURBIN, Mr. TESTER, Mr. FRANKEN, and Mr. COONS) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 714. USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.**

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ''or in a case in which the pregnancy is the result of an act of rape or incest''.

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**SA 1121.** Mrs. SHAHEEN (for herself, Mrs. GILLIBRAND, Mrs. BOXER, Mr. LAUTENBERG, Mrs. MURRAY, Mr. BLUMENTHAL, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 714. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.**

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking ''(a) RESTRICTION ON USE OF FUNDS.—''.

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**SA 1122.** Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 2___. LABORATORY FACILITIES, HANOVER, NEW HAMPSHIRE.**

(a) ACQUISITION.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary of the Army (referred to in this section as the ''Secretary'') may acquire any real property and associated real property interests in the vicinity of Hanover, New Hampshire, described in paragraph (2) as may be needed for the Engineer Research and Development Center laboratory facilities at the Cold Regions Research and Engineering Laboratory.

(2) DESCRIPTION OF REAL PROPERTY.—The real property described in this paragraph is the real property to be acquired under paragraph (1)—

(A) consisting of approximately 18.5 acres, identified as Tracts 101-1 and 101-2, together with all necessary easements located entirely within the Town of Hanover, New Hampshire; and

(B) generally bounded—

(i) to the east by state route 10-Lyme Road;

(ii) to the north by the vacant property of the Trustees of Dartmouth College;

(iii) to the south by Fletcher Circle graduate student housing owned by the Trustees of Dartmouth College; and

(iv) to the west by approximately 9 acres of real property acquired in fee through condemnation in 1981 by the Secretary.

(3) AMOUNT PAID FOR PROPERTY.—The Secretary shall pay not more than fair market value for any real property and associated real property interest acquired under this subsection.

(b) REVOLVING FUND.—The Secretary—

(1) through the Plant Replacement and Improvement Program of the Secretary, may use amounts in the revolving fund established by section 101 of the Civil Functions Appropriations Act, 1954 (33 U.S.C. 576) to acquire the real property and associated real property interests described in subsection (a); and

(2) shall ensure that the revolving fund is appropriately reimbursed from the benefitting appropriations.

(c) RIGHT OF FIRST REFUSAL.—

(1) IN GENERAL.—The Secretary may provide the seller of any real property and associated property interests identified in subsection (a) a right of first refusal—

(A) a right of first refusal to acquire the property, or any portion of the property, in the event the property or portion is no longer needed by the Department of the Army; and

(B) a right of first refusal to acquire any real property or associated real property interests acquired by condemnation in Civil Action No. 81-360-L, in the event the property, or any portion of the property, is no longer needed by the Department of the Army.

(2) NATURE OF RIGHT.—A right of first refusal provided to a seller under this subsection shall not inure to the benefit of any successor or assign of the seller.

(d) CONSIDERATION; FAIR MARKET VALUE.—The purchase of any property by a seller exercising a right of first refusal provided under subsection (c) shall be for—

(1) consideration acceptable to the Secretary; and

(2) not less than fair market value at the time at which the property becomes available for purchase.

(e) DISPOSAL.—The Secretary may dispose of any property or associated real property interests that are subject to the exercise of the right of first refusal under this section.

(f) NO EFFECT ON COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this section affects or limits the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

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**SA 1123.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 705. SENSE OF CONGRESS ON PREMIUMS FOR HEALTH CARE FOR RETIRED CAREER MEMBERS OF THE UNIFORMED SERVICES.**

It is the sense of Congress that—

(1) career members of the uniformed services and their families endure unique and extraordinary demands and make extraordinary sacrifices over the course of a 20-year to 30-year career in protecting freedom for all Americans; and

(2) those decades of sacrifice constitute a significant pre-paid premium for health care during retirement that is over and above

what such members pay in money as a premium for such health care.

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**SA 1124.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 595, beginning with line 3, strike through line 22 on page 599 and insert the following:

**SECTION 3301. SHORT TITLE; AMENDMENT OF TITLE 46, UNITED STATES CODE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the Maritime Administration Authorization Act for Fiscal Year 2012.

(b) AMENDMENT OF TITLE 46, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 46, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 3301. Short title; amendment of title 46, United States Code; table of contents.
Sec. 3302. Marine transportation system.
Sec. 3303. Short sea transportation program amendments.
Sec. 3304. Use of national defense reserve fleet and ready reserve force vessels.
Sec. 3305. Green ships program.
Sec. 3306. Waiver of navigation and vessel-inspection laws.
Sec. 3307. Ship scrapping reporting requirement.
Sec. 3308. Extension of maritime security fleet program.
Sec. 3309. Maritime workforce study.
Sec. 3310. Maritime administration vessel recycling contract award practices.
Sec. 3311. Prohibition on maritime administration receipt of polar icebreakers.
Sec. 3312. Authorization of appropriations for fiscal year 2012.

**SEC. 3302. MARINE TRANSPORTATION SYSTEM.**

(a) REPORT ON STATUS OF SYSTEM.—Section 50109(d) is amended to read as follows:

''(d) MARINE TRANSPORTATION SYSTEM.—

''(1) REPORT ON WATERWAYS.—Not later than October 1, 2012, the Secretary, in consultation with the Secretary of Defense and the commanding officer of the Army Corps of Engineers, and with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives on the status of the Nation's coastal and inland waterways that—

''(A) describes the state of the United States' marine transportation infrastructure, including intercoastal infrastructure, intracoastal infrastructure, inland waterway infrastructure, ports, and marine facilities;

''(B) provides estimates of the investment levels required—

''(i) to maintain the infrastructure; and

''(ii) to improve the infrastructure; and

''(C) describes the overall environmental management of the maritime transportation system and the integration of environmental stewardship into the overall system.

''(2) MARINE TRANSPORTATION.—The Secretary may investigate, make determinations concerning, and develop a repository of statistical information relating to marine transportation, including its relationship to transportation by land and air, to facilitate research, assessment, and maintenance of the maritime transportation system. As used in this paragraph, the term marine transportation includes intercoastal transportation, intracoastal transportation, inland waterway transportation, ports, and marine facilities.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection.''.

(b) CONTAINER-ON-BARGE TRANSPORTATION.—

(1) ASSESSMENT AND REPORT.—Not later than 6 months after the date of enactment of this Act, the Maritime Administration shall assess the potential for using container-on-barge transportation on the inland waterways system and submit a report, together with the Administration's findings, conclusions, and recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives. If the Administration determines that it would be in the public interest, the report may include recommendations for a plan to increase awareness of the potential for use of such container-on-barge transportation and recommendations for the development and implementation of such a plan.

(2) FACTORS.—In conducting the assessment, the Administration shall consider—

(A) the environmental benefits of increasing container-on-barge movements on our inland and intracoastal waterways system;

(B) regional differences in the inland waterways system;

(C) existing programs established at coastal and Great Lakes ports for establishing awareness of deep sea shipping operations;

(D) mechanisms to ensure that implementation of the plan will not be inconsistent with antitrust laws; and

(E) potential frequency of service at inland river ports.

**SEC. 3303. SHORT SEA TRANSPORTATION PROGRAM AMENDMENTS.**

(a) PROGRAM PURPOSE.—Section 55601(a) is amended by inserting ''and to promote more efficient use of the navigable waters of the United States'' after ''congestion''.

(b) DESIGNATION OF ROUTES.—Section 55601(c) is amended by inserting ''and to promote more efficient use of the navigable waters of the United States'' after ''coastal corridors''.

(c) PROJECT DESIGNATION.—Section 55601(d) is amended to read as follows:

''(d) PROJECT DESIGNATION.—The Secretary may designate a project as a short sea transportation project if the Secretary determines that the project—

''(1) mitigates landside congestion; or

''(2) promotes more efficient use of the navigable waters of the United States.''.

(d) DOCUMENTATION.—Section 55605 is amended by striking ''by vessel'' and inserting ''by a documented vessel''.

**SEC. 3304. USE OF NATIONAL DEFENSE RESERVE FLEET AND READY RESERVE FORCE VESSELS.**

Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), is amended—

(1) in subsection (b)—

(A) by striking ''or'' in paragraph (4) after the semicolon;

(B) by striking the period at the end of paragraph (5) and inserting ''; or''; and

(C) by adding at the end the following:

''(6) for civil contingency operations and Maritime Administration promotional and media events under subsection (f).''; and

(2) by adding at the end the following:

''(f) CIVIL CONTINGENCY OPERATIONS AND PROMOTIONAL AND MEDIA EVENTS.—The Secretary of Transportation may allow, with the concurrence of the Secretary of Defense, the use of a vessel in the National Defense Reserve Fleet for civil contingency operations requested by another Federal agency, and for Maritime Administration promotional and media events that are related to demonstration projects and research and development supporting the Maritime Administration's mission, if the Secretary of Transportation determines the use of the vessel is in the best interest of the United States Government after—

''(1) considering the availability of the National Defense Reserve Fleet and Ready Reserve Force resources;

''(2) considering the impact on National Defense Reserve Fleet and Ready Reserve Force mission support to the defense and homeland security requirements of the United States Government;

''(3) ensuring that the use of the vessel supports the mission of the Maritime Administration and does not significantly interfere with vessel maintenance, repair, safety, readiness, or resource availability;

''(4) ensuring that safety precautions are taken, including indemnification of liability, when applicable;

''(5) ensuring that any cost incurred by the use of the vessel is funded as a reimbursable transaction between Federal agencies, as applicable; and

''(6) considering any other factors the Secretary of Transportation determines are appropriate.''.

**SEC. 3305. GREEN SHIPS PROGRAM.**

(a) IN GENERAL.—Chapter 503 is amended by adding at the end the following:

**''SEC. § 50307. Green ships program**

''(a) IN GENERAL.—The Secretary of Transportation may establish a green ships program to engage in the environmental study, research, development, assessment, and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under Untied States registry, and through partnerships and cooperative efforts with academic, public, private, and non-governmental entities and facilities.

''(b) PROGRAM REQUIREMENTS.—The program shall—

''(1) identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices that are likely to achieve environmental improvements by—

''(A) reducing air emissions, water emissions, or other ship discharges;

''(B) increasing fuel economy or the use of alternative fuels and alternative energy (including the use of shore power); or

''(C) controlling aquatic invasive species; and

''(2) be coordinated with the Environmental Protection Agency, the United States Coast Guard, and other Federal, State, local, or tribal agencies, as appropriate.

''(c) PROGRAM COORDINATION.—Program coordination under subsection (b)(2) may include—

''(1) activities that are associated with the development or approval of validation and testing regimes; and

''(2) certification or validation of emerging technologies or practices that demonstrate significant environmental benefits.

''(d) FUNDING AND FEES.—

''(1) IN GENERAL.—In carrying out the green ships program, the Secretary of Transportation may apply such funds as may be appropriated and such funds or resources as may become available by gift, cooperative agreement, or otherwise, including the collection of fees, for the purposes of the program and its administration.

''(2) ESTABLISHMENT OF FEES.—Pursuant to section 9701 of title 31, the Secretary of Transportation may promulgate regulations establishing fees to recover reasonable costs to the Secretary and to academic, public, and non-governmental entities associated with the program.

''(3) FEE DEPOSIT.—Any fees collected under this section shall be deposited in a special fund of the United States Treasury for services rendered under the program, which thereafter shall remain available until expended to carry out the Secretary of Transportation's activities for which the fees were collected.

''(e) REPORT.—The Secretary of Transportation shall report on the activities, expenditures, and results of the green ships program during the preceding fiscal year in the annual budget submission to Congress.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 503 is amended by inserting after the item relating to section 50306 the following:

''50307. Green ships program.''.

**SEC. 3306. WAIVER OF NAVIGATION AND VESSEL-INSPECTION LAWS.**

Section 501(b) is amended by adding ''A waiver shall be accompanied by a certification by the individual and the Administrator to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives that it is not possible to use a United States flag vessel or United States flag vessels collectively to meet the national defense requirements.'' after ''prescribes.''.

**SEC. 3307. SHIP SCRAPPING REPORTING REQUIREMENT.**

Section 3502 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (enacted into law by section 1 of Public Law 106–398; 16 U.S.C. 5405 note; 114 Stat. 1654A–490) is amended by amending subsection (f) to read as follows:

''(f) The Secretary of Transportation shall provide briefings, upon request, to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate and the Committee on Transportation and Infrastructure, the Committee on Resources, and the Committee on Armed Services of the House of Representatives on—

''(1) the progress made to recycle vessels;

''(2) any problems encountered in recycling vessels; and

''(3) any other issues relating to vessel recycling and disposal.''.

**SEC. 3308. EXTENSION OF MARITIME SECURITY FLEET PROGRAM.**

(a) Section 53101 is amended—

(1) by amending paragraph (4) to read as follows:

''(4) FOREIGN COMMERCE.—The term foreign commerce means—

''(A) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

''(B) commerce or trade between foreign countries.'';

(2) by striking paragraph (5);

(3) by redesignating paragraphs (6) through (13) as (5) through (12), respectively; and

(4) by amending paragraph (5), as redesignated by section 3308(a)(3) of this Act, to read as follows:

''(5) PARTICIPATING FLEET VESSEL.—The term participating fleet vessel means any vessel that—

''(A) on October 1, 2015—

''(i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and

''(ii) is less than 20 years of age if the vessel is a tank vessel, or is less than 25 years of age for all other vessel types; and

''(B) on December 31, 2014, is covered by an operating agreement under this chapter.''.

(b) Section 53102(b) is amended to read as follows:

''(b) VESSEL ELIGIBILITY.—A vessel is eligible to be included in the Fleet if—

''(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

''(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

''(3) the vessel is self-propelled and—

''(A) is a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet; or

''(B) is any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

''(4) the vessel—

''(A) is suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of Defense; and

''(B) is commercially viable, as determined by the Secretary; and

''(5) the vessel—

''(A) is a United States-documented vessel; or

''(B) is not a United States-documented vessel, but—

''(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

''(ii) at the time an operating agreement for the vessel is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.''.

(c) Section 53103 is amended—

(1) by amending subsection (b) to read as follows:

''(b) EXTENSION OF EXISTING OPERATING AGREEMENTS.—

''(1) OFFER TO EXTEND.—Not later than 60 days after the date of enactment of the Maritime Administration Authorization Act for Fiscal Year 2012, the Secretary shall offer, to an existing contractor, to extend, through September 30, 2025, an operating agreement that is in existence on the date of enactment of that Act. The terms and conditions of the extended operating agreement shall include terms and conditions authorized under this chapter, as amended from time to time.

''(2) TIME LIMIT.—An existing contractor shall have not later than 120 days after the date the Secretary offers to extend an operating agreement to agree to the extended operating agreement.

''(3) SUBSEQUENT AWARD.—The Secretary may award an operating agreement to an applicant that is eligible to enter into an operating agreement for fiscal years 2016 through 2025 if the existing contractor does not agree to the extended operating agreement under paragraph (2).''; and

(2) by amending subsection (c) to read as follows:

''(c) PROCEDURE FOR AWARDING NEW OPERATING AGREEMENTS.—The Secretary may enter into a new operating agreement with an applicant that meets the requirements of section 53102(c) (for vessels that meet the qualifications of section 53102(b)) on the basis of priority for vessel type established by military requirements of the Secretary of Defense. The Secretary shall allow an applicant at least 30 days to submit an application for a new operating agreement. After consideration of military requirements, priority shall be given to an applicant that is a U.S. citizen under section 50501 of this title. The Secretary may not approve an application without the consent of the Secretary of Defense. The Secretary shall enter into an operating agreement with the applicant or provide a written reason for denying the application.''.

(d) Section 53104 is amended—

(1) in subsection (c), by striking paragraph (3); and

(2) in subsection (e), by striking ''an operating agreement under this chapter is terminated under subsection (c)(3), or if''.

(e) Section 53105 is amended—

(1) by amending subsection (e) to read as follows:

''(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the operating agreement) to any person that is eligible to enter into the operating agreement under this chapter if the Secretary and the Secretary of Defense determine that the transfer is in the best interests of the United States. A transaction shall not be considered a transfer of an operating agreement if the same legal entity with the same vessels remains the contracting party under the operating agreement.''; and

(2) by amending subsection (f) to read as follows:

''(f) REPLACEMENT VESSELS.—A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves the replacement of the vessel.''.

(f) Section 53106 is amended—

(1) in subsection (a)(1), by striking ''and (C) $3,100,000 for each of fiscal years 2012 through 2025.'' and inserting the following:

''(C) $3,100,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

''(D) $3,500,000 for each of fiscal years 2019, 2020, and 2021; and

''(E) $3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.'';

(2) in subsection (c)(3)(C), by striking ''a LASH vessel.'' and inserting ''a lighter aboard ship vessel.''; and

(3) by striking subsection (f).

(g) Section 53107(b)(1) is amended to read as follows:

''(1) IN GENERAL.—An Emergency Preparedness Agreement under this section shall require that a contractor for a vessel covered by an operating agreement under this chapter shall make commercial transportation resources (including services) available, upon request by the Secretary of Defense during a time of war or national emergency, or whenever the Secretary of Defense determines that it is necessary for national security or contingency operation (as that term is defined in section 101 of title 10, United States Code).''.

(h) Section 53109 is repealed.

(i) Section 53111 is amended—

(1) by striking ''and'' at the end of paragraph (2); and

(2) by amending paragraph (3) to read as follows:

''(3) $186,000,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

''(4) $210,000,000 for each of fiscal years 2019, 2020, and 2021; and

''(5) $222,000,000 for each fiscal year thereafter through fiscal year 2025.''.

(j) Chapter 531 is amended by adding at the end the following:

**''SEC. § 53112. Acquisition of fleet vessels**

''(a) IN GENERAL.—Notwithstanding section 2218(f) of title 10, United States Code, upon replacement of any vessel subject to an operating agreement under this chapter, and subject to agreement by the vessel owner, the Secretary is authorized, subject to concurrence with the Secretary of Defense, to acquire the vessel being replaced for inclusion in the National Defense Reserve Fleet.

''(b) REQUIREMENTS.—In order to be eligible for acquisition by the Secretary under this section, a vessel shall—

''(1) have been included in a Maritime Security Program Operating Agreement for not less than 3 years; and

''(2) meet recapitalization requirements for the Ready Reserve Force.

''(c) FAIR MARKET VALUE.—The Maritime Administration shall establish a fair market value for the acquisition of an eligible vessel under this section.

''(d) APPROPRIATIONS.—A vessel acquisition under this section shall be subject to the availability of appropriations and the appropriations shall be part of the National Defense Reserve Fleet appropriations and separate from Maritime Security Program appropriations.''.

(k) The table of contents for chapter 531 is amended—

(1) by striking the item relating to section 53109; and

(2) by inserting at the end the following:

''53112. Acquisition of fleet vessels.''.

(l) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by—

(1) paragraphs (2), (3), and (4) of section 3308(a) of this Act take effect on December 31, 2014; and

(2) section 3308(f)(2) of this Act take effect on December 31, 2014.

**SEC. 3309. MARITIME WORKFORCE STUDY.**

(a) TRAINING STUDY.—The Comptroller General of the United States shall conduct a study on the training needs of the maritime workforce.

(b) STUDY COMPONENTS.—The study shall—

(1) analyze the impact of training requirements imposed by domestic and international regulations and conventions, companies, and government agencies that charter or operate vessels;

(2) evaluate the ability of the Nation's maritime training infrastructure to meet the current needs of the maritime industry;

(3) evaluate the ability of the Nation's maritime training infrastructure to effectively meet the needs of the maritime industry in the future;

(4) identify trends in maritime training;

(5) compare the training needs of U.S. mariners with the vocational training and educational assistance programs available from Federal agencies to evaluate the ability of Federal programs to meet the training needs of U.S. mariners;

(6) include recommendations for future programs to enhance the capabilities of the Nation's maritime training infrastructure; and

(7) include recommendations for future programs to assist U.S. mariners and those entering the maritime profession achieve the required training.

(c) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 3310. MARITIME ADMINISTRATION VESSEL RECYCLING CONTRACT AWARD PRACTICES.**

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall conduct an assessment of the source selection procedures and practices used to award the Maritime Administration's National Defense Reserve Fleet vessel recycling contracts. The Inspector General shall assess the process, procedures, and practices used for the Maritime Administration's qualification of vessel recycling facilities. The Inspector General shall report the findings to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives.

(b) ASSESSMENT.—The assessment under subsection (a) shall include a review of whether the Maritime Administration's contract source selection procedures and practices are consistent with law, the Federal Acquisition Regulations (FAR), and Federal best practices associated with making source selection decisions.

(c) CONSIDERATIONS.—In making the assessment under subsection (a), the Inspector General may consider any other aspect of the Maritime Administration's vessel recycling process that the Inspector General deems appropriate to review.

**SEC. 3311. PROHIBITION ON MARITIME ADMINISTRATION RECEIPT OF POLAR ICEBREAKERS.**

Until the date that is 2 years after the date on which the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives receive the polar icebreaker business case analysis under subsection 307(f) of the Coast Guard Authorization Act of 2010 (14 U.S.C. 92 note), or until the Coast Guard has replaced the Coast Guard Cutter POLAR SEA (WAGB 11) and the Coast Guard Cutter POLAR STAR (WAGB 10) with 2 in commission, active heavy polar icebreakers—

(1) the Administrator of the Maritime Administration may not receive, maintain, dismantle, or recycle either cutter; and

(2) the Commandant may not—

(A) transfer or relinquish ownership of either of the cutters;

(B) dismantle a major component of, or recycle parts from, the POLAR SEA, unless the POLAR STAR cannot be made to function properly without doing so;

(C) change the homeport of either of the cutters;

(D) expend any funds—

(i) for any expenses directly or indirectly associated with the decommissioning of either of the cutters, including expenses for dock use or other goods and services;

(ii) for any personnel expenses directly or indirectly associated with the decommissioning of either of the cutters, including expenses for a decommissioning officer; or

(iii) for any expenses associated with a decommissioning ceremony for either of the cutters;

(E) appoint a decommissioning officer to be affiliated with either of the cutters; or

(F) place either of the cutters in inactive status, including a status of—

(i) out of commission, in reserve;

(ii) out of service, in reserve; or

(iii) pending placement out of commission.

**SEC. 3312. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2012.**

There are authorized to be appropriated to the Secretary of Transportation for programs of the Maritime Administration the following amounts:

(1) OPERATIONS AND TRAINING.—For expenses necessary for operations and training activities, not to exceed $161,539,000 for the fiscal year ending September 30, 2012, of which—

(A) $28,885,000 is for capital improvements at the U.S. Merchant Marine Academy, to remain available until expended; and

(B) $11,100,000 is for maintenance and repair for training ships at State Maritime Schools, to remain available until expended.

(2) MARITIME GUARANTEED LOANS.—For administrative expenses related to loan guarantee commitments under chapter 537 of title 46, United States Code, not to exceed $3,750,000, which shall be paid to the appropriation for Operations and Training, Maritime Administration.

(3) SHIP DISPOSAL.—For disposal of non-retention vessels in the National Defense Reserve Fleet, $18,500,000, to remain available until expended.

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**SA 1125.** Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

On page 361, line 9, insert ''abroad'' after ''is captured''.

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**SA 1126.** Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. DURBIN, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

On page 360, between lines 21 and 22, insert the following:

(e) APPLICABILITY TO CITIZENS.—The authority described in this section for the Armed Forces of the United States to detain a person does not include the authority to detain a citizen of the United States without trial until the end of the hostilities.

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**SA 1127.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2056, to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes; which was referred to the Committee on Banking, Housing, and Urban Affairs; as follows:

On page 2, line 10, insert ''and'' after the semicolon.

On page 2, line 14, strike the semicolon and all that follows through line 19 and insert a period.

On page 4, strike line 14 and all that follows through page 5, line 5, and insert the following:

(2) LOSSES.—The significance of losses, including—

(A) the number of insured depository institutions that have been placed into receivership or conservatorship due to significant

losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans;

(B) the impact of significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, on the ability of insured depository institutions to raise additional capital;

(C) the effect of changes in the application of fair value accounting rules and other accounting standards, including the allowance for loan and lease loss methodology, on insured depository institutions, specifically the degree to which fair value accounting rules and other accounting standards have led to regulatory action against banks, including consent orders and closure of the institution; and

(D) whether field examiners are using appropriate appraisal procedures with respect to losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, and whether the application of appraisals leads to immediate write downs on the value of the underlying asset.

On page 9, strike lines 15 through 19, and insert the following:

**SEC. 2. CONGRESSIONAL TESTIMONY.**

The Inspector General of the Federal Deposit Insurance Corporation and the Comptroller General of the United States shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 150 days after the date of publication of the study required under this Act to discuss the outcomes and impact of Federal regulations on bank examinations and failures.

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**SA 1128.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VI, insert the following:

**SEC. ___. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.**

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—

(1) REPEAL OF 50 PERCENT REQUIREMENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(2) COMPUTATION.—Paragraph (1) of subsection (c) of such section is amended by adding at the end the following new subparagraph:

''(G) For a month for which the retiree receives veterans' disability compensation for a disability rated as 40 percent or less or has a service-connected disability rated as zero percent, $0.''.

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 1414 of such title is amended to read as follows:

**''§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation''.**

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

''1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2012, and shall apply to payments for months beginning on or after that date.

**SEC. ___. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.**

(a) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) QUALIFIED RETIREES.—Subsection (a) of section 1414 of title 10, United States Code, as amended by section ___(a), is further amended—

(A) by striking ''a member or'' and all that follows through ''retiree')'' and inserting ''a qualified retiree''; and

(B) by adding at the end the following new paragraph:

''(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

''(A) is entitled to retired pay (other by reason of section 12731b of this title); and

''(B) is also entitled for that month to veterans' disability compensation.''.

(2) DISABILITY RETIREES.—Paragraph (2) of subsection (b) of section 1414 of such title is amended to read as follows:

''(2) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—The retired pay of a qualified retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service is subject to reduction by the lesser of—

''(A) the amount of the reduction under sections 5304 and 5305 of title 38; or

''(B) the amount (if any) by which the amount of the member's retired pay under such chapter exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2012, and shall apply to payments for months beginning on or after that date.

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**SA 1129.** Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 2833. REDESIGNATION OF MIKE O'CALLAGHAN FEDERAL HOSPITAL IN NEVADA AS MIKE O'CALLAGHAN FEDERAL MEDICAL CENTER.**

(a) REDESIGNATION.—Section 2867 of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806), as amended by section 8135(a) of the Department of Defense Appropriations Act, 1997 (section 101(b) of division A of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–118)), is further amended by striking ''Mike O'Callaghan Federal Hospital'' each place it appears and inserting ''Mike O'Callaghan Federal Medical Center''.

(b) CONFORMING AMENDMENT.—The heading of such section 2867 is amended to read as follows:

**''SEC. 2867. MIKE O'CALLAGHAN FEDERAL MEDICAL CENTER.''.**

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**SA 1130.** Mr. REID (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1088. FIRE SUPPRESSION AGENTS.**

Section 605(a) of the Clean Air Act (42 U.S.C. 7671d(a)) is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) is listed as acceptable for use as a fire suppression agent for nonresidential applications in accordance with section 612(c).''.

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**SA 1131.** Mr. REID submitted an amendment to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

At the appropriate place in title VI, insert the following:

**SEC. ___. CLARIFICATION OF COMPUTATION OF COMBAT-RELATED SPECIAL COMPENSATION FOR CHAPTER 61 DISABILITY RETIREES.**

(a) IN GENERAL.—Section 1413a(b)(3) of title 10, United States Code, is amended by striking ''shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds'' both places it appears and inserting ''may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2012, and shall apply to payments for months beginning on or after that date.

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**SA 1132.** Mr. MCCAIN (for himself and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1005. PLAN TO ENSURE AUDIT READINESS OF STATEMENTS OF BUDGETARY RESOURCES.**

(a) PLANNING REQUIREMENT.—The report to be issued pursuant to section 1003(b) of the National Defense Authorization Act for 2010 (Public Law 111–84; 123 Stat. 2440; 10 U.S.C. 2222 note) and provided by not later than May 15, 2012, shall include a plan, including interim objectives and a schedule of milestones for each military department and for the defense agencies, to ensure that the statement of budgetary resources of the Department of Defense meets the goal established by the Secretary of Defense of being validated for audit by not later than September 30, 2014. Consistent with the requirements of such section, the plan shall ensure that the actions to be taken are systemically tied to process and control improvements and business systems modernization efforts necessary for the Department to prepare timely, reliable, and complete financial management information on a repeatable basis.

(b) SEMIANNUAL UPDATES.—The reports to be issued pursuant to such section after the report described in subsection (a) shall update the plan required by such subsection and explain how the Department has progressed toward meeting the milestones established in the plan.

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**SA 1133.** Mr. BLUNT (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. _____. REEMPLOYMENT RIGHTS FOLLOWING CERTAIN NATIONAL GUARD DUTY.**

(a) IN GENERAL.—Section 4312(c)(4) of title 38, United States Code, is amended—

(1) in subparagraph (D), by striking ''or'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(F) ordered to full-time National Guard duty under the provisions of section 502(f) of title 32 when the period of duty is expressly designated in writing by the Secretary of Defense as covered by this subparagraph.''.

(b) EFFECTIVE DATE.—Subparagraph (F) of such section 4312(c)(4), as added by subsection (a)(3), shall apply with respect to an individual ordered to full-time National Guard duty under section 502(f) of title 32 of such Code, on or after September 11, 2001, and shall entitle such individual to rights and benefits under chapter 43 of title 38 of such Code on or after that date.

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**SA 1134.** Mr. BLUNT submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1024. REPORT ON POLICIES AND PRACTICES OF THE NAVY FOR NAMING THE VESSELS OF THE NAVY.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the policies and practices of the Navy for naming vessels of the Navy.

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

(1) A description of the current policies and practices of the Navy for naming vessels of the Navy.

(2) A description of the extent to which the policies and practices described under paragraph (1) vary from historical policies and practices of the Navy for naming vessels of the Navy, and an explanation for such variances (if any).

