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Senate

The Senate met at 9 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Eternal Lord God, the center of our joy, give our Senators today a passion for You. May they find joy in doing Your will and delight in obeying Your precepts. Give them courage and resolve to do their duty as You give them the wisdom to see it. Create in them hearts that strive to be spent in Your service, doing all the good they can for as many people as they can.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 18, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

The Senator from Michigan.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—Resumed

Mr. LEVIN. Mr. President, the pending business is S. 1867, the Defense Authorization Act; is that correct?

The ACTING PRESIDENT pro tempore. The clerk will report.

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.

Pending:

Levin/McCain amendment No. 1092, to bolster the detection and avoidance of counterfeit electronic parts.

McConnell (for Kirk) amendment No. 1084, to require the President to impose sanctions on foreign financial institutions that conduct transactions with the Central Bank of Iran.

Leahy amendment No. 1072, 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.

Paul/Gillibrand amendment No. 1064, to repeal the Authorization for Use of Military Force Against Iraq Resolution of 2002.

Merkley amendment No. 1174, to express the sense of Congress regarding the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan.

Feinstein amendment No. 1125, to clarify the applicability of requirements for military custody with respect to detainees.

Feinstein amendment No. 1126, to limit the authority of Armed Forces to detain citizens of the United States under section 1031.

Udall (CO) amendment No. 1107, to revise the provisions relating to detainee matters.

Landrieu/Snowe amendment No. 1115, to reauthorize and improve the SBIR and STTR programs, and for other purposes.

Franken amendment No. 1197, to require contractors to make timely payments to subcontractors that are small business concerns.

Cardin/Mikulski amendment No. 1073, to prohibit expansion or operation of the District of Columbia National Guard Youth Challenge Program in Anne Arundel County, Maryland.

Begich amendment No. 1114, 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.

Begich amendment No. 1149, to authorize a land conveyance and exchange at Joint Base Elmendorf Richardson, Alaska.

Shaheen amendment No. 1120, 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.

Collins amendment No. 1105, 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.

Collins amendment No. 1155, to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy.

Collins amendment No. 1158, 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.

Collins/Shaheen amendment No. 1180, relating to man-portable air-defense systems originating from Libya.

Inhofe amendment No. 1094, to include the Department of Commerce in contract authority using competitive procedures but excluding particular sources for establishing certain research and development capabilities.

Inhofe amendment No. 1095, to express the sense of the Senate on the importance of addressing deficiencies in mental health counseling.

Inhofe amendment No. 1096, 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.

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

Inhofe amendment No. 1097, to eliminate gaps and redundancies between the over 200 programs within the Department of Defense that address psychological health and traumatic brain injury.

Inhofe amendment No. 1098, to require a report on the impact of foreign boycotts on the defense industrial base.

Inhofe amendment No. 1099, 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.

Inhofe amendment No. 1100, 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.

Inhofe amendment No. 1101, to strike section 156, relating to a transfer of Air Force C–12 aircraft to the Army.

Inhofe amendment No. 1102, to require a report on the feasibility of using unmanned aerial systems to perform airborne inspection of navigational aids in foreign airspace.

Inhofe amendment No. 1093, to require the detention at United States Naval Station, Guantanamo Bay, Cuba, of high-value enemy combatants who will be detained long-term.

Casey amendment No. 1215, to require a certification on efforts by the Government of Pakistan to implement a strategy to counter improvised explosive devices.

Casey amendment No. 1139, to require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies.

Casey amendment No. 1140, to require a report by the Comptroller General on Department of Defense military spouse employment programs.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, Senators are encouraged to come to the floor to offer their amendments this morning. We are going to be here doing business. Senators who have remarks, speeches, proponents of the amendments, opponents of amendments are given an opportunity here today which may be one of the relatively few opportunities that are going to be available.

We will be here the Monday after we return as well before the vote at 5:30 on Monday, November 28, on a judicial nomination, but we will also be here before that time to hear from proponents and opponents of amendments and to have people offer amendments. We are not going to have the whole week, we have been told by the leader, when we come back for this bill, so we are going to have to make additional progress today. We made some progress last night. We cleared some amendments last night. We are going to try to clear some additional amendments this morning and adopt some amendments that can be cleared. We have 155 filed amendments, and we have 31 pending amendments. Again, we are going to try to clear some of those today and adopt some of those today, and we are going to try to do the same on Monday when we return.

Again, I urge that Senators who want to speak on pending or filed amendments, proponents of those amendments, opponents of those amendments, let us know immediately, if you would, whether you wish to speak in support of or in opposition to pending or filed amendments. Obviously, if people want to oppose amendments, then we are not going to clear them if we know about that, but we have to know about that. These are on file. The clerk has the amendments. We know which amendments are pending. The list is available.

The staff is going to be here for the first couple days, at least, next week prior to Thanksgiving. Our staffs will be here to work with staffs of Senators to try to revise amendments that may be open to revision. So that work is going to go on, and we have to use these time periods—today and next Monday and Tuesday—for work on amendments and the Monday we get back for work on amendments because we need to get this bill passed.