(3) An assessment of the feasibility and advisability of establishing fixed policies for the naming of one or more classes of vessels of the Navy, and a statement of the policies recommended to apply to each class of vessels recommended to be covered by such fixed policies if the establishment of such fixed policies is considered feasible and advisable.

(4) Any other matters relating to the policies and practices of the Navy for naming vessels of the Navy that the Secretary of Defense considers appropriate.

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**SA 1135.** Ms. SNOWE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

At the end of title XXVII, add the following:

**SEC. 2705. ENHANCED COMMISSARY STORES PILOT PROGRAM.**

(a) AUTHORITY TO OPERATE ENHANCED COMMISSARY STORES.—Subchapter II of chapter 147 of title 10, United States Code, is amended by inserting after section 2488 the following new section:

**''§ 2488a. Enhanced commissary stores**

''(a) AUTHORITY TO OPERATE.—The Defense Commissary Agency may operate an enhanced commissary store at such military installations designated for closure or adverse realignment under a base closure law as the Defense Commissary Agency considers to be appropriate.

''(b) ADDITIONAL CATEGORIES OF MERCHANDISE.—(1) In addition to selling items in the merchandise categories specified in subsection (b) of section 2484 of this title in the manner provided by such section, an enhanced commissary store also may sell items in the following categories as commissary merchandise:

''(A) Alcoholic beverages.

''(B) Tobacco products.

''(C) Items in such other merchandise categories (not covered by subsection (b) of section 2484 of this title) as the Secretary of Defense may authorize.

''(2) Subsections (c) and (g) of section 2484 of this title shall not apply with regard to the selection, or method of sale, of merchandise in the categories specified in subparagraphs (A) and (B) of paragraph (1) or in any other merchandise category authorized under subparagraph (C) of such paragraph for sale in, at, or by an enhanced commissary store.

''(c) SALES PRICE ESTABLISHMENT AND SURCHARGE.—Subsections (d) and (e) of section 2484 of this title shall not apply to the pricing of merchandise in the categories specified in subparagraphs (A) and (B) of paragraph (1) of subsection (b) or in any other merchandise category authorized under subparagraph (C) of such paragraph for sale in, at, or by an enhanced commissary store. Instead, the Secretary of Defense shall determine appropriate prices for such merchandise sold in, at, or by an enhanced commissary store.

''(d) RETENTION AND USE OF PORTION OF PROCEEDS.—(1) The Secretary of Defense may retain amounts equal to the difference between—

''(A) the retail price of merchandise in the categories specified in subparagraphs (A) and (B) of paragraph (1) of subsection (b) and in other merchandise categories authorized under subparagraph (C) of such paragraph for sale in, at, or by an enhanced commissary store; and

''(B) the invoice cost of such merchandise.

''(2) The Secretary of Defense shall use amounts retained under paragraph (1) for an enhanced commissary store to help offset the operating costs of that enhanced commissary store.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2488 the following new item:

''2488a. Enhanced commissary stores.''.

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**SA 1136.** Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1088. PROHIBITION ON ESTABLISHMENT OF HEADQUARTERS OF THE UNITED STATES AFRICA COMMAND (AFRICOM) OUTSIDE THE CONTINENTAL UNITED STATES.**

None of the amounts authorized to be appropriated by this Act or authorized or appropriated by any other Act may be used to establish the headquarters of the United States Africa Command (AFRICOM) outside of the continental United States.

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**SA 1137.** Mr. HELLER (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. RECOGNITION OF JERUSALEM AS THE CAPITAL OF ISRAEL AND RELOCATION OF THE UNITED STATES EMBASSY TO JERUSALEM.**

(a) STATEMENT OF POLICY.—It is the policy of the United States to recognize Jerusalem as the undivided capital of the state of Israel, both de jure and de facto.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Jerusalem must remain an undivided city in which the rights of every ethnic and

religious group are protected as they have been by Israel since 1967;

(2) every citizen of Israel should have the right to reside anywhere in the undivided city of Jerusalem;

(3) the President and the Secretary of State should publicly affirm as a matter of United States policy that Jerusalem must remain the undivided capital of the State of Israel;

(4) the President should immediately implement the provisions of the Jerusalem Embassy Act of 1995 (Public Law 104–45) and begin the process of relocating the United States Embassy in Israel to Jerusalem; and

(5) United States officials should refrain from any actions that contradict United States law on this subject.

(c) AMENDMENT OF WAIVER AUTHORITY.—The Jerusalem Embassy Act of 1995 (Public Law 104–45) is amended—

(1) by striking section 7; and

(2) by redesignating section 8 as section 7.

(d) IDENTIFICATION OF JERUSALEM ON GOVERNMENT DOCUMENTS.—Notwithstanding any other provision of law, any official document of the United States Government which lists countries and their capital cities shall identify Jerusalem as the capital of Israel.

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**SA 1138.** Mr. HELLER (for himself, Mr. BROWN of Massachusetts, Mr. BOOZMAN, Mr. BLUMENTHAL, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. EXHUMATION AND TRANSFER OF REMAINS OF DECEASED MEMBERS OF THE ARMED FORCES BURIED IN TRIPOLI, LIBYA.**

(a) IN GENERAL.—The Secretary of Defense shall take whatever actions may be necessary to—

(1) exhume the remains of any deceased members of the Armed Forces of the United States buried at a burial site described in subsection (b);

(2) transfer such remains to an appropriate forensics laboratory to be identified;

(3) in the case of any remains that are identified, transport the remains to a veterans cemetery located in proximity, as determined by the Secretary, to the closest living family member of the deceased individual or at another cemetery as determined by the Secretary;

(4) for any member of the Armed Forces whose remains are identified, provide a military funeral and burial; and

(5) in the case of any remains that cannot be identified, transport the remains to Arlington National Cemetery for interment at a an appropriate grave marker identifying the United States Navy Sailors of the USS Intrepid who gave their lives on September 4, 1804, in Tripoli, Libya.

(b) BURIAL SITES DESCRIBED.—The burial sites described in this subsection are the following:

(1) The mass burial site containing the remains of five United States sailors located in Protestant Cemetery in Tripoli, Libya.

(2) The mass burial site containing the remains of eight United States sailors located near the walls of the Tripoli Castle in Tripoli, Libya.

(c) REPORT.—Not later than 180 days after the effective date of this section, the Secretary shall submit to Congress a report describing the status of the actions under this section. The report shall include an estimate of the date of the completion of the actions undertaken, and to be undertaken, under this section.

(d) EFFECTIVE DATE.—This section takes effect on the date on which Operation Unified Protector of the North Atlantic Treaty Organization (NATO), or any successor operation, terminates.

(e) AVAILABLE FUNDS.—The Secretary shall carry out this section using amounts authorized to be appropriated for the Department of Defense by Acts enacted before the date of the enactment of this Act.

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**SA 1139.** Mr. CASEY (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 889. SUBCONTRACTOR NOTIFICATIONS.**

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

''(13) NOTIFICATION REQUIREMENT.—An offeror with respect to a contract let by a Federal agency that is to be awarded pursuant to the negotiated method of procurement that intends to identify a small business concern as a potential subcontractor in the offer relating to the contract shall notify the small business concern that the offeror intends to identify the small business concern as a potential subcontractor in the offer.

''(14) REPORTING BY SUBCONTRACTORS.—The Administrator shall establish a reporting mechanism that allows a subcontractor to report fraudulent activity by a contractor with respect to a subcontracting plan submitted to a procurement authority under paragraph (4)(B).''.

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**SA 1140.** Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 577. COMPTROLLER GENERAL OF THE UNITED STATES REPORT ON DEPARTMENT OF DEFENSE MILITARY SPOUSE EMPLOYMENT PROGRAMS.**

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a review of all current Department of Defense military spouse employment programs.

(b) ELEMENTS.—The review required by subsection (a) shall, address, at a minimum, the following:

(1) The efficacy and effectiveness of Department of Defense military spouse employment programs.

(2) All current Department programs to support military spouses or dependents for the purposes of employment assistance.

(3) The types of military spouse employment programs that have been considered or used in the past by the Department.

(4) The ways in which military spouse employment programs have changed in recent years.

(5) The benefits or programs that are specifically available to provide employment assistance to spouses of members of the Armed Forces serving in Operation Iraqi Freedom, Operation Enduring Freedom, or Operation New Dawn, or any other contingency operation being conducted by the Armed Forces as of the date of such review.

(6) Existing mechanisms available to military spouses to express their views on the effectiveness and future direction of Department programs and policies on employment assistance for military spouses.

(7) The oversight provided by the Office of Personnel and Management regarding preferences for military spouses in Federal employment.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the review carried out under subsection (a). The report shall set forth the following:

(1) The results of the review concerned.

(2) Such clear and concrete metrics as the Comptroller General considers appropriate for the current and future evaluation and assessment of the efficacy and effectiveness of Department of Defense military spouse employment programs.

(3) A description of the assumptions utilized in the review, and an assessment of the validity and completeness of such assumptions.

(4) Such recommendations as the Comptroller General considers appropriate for improving Department of Defense military spouse employment programs.

(d) DEPARTMENT OF DEFENSE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the number (or a reasonable estimate if a precise number is not available) of military spouses who have obtained employment following participation in Department of Defense military spouse employment programs. The report shall set forth such number (or estimate) for the Department of Defense military spouse employment programs as a whole and for each such military spouse employment program.

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**SA 1141.** Mrs. BOXER (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 714. FLEXIBLE SPENDING ARRANGEMENTS FOR HEALTH CARE AND DEPENDENT CARE FOR MEMBERS OF THE UNIFORMED SERVICES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretaries concerned should implement flexible spending arrangements for members of the uniformed services with respect to basic pay and compensation for health care and dependent care on a pre-

tax basis in accordance with regulations prescribed under sections 106(c) and 125 of the Internal Revenue Code of 1986.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the other Secretaries concerned, submit to Congress a report setting forth a plan to implement flexible spending arrangements for members of the uniformed services as described in subsection (a). The plan shall include the following:

(1) An identification of any obstacles to the implementation of the plan, including a statement of any additional authorities required for implementation of the plan.

(2) A schedule for completion of the implementation of the plan.

(3) An estimate of the costs to be associated with the implementation of the plan.

(c) SECRETARIES CONCERNED DEFINED.—In this section, the term ''Secretaries concerned'' means the following:

(1) The Secretary of Defense, with respect to members of the Army, the Navy, the Marine Corps, and the Air Force.

(2) The Secretary of Homeland Security, with respect to members of the Coast Guard.

(3) The Secretary of Health and Human Services, with respect to commissioned officers of the Public Health Service.

(4) The Secretary of Commerce, with respect to commissioned officers of the National Oceanic and Atmospheric Administration.

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**SA 1142.** Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. _____. DESIGNATION OF DISTINGUISHED FLYING CROSS NATIONAL MEMORIAL IN RIVERSIDE, CALIFORNIA.**

(a) DESIGNATION.—The memorial to members of the Armed Forces who have been awarded the Distinguished Flying Cross at March Field Air Museum in Riverside, California, is designated as the ''Distinguished Flying Cross National Memorial''.

(b) EFFECT OF DESIGNATION.—The national memorial designated by this section is not a unit of the National Park System, and the designation of the national memorial shall not be construed to require or permit Federal funds to be expended for any purpose related to the national memorial.

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**SA 1143.** Mrs. HAGAN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1080. COMPTROLLER GENERAL REVIEW OF MEDICAL RESEARCH AND DEVELOPMENT RELATING TO IMPROVED COMBAT CASUALTY CARE.**

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a review of Department of Defense programs and organizations related to, and resourcing of, medical research and development in support of improved combat casualty care designed to save lives on the battlefield.

(b) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit to the congressional defense committees a report on the review conducted under subsection (a), including the following elements:

(1) A description of current medical combat casualty care research and development programs throughout the Department of Defense, including basic and applied medical research, technology development, and clinical research.

(2) An identification of organizational elements within the Department that have responsibility for planning and oversight of combat casualty care research and development.

(3) A description of the means by which the Department applies combat casualty care research findings, including development of new medical devices, to improve battlefield care.

(4) An assessment of the adequacy of the coordination by the Department of planning for combat casualty care medical research and development and whether or not the Department has a coordinated combat casualty care research and development strategy.

(5) An assessment of the adequacy of resources provided for combat casualty care research and development across the Department.

(6) An assessment of the programmatic, organizational, and resource challenges and gaps faced by the Department in optimizing investments in combat casualty care medical research and development in order to save lives on the battlefield.

(7) The extent to which the Department utilizes expertise from experts and entities outside the Department with expertise in combat casualty care medical research and development.

(8) An assessment of the challenges faced in rapidly applying research findings and technology developments to improved battlefield care.

(9) Recommendations regarding—

(A) the need for a coordinated combat casualty care medical research and development strategy;

(B) organizational obstacles or realignments to improve effectiveness of combat casualty care medical research and development; and

(C) adequacy of resource support.

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**SA 1144.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4001, add the following:

(d) REDUCTION OF AUTHORIZATIONS OF APPROPRIATIONS EXCEEDING LEVEL REQUESTED IN PRESIDENT'S BUDGET AND PARTIAL RESTORATION OF OPERATION AND MAINTENANCE ACCOUNTS.—Notwithstanding the amounts specified in the funding tables in titles XLI through XLVI, the amounts specified in the funding tables for sections 4101, 4102, 4201, 4202, 4301, 4302, 4401, 4402, 4501, and 4601 for purposes of sections 101, 201, 301, 1401, 1402, 1403, 1404, 1405, 1406, 1431, 1506, 1507, 1508, 1509, 2003, 3101, 3102, and 3103, are as follows:

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**SA 1145.** Mr. TESTER (for himself, Mrs. HUTCHISON, and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES.**

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established the Commission on the Review of the Overseas Military Facility Structure of the United States (in this section referred to as the ''Commission'').

(2) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be composed of eight members of whom—

(i) two shall be appointed by the Majority Leader of the Senate;

(ii) two shall be appointed by the Minority Leader of the Senate;

(iii) two shall be appointed by the Speaker of the House of Representatives; and

(iv) two shall be appointed by the Minority Leader of the House of Representatives.

(B) QUALIFICATIONS.—Individuals appointed to the Commission shall have significant experience in the national security or foreign policy of the United States.

(C) DEADLINE FOR APPOINTMENT.—Appointments of the members of the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(D) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among it members.

(3) TENURE; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) MEETINGS.—

(A) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(B) CALLING OF THE CHAIRMAN.—The Commission shall meet at the call of the Chairman.

(C) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(b) DUTIES.—

(1) STUDY OF OVERSEAS MILITARY FACILITY STRUCTURE.—

(A) IN GENERAL.—The Commission shall conduct a thorough study of matters relating to the military facility structure of the United States overseas.

(B) SCOPE.—In conducting the study, the Commission shall—

(i) assess the number of forces required to be forward based outside the United States;

(ii) examine the current state of the military facilities and training ranges of the United States overseas for all permanent stations and deployed locations, including the condition of land and improvements at

such facilities and ranges and the availability of additional land, if required, for such facilities and ranges;

(iii) identify the amounts received by the United States, whether in direct payments, in-kind contributions, or otherwise, from foreign countries by reason of military facilities of the United States overseas;

(iv) assess the feasibility and advisability of the closure or realignment of military facilities of the United States overseas, or of the establishment of new military facilities of the United States overseas;

(v) consider the findings of the February 2011 Government Accountability Office report, ''Additional Cost Information and Stakeholder Input Necessary to Assess Military Posture in Europe'', GAO–11–131; and

(vi) consider or assess any other issue relating to military facilities of the United States overseas that the Commission considers appropriate.

(2) REPORT.—

(A) IN GENERAL.—Not later than 60 days after holding its final public hearing, the Commission shall submit to the President and Congress a report which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(B) PROPOSED OVERSEAS BASING STRATEGY.—In addition to the matters specified in subparagraph (A), the report shall also include a proposal by the Commission for an overseas basing strategy for the Department of Defense in order to meet the current and future mission of the Department, taking into account heightened fiscal constraints.

(C) FOCUS ON PARTICULAR ISSUES.—The report shall focus on current and future geopolitical posturing, operational requirements, mobility, quality of life, cost, and synchronization with the combatant commands.

(c) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION SHARING.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) ADMINISTRATIVE SUPPORT.—Upon request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support necessary for the Commission to carry out its duties under this section.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission under this section. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL.—

(A) EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission under this section.

(B) MILITARY AIRCRAFT.—Members and staff of the Commission may receive transportation on military aircraft to and from the United States, and overseas, for purposes of the performance of the duties of the Commission to the extent that such transportation will not interfere with the requirements of military operations.

(3) STAFFING.—

(A) EXECUTIVE DIRECTOR.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties under this section. The employment of an executive director shall be subject to confirmation by the Commission.

(B) STAFF.—The Commission may employ a staff to assist the Commission in carrying out its duties. The total number of the staff of the Commission, including an executive director under subparagraph (A), may not exceed 12.

(C) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAILS.—Any employee of the Department of Defense, the Department of State, or the Government Accountability Office may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) SECURITY.—

(1) SECURITY CLEARANCES.—Members and staff of the Commission, and any experts and consultants to the Commission, shall possess security clearances appropriate for their duties with the Commission under this section.

(2) INFORMATION SECURITY.—The Secretary of Defense shall assume responsibility for the handling and disposition of any information relating to the national security of the United States that is received, considered, or used by the Commission under this section.

(f) TERMINATION.—The Commission shall terminate 45 days after the date on which the Commission submits its report under subsection (b).

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**SA 1146.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, strike line 2 and insert the following:

the study, and

(8) ensure the involvement and input of military technicians (dual status), including through their exclusive representatives in the case of military technicians (dual status) who are members of a collective bargaining unit.

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**SA 1147.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 515. PROHIBITION ON REPAYMENT OF ENLISTMENT OR RELATED BONUSES BY CERTAIN INDIVIDUALS EMPLOYED AS MILITARY TECHNICIANS (DUAL STATUS) WHILE ALREADY A MEMBER OF A RESERVE COMPONENT.**

(a) PROHIBITION.—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) PROHIBITION ON REPAYMENT OF CERTAIN ENLISTMENT AND RELATED BONUSES.—The Secretary concerned may not require an individual who becomes employed as a military technician (dual status) while the individual is already a member of a reserve component to repay an enlistment, reenlistment, or affiliation bonus provided to the individual in connection with the individual's enlistment or reenlistment before such employment if the individual becomes so employed in the same occupational specialty for which such bonus was provided.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals first becoming employed as a military technician (dual status) on or after that date.

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**SA 1148.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 515. RIGHTS OF GRIEVANCE, ARBITRATION, APPEAL, AND REVIEW BEYOND THE ADJUTANT GENERAL FOR MILITARY TECHNICIANS.**

(a) RIGHTS IN ADVERSE ACTIONS NOT RELATED TO MILITARY SERVICE.—Section 709 of title 32, United States Code, is amended—

(1) in subsection (f)—

(A) in the matter preceding paragraph (1), by striking ''Notwithstanding any other provision of law and under'' and inserting ''Under''; and

(B) in paragraph (4), by striking ''a right of appeal'' and inserting ''subject to subsection (j), a right of appeal''; and

(2) by adding at the end the following new subsection:

''(j)(1) Notwithstanding subsection (f)(4) or any other provision of law, a technician and a labor organization that is the exclusive representative of a bargaining unit including the technician shall have the rights of grievance, arbitration, appeal, and review extending beyond the adjutant general of the jurisdiction concerned and to the Merit Systems Protection Board and thereafter to the United States Court of Appeals for the Federal Circuit, in the same manner as provided in sections 4303, 7121, and 7701–7703 of title 5, with respect to a performance-based or adverse action imposing removal, suspension for more than 14 days, furlough for 30 days or less, or reduction in pay or pay band (or comparable reduction).

''(2) The rights in paragraph (1) shall not apply to actions relating to military service.

''(3) This subsection does not apply to a technician who is serving under a temporary appointment or in a trial or probationary period.''.

(b) ADVERSE ACTIONS COVERED.—Subsection (g) of such section is amended by striking '', 3502, 7511, and 7512'' and inserting ''and 3502''.

(c) CONFORMING AMENDMENT.—Section 7511(b) of title 5, United States Code, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) through (10) as paragraphs (5) through (9), respectively.

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**SA 1149.** Mr. BEGICH (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 2823. LAND CONVEYANCE AND EXCHANGE, JOINT BASE ELMENDORF RICHARDSON, ALASKA.**

(a) CONVEYANCES AUTHORIZED.—

(1) IN GENERAL.—In an effort to reduce Federal expenses, resolve evolving land use conflicts, and maximize the beneficial use of real property resources by and between Joint Base Elmendorf Richardson (in this section referred to as the ''JBER''); the Municipality of Anchorage, an Alaska municipal corporation (in this section referred to as the ''Municipality''); and Eklutna, Inc., an Alaska Native village corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) (in this section referred to as ''Eklutna''), the following conveyances are authorized:

(A) The Secretary of the Air Force may, in consultation with the Secretary of the Interior, convey to the Municipality all right, title, and interest of the United States in and to all or any part of a parcel of real property, including any improvements thereon, consisting of approximately 220 acres at JBER situated to the west of and adjacent to the Anchorage Regional Landfill in Anchorage, Alaska, for solid waste management purposes, including reclamation thereof, and for alternative energy production, and other related activities. This authority may not be exercised unless and until the March 15, 1982, North Anchorage Land Agreement is amended by the parties thereto to specifically permit the conveyance under this subparagraph.

(B) The Secretary of the Air Force may, in consultation with the Secretary of the Interior, upon terms mutually agreeable to the Secretary of the Air Force and Eklutna, convey to Eklutna all right, title, and interest of the United States in and to all or any part of a parcel of real property, including any improvements thereon, consisting of approximately 130 acres situated on the northeast corner of the Glenn Highway and Boniface Parkway in Anchorage, Alaska, or such other property as may be identified in consultation with the Secretary of the Interior, for any use compatible with JBER's current and reasonably foreseeable mission as determined by the Secretary of the Air Force.

(2) RIGHT TO WITHHOLD TRANSFER.—The Secretary may withhold transfer of any portion of the real property described in paragraph (1) based on public interest or military mission requirements.

(b) TRANSFER OF ADMINISTRATIVE CONTROL.—

(1) REAL PROPERTY ACTIONS.—The Secretary of the Interior shall complete any real property actions necessary to allow the Secretary of the Air Force to convey property under this section.

(2) ADMINISTRATIVE JURISDICTION.—The Secretary of Interior, acting through the Bureau of Land Management, shall, upon request from the Secretary of the Air Force, transfer administrative jurisdiction over any requested parcel of property to the Secretary of the Air Force for purposes of carrying out the conveyances authorized under subsection (a).

(c) CONSIDERATION.—

(1) MUNICIPALITY PROPERTY.—As consideration for the conveyance under subsection (a)(1), the Secretary of the Air Force may receive in-kind solid waste management services at the Anchorage Regional Landfill, and such other consideration as determined satisfactory by the Secretary.

(2) EKLUTNA PROPERTY.—As consideration for the conveyance under subsection (a)(2), the Secretary of the Air Force is authorized to receive, upon terms mutually agreeable to the Secretary and Eklutna, such interests in the surface estate of real property owned by Eklutna and situated at the northeast boundary of JBER and other consideration as considered satisfactory by the Secretary.

(d) RESPONSIBILITY FOR ENVIRONMENTAL CLEANUP.—The Secretary of the Air Force shall retain liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and any other applicable environmental statute or regulation, for any environmental hazard on the properties conveyed under subsection (a) as of the date or dates of conveyance, unless such liability is conveyed in consideration for the exchanged property.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Municipality and Eklutna to reimburse the Secretary to cover costs (except costs for environmental remediation of the property) to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under subsection (a), including survey costs, costs for environmental documentation, and any other administrative costs related to the conveyance.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States as consideration for the conveyances under subsection (a) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B) of such subsection.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) and of the real property interests to be acquired under subsection (b) shall be determined by surveys satisfactory to the Secretary.

(h) OTHER OR ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

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**SA 1150.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. IMPROVEMENTS TO STAFF CONFERENCES DIRECTED BY UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) IN GENERAL.—Subchapter II of chapter 72 of title 38, United States Code, is amended by inserting after section 7264 the following new section:

**''§ 7264A. Staff conferences**

''(a) FILING OF REPORT DESCRIBING BASIS FOR OPPOSITION BY SECRETARY TO REMAND.—If the Court of Appeals for Veterans Claims directs the representatives and self-represented parties to participate in a staff conference pursuant to rule 33 of the Rules of Practice and Procedure of the Court of Appeals for Veterans Claims, or any corresponding similar rule, and an agreement to remand the matter has not been reached before the end of such conference, the Secretary shall, not later than seven days after the end of such conference, submit to the Court and the appellant a written report describing the basis upon which the Secretary remains opposed to remand.

''(b) SUBSEQUENT DETERMINATION BY SECRETARY OF NEED FOR REMAND.—If the Secretary submits a written report as described in subsection (a) in a matter, the Secretary may not seek a remand of the matter without the agreement of the appellant.

''(c) EFFECT OF SUBSEQUENT DETERMINATION OF NEED FOR REMAND.—Any period during which the Court is considering a motion made or during which a matter is remanded in accordance with subsection (b) shall not be counted against an appellant for purposes of any time limitation under this chapter or the Rules of Practice and Procedure of the Court of Appeals for Veterans Claims.

''(d) PROHIBITION ON OBJECTION OR OPPOSITION TO SUBSEQUENT FILINGS FOR FEES AND OTHER EXPENSES.—If the Secretary seeks a remand after the end of the seven-day period described in subsection (a), the Secretary may not oppose any subsequent filing by the

appellant for fees and other expenses under section 2412 of title 28.

''(e) SANCTIONS.—If the Secretary fails to comply with this section, the Court may impose on the Secretary such sanctions, including monetary sanctions, as the Court considers appropriate.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 of such title is amended by inserting after the item relating to section 7264 the following new item:

''7264A. Staff conferences.''.

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**SA 1151.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 634. DEATH GRATUITY AND RELATED BENEFITS FOR RESERVES WHO DIE DURING AN AUTHORIZED STAY AT THEIR RESIDENCE DURING OR BETWEEN SUCCESSIVE DAYS OF INACTIVE DUTY TRAINING.**

(a) DEATH GRATUITY.—

(1) PAYMENT AUTHORIZED.—Section 1475(a)(3) of title 10, United States Code, is amended by inserting before the semicolon the following: ''or while staying at the Reserve's residence, when so authorized by proper authority, during the period of such inactive duty training or between successive days of inactive duty training''.

(2) TREATMENT AS DEATH DURING INACTIVE DUTY TRAINING.—Section 1478(a) of such title is amended—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following new paragraph (4):

''(4) A person covered by subsection (a)(3) of section 1475 of this title who died while on authorized stay at the person's residence during a period of inactive duty training or between successive days of inactive duty training is considered to have been on inactive duty training on the date of his death.''.

(b) RECOVERY, CARE, AND DISPOSITION OF REMAINS AND RELATED BENEFITS.—Section 1481(a)(2) of such title is amended—

(1) by redesignating subparagraph (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph (E):

''(E) staying at the member's residence, when so authorized by proper authority, during a period of inactive duty training or between successive days of inactive duty training;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010, and shall apply with respect to deaths that occur on or after that date.

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**SA 1152.** Mr. PRYOR (for himself, Mr. BOOZMAN, Mr. CRAPO, Mr. GRASSLEY, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Mr. LEAHY, Mr. SESSIONS, Mrs. SHAHEEN, Ms. SNOWE, Mr. TESTER, Mr. THUNE, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. PROVISION OF STATUS UNDER LAW BY HONORING CERTAIN MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES AS VETERANS.**

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 107 the following new section:

**''§ 107A. Honoring as veterans certain persons who performed service in the reserve components**

''Any person who is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit by reason of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

''107A. Honoring as veterans certain persons who performed service in the reserve components.''.

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**SA 1153.** Mr. UDALL of New Mexico (for himself, Mr. HELLER, Mr. BINGAMAN, Mrs. GILLIBRAND, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. INCLUSION OF ULTRALIGHT VEHICLES IN DEFINITION OF AIRCRAFT FOR CERTAIN AVIATION SMUGGLING PROVISIONS.**

(a) AMENDMENTS TO THE AVIATION SMUGGLING PROVISIONS OF THE TARIFF ACT OF 1930.—

(1) IN GENERAL.—Section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) is amended—

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

(B) by inserting after subsection (f) the following:

''(g) DEFINITION OF AIRCRAFT.—As used in this section, the term 'aircraft' includes an ultralight vehicle, as defined by the Administrator of the Federal Aviation Administration.''.

(2) CRIMINAL PENALTIES.—Subsection (d) of section 590 of the Tariff Act of 1930 (19 U.S.C. 1590(d)) is amended in the matter preceding paragraph (1) by inserting '', or attempts or conspires to commit,'' after ''commits''.

(3) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to violations of any provision of section 590 of the Tariff Act of 1930 on or after the 30th day after the date of the enactment of this Act.

(b) INTERAGENCY COLLABORATION.—The Assistant Secretary of Defense for Research and Engineering shall, in consultation with the Under Secretary for Science and Technology of the Department of Homeland Security, identify equipment and technology used by the Department of Defense that could also be used by U.S. Customs and Border Protection to detect and track the illicit use of ultralight aircraft near the international border between the United States and Mexico.

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**SA 1154.** Mr. UDALL of New Mexico (for himself, Mr. CORKER, Mrs. MCCASKILL, Mr. BINGAMAN, and Mr. ALEXANDER, Mr. NELSON of Florida, and Mr. UDALL of Colorado) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. _____. ESTABLISHMENT OF OPEN BURN PIT REGISTRY.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

(1) establish and maintain an open burn pit registry for eligible individuals who may have been exposed to toxic chemicals and fumes caused by open burn pits;

(2) include any information in such registry that the Secretary of Veterans Affairs determines necessary to ascertain and monitor the health effects of the exposure of members of the Armed Forces to toxic chemicals and fumes caused by open burn pits;

(3) develop a public information campaign to inform eligible individuals about the open burn pit registry, including how to register and the benefits of registering; and

(4) periodically notify eligible individuals of significant developments in the study and treatment of conditions associated with exposure to toxic chemicals and fumes caused by open burn pits.

(b) REPORT TO CONGRESS.—

(1) REPORT BY INDEPENDENT SCIENTIFIC ORGANIZATION.—The Secretary of Veterans Affairs shall enter into an agreement with an independent scientific organization to develop a report containing the following:

(A) An assessment of the effectiveness of actions taken by the Secretary to collect and maintain information on the health effects of exposure to toxic chemicals and fumes caused by open burn pits.

(B) Recommendations to improve the collection and maintenance of such information.

(C) Using established and previously published epidemiological studies, recommendations regarding the most effective and prudent means of addressing the medical needs of eligible individuals with respect to conditions that are likely to result from exposure to open burn pits.

(2) SUBMITTAL TO CONGRESS.—Not later than 540 days after the date on which the registry required by subsection (a) is established, the Secretary of Veterans Affairs shall submit to Congress the report developed under paragraph (1).

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means any individual who, on or after September 11, 2001—

(A) was deployed in support of a contingency operation while serving in the Armed Forces; and

(B) during such deployment, was based or stationed at a location where an open burn pit was used.

(2) OPEN BURN PIT.—The term ''open burn pit'' means an area of land located in Afghanistan or Iraq that—

(A) is designated by the Secretary of Defense to be used for disposing solid waste by burning in the outdoor air; and

(B) does not contain a commercially manufactured incinerator or other equipment specifically designed and manufactured for the burning of solid waste.

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**SA 1155.** Ms. COLLINS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 547. EDUCATIONAL ASSISTANCE FOR ADVANCED DEGREES IN PHYSICAL THERAPY AND OCCUPATIONAL THERAPY UNDER THE ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM.**

(a) IN GENERAL.—In accordance with guidance issued by the Secretary of Defense for purposes of this section, assistance under the Armed Forces Health Professions Scholarship program under subchapter I of chapter 105 of title 10, United States Code, shall be available for pursuit of a master's degree and a doctoral degree in the disciplines as follows:

(1) Physical therapy.

(2) Occupational therapy.

(b) TERMINATION.—The guidance under subsection (a) shall provide that the availability of assistance as described in that subsection for pursuit of a degree in a discipline covered by that subsection shall cease when the Secretary certifies to Congress that there no longer exists a current or projected shortfall in qualified personnel in that discipline in either of the following:

(1) The military departments.

(2) Any major military medical treatment facility specializing in the rehabilitation of wounded members of the Armed Forces.

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**SA 1156.** Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In section 331(a), strike paragraph (2) and insert the following:

(2) CONSULTATION.—The Secretary of the Air Force shall, in conducting the study required under paragraph (1)—

(A) consult with the Secretaries of the other military departments to determine opportunities for joint use and training of the ranges, and to assess the requirements needed to support combined arms training on the ranges;

(B) consult with the Department of the Interior, the Department of Agriculture, the Federal Aviation Administration, the Federal Energy Regulation Commission, and the Department of Energy to assess the need for transfers of administrative control of certain parcels of airspace and land to the Department of Defense to protect the missions and control of the ranges;

(C) consult with Governors, State legislators, and locally elected officials;

(D) consult with the RAND Corporation concerning the RAND Project Air Force report entitled, ''Preserving Range and Airspace Access for the Air Force Mission: Striving for a Strategic Vantage Point''; and

(E) consult with United State allies currently training at United States test and training ranges on a regular basis, at least annually, to solicit their input and assessment of their experiences at those test and training ranges.

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**SA 1157.** Mr. RISCH submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In section 331(b)(2), strike subparagraphs (K) and (L) and insert the following:

(K) identify parcels with no value to future military operations;

(L) propose a list of prioritized projects, easements, acquisitions, or other actions, including estimated costs required to upgrade the test and training range infrastructure, taking into consideration the criteria set forth in this paragraph; and

(M) explore opportunities to increase foreign military training with United States allies at test and training ranges in the continental United States, and articulate the prospects for realizing those opportunities.

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**SA 1158.** Ms. COLLINS (for herself, Mr. BEGICH, and Mr. MANCHIN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

On page 367, strike line 11 and all that follows though ''Guantanamo'' on line 18 and insert the following:

(c) PERMANENT PROHIBITION IN CASES OF PRIOR CONFIRMED RECIDIVISM.—

(1) PERMANENT PROHIBITION.—Except as provided in paragraph (2) and subject to subsection (d), the Secretary of Defense may not use any amounts authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year to transfer an individual detained at Guantanamo

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**SA 1159.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SECTION 1088. AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18.**

Chapter 44 of title 18, United States Code, is amended—

(1) in section 926B—

(A) in subsection (c)(1), by inserting ''or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)'' after ''arrest''; and

(B) in subsection (f), by inserting ''or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)'' after ''arrest''; and

(2) in section 926C(c)(2), by inserting ''or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice)'' after ''arrest''.

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**SA 1160.** Mr. WYDEN (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVII, add the following:

**SEC. 2705. CLOSURE OF UMATILLA CHEMICAL DEPOT, OREGON.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Army shall close Umatilla Chemical Depot, Oregon, not later than one year after the completion of the chemical demilitarization mission in accordance with the Chemical Weapons Convention Treaty.

(b) BRAC PROCEDURES AND AUTHORITIES.—The closure of the Umatilla Chemical Depot, Oregon, and subsequent management and property disposal shall be carried out in accordance with procedures and authorities contained in the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) COMPLIANCE WITH ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(d) RETENTION OF PROPERTY AND FACILITIES.—The Secretary of the Army may retain minimum essential ranges, facilities, and training areas at Umatilla Chemical Depot totaling approximately 7,500 acres as a training enclave for the reserve components of the Armed Forces to permit the conduct of individual and annual training.

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**SA 1161.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 316. CORE CURRICULUM AND CERTIFICATION STANDARDS FOR DEPARTMENT OF DEFENSE ENERGY MANAGERS.**

(a) TRAINING PROGRAM AND ISSUANCE OF GUIDANCE.—

(1) IN GENERAL.—Subchapter I of chapter 173 of title 10, United States Code, is amended by inserting after section 2915 the following new section:

**''§ 2915a. Facilities: Department of Defense energy managers**

''(a) TRAINING PROGRAM REQUIRED.—The Secretary of Defense shall establish a training program for Department of Defense energy managers designated for military installations—

''(1) to improve the knowledge, skills, and abilities of energy managers; and

''(2) to improve consistency among energy managers throughout the Department in the performance of their responsibilities.

''(b) CURRICULUM AND CERTIFICATION.—(1) The Secretary of Defense shall identify core curriculum and certification standards required for energy managers. At a minimum, the curriculum shall include the following:

''(A) Details of the energy laws that the Department of Defense is obligated to comply with and the mandates that the Department of Defense is obligated to implement.

''(B) Details of energy contracting options for third-party financing of facility energy projects.

''(C) Details of the interaction of Federal laws with State and local renewable portfolio standards.

''(D) Details of current renewable energy technology options, and lessons learned from exemplary installations.

''(E) Details of strategies to improve individual installation acceptance of its responsibility for reducing energy consumption.

''(F) Details of how to conduct an energy audit and the responsibilities for commissioning, recommissioning, and continuous commissioning of facilities.

''(2) The curriculum and certification standards shall leverage the best practices of each of the military departments.

''(3) The certification standards shall identify professional qualifications required to be designated as an energy manager.

''(c) INFORMATION SHARING.—The Secretary of Defense shall ensure that there are opportunities and forums for energy managers to exchange ideas and lessons-learned within each military department, as well as across the Department of Defense.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2915 the following new item:

''2915a. Facilities: Department of Defense energy managers.''.

(b) ISSUANCE OF GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance for the implementation of the core curriculum and certification standards for energy managers required by section 2915a of title 10, United States Code, as added by subsection (a).

(c) BRIEFING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, or designated representatives of the Secretary, shall brief the Committees on Armed Services of the Senate and House of Representatives regarding the details of the energy manager core curriculum and certification requirements.

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**SA 1162.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 316. CONSIDERATION OF ENERGY SECURITY AND RELIABILITY IN DEVELOPMENT AND IMPLEMENTATION OF ENERGY PERFORMANCE GOALS.**

Section 2911(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(12) Opportunities to enhance energy security and reliability of defense facilities and missions, including through the ability to operate for extended periods off-grid.''.

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**SA 1163.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 316. IDENTIFICATION OF ENERGY-EFFICIENT PRODUCTS FOR USE IN CONSTRUCTION, REPAIR, OR RENOVATION OF DEPARTMENT OF DEFENSE FACILITIES.**

(a) RESPONSIBILITY OF SECRETARY OF DEFENSE.—Section 2915(e) of title 10, United States Code, is amended by striking paragraph (2) and inserting the following new paragraph:

''(2)(A) The Secretary of Defense shall prescribe a definition of the term 'energy-efficient product' for purposes of this subsection and establish and maintain a list of products satisfying the definition. The definition and list shall be developed in consultation with the Secretary of Energy to ensure, to the maximum extent practicable, consistency with definitions of the term used by other Federal agencies.

''(B) The Secretary shall modify the definition and list of energy-efficient products as necessary to account for emerging or changing technologies.

''(C) The list of energy-efficient products shall be included as part of the energy performance master plan developed pursuant to section 2911(b)(2) of this title.''.

(b) CONFORMING AMENDMENT TO ENERGY PERFORMANCE MASTER PLAN.—Section 2911(b)(2) of such title is amended by adding at the end the following new subparagraph:

''(F) The up-to date list of energy-efficient products maintained under section 2915(e)(2) of this title.''.

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**SA 1164.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. ACQUISITION AND PROCUREMENT EXCHANGES BETWEEN THE UNITED STATES AND INDIA.**

The Secretary of Defense should seek to establish exchanges between acquisition and procurement officials of the Department of Defense and defense officials of the Government of India to increase mutual understanding regarding best practices in defense acquisition.

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**SA 1165.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 907. SENSE OF CONGRESS ON USE OF MODELING AND SIMULATION IN DEPARTMENT OF DEFENSE ACTIVITIES.**

It is the sense of Congress to encourage the Department of Defense to continue the use and enhancement of modeling and simulation (M&S) across the spectrum of defense activities, including acquisition, analysis, experimentation, intelligence, planning, medical, test and evaluation, and training.

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**SA 1166.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 907. SENSE OF CONGRESS ON TIES BETWEEN JOINT WARFIGHTING AND COALITION CENTER AND ALLIED COMMAND TRANSFORMATION OF NATO.**

It is the sense of Congress that the successor organization to the United States Joint Forces Command (USJFCOM), the Joint Warfighting and Coalition Center, should establish close ties with the Allied Command Transformation (ACT) command of the North Atlantic Treaty Organization (NATO).

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**SA 1167.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 907. REPORT ON EFFECTS OF PLANNED REDUCTIONS OF PERSONNEL AT THE JOINT WARFARE ANALYSIS CENTER ON PERSONNEL SKILLS.**

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth a description and assessment of the effects of planned reductions of personnel at the Joint Warfare Analysis Center (JWAC) on the personnel skills to be available at the Center after the reductions.

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**SA 1168.** Mr. WARNER submitted an amendment intended to be proposed by

him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 574. INDEPENDENT ASSESSMENT OF OPTIONS FOR IMPROVING EDUCATION PROVIDED TO STUDENTS ATTENDING DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.**

(a) ASSESSMENT REQUIRED.—The Secretary of Defense shall award a contract, grant, or cooperative agreement to an independent entity to conduct, in consultation with the organizations specified in subsection (c), an assessment of the following options for improving the quality of education provided to students attending domestic dependent elementary and secondary schools:

(1) Improving the quality of the educational programs provided by, and remediating the condition of the facilities of, domestic dependent elementary and secondary schools.

(2) Transferring the administration of all of the domestic dependent elementary and secondary schools in some or all communities in the United States from the Department of Defense Education Activity to the local educational agencies in those communities.

(3) Closing all of the domestic dependent elementary and secondary schools in some or all communities in the United States and transferring students attending those schools to public elementary and secondary schools in those communities.

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

(1) The cost to the Department of Defense Education Activity, the Department of Education, States, and local educational agencies of each of the options described in subsection (a).

(2) The condition of facilities of the domestic dependent elementary and secondary schools and, if the condition of those facilities is inadequate, the cost of remediating those facilities.

(3) The capacity of local educational agencies—

(A) to administer the domestic dependent elementary and secondary schools; and

(B) to absorb into public elementary and secondary schools the number of students attending domestic dependent elementary and secondary schools.

(4) The quality of educational programs administered by local educational agencies, as measured by student achievement, graduation rates, the leadership of those agencies, the staffing of those programs, and the availability of infrastructure for the use of technology in classrooms.

(5) The availability in communities near domestic dependent elementary and secondary schools of resources to support a highly mobile population that includes members of the Armed Forces who may be deployed.

(6) The available options for, and problems relating to, transporting students who reside on military installations to public elementary and secondary schools.

(7) The impact of the drawdown of operations in Iraq and Afghanistan on the population of students to be served.

(c) ORGANIZATIONS SPECIFIED.—The organizations specified in this subsection are military family associations, teachers labor organizations, and superintendents of domestic dependent elementary and secondary schools and public elementary and secondary schools.

(d) EXCLUSION.—The assessment required by subsection (a) is not required to address—

(1) the transfer of the administration of domestic dependent elementary and secondary schools in Puerto Rico to local educational agencies; or

(2) the transfer of students attending those schools to public elementary and secondary schools in Puerto Rico.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the independent entity conducting the assessment required by subsection (a) shall submit to the Secretary of Defense and the congressional defense committees the results of the assessment.

(f) DEFINITIONS.—In this section:

(1) DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.—The term ''domestic dependent elementary and secondary schools'' means elementary and secondary schools administered pursuant to section 2164 of title 10, United States Code.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(g) FUNDING.—Of the amount authorized to be appropriated for fiscal year 2012 by section 301 and available for operation and maintenance for Defense-wide activities for the Department of Defense Education Activity as specified in the funding table in section 4301, $1,000,000 shall be available to carry out this section.

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**SA 1169.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVII, add the following:

**SEC. 2705. SPECIAL CONSIDERATIONS RELATED TO TRANSPORTATION INFRASTRUCTURE IN CONSIDERATION AND SELECTION OF MILITARY INSTALLATIONS FOR CLOSURE OR REALIGNMENT.**

(a) MODIFICATION OF SELECTION CRITERIA.—Subsection (b)(1) of section 2687 of title 10, United States Code, is amended—

(1) by striking ''notification an evaluation'' and inserting ''notification—

''(A) an evaluation''; and

(2) by adding at the end the following new subparagraph:

''(B) the criteria used to consider and recommend military installations for such closure or realignment, which shall include at a minimum consideration of—

''(i) the ability of the infrastructure (including transportation infrastructure) of both the existing and receiving communities to support forces, missions, and personnel as a result of such closure or realignment; and

''(ii) the costs associated with community transportation infrastructure improvements as part of the evaluation of cost savings or return on investment of such closure or realignment; and''.

(b) EFFECT OF SIGNIFICANT IMPACTS.—Such section is further amended by adding at the end the following new subsection:

''(f) If the Secretary of Defense or the Secretary of the military department concerned determines, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), that a significant transportation impact will occur at a result of an action described in subsection (a), the action may not be taken unless and until the Secretary of Defense or the Secretary of the military department concerned—

''(1) analyzes the adequacy of transportation infrastructure at and in the vicinity of each military installation that would be impacted by the action;

''(2) concludes consultation with the Federal Highway Administration with regard to such impact; and

''(3) includes in the notification required by subsection (b)(1) a description of how the Secretary intends to remediate the significant transportation impact.''.

(c) TRANSPORTATION INFRASTRUCTURE DEFINED.—Subsection (e) of such section is amended by adding at the end the following new paragraph:

''(5) The term 'transportation infrastructure' includes transit, pedestrian, and bicycle infrastructure.''.

(d) RELATION TO COMMISSION BASE CLOSURE PROCESS.—If the development of recommendations for the closure and realignment of military installations utilizes a Defense Base Closure and Realignment Commission (as was the case under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), rather than the authority of section 2687 of title 10, United States Code, the amendments made by this section shall apply to the resulting development of recommendations for the closure and realignment of military installations by the Secretary of Defense and the Commission.

**SEC. 2706. DEFENSE ACCESS ROAD PROGRAM ENHANCEMENTS TO ADDRESS TRANSPORTATION INFRASTRUCTURE IN VICINITY OF MILITARY INSTALLATIONS.**

(a) AVAILABILITY OF DEFENSE ACCESS ROADS FUNDS FOR BRAC-RELATED TRANSPORTATION IMPROVEMENTS.—

(1) AVAILABILITY OF DEFENSE ACCESS ROADS FUNDS.—Section 210(a)(2) of title 23, United States Code, is amended by adding at the end the following new sentence: ''The Secretary of Defense shall determine the magnitude of the required improvements without regard to the extent to which traffic generated by the reservation is greater than other traffic in the vicinity of the reservation.''.

(2) RETROACTIVE APPLICATION.—The amendment made by paragraph (1) shall apply with respect to the implementation of the recommendations of the Defense Base Closure and Realignment Commission contained in the report of the Commission received by Congress on September 19, 2005, under section 2903(e) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) ECONOMIC ADJUSTMENT COMMITTEE CONSIDERATION OF ADDITIONAL DEFENSE ACCESS ROADS FUNDING SOURCES.—

(1) CONVENING OF COMMITTEE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, as the chairperson of the Economic Adjustment Committee established in Executive Order 127887 (10 U.S.C. 2391 note), shall convene the Economic Adjustment Committee to consider additional sources of funding for the defense access roads program under section 210 of title 23, United States Code.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the results of the Economic Adjustment Committee deliberations and containing an implementation plan

to expand funding sources for the mitigation of significant transportation impacts to access to military reservations pursuant to subsection (b) of section 210 of title 23, United States Code, as amended by subsection (a).

(c) SEPARATE BUDGET REQUEST FOR PROGRAM.—Amounts requested for a fiscal year for the defense access roads program under section 210 of title 23, United States Code, shall be set forth as a separate budget request in the budget transmitted by the President to Congress for that fiscal year under section 1105 of title 31, United States Code.

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**SA 1170.** Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 723. UNIFIED MEDICAL COMMAND.**

(a) UNIFIED COMBATANT COMMAND.—

(1) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

**''§ 167b. Unified combatant command for medical operations**

''(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified command for medical operations (in this section referred to as the 'unified medical command'). The principal function of the command is to provide medical services to the armed forces and other health care beneficiaries of the Department of Defense as defined in chapter 55 of this title.

''(b) ASSIGNMENT OF FORCES.—In establishing the unified medical command under subsection (a), all active military medical treatment facilities, training organizations, and research entities of the armed forces shall be assigned to such unified command, unless otherwise directed by the Secretary of Defense.

''(e) GRADE OF COMMANDER.—The commander of the unified medical command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating the officer's permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position. The commander of such command shall be a member of a health profession described in paragraph (1), (2), (3), (4), (5), or (6) of section 335(j) of title 37. During the five-year period beginning on the date on which the Secretary establishes the command under subsection (a), the commander of such command shall be exempt from the requirements of section 164(a)(1) of this title.

''(d) SUBORDINATE COMMANDS.—(1) The unified medical command shall have the following subordinate commands:

''(A) A command that includes all fixed military medical treatment facilities, including elements of the Department of Defense that are combined, operated jointly, or otherwise operated in such a manner that a medical facility of the Department of Defense is operating in or with a medical facility of another department or agency of the United States.

''(B) A command that includes all medical training, education, and research and development activities that have previously been unified or combined, including organizations that have been designated as a Department of Defense executive agent.

''(C) the Defense Health Agency established under subsection (f).

''(2) The commander of a subordinate command of the unified medical command shall hold the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral while serving in that position, without vacating the officer's permanent grade. The commander of such a subordinate command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position. The commander of such a subordinate command shall also be required to be a surgeon general of one of the military departments.

''(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the unified medical command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to medical operations activities.

''(2) The commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to medical operations activities (whether or not relating to the unified medical command):

''(A) Developing programs and doctrine.

''(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for the forces described in subsection (b) and for other forces assigned to the unified medical command.

''(C) Exercising authority, direction, and control over the expenditure of funds—

''(i) for forces assigned to the unified medical command;

''(ii) for the forces described in subsection (b) assigned to unified combatant commands other than the unified medical command to the extent directed by the Secretary of Defense; and

''(iii) for military construction funds of the Defense Health Program.

''(D) Training assigned forces.

''(E) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

''(F) Validating requirements.

''(G) Establishing priorities for requirements.

''(H) Ensuring the interoperability of equipment and forces.

''(I) Monitoring the promotions, assignments, retention, training, and professional military education of medical officers described in paragraph (1), (2), (3), (4), (5), or (6) of section 335(j) of title 37.

''(3) The commander of such command shall be responsible for the Defense Health Program, including the Defense Health Program Account established under section 1100 of this title.

''(f) DEFENSE HEALTH AGENCY.—(1) In establishing the unified medical command under subsection (a), the Secretary shall also establish under section 191 of this title a defense agency for health care (in this section referred to as the 'Defense Health Agency'), and shall transfer to such agency the organization of the Department of Defense referred to as the TRICARE Management Activity and all functions of the TRICARE program (as defined in section 1072(7) of this title).

''(2) The director of the Defense Health Agency shall hold the rank of lieutenant general or, in the case of an officer of the Navy, vice admiral while serving in that position, without vacating the officer's permanent grade. The director of such agency shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position. The director of such agency shall be a member of a health profession described in paragraph (1), (2), (3), (4), (5), or (6) of section 335(j) of title 37.

''(g) REGULATIONS.—In establishing the unified medical command under subsection (a), the Secretary of Defense shall prescribe regulations for the activities of the unified medical command.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 167a the following new item:

''167b. Unified combatant command for medical operations.''.

(b) PLAN, NOTIFICATION, AND REPORT.—

(1) PLAN.—Not later than July 1, 2012, the Secretary of Defense shall submit to the congressional defense committees a comprehensive plan to establish the unified medical command authorized under section 167b of title 10, United States Code, as added by subsection (a), including any legislative actions the Secretary considers necessary to implement the plan.

(2) NOTIFICATION.—The Secretary shall submit to the congressional defense committees written notification of the decision of the Secretary to establish the unified medical command under such section 167b by not later than the date that is 30 days before establishing such command.

(3) REPORT.—Not later than 180 days after submitting the notification under paragraph (2), the Secretary shall submit to the congressional defense committees a report on—

(A) the establishment of the unified medical command; and

(B) the establishment of the Defense Health Agency under subsection (f) of such section 167b.

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**SA 1171.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1230. PROHIBITION ON ASSISTANCE FOR PAKISTAN SECURITY FORCES WITH CONNECTIONS TO TERRORIST ORGANIZATIONS**

None of the amounts authorized to be appropriated by this or any other Act may be made available to any unit of the security forces of Pakistan if the Secretary of Defense determines that the United States Government has credible evidence that the unit maintains connections with an organization known to conduct terrorist activities against the United States or United States allies.

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**SA 1172.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1230. REPORT ON ENDING COALITION SUPPORT FUND REIMBURSEMENTS TO THE GOVERNMENT OF PAKISTAN FOR OPERATIONS CONDUCTED IN SUPPORT OF OPERATION ENDURING FREEDOM.**

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State and the Special Representative for Afghanistan and Pakistan, shall submit a report to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report outlining a plan to end reimbursements from the Coalition Support Fund to the Government of Pakistan for operations conducted in support of Operation Enduring Freedom.

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

(1) A characterization of the types of reimbursements requested by the Government of Pakistan.

(2) An assessment of the total amount reimbursed to the Government of Pakistan, by fiscal year, since the beginning of Operation Enduring Freedom.

(3) The percentage and types of reimbursement requests made by the Government of Pakistan for which the United States Government has denied payment.

(4) An assessment of whether the operations conducted by the Government of Pakistan in support of Operation Enduring Freedom and reimbursed from the Coalition Support Fund have materially impacted the ability of terrorist organizations to threaten the stability of Afghanistan and Pakistan and to impede the operations of the United States in Afghanistan.

(5) Recommendations for, and a timeline to implement, a plan to end reimbursements from the Coalition Support Fund to the Government of Pakistan.

(c) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

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**SA 1173.** Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1243. SENSE OF SENATE ON THE NORTH ATLANTIC TREATY ORGANIZATION.**

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

(1) The North Atlantic Treaty Organization (NATO) historically set a target commitment for member states to spend two percent of their gross domestic product on their defense expenditures.

(2) In 2010, the North Atlantic Treaty Organization identified only 5 member states meeting this target for defense expenditures, including the United States, Albania, France, Greece, and the United Kingdom, leaving 23 member states short of meeting the target.

(3) Secretary of Defense Robert Gates made the following statement on the North Atlantic Treaty Organization on October 14, 2010, in a conversation with reporters: ''[m]y worry is that the more our allies cut their capabilities, the more people will look to the United States to cover whatever gaps are created. . . And at a time when we're facing stringencies of our own, that's a concern for me''.

(4) Secretary of State Hillary Clinton, in an interview with the BBC on October 15, 2010, stated that ''NATO has been the most successful alliance for defensive purposes in the history of the world, I guess, but it has to be maintained. Now each country has to be able to make its appropriate contributions''.

(5) On March 30, 2011, Admiral James G. Stavridis stated in a hearing before the Committee on Armed Services of the House of Representatives that ''[w]e need to be emphatic with our European allies that they should spend at least the minimum NATO 2 percent''.

(6) In a speech delivered in Brussels on June 10, 2011, Secretary of Defense Gates further stated that ''[i]n the past, I've worried openly about NATO turning into a two-tiered alliance: Between members who specialize in 'soft' humanitarian, development, peacekeeping, and talking tasks, and those conducting the 'hard' combat missions. Between those willing and able to pay the price and bear the burdens of alliance commitments, and those who enjoy the benefits of NATO membership – be they security guarantees or headquarters billets – but don't want to share the risks and the costs. This is no longer a hypothetical worry. We are there today. And it is unacceptable''.

(7) In that same speech on June 10, 2011, Secretary of Defense Gates added that ''I am the latest in a string of U.S. defense secretaries who have urged allies privately and publicly, often with exasperation, to meet agreed-upon NATO benchmarks for defense spending. However, fiscal, political and demographic realities make this unlikely to happen anytime soon, as even military stalwarts like the U.K have been forced to ratchet back with major cuts to force structure. Today, just five of 28 allies – the U.S., U.K., France, Greece, along with Albania – exceed the agreed 2% of GDP spending on defense''.

(8) Secretary of Defense Gates also stated that ''[t]he blunt reality is that there will be dwindling appetite and patience in the U.S. Congress – and in the American body politic writ large – to expend increasingly precious funds on behalf of nations that are apparently unwilling to devote the necessary resources or make the necessary changes to be serious and capable partners in their own defense. Nations apparently willing and eager for American taxpayers to assume the growing security burden left by reductions in European defense budgets''.

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

(1) to commend the North Atlantic Treaty Organization for historically providing an extension to the United States security capabilities; and

(2) to call upon the President—

(A) to engage each of the member states of the North Atlantic Treaty Organization in a dialogue about the long-term health of the North Atlantic Alliance and strongly encourage each of the member states to make a serious effort to protect defense budgets from further reductions, better allocate and coordinate the resources presently available, and recommit to spending at least two percent of gross domestic product on defense; and

(B) to examine and report to Congress on recommendations that will lead to a stronger North Atlantic Alliance in terms of military capability and readiness across the 28 member states, with particular focus on the smaller member states.

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**SA 1174.** Mr. MERKLEY (for himself, Mr. LEE, Mr. UDALL of New Mexico, Mr. PAUL, and Mr. BROWN of Ohio) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1230. SENSE OF CONGRESS ON TRANSITION OF MILITARY AND SECURITY OPERATIONS IN AFGHANISTAN.**

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

(1) After al Qaeda attacked the United States on September 11, 2001, the United States Government rightly sought to bring to justice those who attacked us, to eliminate al Qaeda's safe havens and training camps in Afghanistan, and to remove the terrorist-allied Taliban government.

(2) Members of the Armed Forces, intelligence personnel, and diplomatic corps have skillfully achieved these objectives, culminating in the death of Osama bin Laden.

(3) Operation Enduring Freedom is now the longest military operation in United States history.

(4) United States national security experts, including Secretary of Defense Leon E. Panetta, have noted that al Qaeda's presence in Afghanistan has been greatly diminished.

(5) Over the past ten years, the mission of the United States has evolved to include a prolonged nation-building effort in Afghanistan, including the creation of a strong central government, a national police force and army, and effective civic institutions.

(6) Such nation-building efforts in Afghanistan are undermined by corruption, high illiteracy, and a historic aversion to a strong central government in that country.

(7) Members of the Armed Forces have served in Afghanistan valiantly and with honor, and many have sacrificed their lives and health in service to their country.

(8) The United States is now spending nearly $10,000,000,000 per month in Afghanistan at a time when, in the United States, there is high unemployment, a flood of foreclosures, a record deficit, and a debt that is over $15,000,000,000,000 and growing.

(9) The continued concentration of United States and NATO military forces in one region, when terrorist forces are located in many parts of the world, is not an efficient use of resources.

(10) The battle against terrorism is best served by using United States troops and resources in a counterterrorism strategy against terrorist forces wherever they may locate and train.

(11) The United States Government will continue to support the development of Afghanistan with a strong diplomatic and counterterrorism presence in the region.

(12) President Barack Obama is to be commended for announcing in July 2011 that the United States would commence the redeployment of members of the United States Armed Forces from Afghanistan in 2011 and transition security control to the Government of Afghanistan.