This is a critically important bill, and with 155 filed amendments, 31 of which are already pending, we have a lot of work to do. We are going to try to do the very best we can, but we have to get a bill passed and we have to debate some of the very significant amendments which have already been filed and are pending.

So I want to thank my friend from Arizona and see whether he might want to comment on my comments or otherwise.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator LEVIN and his staff for their hard work on this very important piece of legislation. I am glad to see the chairman announced that the staff will be in working next week. For a change, the taxpayers will get a return on their investment. I am very glad to know that. But in all seriousness, they did a lot of work late last night and will be working hard all this week.

I think that maybe our colleagues should plan on some late nights when we get back because we do need to get this done. There is a lot of important business before the Senate.

I would also like to point out that we spent the better part of yesterday on the detainee issue, and I appreciate that the detainee issue is one that is of transcendent importance. It certainly goes beyond just national security. It is a very controversial issue with the American people and Members on both sides of the aisle. On one side of the aisle, they would like to see much more restrictive policies, and on the other side of the aisle there is a very serious concern—and a legitimate concern, although I don't share it—about erosion of the constitutional rights and liberties of American citizens.

Hopefully, we can get a vote on that amendment so we can move forward to other very important amendments that Members obviously, by the large number of amendments, are very interested in in this process. I also hope we are able to get a unanimous consent agreement to limit, to cut off the number of pending amendments so that we can make progress on those that have been filed and those that are pending.

I thank the chairman again and our respective staffs and our colleagues. I thought it was a very beneficial debate we had yesterday that a lot of Members participated in, and I think it served not only to educate our colleagues and the American people who observed it, but I also think it was a healthy discussion that was held on both sides of the aisle and on both sides of this issue, and it very well informed Senators on this issue.

Again, I understand, for example, that the Senator from Illinois, Mr. DURBIN, came to the floor and said we need a very in-depth discussion on this issue. I think we had that. I also think this is a very important issue and one that deserved the attention of the Senate, but now I think it is time to move on.

I also congratulate all Members who took part in sort of a colloquy and discussion we had amongst Members on both sides of this issue yesterday. I have found that those colloquies add a great deal to the debate as we get the input and ideas and sometimes spirited discussion on these issues.

So I thank the chairman, and we look forward to getting this important piece of legislation done.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I thank my friend and colleague from Arizona, the ranking member, for his comments and for all of his work on the committee. All of our colleagues on the committee have put in a lot of time.

I want to emphasize something he said about the opportunity here for debate—that we have a number of pending amendments, including the amendments on detainees. We are here to hear debate on those or any other amendments today and on Monday. We were here yesterday and had a long debate. As the Senator from Arizona said, we had a lengthy debate, and we were prepared to vote. The supporters were not. That is fair enough. If they want additional time to debate it, we should welcome that. But there is time, there is time today and there is time on Monday when we get back to debate that amendment and those amendments not only on the detainees but on many other issues that are important that are in this bill.

I agree with my friend from Arizona that we should ask the majority leader to make Monday night available for votes after the scheduled vote at 5:30. We need to have votes on amendments. I would hope that amendments that can't be agreed to will be voted on on Monday night after the vote on the judge, which is scheduled for 5:30.

I also agree with the Senator from Arizona about trying to get a limit on the number of amendments. We will try again today to see if we can get a

unanimous consent agreement. I haven't had a chance to talk this morning with the Senator from Arizona, but we will try—and he just has given me an indication that this is fine with him—to see if we can't set a time later on today, maybe at noon or 1:00, for the filing of amendments and to limit amendments to those that are filed by that time.

We are going to try to get that done with a safety valve, which I suggested last night and I think is acceptable to the Republican manager, my friend from Arizona, which is that, in addition to whatever amendments are filed by whatever time we put in the unanimous consent proposal, there be an additional two amendments on each side that would be available to the managers that would need to be relevant—just relevant amendments—to an amendment that is filed or relevant to the bill. I think you would need a safety valve, and people would understand that. Those two amendments would be allocable—two amendments each by the Republican manager and myself, if that is agreeable. It would take unanimous consent, but I think everyone realizes we have to have a universe here that we can work with during the next week.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I don't want to talk too much longer. I see our dear friend from New Mexico, who has been serious enough to come in this morning and debate and discuss his concerns about the bill and amendments.

But I would ask the chairman, we have, as the Senator mentioned, a large number of pending amendments—not just filed but pending—and one of them, of course, is for the detainee issue, there is another Paul amendment, and there are several others that perhaps we could vote on on Monday, as the chairman mentioned.

If any of our colleagues feel they haven't the time to amend it, they are welcome to come now and they are welcome to come on Monday. I understand that may cause them some small inconvenience in their schedule, but if they filed a pending amendment, then there is an amendment pending and they ought to be able to adjust their schedules to come and debate it. If they aren't able to do that, we should still be able to dispose of those amendments, I say with great respect and courtesy to all of my colleagues.