(13) President Obama has established a goal of removing all United States combat troops from Afghanistan by December 2014.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should expedite the transition of the responsibility for military and security operations in Afghanistan to the Government of Afghanistan;

(2) the President should devise a plan based on inputs from military commanders, the

diplomatic missions in the region, and appropriate members of the Cabinet, along with the consultation of Congress, for expediting the drawdown of United States combat troops in Afghanistan and accelerating the transfer of security authority to Afghan authorities prior to December 2014; and

(3) not later than 90 days after the date of the enactment of this Act, the President should submit to Congress a plan with a timetable and completion date for the accelerated transition of all military and security operations in Afghanistan to the Government of Afghanistan.

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**SA 1175.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 714. WARFIGHTER TRANSLATIONAL RESEARCH CENTER.**

(a) ESTABLISHMENT.—The Secretary of Defense shall establish in the Defense Health Program a Warfighter Translational Research Center (in this section referred to as the ''Center'') to support the development of diagnostics and therapeutics to address gaps in the treatment of injured members of the Armed Forces.

(b) PRIMARY FUNCTIONS.—The primary functions of the Center include the following:

(1) Developing a tool that can be used before and after a deployment to assess the mental health of a member of the Armed Forces.

(2) Using the tool developed under paragraph (1) to establish a baseline mental health assessment of each member of the Armed Forces before such member is deployed and carrying out a mental health screening of each such member after deployment—

(A) to decrease the incidence of undiagnosed post traumatic stress disorder and traumatic brain injury; and

(B) to determine whether there are certain factors that make a person more or less likely to experience post traumatic stress.

(c) PUBLIC-PRIVATE PARTNERSHIPS.—In carrying out the functions of the Center, the Center shall establish partnerships between public and private entities.

(d) COMPETITIVE CONTRACTS.—All contracts awarded by the Center shall be awarded on a competitive basis.

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**SA 1176.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. _____. ENHANCED PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURE UNDER SERVICEMEMBERS CIVIL RELIEF ACT.**

(a) REPEAL OF SUNSET.—Subsection (c) of section 2203 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is amended to read as follows:

''(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.''.

(b) EXPANSION OF PROTECTIONS TO INCLUDE WIDOWS AND WIDOWERS.—Section 303(b) of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended—

(1) by inserting '', or widow or widower of a servicemember who dies during such service,'' after ''by a servicemember''; and

(2) by inserting '', widow's, or widower's'' after ''when the servicemember's''.

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**SA 1177.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

**Subtitle D—Other Matters**

**SEC. 731. PROVISION OF REHABILITATIVE EQUIPMENT UNDER WOUNDED WARRIOR ACT.**

Section 1631 of the Wounded Warrior Act (title XVI of Public Law 110–181; 10 U.S.C. 1071 note) is amended by adding at the end the following:

''(c) REHABILITATIVE EQUIPMENT FOR MEMBERS OF THE ARMED FORCES.—

''(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Secretary of Defense may provide an active duty member of the Armed Forces with a severe injury or illness with rehabilitative equipment, including recreational sports equipment that provide an adaption or accommodation for the member, regardless of whether such equipment is intentionally designed to be adaptive equipment.

''(2) CONSULTATION.—In carrying out this subsection, the Secretary of Defense shall consult with the Secretary of Veterans Affairs regarding similar programs carried out by the Secretary of Veterans Affairs.''.

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**SA 1178.** Mrs. MURRAY (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 827. MULTIYEAR CONTRACTS FOR ADVANCED BIOFUEL.**

(a) CIVILIAN AGENCY CONTRACTS.—Subsection (a) of section 3903 of title 41, United States Code, is amended to read as follows:

''(a) DEFINITIONS.—For the purposes of this section:

''(1) MULTIYEAR CONTRACT.—The term 'multiyear contract'—

''(A) means a contract for the purchase of property or services for more than one, but not more than five, program years, except as provided in subparagraph (B);

''(B) in the case of a contract for the purchase of advanced biofuel, means a contract for the purchase of such fuel for a period of up to 15 program years; and

''(C) may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

''(2) ADVANCED BIOFUEL.—The term 'advanced biofuel' has the meaning given such term in section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)).''.

(b) DEFENSE CONTRACTS.—Subsection (k) of section 2306b of title 10, United States Code, is amended to read as follows:

''(k) DEFINITIONS.—For the purposes of this section:

''(1)(A) Except as provided in subparagraph (B), the term 'multiyear contract' means a contract for the purchase of property or services for more than one, but not more than five, program years.

''(B) In the case of a contract for the purchase of advanced biofuel, the term 'multiyear contract' means a contract for the purchase of such fuel for a period of up to 15 program years.

''(C) Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

''(2) The term 'advanced biofuel' has the meaning given such term in section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into on or after the date occurring 180 days after the date of the enactment of this Act.

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**SA 1179.** Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 505. NUMBER OF JUDGE ADVOCATES OF THE AIR FORCE IN THE REGULAR GRADE OF BRIGADIER GENERAL.**

Section 8037 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

''(f) Four officers of the Air Force designated as judge advocates shall hold the regular grade of brigadier general.''.

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**SA 1180.** Ms. COLLINS (for herself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1243. MAN-PORTABLE AIR-DEFENSE SYSTEMS ORIGINATING FROM LIBYA.**

(a) STATEMENT OF POLICY.—Pursuant to section 11 of the Department of State Authorities Act of 2006 (22 U.S.C. 2349bb–6), the following is the policy of the United States:

(1) To reduce and mitigate, to the greatest extent feasible, the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft by man-portable air-defense systems (MANPADS) that were in Libya as of March 19, 2011.

(2) To seek the cooperation of, and to assist, the Government of Libya and governments of neighboring countries and other countries (as determined by the President) to secure, remove, or eliminate stocks of man-portable air-defense systems described in paragraph (1) that pose a threat to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft.

(3) To pursue, as a matter of priority, an agreement with the Government of Libya and governments of neighboring countries and other countries (as determined by the Secretary of State) to formalize cooperation with the United States to limit the availability, transfer, and proliferation of man-portable air-defense systems described in paragraph (1).

(b) INTELLIGENCE COMMUNITY ASSESSMENT ON MANPADS IN LIBYA.—

(1) IN GENERAL.—The Director of National Intelligence shall submit to Congress an assessment by the intelligence community that accounts for the disposition of, and the threat to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft, posed by man-portable air-defense systems that were in Libya as of March 19, 2011. The assessment shall be submitted as soon as practicable, but not later than the end of the 45-day period beginning on the date of the enactment of this Act.

(2) ELEMENTS.—The assessment submitted under this subsection shall include the following:

(A) An estimate of the number of man-portable air-defense systems that were in Libya as of March 19, 2011.

(B) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that are currently in the secure custody of the Government of Libya, the United States, an ally of the United States, a member of the North Atlantic Treaty Organization (NATO), or the United Nations.

(C) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disabled, or otherwise rendered unusable during Operation Unified Protector.

(D) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disarmed, or otherwise rendered unusable following Operation Unified Protector.

(E) An assessment of the number of man-portable air-defense systems that is the difference between the number of man-portable air-defense systems in Libya as of March 19, 2011, and the cumulative number of man-portable air-defense systems accounted for under subparagraphs (B) through (D), and the current disposition and locations of such man-portable air-defense systems.

(F) An assessment of the number of man-portable air-defense systems that are currently in the custody of militias in Libya.

(G) A list of any organizations designated as terrorist organizations by the Department of State, or affiliate organizations or members of such organizations, that are known or believed to have custody of any man-portable air-defense systems that were in the custody of the Government of Libya as of March 19, 2011.

(H) An assessment of the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from unsecured man-portable air-defense systems (as defined in section 11 of the Department of State Authorities Act of 2006) originating from Libya.

(I) An assessment of the effectiveness of efforts undertaken by the United States, Libya, Mauritania, Egypt, Algeria, Tunisia, Mali, Morocco, Niger, Chad, the United Nations, the North Atlantic Treaty Organization, and any other country or entity (as determined by the Director) to reduce the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(J) An assessment of the effect of the proliferation of man-portable air-defense systems that were in Libya as of March 19, 2011, on the price and availability of man-portable air-defense systems that are on the global arms market.

(3) NOTICE REGARDING DELAY IN SUBMITTAL.—If, before the end of the 45-day period specified in paragraph (1), the Director determines that the assessment required by that paragraph cannot be submitted by the end of that period as required by that paragraph, the Director shall (before the end of that period) submit to Congress a report setting forth—

(A) the reasons why the assessment cannot be submitted by the end of that period; and

(B) an estimated date for the submittal of the assessment.

(4) FORM.—The assessment under this subsection shall be submitted in unclassified form, but may include a classified annex.

(c) COMPREHENSIVE STRATEGY ON THREAT OF MANPADS ORIGINATING FROM LIBYA.—

(1) STRATEGY REQUIRED.—The President shall develop and implement, and from time to time update, a comprehensive strategy, pursuant to section 11 of the Department of State Authorities Act of 2006, to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(2) REPORT REQUIRED.—

(A) IN GENERAL.—Not later than 45 days after the assessment required by subsection (b) is submitted to Congress, the President shall submit to Congress a report setting forth the strategy required by paragraph (1).

(B) ELEMENTS.—The report required by this paragraph shall include the following:

(i) A timeline for future efforts by the United States, Libya, and neighboring countries to—

(I) secure, remove, or disable any man-portable air-defense systems that remain in Libya;

(II) counter proliferation of man-portable air-defense systems originating from Libya that are in the region; and

(III) disrupt the ability of terrorists, nonstate actors, and state sponsors of terrorism to acquire such man-portable air-defense systems.

(ii) A description of any additional funding required to address the threat of man-portable air-defense systems originating from Libya.

(iii) A summary of United States Government efforts, and technologies current available, to reduce the susceptibility and vulnerability of civilian aircraft to man-portable air-defense systems, including an assessment of the feasibility of using aircraft-based anti-missile systems to protect United States passenger jets.

(iv) Recommendations for the most effective policy measures that can be taken to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States, including Israel, traveling by aircraft from man-portable air-defense systems that were in Libya as of March 19, 2011.

(v) Such recommendations for legislative or administrative action as the President considers appropriate to implement the strategy required by paragraph (1).

(C) FORM.—The report required by this paragraph shall be submitted in unclassified form, but may include a classified annex.

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**SA 1181.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 577. MATTERS COVERED BY PRESEPARATION COUNSELING FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES.**

Section 1142(b) of title 10, United States Code, is amended—

(1) in paragraph (5), by striking ''job placement counseling for the spouse'' and inserting ''inclusion of the spouse when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs'';

(2) in paragraph (9), by inserting before the period the following: '', including information on budgeting, saving, credit, loans, and taxes'';

(3) in paragraph (10), by striking ''and employment'' and inserting '', employment, and financial'';

(4) by striking paragraph (16) and inserting the following new paragraph:

''(16) Information on home loan services and housing assistance benefits available under the laws administered by the Secretary of Veterans Affairs and counseling on responsible borrowing practices.''; and

(5) in paragraph (17), by inserting before the period the following: '', and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits''.

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**SA 1182.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1049. PROHIBITION ON PERMANENT STATIONING OF MORE THAN TWO ARMY BRIGADE COMBAT TEAMS WITHIN UNITED STATES EUROPEAN COMMAND.**

(a) IN GENERAL.—Effective as of January 1, 2016, the number of Army Brigade Combat Teams that may be permanently stationed within the geographic boundaries of the United States European Command (EUCOM) may not exceed two brigade combat teams.

(b) MILITARY CONSTRUCTION.—No military construction project may be commenced or undertaken for or in connection with or support of the permanent stationing of more than two Army Brigade Combat Teams within the geographic boundaries of the United States European Command.

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**SA 1183.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1049. MAINTENANCE OF A TRIAD OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

The Secretary of Defense shall take appropriate actions to maintain for the United States a range of strategic nuclear delivery systems appropriate for the current and anticipated threats faced by the United States, including a triad of sea-based, land-based, and air-based strategic nuclear delivery systems.

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**SA 1184.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1024. LIMITATION ON REDUCTION IN NUMBER OF SURFACE COMBATANTS OF THE NAVY BELOW 313 VESSELS.**

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

(1) The 2011 Shipbuilding Plan of the Navy contemplates a baseline of 313 surface combatants in the Navy.

(2) The national security of the United States requires that the shipbuilding activities of the Navy ensure a Navy composed of at least 313 surface combatants.

(3) It is in the national interest that the future-years defense programs of the Department of Defense provide for a Navy composed of at least 313 surface combatants.

(b) LIMITATION.—The Secretary of the Navy may not carry out any reduction in the number of surface combatants of the Navy below 313 surface combatants unless the Secretary, after consultation with the commanders of the combatant commands, certifies to Congress that the Navy will continue to possess the capacity to support the requirements of the combatant commands after such reduction.

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**SA 1185.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 234. REPORT ON MISSILE DEFENSE SITE ON THE EAST COAST OF THE UNITED STATES.**

(a) FINDING.—Congress finds that the Obama Administration plans to limit or cancel the deployment of the European Phased Adaptive Approach (EPAA) to missile defense.

(b) REPORT.—In light of the finding in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a report setting forth an assessment of the feasibility and advisability of establishing a missile defense site on the East Coast of the United States.

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**SA 1186.** Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

**Subtitle I—Fighting Fraud to Protect Taxpayers**

**SEC. 1090. DEPARTMENT OF JUSTICE WORKING CAPITAL FUND REFORMS.**

Section 11013(a) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 527 note) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'covered amounts' means—

''(i) the unobligated balances in the debt collection management account; and

''(ii) the unobligated balances in the supplemental fraud fighting account;

''(B) the term 'debt collection management account' means the account established in the Department of Justice Working Capital Fund under paragraph (2);

''(C) the term 'fraud offense' includes—

''(i) an offense under section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1) and an offense under section 104 or 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2 and 78dd–3);

''(ii) a securities fraud offense, as defined in section 3301 of title 18, United States Code;

''(iii) a fraud offense relating to a financial institution or a federally related mortgage loan, as defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602), including an offense under section 152, 157, 1004, 1005, 1006, 1007, 1011, or 1014 of title 18, United States Code;

''(iv) an offense involving procurement fraud, including defective pricing, bid rigging, product substitution, misuse of classified or procurement sensitive information, grant fraud, fraud associated with labor mischarging, and fraud involving foreign military sales;

''(v) an offense under the Internal Revenue Code of 1986 involving fraud;

''(vi) an action under subchapter III of chapter 37 of title 31, United States Code (commonly known as the 'False Claims Act'), and an offense under chapter 15 of title 18, United States Code;

''(vii) an offense under section 1029, 1030, or 1031 of title 18, United States Code; and

''(viii) an offense under chapter 63 of title 18, United States Code; and

''(D) the term 'supplemental fraud fighting account' means the supplemental fraud fighting account established in the Department of Justice Working Capital Fund under paragraph (3)(A).

''(2) DEBT COLLECTION MANAGEMENT ACCOUNT.—Notwithstanding'';

(2) by striking ''Such amounts'' and inserting ''Subject to paragraph (4), such amounts''; and

(3) by adding at the end the following:

''(3) SUPPLEMENTAL FRAUD FIGHTING ACCOUNT.—

''(A) ESTABLISHMENT.—There is established as a separate account in the Department of Justice Working Capital Fund established under section 527 of title 28, United States Code, a supplemental fraud fighting account.

''(B) CREDITING OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the supplemental fraud fighting account up to 0.5 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice.

''(C) USE OF FUNDS.—

''(i) IN GENERAL.—Subject to clause (ii), the Attorney General may use amounts in the supplemental fraud fighting account for the cost (including equipment, salaries and benefits, travel and training, and interagency task force operations) of the investigation of and conduct of criminal, civil, or administrative proceedings relating to fraud offenses.

''(ii) LIMITATION.—The Attorney General may not use amounts in the supplemental fraud fighting account for the cost of the investigation of or the conduct of criminal, civil, or administrative proceedings relating to—

''(I) an offense under section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1); or

''(II) an offense under section 104 or 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2 and 78dd–3).

''(D) CONDITIONS.—Subject to paragraph (4), amounts in the supplemental fraud fighting account shall remain available until expended and shall be subject to the terms and conditions of the Department of Justice Working Capital Fund.

''(4) MAXIMUM AMOUNT.—

''(A) IN GENERAL.—There are rescinded all covered amounts in excess of $175,000,000 at the end of fiscal year 2012 and the end of each fiscal year thereafter.

''(B) RATIO.—For any rescission under subparagraph (A), the Secretary of the Treasury shall rescind amounts from the debt collection management account and the supplemental fraud fighting account in a ratio of 6 dollars to 1 dollar, respectively.

''(5) ANNUAL REPORT.—Not later than 6 months after the date of enactment of the National Defense Authorization Act for Fiscal Year 2012, and every year thereafter, the Attorney General shall submit to Congress a report that identifies, for the most recent fiscal year before the date of the report—

''(A) the amount credited to the debt collection management account and the amount credited to the supplemental fraud fighting account from civil debt collection litigation, which shall include, for each account—

''(i) a comprehensive description of the source of the amount credited; and

''(ii) a list the civil actions and settlements from which amounts were collected and credited to the account;

''(B) the amount expended from the debt collection management account for civil debt collection, which shall include a comprehensive description of the use of amounts in the account that identifies the amount expended for—

''(i) paying the costs of processing and tracking civil and criminal debt-collection litigation;

''(ii) financial systems;

''(iii) debt-collection-related personnel expenses;

''(iv) debt-collection-related administrative expenses; and

''(v) debt-collection-related litigation expenses;

''(C) the amounts expended from the supplemental fraud fighting account and the justification for the expenditure of such amounts; and

''(D) the unobligated balance in the debt collection management account and the unobligated balance in the supplemental fraud fighting account at the end of the fiscal year.''.

**SEC. 1091. REIMBURSEMENT OF COSTS AWARDED IN FALSE CLAIMS ACT PROSECUTIONS.**

Section 3729(a)(3) of title 31, United States Code, is amended by adding at the end the following: ''Any costs paid under this paragraph shall be credited to the appropriations accounts of the executive agency from which the funds used for the costs of the civil action were paid.''.

**SEC. 1092. INTERLOCUTORY APPEALS OF SUPPRESSION OR EXCLUSION OF EVIDENCE.**

Section 3731 of title 18, United States Code, is amended in the second undesignated paragraph by inserting ''Attorney General, the Deputy Attorney General, an Assistant Attorney General, or the'' after ''an indictment or information, if the''.

**SEC. 1093. EXTENSION OF INTERNATIONAL MONEY LAUNDERING STATUTE TO TAX EVASION CRIMES.**

Section 1956(a)(2)(A) of title 18, United States Code, is amended—

(1) by striking ''intent to promote'' and inserting the following: ''intent to—

''(i) promote''; and

(2) by adding at the end the following:

''(ii) engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or''.

**SEC. 1094. CLARIFYING VENUE FOR FEDERAL MAIL FRAUD OFFENSES.**

(a) IN GENERAL.—Section 3237(a) of title 18, United States Code, is amended in the second undesignated paragraph by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—Section 3237 of title 18, United States Code, is amended in the section heading by striking ''**begun**'' and all that follows and inserting ''**taking place in more than one district**''.

(c) TABLE OF SECTIONS.—The table of sections for chapter 211 of title 18, United States Code, is amended by striking the item relating to section 3237 and inserting the following:

''3237. Offenses taking place in more than one district.''.

**SEC. 1095. EXPANSION OF AUTHORITY OF SECRET SERVICE.**

Section 3056 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''641, 656, 657,'' after ''510,''; and

(ii) by striking ''493, 657,'' and inserting ''493,''; and

(B) in paragraph (3), by striking ''federally insured''; and

(2) by adding at the end the following:

''(h)(1) For any undercover investigative operation of the United States Secret Service that is necessary for the detection and prosecution of a crime against the United States, the United States Secret Service may—

''(A) use amounts appropriated for the United States Secret Service, including unobligated balances available from prior fiscal years, to—

''(i) purchase property, buildings, and other facilities and lease space within the United States (including the District of Columbia and the territories and possessions of the United States), without regard to sections 1341 and 3324 of title 31, section 8141 of title 40, and sections 3901, 4501 through 4506, 6301, and 6306(a) of title 41; and

''(ii) establish, acquire, and operate on a commercial basis proprietary corporations and business entities as part of the undercover investigative operation, without regard to sections 9102 and 9103 of title 31;

''(B) deposit in banks and other financial institutions amounts appropriated for the United States Secret Service, including unobligated balances available from prior fiscal years, and the proceeds from the undercover investigative operation, without regard to section 648 of this title and section 3302 of title 31; and

''(C) use the proceeds from the undercover investigative operation to offset necessary and reasonable expenses incurred in the undercover investigative operation, without regard to section 3302 of title 31.

''(2) The authority under paragraph (1) may be exercised only upon a written determination by the Director of the United States Secret Service (in this subsection referred to as the 'Director') that the action being authorized under paragraph (1) is necessary for the conduct of an undercover investigative operation. A determination under this paragraph may continue in effect for the duration of an undercover investigative operation, without fiscal year limitation.

''(3) If the Director authorizes the proceeds from an undercover investigative operation to be used as described in subparagraph (B) or (C) of paragraph (1), as soon as practicable after the proceeds are no longer necessary for the conduct of the undercover investigative operation, the proceeds remaining shall be deposited in the general fund of the Treasury as miscellaneous receipts.

''(4) As early as the Director determines practicable before the date on which a corporation or business entity established or acquired under paragraph (1)(A)(ii) with a net value of more than $50,000 is to be liquidated, sold, or otherwise disposed of, the Director shall notify the Secretary of Homeland Security regarding the circumstances of the corporation or business entity and the liquidation, sale, or other disposition. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the general fund of the Treasury as miscellaneous receipts.

''(5)(A) The Director shall—

''(i) on a quarterly basis, conduct detailed financial audits of closed undercover investigative operations for which a written determination is made under paragraph (2); and

''(ii) submit to the Secretary of Homeland Security a written report of the results of each audit conducted under clause (i).

''(B) On the date on which the budget of the President is submitted under section 1105(a) of title 31 for each year, the Secretary of Homeland Security shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report summarizing the audits conducted under subparagraph (A)(i) relating to the previous fiscal year.''.

**SEC. 1096. FALSE CLAIMS SETTLEMENTS.**

(a) REPORTS BY ATTORNEY GENERAL.—Not later than November 1 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a public report, except the contents required in paragraphs (2), (3), (4) and (10) of subsection (b), that describes each settlement or compromise of any claim, suit, or other action entered into with the Department of Justice that—

(1) relates to an alleged violation of section 1031 of title 18, United States Code, or section 3729 of title 31, United States Code (including all 12 settlements of alternative remedies); and

(2) results from a claim for damages of more than $100,000.

(b) CONTENTS OF REPORTS.—The description of each settlement or compromise required to be included in an annual report under subsection (a) shall include—

(1) the total amount of the settlement or compromise and the portions of the settlement attributable to violations of various statutory authorities;

(2) the amount of actual damages, or if the amount of actual damages is not available a good faith estimate of the damages, that have been sustained;

(3) the amount of the settlement that represents civil penalties;

(4) the amount of the settlement that represents criminal fines and a statement of the basis for the fines;

(5) a description of the period during which the matter to which the settlement or compromise relates was pending, including—

(A) the date on which the complaint was originally filed;

(B) a description of the period the matter remained under seal;

(C) the date on which the Department of Justice determined whether to intervene in the case; and

(D) the date on which the settlement or compromise was finalized;

(6) whether a defendant or any division, subsidiary, affiliate, or related entity of a defendant had previously entered into a settlement or compromise relating to section 1031 of title 18, United States Code, or section 3730(b) of title 31, United States Code, and, if so, the date of and amount to be paid under each such settlement or compromise;

(7) whether a defendant or any division, subsidiary, affiliate, or related entity of a defendant—

(A) entered into a corporate integrity agreement relating to the settlement or compromise;

(B) entered into a deferred prosecution agreement or nonprosecution agreement relating to the settlement or compromise; or

(C)(i) previously entered into—

(I) a corporate integrity agreement relating to a settlement or compromise relating to a different violation of section 3730(b) of title 31, United States Code; or

(II) a deferred prosecution agreement or nonprosecution agreement relating to a settlement or compromise relating to a different violation of section 1031 of title 18, United States Code; and

(ii) if the defendant had entered an agreement described in clause (i), whether the agreement applied to the conduct that is the subject of the settlement or compromise described in the report or similar conduct;

(8) for a qui tam action—

(A) the percentage of the settlement amount awarded to the relator; and

(B) whether the relator requested a fairness hearing relating to the percentage received by the relator or the total amount of the settlement;

(9) the extent to which a relator or counsel for a relators participated in the settlement negotiations; and

(10) whether a defendant raised the possibility of requiring the disclosure of classified information as a reason for the Department to settle a case in lieu of litigation.

**SEC. 1097. AGGRAVATED IDENTITY THEFT AND FRAUD.**

(a) IN GENERAL.—Section 1028A of title 18, United States Code, is amended in the section heading by adding ''**and fraud**'' at the end.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1028A and inserting the following:

''1028A. Aggravated identity theft and fraud.''.

**SEC. 1098. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS, AUTHENTICATION FEATURES, AND INFORMATION.**

(a) IN GENERAL.—Section 1028(a)(7) of title 18, United States Code, is amended by inserting ''(including an organization)'' after ''person''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1028 and inserting the following:

''1028. Fraud and related activity in connection with identification documents, authentication features, and information.''.

**SEC. 1099. ATTEMPT TO EVADE OR DEFEAT TAX.**

Section 7201 of the Internal Revenue Code is amended—

(1) by striking ''$100,000'' and inserting ''$500,000''; and

(2) by striking ''$500,000'' and inserting ''$2,500,000''.

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**SA 1187.** Mrs. GILLIBRAND (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

**SEC. 1108. EXPEDITED HIRING AUTHORITY FOR DEFENSE INFORMATION TECHNOLOGY/CYBER WORKFORCE.**

(a) EXPEDITED HIRING AUTHORITY.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

**''§ 1599e. Information technology/cyber workforce: expedited hiring authority**

''(a) AUTHORITY.—For purposes of sections 3304, 5333, and 5753 of title 5, the Secretary of Defense—

''(1) may designate any category of Information Technology/Cyber workforce positions in the Department of Defense as positions for which there exists a shortage of candidates or for which there is a critical hiring need; and

''(2) may use the authorities provided in those sections to recruit and appoint qualified persons directly to positions so designated, and should appoint veterans to those positions to the maximum extent possible.

''(b) ANNUAL REPORT.—The Secretary of Defense shall submit an annual report to the congressional defense committees detailing the number of people hired under the authority of this section, the number of people so hired who transfer to a field outside the category of Information Technology/Cyber workforce, and the number of veterans who apply for, and are hired, for positions under this authority.

''(c) SUNSET.—The Secretary may not appoint a person to a position of employment under this section after September 30, 2017.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1599e. Information technology/cyber workforce: expedited hiring authority.''.

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**SA 1188.** Mr. CARDIN (for himself, Mr. WICKER, Mrs. FEINSTEIN, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. CASEY, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1049. EXPANSION OF OPERATION HERO MILES.**

(a) EXPANDED DEFINITION OF TRAVEL BENEFIT.—Subsection (b) of section 2613 of title 10, United States Code, is amended to read as follows:

''(b) TRAVEL BENEFIT DEFINED.—In this section, the term 'travel benefit' means—

''(1) frequent traveler miles, credits for tickets, or tickets for air or surface transportation issued by an air carrier or a surface carrier, respectively, that serves the public; and

''(2) points or awards for free or reduced-cost accommodations issued by an inn, hotel, or other commercial establishment that provides lodging to transient guests.''.

(b) CONDITION ON AUTHORITY TO ACCEPT DONATION.—Subsection (c) of such section is amended—

(1) by striking ''the air or surface carrier'' and inserting ''the business entity referred to in subsection (b)'';

(2) by striking ''the surface carrier'' and inserting ''the business entity''; and

(3) by striking ''the carrier'' and inserting ''the business entity''.

(c) ADMINISTRATION.—Subsection (e)(3) of such section is amended by striking ''the air carrier or surface carrier'' and inserting ''the business entity referred to in subsection (b)''.

(d) STYLISTIC AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

**''§ 2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families''.**

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 155 of such title is amended by striking the item relating to section 2613 and inserting the following new item:

''2613. Acceptance of frequent traveler miles, credits, points, and tickets: use to facilitate rest and recuperation travel of deployed members and their families.''.

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**SA 1189.** Mrs. MURRAY (for herself, Mrs. GILLIBRAND, and Mrs. MCCASKILL) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

At the end of title VII, add the following:

**Subtitle D—Mental Health Care for Members of Reserve Components on Inactive-Duty Training**

**SEC. 741. BEHAVIORAL HEALTH CARE FOR MEMBERS OF THE ARMED FORCES PERFORMING INACTIVE-DUTY TRAINING AND CERTAIN OTHER MEMBERS.**

(a) IN GENERAL.—Subsection (a)(1) of section 1074a of title 10, United States Code, is amended by inserting ''(including a behavioral health illness)'' after ''or disease''.

(b) SERVICES FOR READINESS OF CERTAIN OTHER MEMBERS OF READY RESERVE.—Subsection (g)(1) of such section is amended by striking ''medical and dental readiness'' and inserting ''medical, dental, and behavioral health readiness''.

**SEC. 742. MENTAL HEALTH ASSESSMENTS DURING INACTIVE-DUTY TRAINING FOR MEMBERS OF THE NATIONAL GUARD IN STATES WITH HIGH NEED FOR BEHAVIORAL HEALTH SUPPORT.**

(a) ACCESS TO ASSESSMENTS.—Each member of the National Guard in a unit of a State covered by subsection (b) who is performing inactive-duty training shall, while performing such training, be permitted access to a mental health assessment through a licensed mental health professional who shall be available for such assessments during duty hours of such training on the premises of the principal duty location of such member's unit. Such mental health assessment shall be provided by the State in accordance with subsection (e).