So I hope that Chairman LEVIN and I and others would say: Look, we are going to notify everybody that we are going to have votes on the following amendments on Monday afternoon after we vote on the judge. If you are interested in debating it, we will be here to debate it and discuss it with you.

We have to get this legislation passed for the good of the men and women who are serving this Nation with far greater inconvenience than, frankly, our colleagues might experience by having to come back on Monday or by coming over here today.

I yield.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will be done in one moment so that our friend from New Mexico can schedule his presentation.

I just wanted to add one additional thing to what the Senator from Arizona said, in addition to agreeing with him. We will be here today and we will be here a week from Monday so that there will be plenty of opportunity to debate these pending amendments or other amendments, and people need to know we are going to be seeking votes on these pending amendments if we can't clear them or work them out. There will be an opportunity for debate before the vote.

One other comment; that is, I will have a detailed statement addressing the detainee issue a little later on this morning. It will address some of the statements that are incorrect and misleading which were in the administration's statement on this subject. Also, some of the statements of our colleagues need to be addressed and, I believe, corrected. Because this is a complex issue it is important to know what is in the bill and what is not in the bill. If it is properly characterized and if it is properly stated, it is still complex, but to misstate it or overstate it or to mischaracterize what is in our bill just confuses an issue which needs to be debated on its merits and not confused. It is complicated enough without obfuscation and confusion about what is in the bill on detention or other matters and what is not in the bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

AMENDMENTS NOS. 1200, 1066, 1067 AS MODIFIED, 1068, 1119, 1090, 1089, 1056, AND 1116 EN BLOC

Mr. MCCAIN. Mr. President, I appreciate the indulgence of my friend, Senator UDALL. If it is OK with the chairman, I ask unanimous consent that the following amendments be considered pending on behalf of their sponsors? Would that be agreeable?

For Senator CORNYN, amendment No. 1200, related to Taiwan F–16s; for Senator AYOTTE, amendment No. 1066, related to financial audits; for Senator AYOTTE, amendment No. 1067, as revised, related to the notification of Congress for the initial custody of members of al-Qaida; for Senator AYOTTE, amendment No. 1068, related to the authorization of lawful interrogation methods; for Senator BROWN of Massachusetts, amendment No. 1119, related to child custody rights; for Senator BROWN of Massachusetts, amendment No. 1090, related to housing allowance rates; for Senator BROWN of Massachusetts, amendment No. 1089, related to disclosures by schools participating in tuition assistance; for Senator WICKER, amendment No. 1056, related to military chaplains; and for Senator WICKER, amendment No. 1116, related to truck licenses for transitioning servicemembers.

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

The Senator from Michigan.

Mr. LEVIN. Let me notify Senators on our side that we are more than willing to do that same courtesy for them if they would let our staff know at the cloakroom this morning. We can do the same thing for Senators on our side as the Senator from Arizona properly did for Senators on his side.

Mr. MCCAIN. Could I say, I hope Members on both sides, if they have amendments, get them to us this morning so we can bring this part of the process to an end.

Mr. LEVIN. And if I may, doing what the Senator from Arizona just did will also facilitate, hopefully, the acceptance of a unanimous consent request that there then be a cutoff as I described at perhaps noon or 1 o'clock today so we can know what the universe is and begin to whittle it down.

I yield the floor.

The ACTING PRESIDENT pro tempore. The clerk will report by number the amendments called up by the Senator from Arizona.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], proposes amendments numbered 1200, 1066, 1067 as modified, 1068, 1119, 1090, 1089, 1056, and 1116 en bloc.

The amendments are as follows:

AMENDMENT NO. 1200

(Purpose: To provide Taiwan with critically needed United States-built multirole fighter aircraft to strengthen its self-defense capability against the increasing military threat from China)

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.

AMENDMENT NO. 1066

(Purpose: To modify the Financial Improvement and Audit Readiness Plan to provide that a complete and validated full statement of budget resources is ready by not later than September 30, 2014)

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''.

AMENDMENT NO. 1067, AS MODIFIED

(Purpose: To require notification of Congress with respect to the initial custody and further disposition of members of al-Qaeda and affiliated entities)

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 OF 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 by or transfer to the United States Government, location of such capture or transfer, 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 10 days before a change of disposition under section 1031(c) is effected, the Secretary of Defense and the Director of National Intelligence shall notify and inform the specified congressional committees of such intended disposition.

(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 a person who—

(1) is a member of, or part of, al-Qaeda or an associated force that acts in coordination with or pursuant to the direction of al-Qaeda; and

(2) has participated 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.

AMENDMENT NO. 1068

(Purpose: To authorize lawful interrogation methods in addition to those authorized by the Army Field Manual for the collection of foreign intelligence information through interrogations)

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)).

AMENDMENT NO. 1119

(Purpose: To protect the child custody rights of members of the Armed Forces deployed in support of a contingency operation)

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.''.

AMENDMENT NO. 1090

(Purpose: To provide that the basic allowance for housing in effect for a member of the National Guard is not reduced when the member transitions between active duty and full-time National Guard duty without a break in active service)

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.''.

AMENDMENT NO. 1089

(Purpose: To require certain disclosures from post-secondary institutions that participate in tuition assistance programs of the Department of Defense)

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.

AMENDMENT NO. 1056

(Purpose: To provide for the freedom of conscience of military chaplains with respect to the performance of marriages)

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

SEC. 527. FREEDOM OF CONSCIENCE OF MILITARY CHAPLAINS WITH RESPECT TO THE PERFORMANCE OF MARRIAGES.

A military chaplain who, as a matter of conscience or moral principle, does not wish to perform a marriage may not be required to do so.

AMENDMENT NO. 1116

(Purpose: To improve 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)

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.

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

Mr. UDALL of New Mexico. Mr. President, let me first say, before I talk about my amendments, I had the opportunity yesterday to listen to Senator LEVIN, Senator MCCAIN, Senator DURBIN, and many other Senators with regard to the debate on this bill. I thought it was excellent debate. I thought it was lively, it was robust, it was to the point, and it was the Senate at its best. I don't know how we get to the point where we have the kind of debate they were having on this Defense authorization bill, but I hope we can do more of it, and I look forward to returning after Thanksgiving and having the opportunity to do that.

I compliment the two top Members of that committee and the other Senators who were here on that debate.

AMENDMENTS NOS. 1153, 1154, AND 1202 EN BLOC

Mr. President, I ask unanimous consent to set aside the pending amendments in order to call up amendments Nos. 1153, 1154, and 1202 by number en bloc, and that once the amendments are reported the Senate return to the regular order.

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

The bill clerk read as follows:

The Senator from New Mexico [Mr. UDALL], for himself and others, proposes amendments numbered 1153, 1154, and 1202 en bloc.

The amendments are as follows:

AMENDMENT NO. 1153

(Purpose: To include ultralight vehicles in the definition of aircraft for purposes of the aviation smuggling provisions of the Tariff Act of 1930)

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.

AMENDMENT NO. 1154

(Purpose: 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)

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.

AMENDMENT NO. 1202

(Purpose: To clarify the application of the provisions of the Buy American Act to the procurement of photovoltaic devices by the Department of Defense)

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.

AMENDMENT NO. 1153

Mr. UDALL of New Mexico. Mr. President, I am offering this amendment, along with my cosponsors Senators HELLER, BINGAMAN, FEINSTEIN, and GILLIBRAND, to provide a simple fix to a loophole in the Tariff Act of 1930.

Our amendment will allow our Federal agents and prosecutors to crack down on smugglers who use ultralight aircraft, also known as ULAs, to bring drugs across the U.S.-Mexico border.

In the last Congress, then-Congressman HELLER introduced a very similar bill in the House with Congresswoman GABRIEL GIFFORDS. That bill passed overwhelmingly by a 412–3 vote. I hope we can have a similar bipartisan result here in the Senate.

ULAs are single-pilot aircraft capable of flying low, landing and taking off quickly, and are typically used for sport or for recreation. However, because of increased detection and interdiction of more traditional smuggling conveyances, ULAs have increasingly been employed along the Southwest border by Mexican drug trafficking organizations to smuggle drugs into the United States.

The use of ULAs by drug smugglers presents a unique challenge for law enforcement and prosecutors. Every year hundreds of ULAs are flown across the Southwest border and each one can carry hundreds of pounds of narcotics.

Under existing law, ULAs are not categorized as aircraft by the Federal Aviation Administration, so they do not fall under the aviation smuggling provisions of the Tariff Act of 1930. This means that a drug smuggler piloting a small airplane is subject to much stronger criminal penalties than a smuggler who pilots a ULA.

Our amendment will close this unintended loophole and establish the same penalties if convicted—a maximum sentence of 20 years in prison and a $250,000 fine—for smuggling drugs on ULAs as currently exist for smuggling on airplanes or in automobiles.

This is a common sense solution that will give our law enforcement agencies and prosecutors additional tools they need to combat drug smuggling.

The amendment would also add an attempt and conspiracy provision to the aviation smuggling law to allow prosecutors to charge people other than the pilot who are involved in aviation smuggling. This would give them a new tool to prosecute the ground crews who aid the pilots as well as those who pick up the drug loads that are dropped from ULAs in the U.S.

Finally, the amendment directs the Department of Defense and Department of Homeland Security to collaborate in identifying equipment and technology used by DOD that could be used by U.S. Customs and Border Protection to detect ULAs.

AMENDMENT NO. 1154

Mr. President, this next amendment would establish an Open Burn Pit Registry. This amendment, filed by myself and lead cosponsor Senator CORKER, is important to both our active duty troops and veterans.

In both Afghanistan and Iraq open air burn pits were widely used at forward operating bases. Disposing of trash and other debris was admittedly a major challenge. Commanders had to find a way to dispose of it while concentrating on the important mission at hand.