(b) COVERED STATES.—A State covered by this subsection is a State that—

(1) meets the criteria under subsection (c), as determined by the Chief of the National Guard Bureau under subsection (d); and

(2) elects to provide mental health assessments for members of the National Guard as described in subsection (a) in accordance with subsection (e).

(c) CRITERIA.—

(1) IN GENERAL.—The Chief of the National Guard Bureau shall develop criteria for determining whether or not members of the National Guard of a particular State shall be permitted access to mental health assessments under subsection (a).

(2) ELEMENTS.—The criteria developed under paragraph (1) shall take into account the following:

(A) The rate of suicide among members of the National Guard of a State.

(B) The deployment schedule of National Guard units in a State, including, in particular, the number of National Guard units in the State recently returned from deployment.

(C) The economic circumstances of a State, including the rate of unemployment in the State generally and the rate of unemployment in the State among veterans.

(D) The availability of behavioral health care providers in a State (including civilian

providers, providers at military treatment facilities, and providers of or through the Department of Veterans Affairs) for members of the National Guard, including, in particular, the availability of such providers in rural areas of the State.

(E) Such other criteria as the Chief of the National Guard Bureau considers appropriate.

(3) PERIODIC UPDATES.—The Chief of the National Guard Bureau shall update the criteria developed under paragraph (1) every two years.

(4) CONSULTATION.—The Chief of the National Guard Bureau shall carry out this subsection in consultation with the Assistant Secretary of Defense for Health Affairs, the Surgeons General of the Armed Forces, and the Adjutants General of the National Guard.

(5) SUBMITTAL TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the criteria developed under this subsection.

(d) DETERMINATIONS REGARDING STATES.—Upon developing the criteria required by subsection (b), and every two years thereafter, the Chief of the National Guard Bureau shall determine whether or not each State meets the criteria for purposes of subsection (b)(1). In making such a determination, the Chief of the National Guard Bureau shall use the version of such criteria in effect at the time of such determination, as updated under subsection (c)(3).

(e) STATE ACTIONS.—

(1) ELECTION TO PROVIDE ASSESSMENTS.—

(A) IN GENERAL.—Upon the development of the criteria required by subsection (c), and every two years thereafter, a State that meets the criteria may elect to provide mental health assessments for members of the National Guard as described in subsection (a).

(B) PERIOD OF ELECTION.—An election under subparagraph (A) shall be effective for two years, and may be renewed by a State if the Chief of the National Guard Bureau determines under subsection (d) that the State continues to meet the criteria under subsection (c) at the time of such renewal.

(C) AVAILABILITY OF OPTION TO ELECT.—The lack of an election by a State under subparagraph (A) shall not prohibit the State from making an election under that subparagraph at any subsequent two-year interval if the State meets the criteria under subsection (c) at the commencement of such subsequent two-year interval.

(2) ASSESSMENTS.—

(A) IN GENERAL.—Each State making an election under paragraph (1) shall provide mental health assessments for members of the National Guard in units of the State as described in subsection (a) during the two-year period following the election.

(B) MANNER OF PROVISION.—A State shall provide mental health assessments under this paragraph in accordance with a plan developed by the State for that purpose. The plan shall ensure the availability of behavioral health providers for that purpose during duty hours of inactive-duty training on the premises of the principal duty location of National Guard units of the State performing such training. The plan may provide for the availability of such providers for that purpose through arrangements with contractors under the TRICARE program or other appropriate contractors or through such other means as the State considers appropriate.

(f) FEDERAL FUNDING.—Amounts authorized to be appropriated for the Department of Defense for Defense Health Program may be available for payment for, or reimbursements of States for the costs of, mental health assessments of members of the National Guard under subsection (a).

(g) DEFINITIONS.—In this section:

(1) The term ''inactive-duty training'' has the meaning given that term in section 101(d)(7) of title 10, United States Code.

(2) The term ''State'' means the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(3) The term ''TRICARE program'' has the meaning given that term in section 1072(7) of title 10, United States Code.

**SEC. 743. BEHAVIORAL HEALTH SUPPORT FOR CERTAIN MEMBERS OF THE NATIONAL GUARD IN STATES WITH HIGH NEED FOR BEHAVIORAL HEALTH SUPPORT.**

(a) IN GENERAL.—Each member of the National Guard of a State meeting the criteria in section 742(c) who is participating in annual training duty or individual duty training shall, while so participating, have access to the behavioral health support programs specified in subsection (b).

(b) BEHAVIORAL HEALTH SUPPORT PROGRAMS.—The behavioral health support programs specified in this subsection are the following:

(1) Programs providing access to licensed mental health providers in armories, reserve centers, or other places for scheduled unit training assemblies.

(2) Programs providing training on suicide prevention and post-suicide response.

(3) Psychological health programs.

(4) Such other programs as the Secretary of Defense, in consultation with the Surgeon General for the National Guard of the State in which the members concerned reside, the Director of Psychological Health of the State in which the members concerned reside, the Department of Mental Health or the equivalent agency of the State in which the members concerned reside, or the Director of the Psychological Health Program of the National Guard Bureau, considers appropriate.

(c) ACCESS WITHOUT COST TO MEMBERS.—Access to behavioral health programs, and to any services under such programs, shall be provided at no cost to members.

(d) PRIVACY PROTECTION.—Any mental health services provided under this section shall be subject to and comply with all applicable privacy rules and security rules published by the Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act of 1996.

**SEC. 744. MENTAL HEALTH ASSESSMENTS FOR MEMBERS OF THE RESERVES PERFORMING INACTIVE-DUTY TRAINING.**

(a) IN GENERAL.—The Secretary of the military department concerned may provide mental health assessments for members of the Army Reserve, the Navy Reserve, the Air Force Reserve, and the Marine Corps Reserve who are performing inactive-duty training.

(b) CRITERIA.—A determination whether or not to provide mental health assessments for members of a given Reserve under subsection (a) may be made in accordance with criteria developed by the Secretary of the military department concerned, in consultation with the Assistant Secretary of Defense for Health Affairs and the Surgeon General of the Armed Force concerned.

(c) PROVISION WITHOUT COST TO MEMBERS.—Any mental health assessments provided under this section, and any services provided pursuant to such assessments, shall be provided at no cost to members.

(d) PRIVACY PROTECTION.—Any mental health services provided under this section shall be subject to and comply with all applicable privacy rules and security rules published by the Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act of 1996.

(e) INACTIVE-DUTY TRAINING DEFINED.—In this section, the term ''inactive-duty training'' has the meaning given that term in section 101(d)(7) of title 10, United States Code.

**SEC. 745. REPORTS ON EFFECTIVENESS OF MENTAL HEALTH ASSESSMENTS IN MEETING NEEDS OF MEMBERS OF THE RESERVE COMPONENTS PERFORMING INACTIVE-DUTY TRAINING.**

(a) BIENNIAL ASSESSMENT OF EFFECTIVENESS OF ASSESSMENTS.—Not later than two years after the date of the enactment of this Act, and every two years thereafter, the Assistant Secretary of Defense for Health Affairs shall conduct an assessment of the effectiveness of the mental health assessments provided members of the reserve components of the Armed Forces under this subtitle.

(b) ELEMENTS.—Each assessment under subsection (a) shall include an assessment of the following:

(1) The effect of the mental health assessments described in subsection (a) in assuring the behavioral health readiness of the following:

(A) The reserve components of the Armed Forces generally.

(B) The National Guard of each State in which mental health assessments were performed under section 742 during the two-year period covered by such assessment.

(C) Each of the Army Reserve, the Navy Reserve, the Air Force Reserve, and the Marine Corps Reserve.

(2) For the two-year period covered by such assessment, rates of each of the following:

(A) Contacts between members of the reserve components of the Armed Forces and a behavioral health provider initiated by the member.

(B) Contacts between members of the reserve components of the Armed Forces and a behavioral health provider initiated by a commander of the member.

(C) Contacts between members of the reserve components of the Armed Forces and a behavioral health provider initiated by a behavioral health provider.

(D) Symptoms of post-traumatic stress disorder (PTSD) in members participating in any such contacts.

(E) Substance abuse in members participating in any such contacts.

(F) Marriage or family concerns in members participating in any such contacts.

(G) Job or financial concerns in members participating in any such contacts.

(3) Such other matters as the Assistant Secretary of Defense for Health Affairs considers appropriate.

(c) REPORTS ON ASSESSMENTS.—Not later than 30 days after completing an assessment under this section, the Assistant Secretary of Defense for Health Affairs shall submit to the congressional defense committees a report setting forth the results of such assessment.

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**SA 1190.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 1080. REGIONAL ADVANCED TECHNOLOGY CLUSTERS.**

(a) DEVELOPMENT OF INNOVATIVE ADVANCED TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary of Defense shall use the laboratory network of the Department of Defense and work with the Secretary of Commerce and the Administrator of the Small Business Administration to encourage the development of innovative advanced technologies to address national security, and where appropriate, homeland security, and first responder challenges.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should make further progress in marshaling existing authorities in support of regional advanced technology clusters, while defining mechanisms to collaborate with, and leverage resources from the Department of Commerce and the Small Business Administration.

(b) DESIGNATION OF LEAD DEPARTMENT OF DEFENSE OFFICE.—Not later than 60 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Under Secretary of Defense for Policy, shall identify and report to the appropriate congressional committees what office within the Department of Defense will be responsible for enhanced use of regional advanced technology clusters.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Under Secretary of Defense for Policy, shall submit to the appropriate congressional committees a report describing—

(1) the participation of the Department of Defense in regional advanced technology clusters, including the number of clusters supported, technologies developed and products commercialized, small businesses trained, companies started, and research and development facilities shared;

(2) implementation by the Department of processes and mechanisms to facilitate collaboration with the clusters;

(3) agreements established with the Department of Commerce and the Small Business Administration to jointly support the continued utilization and growth of the clusters; and

(4) any additional required authorities and any impediments in supporting regional advanced technology clusters.

(d) COLLABORATION WITH OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—The designated lead from the Department of Defense office shall collaborate and share resources with other Federal agencies for purposes of assisting in the utilization and growth of regional advanced technology clusters under this section. Furthermore the Department of Defense will work with Department of Commerce and the Small Business Administration to develop methods to evaluate the effectiveness of technology cluster policies.

(2) INTERGOVERNMENTAL PERSONNEL ACT AGREEMENTS.—The Department of Defense shall utilize Intergovernmental Personnel Act agreements to provide for the temporary assignment of personnel between the Federal Government and State and local governments, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations.

(3) ACCESS TO DEPARTMENT OF DEFENSE FACILITIES.—The Secretary of Defense shall provide regional advanced technology clusters appropriate access to Department of Defense facilities.

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the congressional defense committees;

(B) the Committee on Commerce, Science and Transportation and the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Energy and Commerce and the Committee on Small Business of the House of Representatives.

(2) REGIONAL ADVANCED TECHNOLOGY CLUSTERS.—The term ''regional advanced technology clusters'' means geographic centers focused on building science and technology-based innovation capacity in areas of local and regional strength to foster economic growth and improve quality of life.

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**SA 1191.** Mr. RUBIO submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriation for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follow:

At the end of title I of division A, add the following:

SEC. 1___. (a) The Corps of Engineers is authorized to carry out any project—

(1) for which there is a signed report of the Chief of Engineers by the end of fiscal year 2012;

(2) that will be constructed according to the specifications of the Corps of Engineers; and

(3) for which, prior to authorization, the Chief of Engineers certifies that 100 percent of the cost of carrying out the project is contributed by a non-Federal entity or a group of non-Federal entities.

(b) A non-Federal entity or group of non-Federal entities described in subsection (a)(3) shall not receive any reimbursement for the cost of a project carried out under this section from the Federal Government.

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**SA 1192.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 547. REPORT ON COSTS TO DEPARTMENT OF DEFENSE OF CERTAIN ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AND MILITARY SPOUSES.**

(a) REPORT REQUIRED.—Not later than 180 days 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 on the costs to the Department of Defense of education assistance for members of the Armed Forces and military spouses under the following programs of the Department of Defense:

(1) The Tuition Assistance (TA) program.

(2) The Military Spouse Career Advancement Account (MyCAA) program.

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

(1) For each institution of higher education that received funds under a program specified in subsection (a) during any of fiscal years 2009, 2010, or 2011—

(A) the name and location of such institution;

(B) whether such institution is a public, non-profit, or for-profit institution;

(C) the amount of funds received by such institution in each such fiscal year each under each program; and

(D) the number of members of the Armed Forces, and the number of military spouses, who received education at such institution during each such fiscal year for which money was received under either program.

(2) Education outcomes for participants in the programs specified in subsection (a) during fiscal years 2009 through 2011, including—

(A) credit accumulation;

(B) completion of education on time or in 150 percent of on time;

(C) loan defaults;

(D) job placement and retention, and wage progression, after completion of education.

(3) A summary of complaints regarding aggressive recruiting practices or misrepresentation of future job placement opportunities from participants in the programs specified in subsection (a) during fiscal years 2009 through 2011.

(4) Such recommendations as the Secretary considers appropriate for reducing the costs to the Department of education assistance under the programs specified in subsection (a).

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**SA 1193.** Mr. DURBIN (for himself, Mr. KIRK, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

Strike section 341 and insert the following:

**SEC. 341. PERMANENT AND EXPANDED AUTHORITY FOR ARMY INDUSTRIAL FACILITIES TO ENTER INTO CERTAIN COOPERATIVE ARRANGEMENTS WITH NON-ARMY ENTITIES.**

Section 4544 of title 10, United States Code, is amended—

(1) in subsection (a), by striking the second sentence; and

(2) by striking subsection (k).

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**SA 1194.** Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

Strike section 1048 and insert the following:

**SEC. 1048. TROOPS-TO-TEACHERS PROGRAM ENHANCEMENTS.**

(a) FISCAL YEAR 2012 ADMINISTRATION.—Notwithstanding section 2302(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672(c)), the Secretary of Defense may administer the Troops-to-Teachers Program during fiscal year 2012. Amounts authorized to be appropriated for the Department of Defense by this Act shall be available to the Secretary of Defense for that purpose.

(b) ENACTMENT OF PROGRAM AUTHORITY IN TITLE 10, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 58 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program**

''(a) DEFINITIONS.—In this section:

''(1) CHARTER SCHOOL.—The term 'charter school' has the meaning given that term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

''(2) HIGH-NEED SCHOOL.—The term 'high-need school' means—

''(A) an elementary school or middle school in which at least 50 percent of the enrolled students are children from low-income families, based on the number of children eligible for free or reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, the number of children eligible to receive medical assistance under the Medicaid program, or a composite of these indicators;

''(B) a high school in which at least 40 percent of enrolled students are children from low-income families, which may be calculated using data comparable to the data described in subparagraph (A) from the middle or elementary schools that feed into the high school;

''(C) a school that is in a local educational agency that is eligible under section 6211(b) of the Elementary and Secondary Education Act of 1965; or

''(D) a school in which not less than 13 percent of the students enrolled in the school qualify for assistance under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(3) MEMBER OF THE ARMED FORCES.—The term 'member of the armed forces' includes a former member of the armed forces.

''(4) PROGRAM.—The term 'Program' means the Troops-to-Teachers Program authorized by this section.

''(5) ADDITIONAL TERMS.—The terms 'elementary school', 'highly qualified', 'local educational agency', 'secondary school', and 'State' have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(b) PROGRAM AUTHORIZATION.—The Secretary of Defense (in this section referred to as the 'Secretary') may carry out a program (to be known as the 'Troops-to-Teachers Program')—

''(1) to assist eligible members of the armed forces described in subsection (d) to obtain certification or licensing as elementary school teachers, secondary school teachers, or career and technical education teachers, and to become highly qualified teachers; and

''(2) to facilitate the employment of such members—

''(A) by local educational agencies or charter schools that the Secretary of Education identifies as—

''(i) receiving grants under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et. seq.) as a result of having within their jurisdictions concentrations of children from low-income families; or

''(ii) experiencing a shortage of highly qualified teachers, in particular a shortage of highly qualified science, mathematics, special education, foreign language, or career and technical education teachers; or

''(iii) a Bureau-funded school (as such term is defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)); and

''(B) in elementary schools or secondary schools, or as career and technical education teachers.

''(c) COUNSELING AND REFERRAL SERVICES.—The Secretary may provide counseling and referral services to members of the armed forces who do not meet the criteria described in subsection (d), including meeting the education qualification requirements under subsection (d)(3)(B).

''(d) ELIGIBILITY AND APPLICATION PROCESS.—

''(1) ELIGIBLE MEMBERS.—The following members of the armed forces are eligible for selection to participate in the Program:

''(A) Any member who—

''(i) on or after October 1, 1999, becomes entitled to retired or retainer pay under this title or title 14;

''(ii) has an approved date of retirement that is within 1 year after the date on which the member submits an application to participate in the Program; or

''(iii) has been transferred to the Retired Reserve.

''(B) Any member who, on or after January 8, 2002—

''(i)(I) is separated or released from active duty after 4 or more years of continuous active duty immediately before the separation or release; or

''(II) has completed a total of at least 6 years of active duty service, 6 years of service computed under section 12732 of this title, or 6 years of any combination of such service; and

''(ii) executes a reserve commitment agreement for a period of not less than 3 years under paragraph (5)(B).

''(C) Any member who, on or after January 8, 2002, is retired or separated for physical disability under chapter 61 of this title.

''(D) Any member who—

''(i) applied for the teacher placement program administered under section 1151 of title 10, United States Code, before the repeal of that section, and satisfied the eligibility criteria specified in subsection (c) of such section 1151; or

''(ii) applied for the Troops to Teachers program under chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6673 et seq.) and satisfied the eligibility criteria specified in section 2303(a), before the date of enactment of this section.

''(2) SUBMISSION OF APPLICATIONS.—(A) Selection of eligible members of the armed forces to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in subparagraph (B). An application shall be in such form and contain such information as the Secretary may require.

''(B) An application shall be considered to be submitted on a timely basis under subparagraph (A)(i), (B), or (C) of paragraph (1) if the application is submitted not later than 3 years after the date on which the member is retired, separated, or released from active duty, whichever applies to the member.

''(3) SELECTION CRITERIA; EDUCATIONAL BACKGROUND REQUIREMENTS AND HONORABLE SERVICE REQUIREMENT.—(A) Subject to subparagraphs (B) and (C), the Secretary shall prescribe the criteria to be used to select eligible members of the armed forces to participate in the Program.

''(B)(i) If a member of the armed forces is applying for assistance for placement as an elementary school or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

''(ii) If a member of the armed forces is applying for assistance for placement as a career and technical education teacher, the Secretary shall require the member—

''(I) to have received the equivalent of 1 year of college from an accredited institution of higher education or the equivalent in military education and training as certified by the Department of Defense; or

''(II) to otherwise meet the certification or licensing requirements for a career and technical education teacher in the State in which the member seeks assistance for placement under the Program.

''(C) A member of the armed forces is eligible to participate in the Program only if the member's last period of service in the armed forces was honorable, as characterized by the Secretary concerned. A member selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty may continue to participate in the Program after the retirement, separation, or release only if the member's last period of service is characterized as honorable by the Secretary concerned.

''(4) SELECTION PRIORITIES.—In selecting eligible members of the armed forces to receive assistance under the Program, the Secretary—

''(A) shall give priority to members who—

''(i) have educational or military experience in science, mathematics, special education, foreign language, or career and technical education subjects; and

''(ii) agree to seek employment as science, mathematics, foreign language, or special education teachers in elementary schools or secondary schools or in other schools under the jurisdiction of a local educational agency; and

''(B) may give priority to members who agree to seek employment in a high-need school.

''(5) OTHER CONDITIONS ON SELECTION.—

''(A) The Secretary may not select an eligible member of the armed forces to participate in the Program and receive financial assistance unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (e) with respect to the member.

''(B) The Secretary may not select an eligible member of the armed forces described in paragraph (1)(B)(i) to participate in the Program under this section and receive financial assistance under subsection (e) unless the member executes a written agreement to serve as a member of the Selected Reserve of a reserve component of the armed forces for a period of not less than 3 years.

''(e) PARTICIPATION AGREEMENT AND FINANCIAL ASSISTANCE.—

''(1) PARTICIPATION AGREEMENT.—(A) An eligible member of the armed forces selected to participate in the Program under subsection (b) and receive financial assistance under this subsection shall be required to enter into an agreement with the Secretary in which the member agrees—

''(i) within such time as the Secretary may require, to obtain certification or licensing as an elementary school teacher, secondary school teacher, or career and technical education teacher, and to become a highly qualified teacher; and

''(ii) to accept an offer of full-time employment, to begin the school year after obtaining that certification or licensing, as an elementary school teacher, secondary school teacher, or career and technical education teacher for not less than 3 school years with—

''(I) a local educational agency receiving grant funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.);

''(II) a public charter school (as such term is defined in section 2102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6602)) residing in such a local educational agency; or

''(III) a Bureau-funded school (as such term is defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 11 2021)).

''(B) The Secretary may waive the 3-year commitment described in subparagraph (A)(ii) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f), for failure to meet the 3-year commitment.

''(2) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant in the Program shall not be considered to be in violation of the participation agreement entered into under paragraph (1) during any period in which the participant—

''(A) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

''(B) is serving on active duty as a member of the armed forces;

''(C) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

''(D) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

''(E) is a highly qualified teacher who is seeking and unable to find full-time employment as a teacher in an elementary school or secondary school or as a career and technical education teacher for a single period not to exceed 27 months; or

''(F) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

''(3) STIPEND AND BONUS FOR PARTICIPANTS.—(A) Subject to subparagraph (C), the Secretary may pay to a participant in the Program selected under this section a stipend to cover expenses incurred by the participant to obtain the required educational level, certification or licensing. Such stipend may not exceed $5,000 and may vary by participant.

''(B) Subject to subparagraph (C), the Secretary may pay a bonus of up to $10,000 to a participant in the Program selected under this section who agrees in the participation agreement under paragraph (1) to become a highly qualified teacher and to accept full-time employment as an elementary school teacher, secondary school teacher, or career and technical education teacher for not less than 3 school years in a high-need school. Such bonus may vary by participant and may take into account the priority placements as determined by the Secretary.

''(C)(i) The total number of stipends that may be paid under subparagraph (A) in any fiscal year may not exceed 5,000.

''(ii) The total number of bonuses that may be paid under subparagraph (B) in any fiscal year may not exceed 3,000.

''(iii) The combination of stipend and bonus for any one participant may not exceed $10,000.

''(4) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this subsection to a participant in the Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et. seq.).

''(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—

''(1) REIMBURSEMENT REQUIRED.—A participant in the Program who is paid a stipend or bonus under this subsection shall be required to repay the stipend or bonus under the following circumstances:

''(A) The participant fails to obtain teacher certification or licensing, to become a highly qualified teacher, or to obtain employment as an elementary school teacher, secondary school teacher, or career and technical education teacher as required by the participation agreement under subsection (e)(1).

''(B) The participant voluntarily leaves, or is terminated for cause from, employment as an elementary school teacher, secondary school teacher, or career and technical education teacher during the 3 years of required service in violation of the participation agreement.

''(C) The participant executed a written agreement with the Secretary concerned under subsection (d)(5)(B) to serve as a member of a reserve component of the armed forces for a period of 3 years and fails to complete the required term of service.

''(2) AMOUNT OF REIMBURSEMENT.—A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under subsection (e) shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the 3 years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the participant is first notified of the amount due.

''(3) TREATMENT OF OBLIGATION.—The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11 shall not release a participant from the obligation to reimburse the Secretary under this subsection.

''(4) EXCEPTIONS TO REIMBURSEMENT REQUIREMENT.—A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

''(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—The receipt by a participant in the Program of a stipend or bonus under subsection (e) shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 or 33 of title 38 or chapter 1606 of this title.

''(h) PARTICIPATION BY STATES.—

''(1) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

''(2) ASSISTANCE TO STATES.—(A) Subject to subparagraph (B), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members of the armed forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and career and technical education teachers.

''(B) The total amount of grants made under subparagraph (A) in any fiscal year may not exceed $5,000,000.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program.''.

(c) CONFORMING AMENDMENT.—Section 1142(b)(4)(C) of such title is amended by striking ''under sections 1152 and 1153 of this title and the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672)'' and inserting ''under sections 1152, 1153, and 1154 of this title''.

(d) TERMINATION OF ORIGINAL PROGRAM.—

(1) TERMINATION.—

(A) Chapter A of subpart 1 of Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) is repealed.

(B) The table of contents in section 2 of Part I of the Elementary and Secondary Education Act 1965 is amended by striking the items relating to such chapter.

(2) EXISTING AGREEMENTS.—The repeal of chapter A of subpart 1 of Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) by paragraph (1)(A) shall not affect the validity or terms of any agreement entered into before the date of the enactment of this Act under such chapter, or to pay assistance, make grants, or obtain reimbursement in connection with such an agreement as in effect before such repeal.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date on which the Secretary of Defense provides the appropriate committees of Congress with written notice that the Secretary of Defense has elected to administer the program in accordance with subsection (a), or on such earlier date as the Secretary of Education and the Secretary of Defense may jointly provide.

(f) REPORT.—

(1) IN GENERAL.—Not later than April 1, 2012, the Secretary of Defense and the Secretary of Education shall jointly submit to the appropriate committees of Congress a report on the Troops-to-Teachers Program. The report shall include the following:

(A) A summary of the funding of the Troops-to-Teachers Program since its inception and projected funding of the program during the period covered by the future-years defense program submitted to Congress during 2011.

(B) The number of past participants in the Troops-to-Teachers Program by year, the number of past participants who have fulfilled, and have not fulfilled, their service obligation under the program, and the number of waivers of such obligations (and the reasons for such waivers).

(C) A discussion and assessment of the current and anticipated effects of recent economic circumstances in the United States, and cuts nationwide in State and local budgets, on the ability of participants in the Troops-to-Teachers Program to obtain teaching positions.

(D) A discussion of the youth education goals in the Troops-to-Teachers Program and the record of the program to date in producing teachers in high-need and other eligible schools.

(E) An assessment of the extent to which the Troops-to-Teachers Program achieves its purpose as a military transition assistance program and, in particular, as transition assistance program for members of the Armed Forces who are nearing retirement or who are voluntarily or involuntarily separating from military service.

(F) An assessment of the performance of the Troops-to-Teachers Program in providing qualified teachers to high-need public

schools, and reasons for expanding the program to additional school districts.

(G) A discussion and assessment of the advisability of the administration of the Troops-to-Teachers Program by the Department of Education in consultation with the Department of Defense.

(2) DEFINITIONS.—In this subsection:

(A) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(i) the Committees on Armed Services and Health, Education, Labor, and Pensions of the Senate; and

(ii) the Committees on Armed Services and Education and the Workforce of the House of Representatives.

(B) TROOPS-TO-TEACHERS PROGRAM.—The term ''Troops-to-Teachers Program'' means the Troops-to-Teachers Program under section 1154 of title 10, United States Code (as amended by subsection (b)), as authorized prior to the enactment of this Act by chapter A of subpart 1 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.).

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**SA 1195.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 907. REPORT ON EXTENT OF AUTHORIZED ACCESS TO MILITARY INSTALLATION FOR UNAUTHORIZED MARKETING OF PRODUCTS AND SERVICES TO MILITARY PERSONNEL.**

(a) REPORT REQUIRED.—Not later than 180 days 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 an assessment of the extent to which persons and entities employed by institutions of higher education (for purposes of the Higher Education Act of 1965) who have otherwise authorized access to military installations are engaged in the unauthorized marketing of products and services to members of the Armed Forces through such access.

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

(1) The assessment described in subsection (a).

(2) Such recommendations as the Secretary considers appropriate for mechanisms as follows:

(A) To assist members of the Armed Forces in identifying persons and entities who are engaged in the unauthorized marketing of products and services to members of the Armed Force through otherwise authorized access to military installations.

(B) To encourage members to report persons and entities who are so engaged to the proper authorities.

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**SA 1196.** Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 262. REESTABLISHMENT OF REQUIREMENT FOR ANNUAL REPORTS ON DEPARTMENT OF DEFENSE EFFORTS AND PROGRAMS RELATING TO THE PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES.**

Section 256(h)(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3181; 10 U.S.C. 1071 note) is amended by inserting ''and not later than 270 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, and annually thereafter through 2014,'' after ''through 2008,''.

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**SA 1197.** Mr. FRANKEN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 889. TIMELY PAYMENT OF SMALL BUSINESS CONCERNS.**

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(s) REGULATIONS RELATING TO TIMELY PAYMENTS.—

''(1) REGULATIONS REQUIRED.—Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget, in consultation with the Administrator, shall issue regulations that require any prime contractor awarded a contract by the Federal Government to make timely payments to subcontractors that are small business concerns.

''(2) CONSIDERATIONS.—In issuing the regulations under paragraph (1), the Director of the Office of Management and Budget, in consultation with the Administrator, shall consider—

''(A) requiring a prime contractor to pay a subcontractor that is a small business concern not later than 30 days after the date on which the prime contractor receives a payment from the Federal Government;

''(B) developing—

''(i) incentives for prime contractors that pay subcontractors in accordance with the regulations; or

''(ii) penalties for prime contractors that do not pay subcontractors in accordance with the regulations; and

''(C) requiring that any subcontracting plan under paragraph (4) or (5) of section 8(d) contain a detailed description of when and how each subcontractor will be paid.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8(d)(6) of the Small Business Act (15 U.S.C. 638(d)(6)) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G)(ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) any information required to be included under the regulations issued under section 15(s).''.

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**SA 1198.** Mrs. HUTCHISON (for herself, Mr. JOHNSON of South Dakota, Mr. THUNE, and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, strike lines 5 through 13 and insert the following:

(a) IN GENERAL.—The Secretary of the Air Force may not retire or prepare to retire any B-1 bomber aircraft until the date that is one year after the date on which the plan described in subsection (b) is received by the congressional defense committees.

On page 29, strike lines 11 through 23.

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**SA 1199.** Mrs. HUTCHISON (for herself, Mr. BLUNT, Mr. MANCHIN, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**Subtitle E—Army Programs**

**SEC. 171. LIMITATION ON RETIREMENT OF C–23 AIRCRAFT.**

(a) MAINTENANCE.—The Secretary of the Army shall maintain not less than 42 C–23 aircraft, of which not less than—

(1) 11 shall be available for the active component of the Army;

(2) 4 shall be available for training operations; and

(3) 22 shall be available for domestic operations in the continental United States.

(b) LIMITATION ON RETIREMENT.—The Secretary of the Army may not retire (or prepare to retire) any C–23 aircraft, or keep any such aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions, until the date that is one year after the date on which each report under subsections (c)(2), (d)(2), and (e)(2) has been received by the congressional defense committees.

(c) AIRLIFT STUDY AND REPORT.—

(1) STUDY.—The Director of the National Guard Bureau, in consultation with the Chief of Staff of the Army, the Chief of Staff of the Air Force, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Administrator of the Federal Emergency Management Agency, shall conduct a study to determine the number of fixed-wing and rotary-wing aircraft required to support the following missions at low, medium, moderate, high, and very-high levels of operational risk:

(A) Homeland defense.

(B) Contingency response.

(C) Natural disaster-related response.

(D) Humanitarian response.

(2) REPORT.—The Director shall submit to the congressional defense committees a report containing the study under paragraph (1).

(d) FLEET VIABILITY ASSESSMENT.—

(1) ASSESSMENT.—The Secretary of the Army, in coordination with the Director of the Fleet Viability Board of the Air Force, shall conduct a fleet viability assessment with respect to C–23 aircraft.

(2) REPORT.—The Secretary shall submit to the congressional defense committees a report containing the assessment under paragraph (1).

(e) GAO SUFFICIENCY REVIEW.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a sufficiency review of the study under subsection (c)(1).

(2) REPORT.—Not later than 180 days after the date on which the Director of the National Guard Bureau submits the report under subsection (c)(2), the Comptroller General shall submit to the congressional defense committees a report containing the review under paragraph (1).

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**SA 1200.** Mr. CORNYN (for himself, Mr. MENENDEZ, Mr. INHOFE, Mr. LIEBERMAN, Mr. WYDEN, and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. SALE OF F–16 AIRCRAFT TO TAIWAN.**

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

(1) The Department of Defense, in its 2011 report to Congress on ''Military and Security Developments Involving the People's Republic of China,'' found that ''China continued modernizing its military in 2010, with a focus on Taiwan contingencies, even as cross-Strait relations improved. The PLA seeks the capability to deter Taiwan independence and influence Taiwan to settle the dispute on Beijing's terms. In pursuit of this objective, Beijing is developing capabilities intended to deter, delay, or deny possible U.S. support for the island in the event of conflict. The balance of cross-Strait military forces and capabilities continues to shift in the mainland's favor.'' In this report, the Department of Defense also concludes that, over the next decade, China's air force will remain primarily focused on ''building the capabilities required to pose a credible military threat to Taiwan and U.S. forces in East Asia, deter Taiwan independence, or influence Taiwan to settle the dispute on Beijing's terms''.

(2) The Defense Intelligence Agency (DIA) conducted a preliminary assessment of the status and capabilities of Taiwan's air force in an unclassified report, dated January 21, 2010. The DIA found that, ''[a]lthough Taiwan has nearly 400 combat aircraft in service, far fewer of these are operationally capable.'' The report concluded, ''Many of Taiwan's fighter aircraft are close to or beyond service life, and many require extensive maintenance support. The retirement of Mirage and F–5 aircraft will reduce the total size of the Taiwan Air Force.''

(3) Since 2006, authorities from Taiwan have made repeated requests to purchase 66 F–16C/D multirole fighter aircraft from the United States, in an effort to modernize the air force of Taiwan and maintain its self-defense capability.

(4) According to a report by the Perryman Group, a private economic research and analysis firm, the requested sale of F–16C/Ds to Taiwan ''would generate some $8,700,000,000 in output (gross product) and more than 87,664 person-years of employment in the US,'' including 23,407 direct jobs, while ''economic benefits would likely be realized in 44 states and the District of Columbia''.

(5) The sale of F–16C/Ds to Taiwan would both sustain existing high-skilled jobs in key United States manufacturing sectors and create new ones.

(6) On August 1, 2011, a bipartisan group of 181 members of the House of Representatives sent a letter to the President, expressing support for the sale of F–16C/Ds to Taiwan. On May 26, 2011, a bipartisan group of 45 members of the Senate sent a similar letter to the President, expressing support for the sale. Two other members of the Senate wrote separately to the President or the Secretary of State in 2011 and expressed support for this sale.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical element to maintaining peace and stability in Asia in the face of China's two-decade-long program of military modernization and expansion of military capabilities is ensuring a militarily strong and confident Taiwan;

(2) a Taiwan that is confident in its ability to deter Chinese aggression will increase its ability to proceed in developing peaceful relations with China in areas of mutual interest;

(3) the cross-Strait military balance between China and our longstanding strategic partner, Taiwan, has clearly shifted in China's favor;

(4) China's military expansion poses a clear and present danger to Taiwan, and this threat has very serious implications for the ability of the United States to fulfill its security obligations to allies in the region and protect our vital United States national interests in East Asia;

(5) Taiwan's air force continues to deteriorate, and it needs additional advanced multirole fighter aircraft in order to modernize its fleet and maintain a sufficient self-defense capability;

(6) the United States has a statutory obligation under the Taiwan Relations Act (22 U.S.C. 3301 et seq.) to provide Taiwan the defense articles necessary to enable Taiwan to maintain sufficient self-defense capabilities, in furtherance of maintaining peace and stability in the western Pacific region;

(7) in order to comply with the Taiwan Relations Act, the United States must provide Taiwan with additional advanced multirole fighter aircraft, as well as significant upgrades to Taiwan's existing fleet of multirole fighter aircraft; and

(8) the proposed sale of F–16C/D multirole fighter aircraft to Taiwan would have significant economic benefits to the United States economy.

(c) SALE OF AIRCRAFT.—The President shall carry out the sale of no fewer than 66 F–16C/D multirole fighter aircraft to Taiwan.

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**SA 1201** Mr. WEBB submitted an amendment intended to be proposed to amendment SA 1072 submitted by Mr. LEAHY (for himself, Mr. GRAHAM, Mr. ROCKEFELLER, Ms. AYOTTE, Mr. AKAKA, Mr. ALEXANDER, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COATS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CRAPO, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HELLER, Mr. HOEVEN, Mr. INHOFE, Mr. INOUYE, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEE, Mr. LUGAR, Mr. MANCHIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. RISCH, Mr. SANDERS, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. UDALL of Colorado, Mr. VITTER, Mr. WARNER, Mr. WHITEHOUSE, Mr. WYDEN, Mr. TOOMEY, and Mr. KERRY) to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**TITLE XVI—NATIONAL GUARD MATTERS**

**SEC. 1601. REPORT ON NATIONAL GUARD EMPOWERMENT.**

(a) INDEPENDENT STUDY REQUIRED.—The Secretary of Defense shall provide for the conduct of an independent study on the advisability of making the Chief of the National Guard Bureau a member of the Joint Chiefs of Staff.

(b) ELEMENTS.—The Secretary shall ensure that the independent study group conducting the study required by subsection (a) considers the near-term and long-range implications associated with making an advisor to the Secretary of the Air Force and the Secretary of the Army on matters relating to the reserve components of the Armed Forces a member of the Joint Chiefs of Staff. The study shall encompass, but not necessarily be limited to, the following considerations:

(1) The roles and functions of the Joint Chiefs of Staff.

(2) The roles and functions of the Army National Guard, the Air National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

(3) The roles and functions of the Chief of the National Guard Bureau.

(4) The effects on the principle of civilian control of the military and accountability in adding a member to the Joint Chiefs of Staff who is not subject to the oversight of a single appointed and confirmed Secretary of a military department.

(5) The precedent and potential long-term implications of adding a member to the Joint Chiefs of Staff who is not the chief of an Armed Force.

(6) The impact, if any, on the deliberations of the Joint Chiefs of Staff of including a member who has been recommended for appointment as the Chief of the National Guard Bureau by the governor of a State.

(7) The effects on the principles of unity of command and unity of effort for the Department of the Army and the Department of the Air Force.

(8) The potential for confusing lines of authority and representation under title 10, United States Code, already in place for the Chief of Staff of the Army and the Chief of Staff of the Air Force in meeting their responsibilities as members of the Joint Chiefs of Staff.

(9) The effects of altering the current statutory balance for representation by each branch of the Armed Forces on the Joint Chiefs of Staff by altering their statutory representation and the possible consequences for intra-service and inter-service integration, progress toward more effective

jointness, and efforts to improve interoperability.

(10) The findings and recommendations contained in the reports issued by the Commission on the National Guard and Reserves.

(11) The transition of the National Guard from a strategic reserve force to an operational reserve force for the All-Volunteer Force.

(12) Possible impacts on the other reserve components of the Armed Forces, including perceptions regarding the Chief of the National Guard Bureau having added responsibilities assigned as a member of the Joint Chiefs of Staff.

(13) The extent to which the existing statutory role of the Chief of the National Guard as advisor to the Secretary of Defense is sufficient for all matters involving nonfederalized National Guard forces.

(14) The qualifications of the Chief of the National Guard Bureau to provide requisite insight into all levels of strategic planning as a member of the Joint Chiefs of Staff, and the risk of diluting understanding in the Armed Forces of the principle of supporting and supported command relationships.

(c) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall set forth the results of the study, including the matters specified in subsection (b), and include such comments and recommendations in light of the results of the study as the Secretary considers appropriate.

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**SA 1202.** Mr. UDALL of New Mexico (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 827. APPLICABILITY OF BUY AMERICAN ACT TO PROCUREMENT OF PHOTOVOLTAIC DEVICES BY DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—Section 2534 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(k) PROCUREMENT OF PHOTOVOLTAIC DEVICES.—

''(1) CONTRACT REQUIREMENT.—The Secretary of Defense shall ensure that each contract described in paragraph (2) awarded by the Department of Defense includes a provision requiring any photovoltaic devices installed pursuant to the contract, or pursuant to a subcontract under the contract, to comply with the provisions of chapter 83 of title 41 (commonly known as the 'Buy American Act'), without regard to whether the contract results in ownership of the photovoltaic devices by the Department.

''(2) CONTRACTS DESCRIBED.—The contracts described in this paragraph include energy savings performance contracts, utility service contracts, power purchase agreements, land leases, and private housing contracts pursuant to which any photovoltaic devices are installed on property or in a facility—

''(A) owned by the Department of Defense;

''(B) leased to the Department of Defense; or

''(C) with respect to which the Secretary of the military department concerned has exercised any authority provided under subchapter IV of chapter 169 of this title (relating to alternative authority for the acquisition and improvement of military housing).

''(3) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—Paragraph (1) shall be applied in a manner consistent with the obligations of the United States under international agreements.

''(4) DEFINITION OF PHOTOVOLTAIC DEVICES.—In this subsection, the term 'photovoltaic devices' means devices that convert light directly into electricity.

''(5) EFFECTIVE DATE.—This subsection applies to photovoltaic devices procured or installed on or after the date that is 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012 pursuant to contracts entered into before, on, or after such date of enactment.''.

(b) CONFORMING REPEAL.—Section 846 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2534 note) is repealed.

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**SA 1203.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

On page 65, strike lines 20 through 23 and insert the following:

(b) DEFINITION OF RENEWABLE ENERGY SOURCE.—Section 2911(e)(2)(A) of title 10, United States Code, is amended by inserting '', including electricity and direct use'' before the period at the end.

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**SA 1204.** Mr. REED (for himself, Ms. AYOTTE, Mr. BLUMENTHAL, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Mr. LEAHY, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follow:

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

**SEC. 723. PILOT PROGRAM ON ENHANCEMENTS OF DEPARTMENT OF DEFENSE EFFORTS ON MENTAL HEALTH IN THE NATIONAL GUARD AND RESERVES THROUGH COMMUNITY PARTNERSHIPS.**

(a) PILOT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of enhancing the efforts of the Department of Defense in research, treatment, education, and outreach on mental health and substance use disorders and Traumatic Brain Injury (TBI) in members of the National Guard and Reserves, their family members, and their caregivers through community partners described in subsection (c).

(2) DURATION.—The duration of the pilot program may not exceed three years.

(b) GRANTS.—In carrying out the pilot program, the Secretary may award not more than five grants to community partners described in subsection (c). Any grant so awarded shall be awarded using a competitive and merit-based award process.

(c) COMMUNITY PARTNERS.—A community partner described in this subsection is a private non-profit organization or institution (or multiple organizations and institutions) that—

(1) engages in each of the research, treatment, education, and outreach activities described in subsection (d); and

(2) meets such qualifications for treatment as a community partner as the Secretary shall establish for purposes of the pilot program.

(d) ACTIVITIES.—Amounts awarded under a grant under the pilot program shall be utilized by the community partner awarded the grant for one or more of the following:

(1) To engage in research on the causes, development, and innovative treatment of mental health and substance use disorders and Traumatic Brain Injury in members of the National Guard and Reserves, their family members, and their caregivers.

(2) To provide treatment to such members and their families for such mental health and substance use disorders and Traumatic Brain Injury.

(3) To identify and disseminate evidence-based treatments of mental health and substance use disorders and Traumatic Brain Injury described in paragraph (1).

(4) To provide outreach and education to such members, their families and caregivers, and the public about mental health and substance use disorders and Traumatic Brain Injury described in paragraph (1).

(e) REQUIREMENT FOR MATCHING FUNDS.—

(1) REQUIREMENT.—The Secretary may award a grant under this section to an organization or institution (or organizations and institutions) only if the awardee agrees to make contributions toward the costs of activities carried out with the grant, from non-Federal sources (whether public or private), an amount equal to not less than $3 for each $1 of funds provided under the grant.

(2) NATURE OF NON-FEDERAL CONTRIBUTIONS.—Contributions from non-Federal sources for purposes of paragraph (1) may be in cash or in-kind, fairly evaluated. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of contributions from non-Federal sources for such purposes.

(f) APPLICATION.—An organization or institution (or organizations and institutions) seeking a grant under this section shall submit to the Secretary an application therefore in such a form and containing such information as the Secretary considers appropriate, including the following:

(1) A description how the activities proposed to be carried out with the grant will help improve collaboration and coordination on research initiatives, treatment, and education and outreach on mental health and substance use disorders and Traumatic Brain Injury among the Armed Forces.

(2) A description of existing efforts by the applicant to put the research described in (c)(1) into practice.

(3) If the application comes from multiple organizations and institutions, how the activities proposed to be carried out with the grant would improve coordination and collaboration among such organizations and institutions.

(4) If the applicant proposes to provide services or treatment to members of the Armed Forces or family members using grant amounts, reasonable assurances that such services or treatment will be provided by a qualified provider.

(5) Plans to comply with subsection (g).

(g) EXCHANGE OF MEDICAL AND CLINICAL INFORMATION.—A community partner awarded a grant under the pilot program shall agree to any requirements for the sharing of medical or clinical information obtained pursuant to the grant that the Secretary shall establish for purposes of the pilot program. The exchange of medical or clinical information pursuant to this subsection shall comply with applicable privacy and confidentiality laws.

(h) DISSEMINATION OF INFORMATION.—The Secretary of Defense shall share with the Secretary of Veterans Affairs information on best practices in research, treatment, education, and outreach on mental health and substance use disorders and Traumatic Brain Injury identified by the Secretary of Defense as a result of the pilot program.

(i) REPORT.—Not later than 180 days before the completion of the pilot program, the Secretary of Defense shall submit to the Secretary of Veterans Affairs, and to Congress, a report on the pilot program. The report shall include the following:

(1) A description of the pilot program, including the community partners awarded grants under the pilot program, the amount of grants so awarded, and the activities carried out using such grant amounts.

(2) A description of any research efforts advanced using such grant amounts.

(3) The number of members of the National Guard and Reserves provided treatment or services by community partners using such grant amounts, and a summary of the types of treatment and services so provided.

(4) A description of the education and outreach activities undertaken using such grant amounts.

(5) A description of efforts to exchange clinical information under subsection (g).

(6) A description and assessment of the effectiveness and achievements of the pilot program with respect to research, treatment, education, and outreach on mental health and substance use disorders and Traumatic Brain Injury.

(7) Such recommendations as the Secretary of Defense considers appropriate in light of the pilot program on the utilization of organizations and institutions such as community partners under the pilot program in efforts of the Department described in subsection (a).

(8) A description of the metrics used by the Secretary in making recommendations under paragraph (7).

(j) AVAILABLE FUNDS.—Funds for the pilot program shall be derived from amounts authorized to be appropriated for the Department of Defense for Defense Health Program and otherwise available for obligation and expenditure.

(k) DEFINITIONS.—In this section, the terms ''family member'' and ''caregiver'', in the case of a member of the National Guard or Reserves, have the meaning given such terms in section 1720G(d) of title 38, United States Code, with respect to a veteran.

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**SA 1205.** Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 634. COMMENCEMENT OF RECEIPT OF NON-REGULAR SERVICE RETIRED PAY BY RETIRED MEMBERS OF THE RESERVES ON ACTIVE FEDERAL STATUS OR ACTIVE DUTY FOR SIGNIFICANT PERIODS.**

(a) ELIGIBILITY FOR NON-REGULAR SERVICE RETIRED PAY.—Section 12731(f)(2) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking ''Ready Reserve'' and inserting ''Reserves''; and

(2) in subparagraph (B)(i), by inserting ''or section 688a'' after ''section 12301(d)''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of January 28, 2008, and as if included in the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) as enacted.

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**SA 1206.** Mrs. BOXER (for herself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mrs. MCCASKILL, Mr. AKAKA, Mr. FRANKEN, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 842 of division A and insert the following:

**SEC. 842. LIMITATION ON DEFENSE CONTRACTOR COMPENSATION.**

Section 2324(e)(1)(P) of title 10, United States Code, is amended to read as follows:

''(P) Costs of compensation of contractor and subcontractor employees for a fiscal year, regardless of the contract funding source, to the extent that such compensation exceeds the annual amount paid to the President of the United States in accordance with section 102 of title 3.''.

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**SA 1207.** Mr. COBURN (for himself, Mr. LEVIN, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1080. COMPTROLLER GENERAL OF THE UNITED STATES REPORTS ON THE MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS OF THE DEPARTMENT OF DEFENSE.**

(a) ASSESSMENT REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than March 30 of each year from 2013 through 2018, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report setting forth an assessment of the performance of the major automated information system programs of the Department of Defense.

(2) ELEMENTS.—Each report under subsection (a) shall include the following:

(A) An assessment by the Comptroller General of the cost, schedule, and performance of a representative variety of major automated information system programs selected by the Comptroller General for purposes of such report.

(B) An assessment by the Comptroller General of the level of risk associated with the programs selected under subparagraph (A) for purposes of such report, and a description of the actions taken by the Department to manage or reduce such risk.

(C) An assessment by the Comptroller General of the extent to which the programs selected under subparagraph (A) for purposes of such report employ best practices for the acquisition of information technology systems, as identified by the Comptroller General, the Defense Science Board, and the Department.

(b) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than September 30, 2012, the Comptroller General shall submit to the appropriate committees of Congress a report setting forth the following:

(A) The metrics to be used by the Comptroller General for the reports submitted under subsection (a).

(B) A preliminary assessment on the matters set forth under subsection (a)(2).

(2) BRIEFINGS.—In developing metrics for purposes of the report required by paragraph (1)(A), the Comptroller General shall provide the appropriate committees of Congress with periodic briefings on the development of such metrics.

(c) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term ''major automated information system program'' has the meaning given that term in section 2445a of title 10, United States Code.

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**SA 1208.** Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

In title III, in the matter under the heading ''ENERGY EFFICIENCY AND RENEWABLE ENERGY'', before the period at the end, insert '': *Provided further*, That, within available funds under this heading, the Secretary of Energy shall use not less than $20,000,000 for the Energy Innovation Hub for Critical Materials, including research focused on rare earths, rare earth substitutes, and related materials, on refining, recycling, minimizing, and alloying rare earths and related materials, and on use of rare earths and related materials in electronics, energy, and information and related technologies and systems''.

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**SA 1209.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

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

(a) REPEAL.—

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

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

(B) In section 1451(c)—

(i) by striking paragraph (2); and

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

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

(A) In section 1450—

(i) by striking subsection (e);

(ii) by striking subsection (k); and

(iii) by striking subsection (m).

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

(C) In section 1452—

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

(ii) by striking subsection (g).

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

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

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

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

(1) in paragraph (1), by striking ''Except as provided in paragraph (2)(B), the Secretary concerned'' and inserting ''The Secretary concerned''; and

(2) in paragraph (2)—

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

(B) by striking subparagraph (B).

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

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

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

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

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**SA 1210.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1024. ASSESSMENT OF STATIONING OF ADDITIONAL DDG–51 CLASS DESTROYERS AT NAVAL STATION MAYPORT, FLORIDA.**

(a) NAVY ASSESSMENT REQUIRED.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of the Navy shall conduct an analysis of the costs and benefits of stationing additional DDG–51 class destroyers at Naval Station Mayport, Florida.

(2) ELEMENTS.—The analysis required by paragraph (1) shall include, at a minimum, the following:

(A) Consideration of the negative effects on the ship repair industrial base at Naval Station Mayport caused by the retirement of FFG–7 class frigates and the procurement delays of the Littoral Combat Ship, including, in particular, the increase in costs (which would be passed on to the taxpayer) of reconstituting the ship repair industrial base at Naval Station Mayport following the projected drastic decrease in workload.

(B) Updated consideration of life extensions of FFG–7 class frigates in light of continued delays in deliveries of the Littoral Combat Ship deliveries.

(C) Consideration of the possibility of bringing additional surface warships to Naval Station Mayport for maintenance with the consequence of spreading the ship repair workload appropriately amongst the various public and private shipyards and ensuring the long-term health of the shipyard in Mayport.

(b) COMPTROLLER GENERAL OF THE UNITED STATES ASSESSMENT.—Not later than 120 days after the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to Congress an assessment by the Comptroller General of the report, including a determination whether or not the report complies with applicable best practices.

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**SA 1211.** Mrs. GILLIBRAND (for herself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 577. SUPPORT FOR NATIONAL GUARD COUNSELING AND REINTEGRATION SERVICES.**

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide assistance to a State National Guard to support programs to provide pre-deployment and post-deployment outreach, reintegration, and readjustment services to the following persons:

(1) Members of reserve components of the Armed Forces who reside in the State or are members of the State National Guard regardless of place of residence and who are ordered to active duty in support of a contingency operation.

(2) Members described in paragraph (1) upon their return from such active duty.

(3) Veterans (as defined in section 101(2) of title 38, United States Code).

(4) Dependents of persons described in paragraph (1), (2), or (3).

(b) ELEMENTS OF PROGRAMS.—Programs supported under subsection (a) shall use direct person-to-person outreach and other relevant activities to ensure that eligible persons receive all the services and support available to them during pre-deployment, deployment, and reintegration periods.

(c) MERIT-BASED OR COMPETITIVE DECISIONS.—A decision to commit, obligate, or expend funds with or to a specific State National Guard under subsection (a) shall—

(1) be based on merit-based selection procedures in accordance with the requirements of sections 2304(k) and 2374 of title 10, United States Code, or on competitive procedures; and

(2) comply with other applicable provisions of law.

(d) STATE DEFINED.—In this section, the term ''State'' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(e) FUNDING.—

(1) FUNDS AVAILABLE.—The amount authorized to be appropriated by section 301 and available for operation and maintenance for the Army National Guard as specified in the funding table in section 4301 is hereby increased by $70,000,000, with the amount of the increase to be available for assistance authorized by this section.

(2) OFFSETS.—(A) The amount authorized to be appropriated by section 301 and available for operation and maintenance for the Army as specified in the funding table in section 4301 is hereby reduced by $33,400,000, with the amount of the reduction to be allocated to amounts otherwise available for the Army for recruiting and advertising.

(B) The amount authorized to be appropriated by section 301 and available for operation and maintenance for the Navy as specified in the funding table in section 4301 is hereby reduced by $16,200,000, with the amount of the reduction to be allocated to amounts otherwise available for the Navy for recruiting and advertising.

(C) The amount authorized to be appropriated by section 301 and available for operation and maintenance for the Marine Corps as specified in the funding table in section 4301 is hereby reduced by $11,700,000, with the amount of the reduction to be allocated to amounts otherwise available for the Marine Corps for recruiting and advertising.

(D) The amount authorized to be appropriated by section 301 and available for operation and maintenance for the Air Force as specified in the funding table in section 4301 is hereby reduced by $8,700,000, with the amount of the reduction to be allocated to amounts otherwise available for the Air Force for recruiting and advertising.

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**SA 1212.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal

year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 515. NATIONAL GUARD STATE PARTNERSHIP PROGRAM.**

(a) STATE PARTNERSHIP PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

**"§ 116. State Partnership Program**

''(a) AVAILABILITY OF APPROPRIATED FUNDS.—(1) Funds appropriated to the Department of Defense, including for the Air and Army National Guard, shall be available for the payment of costs to conduct activities under the State Partnership Program, whether inside the United States or outside the United States, for purposes as follows:

''(A) To support the objectives of the commander of the combatant command for the theater of operations in which such contacts and activities are conducted.

''(B) To support the objectives of the United States chief of mission of the partner nation with which contacts and activities are conducted.

''(C) To build international partnerships and defense and security capacity.

''(D) To strengthen cooperation between the departments and agencies of the United States Government and agencies of foreign governments to support building of defense and security capacity.

''(E) To facilitate intergovernmental collaboration between the United States Government and foreign governments in the areas of defense and security.

''(F) To facilitate and enhance the exchange of information between the United States Government and foreign governments on matters relating to defense and security.

''(2) Costs under paragraph (1) may include costs as follows:

''(A) Costs of pay and allowances of members of the National Guard.

''(B) Travel and necessary expenses of United States personnel outside of the Department of Defense in the State Partnership Program.

''(C) Travel and necessary expenses of foreign participants directly supporting activities under the State Partnership Program.

''(b) LIMITATIONS.—(1) Funds shall not be available under subsection (a) for activities described in that subsection that are conducted in a foreign country unless jointly approved by the commander of the combatant command concerned and the chief of mission concerned.

''(2) Funds shall not be available under subsection (a) for the participation of a member of the National Guard in activities described in that subsection in a foreign country unless the member is on active duty in the armed forces at the time of such participation.

''(3) Funds shall not be available under subsection (a) for interagency activities involving United States civilian personnel or foreign civilian personnel unless the participation of such personnel in such activities—

''(A) contributes to responsible management of defense resources;

''(B) fosters greater respect for and understanding of the principle of civilian control of the military;

''(C) contributes to cooperation between United States military and civilian governmental agencies and foreign military and civilian government agencies; or

''(D) improves international partnerships and capacity on matters relating to defense and security.

''(c) REIMBURSEMENT.—In the event of the participation of United States Government participants (other than personnel of the Department of Defense) in activities for which payment is made under subsection (a), the head of the department or agency concerned shall reimburse the Secretary of Defense for the costs associated with the participation of such personnel in such contacts and activities. Amounts reimbursed the Department of Defense under this subsection shall be deposited in the appropriation or account from which amounts for the payment concerned were derived. Any amounts so deposited shall be merged with amounts in such appropriation or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

''(d) DEFINITIONS.—In this section:

''(1) The term 'State Partnership Program' means a program that establishes a defense and security relationship between the National Guard of a State or territory and the military and security forces, and related disaster management, emergency response, and security ministries, of a foreign country.

''(2) The term 'activities', for purposes of the State Partnership Program, means any military-to-military activities or interagency activities for a purpose set forth in subsection (a)(1).

''(3) The term 'interagency activities' means the following:

''(A) Contacts between members of the National Guard and foreign civilian personnel outside the ministry of defense of the foreign country concerned on matters within the core competencies of the National Guard.

''(B) Contacts between United States civilian personnel and members of the Armed Forces of a foreign country on matters within such core competencies.

''(4) The term 'matter within the core competencies of the National Guard' means matters with respect to the following:

''(A) Disaster response and mitigation.

''(B) Defense support to civil authorities.

''(C) Consequence management and installation protection.

''(D) Response to a chemical, biological, radiological, nuclear, or explosives (CBRNE) event.

''(E) Border and port security and cooperation with civilian law enforcement.

''(F) Search and rescue.

''(G) Medicine.

''(H) Counterdrug and counternarcotics activities.

''(I) Public affairs.

''(J) Employer support and family support for reserve forces.

''(5) The term 'United States civilian personnel' means the following:

''(A) Personnel of the United States Government (including personnel of departments and agencies of the United States Government other than the Department of Defense) and personnel of State and local governments of the United States.

''(B) Members and employees of the legislative branch of the United States Government.

''(C) Non-governmental individuals.

''(6) The term 'foreign civilian personnel' means the following:

''(A) Civilian personnel of a foreign government at any level (including personnel of ministries other than ministries of defense).

''(B) Non-governmental individuals of a foreign country.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by adding at the end the following new item:

''116. State Partnership Program.''.

(b) REPEAL OF SUPERSEDED AUTHORITY.—Section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note) is repealed.

**SA 1213.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. SENSE OF CONGRESS ON THE IMPORTANCE OF COMBATING CERTAIN THREATS AGAINST MILITARY UNITS AND FACILITIES IN THE UNITED STATES.**

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

(1) Improvised Explosive Devices (IEDs) and Vehicle Born Improvised Explosive Devices (VBIEDs) are being increasingly employed by terrorists and other adversaries against our forces around the world.

(2) The IED and VBIED will continue to be a threat even after the current operations in Iraq and Afghanistan are complete.