The solution that was chosen, however, had serious medical and environmental risks. In Afghanistan and Iraq, pits of waste were set on fire, sometimes using jet fuel for ignition. Oftentimes, these burn pits would turn the sky black.

Some burn pits were small, but others covered multiple acres of land. At Joint Base Balad, Iraq, over ten acres of land were used for burning toxic debris.

This was a base, that at the height of its operations, hosted approximately 25,000 military, civilian and coalition personnel. These personnel would be exposed to a toxic soup of chemicals released into the atmosphere. According to air quality measurements taken near the base, the air at Balad had multiple particulates harmful to humans.

These particulates ranged from plastics and Styrofoam, metals, chemicals from paints and solvents, petroleum and lubricants, jet fuel and unexploded ordnance, medical and other dangerous waste . . . all of this was in the air and being inhaled into the lungs of service members.

More specifically, air samples at Joint Base Balad turned up some nasty stuff: Particulate matter—chemicals that form from the incomplete burning of coal, oil and gas, garbage, or other organic substances—Volatile Organic Compounds such as acetone and benzene. Benzene is known to cause leukemia and dioxins associated with Agent Orange.

Our veterans have slowly begun to raise the alarm as they learn why, after returning home, they are short of breath, or experiencing headaches or other symptoms and in some cases developing cancer.

Many other independent organizations have also urged action on this issue, including the American Lung Association which has stated that:

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

The registry created by this amendment will help our medical and scientific experts better analyze who was exposed and who is suffering.

In New Mexico, service members and veterans have begun to come forward about their medical conditions. Some, like MSG Jessey Baca, a member of the New Mexico Air National Guard who was stationed in Balad, Iraq, are facing serious ailments such as cancer and chronic bronchiolitis. It is stories like Master Sergeant Baca's which have motivated me to take action on this issue and I urge my colleagues to hear the stories of heroes like him in all 50 States.

During my meetings with veterans and active duty members of the military, I have truly learned how important it is that we act now.

Among active duty members there is uncertainty regarding the link between burn pits and the illnesses that they are suffering from. This uncertainty is discouraging service members from coming forward to have their illness diagnosed because they are fearful about the implications on their career.

A registry will help create the data set needed to bring certainty to the issue because it will improve our understanding of the link between the burn pits and illness. The information will also help DoD better understand the link and aid their efforts to improve treatment of our troops.

The Open Burn Pits Registry Act has bipartisan and bicameral support. In the House, Representative AKIN, a Republican, is sponsoring this important piece of legislation with a strong bipartisan group.

I thank all the supporters and champions for our veterans suffering from these hidden wounds and I urge my colleagues to support this amendment.

AMENDMENT NO. 1202

Mr. President, solar power increases energy security for American military installations and our troops in the field.

With solar power, our military is less dependent on the surrounding electricity grid or fuel supplies for generators.

As a result, the Department of Defense is a leader on utilizing solar power—not for environmental reasons, but national security reasons.

However, if we are going to use taxpayer funds to support military solar power—which also qualifies for solar energy tax incentives—we must provide a level playing field for U.S. solar manufacturers.

Last year's Defense Authorization bill took an important step, by clarifying that DOD's Buy American Act requirements apply to solar.

Previously, when solar was installed on DOD property, Buy American would not apply because DOD only owned the power, not the panels.

While last year's bill attempted to fix this situation, it left 2 loopholes:

No. 1, first, Buy American requirements still do not apply to many DOD facilities, including much of DOD housing, since these facilities are leased and not technically ''owned'' by DOD. If we do not close this loophole, several hundred megawatts of DOD taxpayer funded solar projects could go to Chinese firms.

No. 2, last year's bill only applied Buy American when solar devices are ''reserved for the exclusive use'' of DOD for the ''full economic life.'' Solar power projects often sell back to the grid, so the combined effect of both of

these loopholes is that Buy American does not apply to DOD-purchased solar on DOD property.

The amendment I am offering today, on behalf of myself and Senator SCHUMER, closes these loopholes and applies Buy American requirements to all solar panels that are part of contracts with DOD.

If American taxpayer funds are used to improve our military bases' energy security, American solar firms should have an ability to compete.

We know that other nations like China are spending vast resources to become leaders in the solar power market. They do not play by our trade rules, and they are taking advantage of our taxpayer funds.

This amendment halts that practice, while maintaining all existing provisions of the Buy American Act: nations who are in the WTO are not discriminated against and existing exemptions such as availability and cost still apply.

Our amendment is supported by a strong coalition of U.S. solar manufacturers, many of which are based overseas, and U.S. workers and labor unions.

I thank Sen. SCHUMER and his staff for their work on this and I urge the Senate's support.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I thank the Senator from New Mexico for his remarks. I agree with him; it was a lively debate. I also agree with him it is to be desired that kind of debate occurs more often in the Senate. The Senator from New Mexico has been very active in the effort to have these kinds of debates by rules changes, which would make these kinds of debates a lot more likely, and by other mechanisms.