(3) Terrorist organizations, hybrid threat organizations, and other adversaries plan to use IEDs and VBIEDs against our military units and facilities within the United States.

(4) Such a strategy would degrade our ability to project forces to respond to contingencies around the world.

(5) The Joint Improvised Explosive Defeat Organization (JIEDDO) has proven to be very effective at combating the threat to our military overseas in support of our combatant commanders.

(6) The success of JIEDDO is based on its methodology of defeat the device, attack the enemy networks, and train friendly forces; its broad authority to hasten innovations to the combat units; and its ability to fuse intelligence from across the intelligence community.

(7) JIEDDO's methodology could be leveraged by utilizing its intelligence fusion capability and its training capability against threats within the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense should leverage JIEDDO's capability and authority to combat terrorist organizations targeting the Armed Forces and facilities in the United States; and

(2) the Department of Defense should look at expanding JIEDDO's mandate to allow it to cooperate with agencies responsible for the protection of the United States, including the Department of Homeland Security, U.S. Customs and Border Protection, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and Federal, State, and local law enforcement.

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**SA 1214.** Ms. SNOWE (for herself, Ms. COLLINS, Mrs. MURRAY, Ms. MIKULSKI, and Mr. CARDIN) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 705. INTEGRATED CARE MANAGEMENT OPTIONS UNDER THE UNIFORMED SERVICES FAMILY HEALTH PLAN.**

(a) REPORT ON STRATEGY FOR INTEGRATED CARE MANAGEMENT OPTIONS.—

(1) IN GENERAL.—Not later than June 1, 2012, the Secretary of Defense shall, in conjunction with the Secretary of Health and Human Services and the designated providers under the uniformed services family health plan (USFHP), submit to Congress a report setting forth a strategy for providing integrated care management options for individuals who would otherwise qualify as covered beneficiaries under section 724 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C.1073 note), without regard to the amendments made by section 703 of this Act, utilizing appropriate elements of the uniformed services family health plan, TRICARE for Life, and the Medicare program.

(2) ELEMENTS.—The strategy required by this subsection shall include the following:

(A) Mechanisms for ensuring an adequate population base to sustain the uniformed services family health plan, including the termination of restrictions on enrollment of covered beneficiaries under the age of 65 if considered feasible for that purpose.

(B) Mechanisms (including the utilization of demonstration projects currently authorized by law) to permit covered beneficiaries who are also eligible for the Medicare program to receive integrated and coordinated care through the uniformed services family health plan, including mechanisms—

(i) to secure greater continuity of care for such beneficiaries who also have access to health care benefits through TRICARE for Life;

(ii) to improve coordination and integration of health care management for such beneficiaries who also have access to health care benefits through TRICARE for Life; and

(iii) to utilize innovative care management strategies to improve quality and health outcomes, and reduce unneeded utilization of health care services on a long-term, sustainable basis.

(C) Specific actions for the Department of Defense, and other departments and agencies of the Federal Government, to carry out the strategy.

(D) Specific milestones to evaluate progress in carrying out the actions specified under subparagraph (C), and to determine accountability for meeting such milestones.

(E) An identification of current authorities to be used in carrying out the strategy, and a description of any additional authorities considered advisable to carry out the strategy.

(b) REPORT ON ACTIONS REGARDING INTEGRATED CARE MANAGEMENT OPTIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall, in conjunction with the Secretary of Health and Human Services, submit to the President and Congress a report that describes the activities and efforts of the Department of Defense and the Department of Health and Human Services in developing and evaluating integrated care management options for individuals who would otherwise qualify as covered beneficiaries under section 724 of the National Defense Authorization Act for Fiscal Year 1997, without regard to the amendment made by section 703 of this Act, through the uniformed services family health plan, in conjunction with TRICARE for Life and the Medicare program.

(c) MODIFICATION OF EFFECTIVE DATE OF TRANSITION ENROLLMENT LIMITATIONS.—Notwithstanding the effective date of September 30, 2011, otherwise specified in paragraph (2) of section 724(e) of the National Defense Authorization Act for Fiscal Year 1997, as added by section 703(2) of this Act, the effective date of such paragraph shall be the later of—

(1) the date of the submittal to Congress of the report required by subsection (b) of this section; or

(2) the date that is one year after the date of the enactment of this Act.

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**SA 1215.** Mr. CASEY (for himself, Mr. BARRASSO, Mr. BLUMENTHAL, Mr. BENNET, and Mr. WHITEHOUSE) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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

**SEC. 1230. CERTIFICATION REQUIREMENT REGARDING EFFORTS BY GOVERNMENT OF PAKISTAN TO IMPLEMENT A STRATEGY TO COUNTER IMPROVISED EXPLOSIVE DEVICES.**

(a) CERTIFICATION REQUIREMENT.—

(1) IN GENERAL.—None of the amounts authorized to be appropriated under this Act for the Pakistan Counterinsurgency Fund may be made for the Government of Pakistan until the Secretary of Defense, in consultation with the Secretary of State, certifies to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that the Government of Pakistan is demonstrating a continuing commitment to and is making significant efforts towards the implementation of a strategy to counter improvised explosive devices (IEDs).

(2) SIGNIFICANT IMPLEMENTATION EFFORTS.—For purposes of this subsection, significant implementation efforts include attacking IED networks, monitoring of known precursors used in IEDs, and the development of a strict protocol for the manufacture of explosive materials, including calcium ammonium nitrate, and accessories and their supply to legitimate end users.

(b) WAIVER.—The Secretary of Defense, in consultation with the Secretary of State, may waive the requirements of subsection (a) if the Secretary determines it is in the national security interest of the United States to do so.

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**SA 1216.** Mr. COONS submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1088. TECHNICAL AMENDMENTS RELATING TO THE TERMINATION OF THE ARMED FORCES INSTITUTE OF PATHOLOGY UNDER DEFENSE BASE CLOSURE AND REALIGNMENT.**

Section 177 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking ''which sponsor individual registries of pathology at the Armed Forces Institute of Pathology'' and inserting ''that support the activities of the American Registry of Pathology''; and

(ii) by striking the second sentence; and

(B) in paragraph (3), by striking ''with the concurrence of the Director of the Armed Forces Institute of Pathology'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''enter into contracts with the Armed Forces Institute of Pathology'' and inserting ''enter into contracts with any executive agency that provides medical or pathology services to military personnel or military organizations or that conducts research, education, or consultation in the field of military medicine''; and

(B) in paragraph (4), by inserting ''and Repositories of Pathology'' after ''Registries of Pathology''; and

(3) in subsection (d), by striking ''to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors'' and inserting ''to its Board and supporting organizations''.

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**SA 1217.** Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 634. MODIFICATION OF PER-FISCAL YEAR CALCULATION OF DAYS OF CERTAIN ACTIVE DUTY OR ACTIVE SERVICE TO REDUCE ELIGIBILITY AGE FOR RETIREMENT FOR NON-REGULAR SERVICE.**

(a) ACCUMULATION OF 90-DAY PERIODS OF SERVICE WITHIN ANY TWO CONSECUTIVE FISCAL YEARS.—Section 12731(f)(2)(A) of title 10, United States Code, is amended by striking ''in any fiscal year'' and inserting ''in any two consecutive fiscal years''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of January 28, 2008, and as if included in the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) as enacted.

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**SA 1218.** Mr. TESTER submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 1080. REPORT ON EXTENSION OF AUTHORITY FOR USE OF COMMISSARY AND EXCHANGE STORES TO VETERANS WITH CERTAIN SERVICE-CONNECTED DISABILITIES.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth an assessment of the feasability and advisability of permitting each category of veterans specified in subsection (b) to use the commissary and exchange stores of the Department of Defense on the same basis as veterans with service-

connected disabilities rated as 100 percent disabling. For each category of veterans the report shall set forth the following:

(1) An estimate of the cost of permitting such category of veterans access to commissary and exchange stores.

(2) An estimate of the number of veterans in such category likely to use the commissary and exchange stores if permitted access.

(3) An assessment of the effects on the services and operations of the commissary and exchange stores of the use of such stores by such category of veterans.

(b) CATEGORIES OF VETERANS.—The categories of veterans specified in this subsection are the following:

(1) Veterans with service-connected disabilities rated as 70 percent or more disabling.

(2) Veterans with service-connected disabilities rated as 50 percent or more disabling.

(3) Veterans with service-connected disabilities rated as 30 percent or more disabling.

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

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

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

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**SA 1219.** Mr. LEVIN (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 515. AUTHORITY TO ORDER ARMY RESERVE, NAVY RESERVE, MARINE CORPS RESERVE, AND AIR FORCE RESERVE TO ACTIVE DUTY TO PROVIDE ASSISTANCE IN RESPONSE TO A MAJOR DISASTER OR EMERGENCY.**

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 1209 of title 10, United States Code, as amended by section 511(a)(1), is further amended by inserting after section 12304a the following new section:

**''§ 12304b. Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency**

''(a) AUTHORITY.—When a Governor requests Federal assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of not more than 120 days to respond to the Governor's request.

''(b) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or any other law.

''(c) TERMINATION OF DUTY.—Whenever any unit or member of the reserve components is ordered to active duty under this section, the service of all units or members so ordered to active duty may be terminated by order of the Secretary of Defense or law.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 511(a)(2), is further amended by inserting after the item relating to section 12304a the following new item:

''12304b. Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency.''.

(b) TREATMENT OF OPERATIONS AS CONTINGENCY OPERATIONS.—Section 101(a)(13)(B) of such title is amended by inserting ''12304b,'' after ''12304,''.

(c) USUAL AND CUSTOMARY ARRANGEMENT.—

(1) DUAL-STATUS COMMANDER.—When the Armed Forces and the National Guard are employed simultaneously in support of civil authorities in the United States, appointment of a commissioned officer as a dual-status commander serving on active duty and duty in, or with, the National Guard of a State under sections 315 or 325 of title 32, United States Code, as commander of Federal forces by Federal authorities and as commander of State National Guard forces by State authorities, should be the usual and customary command and control arrangement, including for missions involving a major disaster or emergency as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). The chain of command for the Armed Forces shall remain in accordance with sections 162(b) and 164(c) of title 10, United States Code.

(2) STATE AUTHORITIES SUPPORTED.—When a major disaster or emergency occurs in any area subject to the laws of any State, Territory, or the District of Columbia, the Governor of the State affected normally should be the principal civil authority supported by the primary Federal agency and its supporting Federal entities, and the Adjutant General of the State or his or her subordinate designee normally should be the principal military authority supported by the dual-status commander when acting in his or her State capacity.

(3) RULE OF CONSTRUCTION.—Nothing in paragraphs (1) or (2) shall be construed to preclude or limit, in any way, the authorities of the President, the Secretary of Defense, or the Governor of any State to direct, control, and prescribe command and control arrangements for forces under their command.

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**SA 1220.** Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

**SEC. 848. COMPTROLLER GENERAL OF THE UNITED STATES REPORTS ON DEPARTMENT OF DEFENSE IMPLEMENTATION OF JUSTIFICATION AND APPROVAL REQUIREMENTS FOR CERTAIN SOLE-SOURCE CONTRACTS.**

Not later than 90 days after March 1, 2012, and March 1, 2013, the dates on which the Department of Defense submits to Congress a report on its implementation of section 811 of the Fiscal Year 2010 National Defense Authorization Act, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth an assessment of the extent to which the implementation of such section 811 by the Department ensures that sole-source contracts are awarded in applicable procurements only when those awards have been determined to be in the best interest of the Department.

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**SA 1221.** Mr. LEVIN proposed an amendment to the bill H.R. 2056, to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes; as follows:

On page 2, line 10, insert ''and'' after the semicolon.

On page 2, line 14, strike the semicolon and all that follows through line 19 and insert a period.

On page 4, strike line 14 and all that follows through page 5, line 5, and insert the following:

(2) LOSSES.—The significance of losses, including—

(A) the number of insured depository institutions that have been placed into receivership or conservatorship due to significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans;

(B) the impact of significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, on the ability of insured depository institutions to raise additional capital;

(C) the effect of changes in the application of fair value accounting rules and other accounting standards, including the allowance for loan and lease loss methodology, on insured depository institutions, specifically the degree to which fair value accounting rules and other accounting standards have led to regulatory action against banks, including consent orders and closure of the institution; and

(D) whether field examiners are using appropriate appraisal procedures with respect to losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, and whether the application of appraisals leads to immediate write downs on the value of the underlying asset.

On page 9, strike lines 15 through 19, and insert the following:

**SEC. 2. CONGRESSIONAL TESTIMONY.**

The Inspector General of the Federal Deposit Insurance Corporation and the Comptroller General of the United States shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 150 days after the date of publication of the study required under this Act to discuss the outcomes and impact of Federal regulations on bank examinations and failures.

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**SA 1222.** Mr. LEVIN (for Mrs. FEINSTEIN (for herself and Ms. CANTWELL)) proposed an amendment to the bill H.R. 3321, to facilitate the hosting in the United States of the 34th America's Cup by authorizing certain eligible vessels to participate in activities related to the competition, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''America's Cup Act of 2011''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) 34TH AMERICA'S CUP.—The term ''34th America's Cup''—

(A) means the sailing competitions, commencing in 2011, to be held in the United States in response to the challenge to the defending team from the United States, in accordance with the terms of the America's Cup governing Deed of Gift, dated October 24, 1887; and

(B) if a United States yacht club successfully defends the America's Cup, includes additional sailing competitions conducted by America's Cup Race Management during the 1-year period beginning on the last date of such defense.

(2) AMERICA'S CUP RACE MANAGEMENT.—The term ''America's Cup Race Management'' means the entity established to provide for independent, professional, and neutral race management of the America's Cup sailing competitions.

(3) ELIGIBILITY CERTIFICATION.—The term ''Eligibility Certification'' means a certification issued under section 4.

(4) ELIGIBLE VESSEL.—The term ''eligible vessel'' means a competing vessel or supporting vessel of any registry that—

(A) is recognized by America's Cup Race Management as an official competing vessel, or supporting vessel of, the 34th America's Cup, as evidenced in writing to the Administrator of the Maritime Administration of the Department of Transportation;

(B) transports not more than 25 individuals, in addition to the crew;

(C) is not a ferry (as defined under section 2101(10b) of title 46, United States Code);

(D) does not transport individuals in point-to-point service for hire; and

(E) does not transport merchandise between ports in the United States.

(5) SUPPORTING VESSEL.—The term ''supporting vessel'' means a vessel that is operating in support of the 34th America's Cup by—

(A) positioning a competing vessel on the race course;

(B) transporting equipment and supplies utilized for the staging, operations, or broadcast of the competition; or

(C) transporting individuals who—

(i) have not purchased tickets or directly paid for their passage; and

(ii) who are engaged in the staging, operations, or broadcast of the competition, race team personnel, members of the media, or event sponsors.

**SEC. 3. AUTHORIZATION OF ELIGIBLE VESSELS.**

Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an eligible vessel, operating only in preparation for, or in connection with, the 34th America's Cup competition, may position competing vessels and may transport individuals and equipment and supplies utilized for the staging, operations, or broadcast of the competition from and around the ports in the United States.

**SEC. 4. CERTIFICATION.**

(a) REQUIREMENT.—A vessel may not operate under section 3 unless the vessel has received an Eligibility Certification.

(b) ISSUANCE.—The Administrator of the Maritime Administration of the Department of Transportation is authorized to issue an Eligibility Certification with respect to any vessel that the Administrator determines, in his or her sole discretion, meets the requirements set forth in section 2(4).

**SEC. 5. ENFORCEMENT.**

Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an Eligibility Certification shall be conclusive evidence to the Secretary of the Department of Homeland Security of the qualification of the vessel for which it has been issued to participate in the 34th America's Cup as a competing vessel or a supporting vessel.

**SEC. 6. PENALTY.**

Any vessel participating in the 34th America's Cup as a competing vessel or supporting vessel that has not received an Eligibility Certification or is not in compliance with section 12112 of title 46, United States Code, shall be subject to the applicable penalties provided in chapters 121 and 551 of title 46, United States Code.

**SEC. 7. WAIVERS.**

(a) IN GENERAL.—Notwithstanding sections 12112 and 12132 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(1) M/V GEYSIR (United States official number 622178).

(2) OCEAN VERITAS (IMO number 7366805).

(3) LUNA (United States official number 280133).

(b) DOCUMENTATION OF LNG TANKERS.—

(1) IN GENERAL.—Notwithstanding sections 12112 and 12132 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(A) LNG GEMINI (United States official number 595752).

(B) LNG LEO (United States official number 595753).

(C) LNG VIRGO (United States official number 595755).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under paragraph (1) shall be limited to carriage of natural gas, as that term is defined in section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)).

(3) TERMINATION OF EFFECTIVENESS OF ENDORSEMENTS.—The coastwise endorsement issued under paragraph (1) for a vessel shall expire on the date of the sale of the vessel by the owner of the vessel on the date of enactment of this Act to a person who is not related by ownership or control to such owner.

(c) OPERATION OF A DRY DOCK.—A vessel transported in Dry Dock #2 (State of Alaska registration AIDEA FDD–2) is not merchandise for purposes of section 55102 of title 46, United States Code, if, during such transportation, Dry Dock #2 remains connected by a utility or other connecting line to pierside moorage.

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**SA 1223.** Mr. LEVIN (for Mr. BINGAMAN (for himself and Ms. MURKOWSKI)) proposed an amendment to the bill S. 99, to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes; as follows:

On page 15, line 14, strike ''establish'' and insert ''carry out''.

On page 17, strike lines 15 through 19.

On page 17, line 21, strike ''establish'' and insert ''carry out''.

On page 21, strike lines 12 through 16.

On page 29, after line 23, add the following:

**SEC. 9. REPEAL.**

The Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9701 et seq.) is repealed.

On page 30, line 1, strike ''9'' and insert ''10''.

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**SA 1224.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 702.

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**SA 1225.** Ms. KLOBUCHAR (for herself, Mrs. FEINSTEIN, Mr. JOHNSON of South Dakota, and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, after line 25, add the following:

(e) RENTENTION OF DOCUMENTARY EVIDENCE.—The policy developed under subsection (a) shall provide for the retention of all documentary evidence relating to sexual assaults for the same length of time investigative records relating to sexual assaults are required to be retained.

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**SA 1226.** Ms. KLOBUCHAR (for herself, Mr. THUNE, Mr. JOHNSON of South Dakota, Mr. FRANKEN, Mr. HARKIN, and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, between lines 15 and 16, insert the following:

SEC. 2 ____. None of the funds appropriated or otherwise made available by this Act for ongoing construction work on rural water regional programs of the Bureau of Reclamation that is in addition to the amount requested in the annual budget submission of the President (including funds for related settlements) shall be used by the Secretary of the Interior to carry out any rural water supply project authorized as of the date of enactment of this Act unless the Secretary of the Interior, not later than 30 days after the date of enactment of this Act, issues a work plan prioritizing funding of rural water supply projects carried out by the Bureau of Reclamation based on the following criteria to better utilize taxpayer dollars:

(1) The percentage of the rural water supply project to be carried out that is complete (as of the date of enactment of this Act) or will be completed by September 30, 2012.

(2) The number of people served or expected to be served by the rural water supply project.

(3) The amount of non-Federal funds previously provided or certified as available for the cost of the rural water supply project.

(4) The extent to which the rural water supply project benefits tribal components.

(5) The extent to which there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs of the population served by the rural water supply project.

## NOTICES OF INTENT TO OBJECT TO PROCEEDING

I, Senator CHARLES GRASSLEY, intend to object to proceeding to H.R. 2076 and S. 1793, a bill to amend title 28, United States Code, to clarify the statutory authority for the longstanding practice of the Department of Justice of providing investigatory assistance on request of State and local authorities with respect to certain serious violent crimes, and for other purposes, dated November 17, 2011.

I, Senator RON WYDEN, intend to object to proceeding to S. 968, a bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes, dated November 17, 2011.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on November 17, 2011, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 17, 2011, at 10 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources by authorized to meet during the session of the Senate on November 17, 2011, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND SUBCOMMITTEE ON SUPERFUND, TOXICS, AND ENVIRONMENTAL HEALTH

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Subcommittee on Superfund, Toxics, and Environmental Health be authorized to meet during the session of the Senate on November 17, 2011, at 10 a.m. in Dirksen 406 to conduct a joint hearing entitled, ''Safe Chemicals Act.''

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 17, 2011, at 10 a.m., in 215 Dirksen Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''The Americans with Disabilities Act and Accessible Transportation Challenges and Opportunities'' on November 17, 2011, at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LEVIN. I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on November 17, 2011, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent tha the Committee on the Judiciary be authorized to meet during the session of the Senate, on November 17, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 17, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON COMPETITIVENESS, INNOVATION, AND EXPORT PROMOTION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Competitiveness, Innovation, and Export Promotion of the Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 17, 2011, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''Tourism in America: Moving our Economy Forward.''

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on November 17, 2011, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''NASA's Human Space Exploration: Direction, Strategy, and Progress.''

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

## PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that CPT Michael Lynch, a U.S. Army aviation officer who is currently serving as a defense fellow in Senator REID's office, be granted floor privileges for the duration of the National Defense Authorization Act for 2012.

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

Mr. MCCAIN. Mr. President, I ask unanimous consent that my legislative fellow, Navy LCDR Joe Ruzicka, be granted floor privileges for the duration of debate on the 2012 National Defense Authorization Act.

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

Mr. CARDIN. Mr. President, I ask unanimous consent that floor privileges be granted to LT Shane Knisley, a Navy fellow serving in my office, during the pendency of S. 1867, the Fiscal Year 2012 National Defense Authorization Act.

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

Mr. WICKER. Mr. President, I ask unanimous consent that LCDR Ted Essenfeld, a very capable Navy fellow in my office, be granted floor privileges during consideration of the Defense authorization bill.

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Shannon Gorrell, a Defense fellow in my office, be granted the privileges of the floor for the duration of the debate on this bill.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that my defense fellow, MAJ Kevin Hadley, be given floor privileges during the consideration of this bill.

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

## JUDICIAL CONFERENCE AUTHORITY

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 232, H.R. 1059.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 1059) to protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which

had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment, as follows:

(Omit the part in boldface brackets and insert the part printed in italic.)

H.R. 1059

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF REDACTION AUTHORITY CONCERNING SENSITIVE SECURITY INFORMATION.**

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

**[**(1) in subparagraph (A), by striking ''Marshall'' and inserting ''Marshals''; and

**[**(2) by striking subparagraph (E).**]**

*(1) in subparagraph (A), by striking ''Marshall'' and inserting ''Marshals'';*

*(2) in subparagraph (C), by inserting ''and the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform'' after ''Senate''; and*

*(3) in subparagraph (E), by striking ''2011'' both places it appears and inserting ''2017''.*

Mr. LEVIN. Mr. President, I ask unanimous consent the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The committee amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 1059), as amended, was read the third time and passed.

## INSURED DEPOSITORY INSTITUTION FAILURES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Banking Committee be discharged and the Senate proceed to the immediate consideration of H.R. 2056.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2056) to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. I ask unanimous consent the Levin amendment at the desk be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The amendment (No. 1221) was agreed to, as follows:

AMENDMENT NO. 1221

(Purpose: To clarify the types of losses to be studied, to require appearances before Congress, and for other purposes)

On page 2, line 10, insert ''and'' after the semicolon.

On page 2, line 14, strike the semicolon and all that follows through line 19 and insert a period.

On page 4, strike line 14 and all that follows through page 5, line 5, and insert the following:

(2) LOSSES.—The significance of losses, including—

(A) the number of insured depository institutions that have been placed into receivership or conservatorship due to significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans;

(B) the impact of significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, on the ability of insured depository institutions to raise additional capital;

(C) the effect of changes in the application of fair value accounting rules and other accounting standards, including the allowance for loan and lease loss methodology, on insured depository institutions, specifically the degree to which fair value accounting rules and other accounting standards have led to regulatory action against banks, including consent orders and closure of the institution; and

(D) whether field examiners are using appropriate appraisal procedures with respect to losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, and whether the application of appraisals leads to immediate write downs on the value of the underlying asset.

On page 9, strike lines 15 through 19, and insert the following:

**SEC. 2. CONGRESSIONAL TESTIMONY.**

The Inspector General of the Federal Deposit Insurance Corporation and the Comptroller General of the United States shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 150 days after the date of publication of the study required under this Act to discuss the outcomes and impact of Federal regulations on bank examinations and failures.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2056), as amended, was read the third time and passed, as follows:

*Resolved,* That the bill from the House of Representatives (H.R. 2056) entitled ''An Act to instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.'', do pass with the following amendments:

**(1)**On page 2, line 10, insert ''and'' after the semicolon.

**(2)**On page 2, line 14, strike the semicolon and all that follows through line 19 and insert a period.

**(3)**On page 4, strike line 14 and all that follows through page 5, line 5, and insert the following:

*(2) LOSSES.—The significance of losses, including—*

*(A) the number of insured depository institutions that have been placed into receivership or conservatorship due to significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans;*

*(B) the impact of significant losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, on the ability of insured depository institutions to raise additional capital;*

*(C) the effect of changes in the application of fair value accounting rules and other accounting standards, including the allowance for loan and lease loss methodology, on insured depository institutions, specifically the degree to which fair value accounting rules and other accounting standards have led to regulatory action against banks, including consent orders and closure of the institution; and*

*(D) whether field examiners are using appropriate appraisal procedures with respect to losses arising from loans for which all payments of principal, interest, and fees were current, according to the contractual terms of the loans, and whether the application of appraisals leads to immediate write downs on the value of the underlying asset.*

**(4)**On page 9, strike lines 15 through 19, and insert the following:

***SEC. 2. CONGRESSIONAL TESTIMONY.***

*The Inspector General of the Federal Deposit Insurance Corporation and the Comptroller General of the United States shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 150 days after the date of publication of the study required under this Act to discuss the outcomes and impact of Federal regulations on bank examinations and failures.*

## AMERICA'S CUP ACT OF 2011

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 221, H.R. 3321.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 3321) to facilitate the hosting in the United States of the 34th America's Cup by authorizing certain eligible vessels to participate in activities related to the competition, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent a Feinstein substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate and any statements be printed in the RECORD.

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

The amendment (No. 1222), in the nature of a substitute, was agreed to, as follows:

AMENDMENT NO. 1222

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''America's Cup Act of 2011''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) 34TH AMERICA'S CUP.—The term ''34th America's Cup''—

(A) means the sailing competitions, commencing in 2011, to be held in the United States in response to the challenge to the defending team from the United States, in accordance with the terms of the America's Cup governing Deed of Gift, dated October 24, 1887; and

(B) if a United States yacht club successfully defends the America's Cup, includes additional sailing competitions conducted by

America's Cup Race Management during the 1-year period beginning on the last date of such defense.

(2) AMERICA'S CUP RACE MANAGEMENT.—The term ''America's Cup Race Management'' means the entity established to provide for independent, professional, and neutral race management of the America's Cup sailing competitions.

(3) ELIGIBILITY CERTIFICATION.—The term ''Eligibility Certification'' means a certification issued under section 4.

(4) ELIGIBLE VESSEL.—The term ''eligible vessel'' means a competing vessel or supporting vessel of any registry that—

(A) is recognized by America's Cup Race Management as an official competing vessel, or supporting vessel of, the 34th America's Cup, as evidenced in writing to the Administrator of the Maritime Administration of the Department of Transportation;

(B) transports not more than 25 individuals, in addition to the crew;

(C) is not a ferry (as defined under section 2101(10b) of title 46, United States Code);

(D) does not transport individuals in point-to-point service for hire; and

(E) does not transport merchandise between ports in the United States.

(5) SUPPORTING VESSEL.—The term ''supporting vessel'' means a vessel that is operating in support of the 34th America's Cup by—

(A) positioning a competing vessel on the race course;

(B) transporting equipment and supplies utilized for the staging, operations, or broadcast of the competition; or

(C) transporting individuals who—

(i) have not purchased tickets or directly paid for their passage; and

(ii) who are engaged in the staging, operations, or broadcast of the competition, race team personnel, members of the media, or event sponsors.

**SEC. 3. AUTHORIZATION OF ELIGIBLE VESSELS.**

Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an eligible vessel, operating only in preparation for, or in connection with, the 34th America's Cup competition, may position competing vessels and may transport individuals and equipment and supplies utilized for the staging, operations, or broadcast of the competition from and around the ports in the United States.

**SEC. 4. CERTIFICATION.**

(a) REQUIREMENT.—A vessel may not operate under section 3 unless the vessel has received an Eligibility Certification.

(b) ISSUANCE.—The Administrator of the Maritime Administration of the Department of Transportation is authorized to issue an Eligibility Certification with respect to any vessel that the Administrator determines, in his or her sole discretion, meets the requirements set forth in section 2(4).

**SEC. 5. ENFORCEMENT.**

Notwithstanding sections 55102, 55103, and 55111 of title 46, United States Code, an Eligibility Certification shall be conclusive evidence to the Secretary of the Department of Homeland Security of the qualification of the vessel for which it has been issued to participate in the 34th America's Cup as a competing vessel or a supporting vessel.

**SEC. 6. PENALTY.**

Any vessel participating in the 34th America's Cup as a competing vessel or supporting vessel that has not received an Eligibility Certification or is not in compliance with section 12112 of title 46, United States Code, shall be subject to the applicable penalties provided in chapters 121 and 551 of title 46, United States Code.

**SEC. 7. WAIVERS.**

(a) IN GENERAL.—Notwithstanding sections 12112 and 12132 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(1) M/V GEYSIR (United States official number 622178).

(2) OCEAN VERITAS (IMO number 7366805).

(3) LUNA (United States official number 280133).

(b) DOCUMENTATION OF LNG TANKERS.—

(1) IN GENERAL.—Notwithstanding sections 12112 and 12132 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(A) LNG GEMINI (United States official number 595752).

(B) LNG LEO (United States official number 595753).