To make an inquiry, did the Senator from New Mexico restore the regular order to the Levin-McCain amendment? I missed that.

Mr. UDALL of New Mexico. I did. Let me say to Chairman LEVIN, not only lively, robust, but very informative. I learned a lot in the process of listening to him and to Senator MCCAIN and Senator DURBIN and the other Senators who came down about the issue. I think that is the way the Senate works best: to have the amendments and various provisions of the Defense authorization bill be a part of a lively and informative debate.

I thank the Senator for that, and I yield the floor.

Mr. MCCAIN. Mr. President, I assume, then, having watched the debate and been informed, that the Senator from New Mexico now takes the position that Senator LEVIN and I do on this issue, and his next mission is to convince his colleague from Colorado of the correctness of our position?

Mr. UDALL of New Mexico. At this point I am still listening and trying to ascertain as much as I can about the actual provisions of the Defense authorization bill. But the Senator is correct. There could be trouble in Udall Valley. There might be a split. We do not see that yet, but there is a possibility of it.

Mr. MCCAIN. One thing I have learned about the Senator from New Mexico is that he does give all issues a fair and objective hearing. He listens and he pays attention and he is informed in his decisions. I thank him for taking part in this one.

Mr. UDALL of New Mexico. I also know that when the two of my colleagues—when the chairman and Senator MCCAIN, the ranking member—come together on a prevision and are able to persuade their committee to go with it, that says something to the Senate itself, to have that before the Senate. I want to study it very carefully. I know Senator GRAHAM was down here, who has been very active on this issue and has a tremendous amount of experience. I look forward to the continuing debate, and I yield the floor.

Mr. LEVIN. Mr. President, I thank the Senator from New Mexico again for the comments, but also tell him how very much impressed I have been right from the first day I heard him with his openmindedness on subjects. It is very important that we keep open minds, and he has shown just how to do that. We appreciate that on an issue this complex, particularly on the Defense bill.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Mr. President, our staff is working on various amendments that we could get approved by both sides. We think there are a number of those on which we can get agreement to make progress today. While we are going through that process, I would like to point out the front page of this morning's Wall Street Journal, I am sorry to note, may be a harbinger of events that will happen in the future, that will take place in the future, which will be unfortunate for the United States of America and indeed tragic for Iraq.

The front page of the Wall Street Journal today says ''Standoff Over U.S. Airbase in Iraq.''

A tense standoff between local police and the Iraqi Army played out on Thursday at the gate of the U.S. airbase in the northern city of Kirkuk, where a dispute over land and oil threatens national stability and unity as U.S. forces withdraw.

The territorial conflict, between the central government in Baghdad and the semi-autonomous Kurdistan region, is just one flash point that some American and Iraqi officials say could boil over after the full pullout of U.S. troops at the end of December.

Fears of a clash between Iraqi troops and Kurdish forces were heightened on Thursday when the Kurdish-dominated police in Kirkuk blocked senior Iraqi Army commanders from entering the airbase, where they said they were planning to take over the facility from the U.S. military.

The Army officials brought reporters from Iraqi State-owned television to document the handover, in what appeared to be an effort to show the nation that Baghdad was in charge. The central government, headed by Prime Minister Nouri al Maliki, is increasingly eager to project its power ahead of the U.S. pullout.

This is about a volatile region, particularly in the area around Kirkuk, which is also symptomatic of the entire northern Iraq border between Kurdistan, the semiautonomous region of Iraq, and the rest of Iraq. The area is inhabited by different ethnic groups that range from Turkmen to Arab to other nationalities who all inhabit the area. One of the reasons some of us wanted to have a residual force remain in Iraq—one of actually three major reasons—was because of the tensions in this area which have already bubbled up on several occasions. In fact, there was a point some months ago where two forces were—the Pershmaga, the Kurdish military, and the Iraqi military—close to a shooting situation. The U.S. forces intervened. Obviously, they are not going to be there. Obviously, already before they have even left there has been a tense standoff at one of the major airbases in Iraq.

I greatly fear—I pray not, but I greatly fear that we will see more and more of these kinds of tensions between the Kurdish area and the rest of Iraq. A lot of it has to do with oil. A lot of it has to do with who is going to control the oil revenues in the area. Other parts go back to the era of Saddam Hussein, where he moved out Kurdish individuals and others and moved in people who were loyal to him. There are still enormous land disputes in the area as well. Suffice to say, it is a place of great tension. I continue to be deeply worried about this kind of tension which could lead to armed conflict, but also over time, in the view of some, could lead to an actual breakup of Iraq into Kurdish areas, Sunni areas, and even two different Shia areas of Iraq.

I am sorry to see this. I am sorry this is happening and that there are more people who are predicting greater tensions in the area, but I have to say, I am surprised. I am not surprised. The sad thing about all this—I had a rather, shall I say, spirited exchange with the Secretary of Defense the other day in the hearing that was held in the Armed Services Committee. This isn't a policy matter, this is a not an issue of whether we should have French fries served in school lunches. This is an issue we have shed the blood of well over 4,400 young Americans. I greatly fear that the opportunity that was purchased with their expenditure of American blood and treasure may go all for naught because of our failure to maintain a residual force in Iraq which, I repeat, was always envisioned when the

agreement for U.S. withdrawal was made by the previous administration—by the way, an agreement I disagreed with at that time.

So I hope that when Prime Minister Maliki comes to Washington next month some of these issues can be ironed out, that we can have greater cooperation. But I don't think there is any doubt that right now up in the area of Kirkuk, they are paying much attention to the statements that may be made by the U.S. Embassy in Baghdad.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, I rise in support of the National Defense Authorization Act for Fiscal Year 2012. I wish to commend Senator LEVIN and Senator MCCAIN for their leadership in bringing this piece of legislation to the floor. All my colleagues in the Armed Services Committee have done a remarkable job and have done it with great discipline and dedication and concern for the men and women of our Armed Forces and the defense of the Nation.

This is the 50th consecutive Defense authorization bill that the Senate has considered, and I hope we will soon be able to send it to the President for his signature. We owe this to our service men and women who are devoting themselves, and indeed their families also, to the protection of the United States.

We made difficult decisions in putting together this bill, especially in these challenging economic times. We were able to find $26 billion in savings from the original budget request the President submitted earlier this year. But I am confident this bill provides a budget that allows the Department of Defense to combat current threats, plan for future threats and provide for the welfare and protection of those men and women and their families who serve this Nation.

I am pleased that at the start of the debate on this important measure, that we were able to take up and pass Senator AYOTTE's amendment on strategic airlift, which I was pleased to cosponsor. I was, indeed, very impressed with Senator AYOTTE's thorough understanding of this issue, her ability to seize on a point and make sure it is fully understood. We were able to also bring together leaders of our services, the Department of Defense, TRANSCOM, and the Air Force, so that this decision was based on a very thorough analysis. We owe a great deal of thanks to Senator AYOTTE for her extraordinary performance in this regard.

I am also working on several other amendments that would provide additional assistance, not just to the overall structure of the Defense Department but also to our military personnel. These deal with protecting the individual service men and women from exploitation by businesses and by other financial entities. We have taken some steps going forward with the creation of the new Consumer Financial Protection Bureau's Office of Service Members Affairs, headed by Holly Petraeus, but we have to do more. I hope we can in this bill.

I am also proposing amendments that would address some of the inconsistencies in the policies of National Guard dual-status technicians. A further area of concern is better coordination between the mental health care provided by the Department of Defense and the community providers, particularly for members of the National Guard and Reserve and their families. They often don't have the opportunity to be close to a major military installation and so coordination with local community providers is so critical to helping these members and their families. I hope, again, we can work together to get these provisions included in the legislation.

Let me highlight a few of the measures in the overall legislation that are very important. It authorizes a 1.6-percent across-the-board pay raise and reauthorizes over 30 types of bonuses and special pays for our men and women in uniform. This is critical in meeting the needs of our military personnel.

The legislation also authorizes the full funding of the DOD's Mine Resistant Ambush Protected Vehicle, the MRAP program, which provides for the sustainment of MRAPs and M–ATVs to protect our troops on the ground. Again, having recently returned about 3 weeks ago from Afghanistan, these are critical weapon systems. My colleagues on the committee who also frequently travel into these war zones will attest to that fact. I am pleased we included this provision in the legislation.

The proposed legislation also authorizes $11.2 billion for the Afghan Security Forces Fund to train and equip the Afghan Army and police. This is a $1.6 billion reduction from the President's request. The CENTCOM commander, General Mattis, and Lieutenant General Caldwell, who was the commander on the ground, determined that this reduction could be made because of the efficiencies being achieved by the NATO training mission in Afghanistan.

We have to be much more efficient going forward in terms of resources, and we also have to prepare for the long term support, not alone but with our international partners, of the creation and sustainment of the Afghan National Security Forces. It represents probably the most significant component, long term, of stabilizing Afghanistan. We cannot do it alone. There has to be political will and capacity. As we develop this military force, we also have to think ahead about how we are, not alone but together with our allies, going to ensure it is properly resourced in order to be a contributing factor in the stability of Afghanistan.

This year, once again, I also had the privilege of serving as the chairman of the Seapower Subcommittee alongside Senator WICKER, whom I wish to thank for his thoughtful and significant contribution to the legislation. The Seapower Subcommittee is focused on the needs of the Navy, Marine Corps, and the strategic mobility forces. The subcommittee put particular emphasis on supporting Marine and naval forces engaged in combat operations, improving efficiencies, and applying the savings to higher priority programs.