(C) LNG VIRGO (United States official number 595755).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under paragraph (1) shall be limited to carriage of natural gas, as that term is defined in section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)).

(3) TERMINATION OF EFFECTIVENESS OF ENDORSEMENTS.—The coastwise endorsement issued under paragraph (1) for a vessel shall expire on the date of the sale of the vessel by the owner of the vessel on the date of enactment of this Act to a person who is not related by ownership or control to such owner.

(c) OPERATION OF A DRY DOCK.—A vessel transported in Dry Dock #2 (State of Alaska registration AIDEA FDD–2) is not merchandise for purposes of section 55102 of title 46, United States Code, if, during such transportation, Dry Dock #2 remains connected by a utility or other connecting line to pierside moorage.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 3321), as amended, was read the third time and passed.

## AMERICAN MEDICAL ISOTOPES PRODUCTION ACT OF 2011

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 53, S. 99.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 99) to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes.

There being no objection, the Senate proceeded to consider the bill,

which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''American Medical Isotopes Production Act of 2011''.*

***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.*

*(2) HIGHLY ENRICHED URANIUM.—The term ''highly enriched uranium'' means uranium enriched to 20 percent or greater in the isotope U–235.*

*(3) LOW ENRICHED URANIUM.—The term ''low enriched uranium'' means uranium enriched to less than 20 percent in the isotope U–235.*

*(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.*

***SEC. 3. IMPROVING THE RELIABILITY OF DOMESTIC MEDICAL ISOTOPE SUPPLY.***

*(a) MEDICAL ISOTOPE DEVELOPMENT PROJECTS.—*

*(1) IN GENERAL.—The Secretary shall establish a technology-neutral program—*

*(A) to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses;*

*(B) to be carried out in cooperation with non-Federal entities; and*

*(C) the costs of which shall be shared in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).*

*(2) CRITERIA.—Projects shall be judged against the following primary criteria:*

*(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.*

*(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.*

*(C) The cost of the proposed project.*

*(3) EXEMPTION.—An existing reactor in the United States fueled with highly enriched uranium shall not be disqualified from the program if the Secretary determines that—*

*(A) there is no alternative nuclear reactor fuel, enriched in the isotope U–235 to less than 20 percent, that can be used in that reactor;*

*(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor fuel, enriched in the isotope U–235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and*

*(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U–235 to less than 20 percent, and an anticipated schedule for completion of conversion.*

*(4) PUBLIC PARTICIPATION AND REVIEW.—The Secretary shall—*

*(A) develop a program plan and annually update the program plan through public workshops; and*

*(B) use the Nuclear Science Advisory Committee to conduct annual reviews of the progress made in achieving the program goals.*

*(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out the program under paragraph (1) $143,000,000 for the period encompassing fiscal years 2011 through 2014.*

*(b) DEVELOPMENT ASSISTANCE.—The Secretary shall establish a program to provide assistance for—*

*(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and*

*(2) commercial operations using the fuels, targets, and processes described in paragraph (1).*

*(c) URANIUM LEASE AND TAKE-BACK.—*

*(1) IN GENERAL.—The Secretary shall establish a program to make low-enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses.*

*(2) TITLE.—The lease contracts shall provide for the producers of the molybdenum-99 to take title to and be responsible for the molybdenum-99 created by the irradiation, processing, or purification of uranium leased under this section.*

*(3) DUTIES.—*

*(A) SECRETARY.—The lease contracts shall require the Secretary—*

*(i) to retain responsibility for the final disposition of spent nuclear fuel created by the irradiation, processing, or purification of uranium*

leased under this section for the production of medical isotopes; and

(ii) to take title to and be responsible for the final disposition of radioactive waste created by the irradiation, processing, or purification of uranium leased under this section for which the Secretary determines the producer does not have access to a disposal path.

(B) PRODUCER.—The producer of the spent nuclear fuel and radioactive waste shall accurately characterize, appropriately package, and transport the spent nuclear fuel and radioactive waste prior to acceptance by the Department.

(4) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the lease contracts shall provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for—

(i) the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); and

(ii) other costs associated with carrying out the uranium lease and take-back program authorized by this subsection.

(B) DISCOUNT RATE.—The discount rate used to determine the net present value of costs described in subparagraph (A)(ii) shall be not greater than the average interest rate on marketable Treasury securities.

(5) AUTHORIZED USE OF FUNDS.—The Secretary may obligate and expend funds received under leases entered into under this subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this Act, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

(6) EXCHANGE OF URANIUM FOR SERVICES.—The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for—

(A) services related to the final disposition of the spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); or

(B) any other services associated with carrying out the uranium lease and take-back program authorized by this subsection.

(d) COORDINATION OF ENVIRONMENTAL REVIEWS.—The Department and the Nuclear Regulatory Commission shall ensure to the maximum extent practicable that environmental reviews for the production of the medical isotopes shall complement and not duplicate each review.

(e) OPERATIONAL DATE.—The Secretary shall establish a program as described in subsection (c)(3) not later than 3 years after the date of enactment of this Act.

(f) RADIOACTIVE WASTE.—Notwithstanding section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there is no further use shall be considered low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for the establishment of a program for the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under subsection (c).

**SEC. 4. EXPORTS.**

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended by striking subsection c. and inserting the following:

''c. Effective 7 years after the date of enactment of the American Medical Isotopes Production Act of 2011, the Commission may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.

''d. The period referred to in subsection b. may be extended for no more than 6 years if, no earlier than 6 years after the date of enactment of the American Medical Isotopes Production Act of 2011, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

''(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

''(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

''e. To ensure public review and comment, the development of the certification described in subsection c. shall be carried out through announcement in the Federal Register.

''f. At any time after the restriction of export licenses provided for in subsection b. becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

''(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

''(2) the Congress enacts a Joint Resolution approving the temporary suspension of the restriction of export licenses.

''g. As used in this section—

''(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

''(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235;

''(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

''(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.''.

**SEC. 5. REPORT ON DISPOSITION OF EXPORTS.**

Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium used as fuel or targets in a nuclear research or test reactor, including—

(1) their location;

(2) whether they are irradiated;

(3) whether they have been used for the purpose stated in their export license;

(4) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission;

(5) the year of export, and reimportation, if applicable;

(6) their current physical and chemical forms; and

(7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

**SEC. 6. DOMESTIC MEDICAL ISOTOPE PRODUCTION.**

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following:

''SEC. 112. DOMESTIC MEDICAL ISOTOPE PRODUCTION.—a. The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this Act—

''(1) the Commission determines that—

''(A) there is no alternative medical isotope production target, enriched in the isotope U–235 to less than 20 percent, that can be used in that reactor; and

''(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

''(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

''b. As used in this section—

''(1) the term 'alternative medical isotope production target' means a nuclear reactor target which is enriched to less than 20 percent of the isotope U–235;

''(2) a target 'can be used' in a nuclear research or test reactor if—

''(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

''(3) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.''.

(b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item at the end of the items relating to chapter 10 of title I:

''Sec. 112. Domestic medical isotope production.''.

**SEC. 7. ANNUAL DEPARTMENT REPORTS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for 5 years, the Secretary shall report to Congress on Department actions to support the production in the United States, without the use of highly enriched uranium, of molybdenum-99 for medical uses.

(b) CONTENTS.—The reports shall include the following:

(1) For medical isotope development projects—

(A) the names of any recipients of Department support under section 3;

(B) the amount of Department funding committed to each project;

(C) the milestones expected to be reached for each project during the year for which support is provided;

(D) how each project is expected to support the increased production of molybdenum-99 for medical uses;

(E) the findings of the evaluation of projects under section 3(a)(2); and

(F) the ultimate use of any Department funds used to support projects under section 3.

(2) A description of actions taken in the previous year by the Secretary to ensure the safe disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under section 3(c).

***SEC. 8. NATIONAL ACADEMY OF SCIENCES REPORT.***

*(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to Congress not later than 5 years after the date of enactment of this Act.*

*(b) CONTENTS.—The report shall include the following:*

*(1) For molybdenum-99 production—*

*(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;*

*(B) a review of international production of molybdenum-99 over the previous 5 years, including—*

*(i) whether any new production was brought online;*

*(ii) whether any facilities halted production unexpectedly; and*

*(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and*

*(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes that have been produced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.*

*(2) An assessment of the progress made by the Department and others to eliminate all worldwide use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities.*

***SEC. 9. BUDGETARY EFFECTS.***

*The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.*

Mr. LEVIN. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be considered, the Bingaman amendment, which is at the desk, be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the budgetary pay-go statement at the desk be read.

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

The amendment (No. 1223) was agreed to, as follows:

On page 15, line 14, strike ''establish'' and insert ''carry out''.

On page 17, strike lines 15 through 19.

On page 17, line 21, strike ''establish'' and insert ''carry out''.

On page 21, strike lines 12 through 16.

On page 29, after line 23, add the following:

**SEC. 9. REPEAL.**

The Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9701 et seq.) is repealed.

On page 30, line 1, strike ''9'' and insert ''10''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will read the pay-go statement.

The bill clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for S. 99 as amended.

Total Budgetary Effects of S. 99 for the 5-year Statutory PAYGO Scorecard: $0.

Total Budgetary Effects of S. 99 for the 10-year Statutory PAYGO Scorecard: $0.

Also submitted for the Record as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR S. 99, THE AMERICAN MEDICAL ISOTOPES PROTECTION ACT OF 2011, AS REPORTED BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON MAY 18, 2011, AND WITH A SUBSEQUENT AMENDMENT PROVIDED TO CBO ON NOVEMBER 17, 2011

| | By fiscal year, in millions of dollars— | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2012–2016 | 2012–2021 |
| Net Increase or Decrease (−) in the Deficit | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Impact | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

S. 99 would direct the Secretary of Energy to lease low-enriched uranium to producers of molybdenum–99. CBO estimates that enacting S. 99 would affect receipts generated from such resources, but that any net changes to such receipts would be negligible in any given year.

Source: Congressional Budget Office.

Mr. LEVIN. Mr. President, I ask unanimous consent that the bill, as amended, be passed, the motions to reconsider be laid upon the table with no intervening action or debate, and that any related statements be printed in the RECORD.

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

The bill (S. 99), as amended, was passed, as follows:

S. 99

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''American Medical Isotopes Production Act of 2011''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) HIGHLY ENRICHED URANIUM.—The term ''highly enriched uranium'' means uranium enriched to 20 percent or greater in the isotope U–235.

(3) LOW ENRICHED URANIUM.—The term ''low enriched uranium'' means uranium enriched to less than 20 percent in the isotope U–235.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

**SEC. 3. IMPROVING THE RELIABILITY OF DOMESTIC MEDICAL ISOTOPE SUPPLY.**

(a) MEDICAL ISOTOPE DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out a technology-neutral program—

(A) to evaluate and support projects for the production in the United States, without the use of highly enriched uranium, of significant quantities of molybdenum-99 for medical uses;

(B) to be carried out in cooperation with non-Federal entities; and

(C) the costs of which shall be shared in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(2) CRITERIA.—Projects shall be judged against the following primary criteria:

(A) The length of time necessary for the proposed project to begin production of molybdenum-99 for medical uses within the United States.

(B) The capability of the proposed project to produce a significant percentage of United States demand for molybdenum-99 for medical uses.

(C) The cost of the proposed project.

(3) EXEMPTION.—An existing reactor in the United States fueled with highly enriched uranium shall not be disqualified from the program if the Secretary determines that—

(A) there is no alternative nuclear reactor fuel, enriched in the isotope U–235 to less than 20 percent, that can be used in that reactor;

(B) the reactor operator has provided assurances that, whenever an alternative nuclear reactor fuel, enriched in the isotope U–235 to less than 20 percent, can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(C) the reactor operator has provided a current report on the status of its efforts to convert the reactor to an alternative nuclear reactor fuel enriched in the isotope U–235 to less than 20 percent, and an anticipated schedule for completion of conversion.

(4) PUBLIC PARTICIPATION AND REVIEW.—The Secretary shall—

(A) develop a program plan and annually update the program plan through public workshops; and

(B) use the Nuclear Science Advisory Committee to conduct annual reviews of the progress made in achieving the program goals.

(b) DEVELOPMENT ASSISTANCE.—The Secretary shall carry out a program to provide assistance for—

(1) the development of fuels, targets, and processes for domestic molybdenum-99 production that do not use highly enriched uranium; and

(2) commercial operations using the fuels, targets, and processes described in paragraph (1).

(c) URANIUM LEASE AND TAKE-BACK.—

(1) IN GENERAL.—The Secretary shall establish a program to make low-enriched uranium available, through lease contracts, for irradiation for the production of molybdenum-99 for medical uses.

(2) TITLE.—The lease contracts shall provide for the producers of the molybdenum-99 to take title to and be responsible for the molybdenum-99 created by the irradiation, processing, or purification of uranium leased under this section.

(3) DUTIES.—

(A) SECRETARY.—The lease contracts shall require the Secretary—

(i) to retain responsibility for the final disposition of spent nuclear fuel created by the irradiation, processing, or purification of uranium leased under this section for the production of medical isotopes; and

(ii) to take title to and be responsible for the final disposition of radioactive waste

created by the irradiation, processing, or purification of uranium leased under this section for which the Secretary determines the producer does not have access to a disposal path.

(B) PRODUCER.—The producer of the spent nuclear fuel and radioactive waste shall accurately characterize, appropriately package, and transport the spent nuclear fuel and radioactive waste prior to acceptance by the Department.

(4) COMPENSATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the lease contracts shall provide for compensation in cash amounts equivalent to prevailing market rates for the sale of comparable uranium products and for compensation in cash amounts equivalent to the net present value of the cost to the Federal Government for—

(i) the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); and

(ii) other costs associated with carrying out the uranium lease and take-back program authorized by this subsection.

(B) DISCOUNT RATE.—The discount rate used to determine the net present value of costs described in subparagraph (A)(ii) shall be not greater than the average interest rate on marketable Treasury securities.

(5) AUTHORIZED USE OF FUNDS.—The Secretary may obligate and expend funds received under leases entered into under this subsection, which shall remain available until expended, for the purpose of carrying out the activities authorized by this Act, including activities related to the final disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3).

(6) EXCHANGE OF URANIUM FOR SERVICES.—The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for—

(A) services related to the final disposition of the spent nuclear fuel and radioactive waste for which the Department is responsible under paragraph (3); or

(B) any other services associated with carrying out the uranium lease and take-back program authorized by this subsection.

(d) COORDINATION OF ENVIRONMENTAL REVIEWS.—The Department and the Nuclear Regulatory Commission shall ensure to the maximum extent practicable that environmental reviews for the production of the medical isotopes shall complement and not duplicate each review.

(e) OPERATIONAL DATE.—The Secretary shall establish a program as described in subsection (c)(3) not later than 3 years after the date of enactment of this Act.

(f) RADIOACTIVE WASTE.—Notwithstanding section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there is no further use shall be considered low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

**SEC. 4. EXPORTS.**

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended by striking subsection c. and inserting the following:

''c. Effective 7 years after the date of enactment of the American Medical Isotopes Production Act of 2011, the Commission may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.

''d. The period referred to in subsection b. may be extended for no more than 6 years if, no earlier than 6 years after the date of enactment of the American Medical Isotopes Production Act of 2011, the Secretary of Energy certifies to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

''(1) there is insufficient global supply of molybdenum-99 produced without the use of highly enriched uranium available to satisfy the domestic United States market; and

''(2) the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the most effective temporary means to increase the supply of molybdenum-99 to the domestic United States market.

''e. To ensure public review and comment, the development of the certification described in subsection c. shall be carried out through announcement in the Federal Register.

''f. At any time after the restriction of export licenses provided for in subsection b. becomes effective, if there is a critical shortage in the supply of molybdenum-99 available to satisfy the domestic United States medical isotope needs, the restriction of export licenses may be suspended for a period of no more than 12 months, if—

''(1) the Secretary of Energy certifies to the Congress that the export of United States-origin highly enriched uranium for the purposes of medical isotope production is the only effective temporary means to increase the supply of molybdenum-99 necessary to meet United States medical isotope needs during that period; and

''(2) the Congress enacts a Joint Resolution approving the temporary suspension of the restriction of export licenses.

''g. As used in this section—

''(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

''(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235;

''(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

''(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.''.

**SEC. 5. REPORT ON DISPOSITION OF EXPORTS.**

Not later than 1 year after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium used as fuel or targets in a nuclear research or test reactor, including—

(1) their location;

(2) whether they are irradiated;

(3) whether they have been used for the purpose stated in their export license;

(4) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission;

(5) the year of export, and reimportation, if applicable;

(6) their current physical and chemical forms; and

(7) whether they are being stored in a manner which adequately protects against theft and unauthorized access.

**SEC. 6. DOMESTIC MEDICAL ISOTOPE PRODUCTION.**

(a) IN GENERAL.—Chapter 10 of the Atomic Energy Act of 1954 (42 U.S.C. 2131 et seq.) is amended by adding at the end the following:

''SEC. 112. DOMESTIC MEDICAL ISOTOPE PRODUCTION.—

''a. The Commission may issue a license, or grant an amendment to an existing license, for the use in the United States of highly enriched uranium as a target for medical isotope production in a nuclear reactor, only if, in addition to any other requirement of this Act—

''(1) the Commission determines that—

''(A) there is no alternative medical isotope production target, enriched in the isotope U–235 to less than 20 percent, that can be used in that reactor; and

''(B) the proposed recipient of the medical isotope production target has provided assurances that, whenever an alternative medical isotope production target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

''(2) the Secretary of Energy has certified that the United States Government is actively supporting the development of an alternative medical isotope production target that can be used in that reactor.

''b. As used in this section—

''(1) the term 'alternative medical isotope production target' means a nuclear reactor target which is enriched to less than 20 percent of the isotope U–235;

''(2) a target 'can be used' in a nuclear research or test reactor if—

''(A) the target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

''(B) use of the target will permit the large majority of ongoing and planned experiments and medical isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor;

''(3) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

''(4) the term 'medical isotope' includes molybdenum-99, iodine-131, xenon-133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic or therapeutic procedures or for research and development.''.

(b) TABLE OF CONTENTS.—The table of contents for the Atomic Energy Act of 1954 is amended by inserting the following new item at the end of the items relating to chapter 10 of title I:

''Sec. 112. Domestic medical isotope production.''.

**SEC. 7. ANNUAL DEPARTMENT REPORTS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for 5 years, the Secretary shall report to Congress on Department actions to support the production in the United States, without the use of highly enriched uranium, of molybdenum-99 for medical uses.

(b) CONTENTS.—The reports shall include the following:

(1) For medical isotope development projects—

(A) the names of any recipients of Department support under section 3;

(B) the amount of Department funding committed to each project;

(C) the milestones expected to be reached for each project during the year for which support is provided;

(D) how each project is expected to support the increased production of molybdenum-99 for medical uses;

(E) the findings of the evaluation of projects under section 3(a)(2); and

(F) the ultimate use of any Department funds used to support projects under section 3.

(2) A description of actions taken in the previous year by the Secretary to ensure the safe disposition of spent nuclear fuel and radioactive waste for which the Department is responsible under section 3(c).

**SEC. 8. NATIONAL ACADEMY OF SCIENCES REPORT.**

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study of the state of molybdenum-99 production and utilization, to be provided to Congress not later than 5 years after the date of enactment of this Act.

(b) CONTENTS.—The report shall include the following:

(1) For molybdenum-99 production—

(A) a list of all facilities in the world producing molybdenum-99 for medical uses, including an indication of whether these facilities use highly enriched uranium in any way;

(B) a review of international production of molybdenum-99 over the previous 5 years, including—

(i) whether any new production was brought online;

(ii) whether any facilities halted production unexpectedly; and

(iii) whether any facilities used for production were decommissioned or otherwise permanently removed from service; and

(C) an assessment of progress made in the previous 5 years toward establishing domestic production of molybdenum-99 for medical uses, including the extent to which other medical isotopes that have been produced with molybdenum-99, such as iodine-131 and xenon-133, are being used for medical purposes.

(2) An assessment of the progress made by the Department and others to eliminate all worldwide use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities.

**SEC. 9. REPEAL.**

The Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9701 et seq.) is repealed.

**SEC. 10. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

## AMERICAN EDUCATION WEEK

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 332 which was submitted earlier today by Senator HAGAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 332) supporting the goals and ideals of American Education Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 332) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 332

Whereas the National Education Association has designated November 13 through November 19, 2011, as the 90th annual observance of American Education Week;

Whereas public schools are the backbone of the Nation's democracy, providing young people with the tools they need to maintain the Nation's precious values of freedom, civility, and equality;

Whereas by equipping young people in the United States with both practical skills and broader intellectual abilities, public schools give them hope for, and access to, a productive future;

Whereas people working in the field of public education, be they teachers, principals, higher education faculty and staff, custodians, substitute educators, bus drivers, clerical workers, food service professionals, workers in skilled trades, health and student service workers, security guards, technical employees, or librarians, work tirelessly to serve children and communities throughout the Nation with care and professionalism; and

Whereas public schools are community linchpins, bringing together adults, children, educators, volunteers, business leaders, and elected officials in a common enterprise: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of American Education Week; and

(2) encourages the people of the United States to observe National Education Week by reflecting on the positive impact of all those who work together to educate children.

## WELCOMING AND COMMENDING THE GOVERNMENT OF JAPAN

Mr. LEVIN. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 333 which was submitted earlier today by Senator FEINSTEIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 333) welcoming and commending the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, family members, and descendants.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. President, I rise today in support of this resolution honoring former World War II U.S. POWs from the Pacific theater and acknowledging the steps the Japanese Government has made to heal the wounds of the past.

My friend and colleague from California, Representative MIKE HONDA, introduced this resolution in the House and I am proud to follow suit here in the Senate. I applaud his leadership on this important matter.

Our resolution welcomes and commends the Government of Japan for extending an official apology to all U.S. former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, their families, and descendants.

The resolution appreciates the recent efforts by the Government of Japan toward historic apologies for the war crimes of Imperial Japan.

The resolution requests that the Government of Japan continue its new Japanese/American POW Friendship Program of reconciliation and remembrance.

It requests that the Government of Japan respect the wishes and sensibilities of the United States former prisoners of war by supporting and encouraging programs for lasting remembrance and reconciliation that recognize their sacrifices, history, and forced labor.

It acknowledges the work of the Department of State in advocating for the United States Prisoners of War from the Pacific war, and it applauds the persistence, dedication, and patriotism of the members and descendants of the American Defenders of Bataan and Corregidor.

According to the Congressional Research Service, approximately 27,000 U.S. prisoners of war were held by Imperial Japanese forces during World War II.

They were often subject to brutal and inhumane treatment.

They were starved and denied adequate medical care and were forced to perform slave labor for private Japanese companies.

American POWs toiled in mines, factories, shipyards, and steel mills for hours every day under extremely dangerous conditions. Many suffered health problems long after their time as POWs had ended.

Some 40 percent of POWs perished and never returned home to their loved ones.

We owe these brave heroes a debt that can never be fully repaid. It is critical that we never forget their sacrifice.

A lot has changed since the end of the war.

Japan has emerged from the ashes of war to develop into one of our closest friends and allies and a responsible member of the international community.

Our relationship is sustained by shared values of democracy, human rights, and the rule of law.

The American POWs—those that survived—returned home and tried to move on with their lives.

They completed their education, got married, started families, began new

careers and participated in all aspects of civic life.

But one thing was missing: recognition from the Japanese Government about how they were treated as POWs.

In the simplest terms, they wanted an apology.

In order for Japan to fully rejoin the international community, it had to acknowledge its treatment of POWs during the ware.

And groups like the American Defenders of Bataan and Corregidor and its Descendants Group worked tirelessly for this recognition.

And I am pleased to say that Japan has taken historic actions in this area.

On May 30, 2009, Japan's Ambassador to the United States, Ichiro Fujisaki, told the last convention of the American Defenders of Bataan and Corregidor:

We extend a heartfelt apology for our country having caused tremendous damage and suffering to many people, including prisoners of wars, those who have undergone tragic experiences in the Bataan Peninsula, Corregidor Island, in the Philippines, and other places.

On September 13, 2010, in a message to all U.S. former POWs, Japan's Foreign Minister Katsuya Okada said:

You have all been through hardships during World War II, begin taken prisoner by the Japanese military, and suffered extremely inhumane treatment. On behalf of the Japanese government and as the foreign minister, I would like to offer you my heartfelt apology.

The Government of Japan has also created a new program for former U.S. POWs and their family members to come to Japan for remembrance and reconciliation.

I commend the Government of Japan for taking these actions. Our former POWs waited long enough.

There are fewer than 500 surviving POWs still alive today.

Let us take a moment today, while we still can, to honor them and pay tribute to their service to their country during difficult and trying times.

Let us also acknowledge the steps Japan has taken to come to terms with its past and strengthen the friendship between our two peoples.

I urge my colleagues to support this resolution.

Mr. LEVIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 333

Whereas the United States and Japan have enjoyed a productive and successful peace for over six decades, which has nurtured a strong and critical alliance and deep economic ties that are vitally important to both countries, the Asia-Pacific region, and the world;

Whereas the United States-Japan alliance is based on shared interests, responsibilities, and values and the common support for political and economic freedoms, human rights, and international law;

Whereas the United States-Japan alliance has been maintained by the contributions and sacrifices of members of the United States Armed Forces dedicated to Japan's defense and democracy;

Whereas, from December 7, 1941, to August 15, 1945, the Pacific War caused profound damage and suffering to combatants and noncombatants alike;

Whereas, among those who suffered and sacrificed greatly were the men and women of the United States Armed Forces who were captured by Imperial Japanese forces during the Pacific War;

Whereas many United States prisoners of war were subject to brutal and inhumane conditions and forced labor;

Whereas, according to the Congressional Research Service, an estimated 27,000 United States prisoners of war were held by Imperial Japanese forces and nearly 40 percent perished;

Whereas the American Defenders of Bataan and Corregidor and its subsequent Descendants Group have worked tirelessly to represent the thousands of United States veterans who were held by Imperial Japanese forces as prisoners of war during the Pacific War;

Whereas, on May 30, 2009, an official apology from the Government of Japan was delivered by Japan's Ambassador to the United States Ichiro Fujisaki to the last convention of the American Defenders of Bataan and Corregidor stating, ''Today, I would like to convey to you the position of the government of Japan on this issue. As former Prime Ministers of Japan have repeatedly stated, the Japanese people should bear in mind that we must look into the past and to learn from the lessons of history. We extend a heartfelt apology for our country having caused tremendous damage and suffering to many people, including prisoners of wars, those who have undergone tragic experiences in the Bataan Peninsula, Corregidor Island, in the Philippines, and other places.'';

Whereas, in 2010, the Government of Japan through its Ministry of Foreign Affairs has established a new program of remembrance and understanding that, for the first time, includes United States former prisoners of war and their family members or other caregivers by inviting them to Japan for exchange and friendship;

Whereas six United States former prisoners of war, each of whom was accompanied by a family member, and two descendants of prisoners of war participated in Japan's first Japanese/American POW Friendship Program from September 12, 2010, to September 19, 2010;

Whereas Japan's Foreign Minister Katsuya Okada on September 13, 2010, apologized to all United States former prisoners of war on behalf of the Government of Japan stating, ''You have all been through hardships during World War II, being taken prisoner by the Japanese military, and suffered extremely inhumane treatment. On behalf of the Japanese government and as the foreign minister, I would like to offer you my heartfelt apology.'';

Whereas Foreign Minister Okada stated that he expects the former prisoners of war exchanges with the people of Japan will ''become a turning point in burying their bitter feelings about the past and establishing a better relationship between Japan and the United States'';

Whereas Japan's Deputy Chief Cabinet Secretary Tetsuro Fukuyama on September 13, 2010, apologized to United States former prisoners of war for the ''immeasurable damage and suffering'' they experienced;

Whereas the participants of the first Japanese/American POW Friendship Program appreciated the generosity and hospitality they received from the Government and people of Japan during the Program and welcomed the apology offered by Foreign Minister Okada and Deputy Chief Cabinet Secretary Fukuyama;

Whereas the participants encourage the Government of Japan to continue this program of visitation and friendship and expand it to support projects for remembrance, documentation, and education; and

Whereas the United States former prisoners of war of Japan still await apologies and remembrance from the successor firms of those private entities in Japan that, in violation of the Third Geneva Convention and in unmerciful conditions, used their labor for economic gain to sustain war production: Now, therefore, be it

*Resolved,* That the Senate—

(1) welcomes and commends the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, their families, and descendants;

(2) appreciates the recent efforts by the Government of Japan toward historic apologies for the maltreatment of United States former prisoners of war;

(3) requests that the Government of Japan continue its new Japanese/American POW Friendship Program of reconciliation and remembrance and expand it to educate the public and its school children about the history of prisoners of war in Imperial Japan;

(4) requests that the Government of Japan respect the wishes and sensibilities of the United States former prisoners of war by supporting and encouraging programs for lasting remembrance and reconciliation that recognize their sacrifices, history, and forced labor;

(5) acknowledges the work of the Department of State in advocating for the United States prisoners of war from the Pacific War; and

(6) applauds the persistence, dedication, and patriotism of the members and descendants of the American Defenders of Bataan and Corregidor for their pursuit of justice and lasting peace.

## ORDERS FOR FRIDAY, NOVEMBER 18, 2011

Mr. LEVIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. tomorrow, Friday, November 18, 2011; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 1867, the Defense Authorization Act.

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

## PROGRAM

Mr. LEVIN. We will continue to debate the Defense authorization bill tomorrow. If Senators wish to offer amendments, they should come to the floor tomorrow. There will be no votes tomorrow. The next vote will be around 5:30 p.m. on Monday, November 28.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. LEVIN. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:30 p.m., adjourned until Friday, November 18, 2011, at 9 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### THE JUDICIARY

GERSHWIN A. DRAIN, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN, VICE BERNARD A. FRIEDMAN, RETIRED.

ROY WALLACE MCLEESE III, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE VANESSA RUIZ, RETIRED.