The subcommittee specifically included requested funding for two Virginia-class submarines, the DDG–1000 Program, the Aircraft Carrier Replacement Program, the DDG–51 Aegis Destroyer Program, the Littoral Combat Ship (LCS) Program, the LHA® Amphibious Assault Ship, the Joint High Speed Vessel, the Mobile Landing Platform, and the P–8 maritime patrol aircraft. All these weapons systems are important aspects of Navy and Marine projection power throughout the world.

I am particularly pleased, obviously, about the continued support for the Virginia-class submarine program and the DDG–1000, which are integral parts not only of our national security but of the economy of New England.

The subcommittee also included language that would require the Department of Navy to restructure plans to replace the canceled Expeditionary Fighting Vehicle system for the Marine Corps and to complete an analysis of the Amphibious Combat Vehicle alternatives before launching into a Marine Personnel Carrier acquisition program. Essentially, the Marine Corps is restudying their ability to move marines from ship to shore and then from shore inland to exploit the beachhead, and that careful study is necessary before they make a commitment for future programs for equipment.

We also included language that would permit the Navy to use multiyear procurement authority to buy common cockpits and avionic systems for the Navy's H–60 helicopters in the most efficient manner.

Let me conclude by once again thanking Senator WICKER, particularly for his help with respect to the Seapower Subcommittee, and thanking all my colleagues. I think we have a good piece of legislation before us. I hope in the process of amending it, we can improve the bill, and I look forward to sending such a bill to the President for his signature.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me thank the Senator from Rhode Island, my dear friend, for all the work he does on our committee and the other work he does for the Senate. He is an invaluable member of our Armed

Services Committee, and I just want to not let this moment pass without acknowledging that.

I yield the floor.

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

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

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1171, 1172, AND 1173

Mr. MCCAIN. Mr. President, on behalf of Senator CORKER, I ask unanimous consent to temporarily set aside the pending amendment and call up the following amendments en bloc: amendment No. 1171, terrorist activities in Pakistan; amendment No. 1172, coalition support in Pakistan; and amendment No. 1173, Sense of the Senate regarding NATO.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. CORKER, proposes amendments en bloc numbered 1171, 1172, and 1173.

The amendments are as follows:

AMENDMENT NO. 1171

(Purpose: To prohibit funding for any unit of a security force of Pakistan if there is credible evidence that the unit maintains connections with an organization known to conduct terrorist activities against the United States or United States allies)

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.

AMENDMENT NO. 1172

(Purpose: To require 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)

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.

AMENDMENT NO. 1173

(Purpose: To express the sense of the Senate on the North Atlantic Treaty Organization)

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.

Mr. MCCAIN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

AMENDMENTS NOS. 1117, 1187, AND 1211

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside to call up, on behalf of Senator BINGAMAN, amendment No. 1117; and on behalf of Senator GILLIBRAND, amendments Nos. 1187 and 1211.

Before the clerk reports, I also ask unanimous consent that Senator GILLIBRAND be added as a cosponsor of amendment No. 1092, the Levin-McCain counterfeit parts amendment.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Senators Bingaman and Gillibrand, proposes amendments en bloc numbered 1117, 1187, and 1211.

The amendments are as follows:

AMENDMENT NO. 1117

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

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).

AMENDMENT NO. 1187

(Purpose: To expedite the hiring authority for the defense information technology/cyber workforce)

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.''.

AMENDMENT NO. 1211

(Purpose: To authorize the Secretary of Defense to provide assistance to State National Guards to provide counseling and reintegration services for members of reserve components of the Armed Forces ordered to active duty in support of a contingency operation, members returning from such active duty, veterans of the Armed Forces, and their families)

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.

Mr. LEVIN. Mr. President, I ask for the regular order on the Levin-McCain amendment.

The ACTING PRESIDENT pro tempore. The amendment is now the pending question.

Mr. LEVIN. Mr. President, I note the absence of a quorum.

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

AMENDMENTS NOS. 1239, 1256, 1257, AND 1258 EN BLOC

Mr. MERKLEY. Mr. President, I ask unanimous consent that the pending amendment be set aside. I call up en bloc 1239, 1256, 1257, and 1258.

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] proposes amendments numbered 1239, 1256, 1257, and 1258 en bloc.

Mr. MERKLEY. Mr. President, I ask that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1239

(Purpose: To expand the Marine Gunnery Sergeant John David Fry scholarship to include spouses of members of the Armed Forces who die in the line of duty)

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

SEC. 1088. EXPANSION OF MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.

(a) EXPANSION OF ENTITLEMENT.—Subsection (b)(9) of section 3311 of title 38, United States Code, is amended by inserting ''or spouse'' after ''child''.

(b) LIMITATION AND ELECTION ON CERTAIN BENEFITS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following new paragraphs:

''(2) LIMITATION.—The entitlement of an individual to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) because the individual was a spouse of a person described in such paragraph shall expire on the earlier of—

''(A) the date that is 15 years after the date on which the person died; and

''(B) the date on which the individual remarries.

''(3) ELECTION ON RECEIPT OF CERTAIN BENEFITS.—A surviving spouse entitled to assistance under subsection (a) pursuant to paragraph (9) of subsection (b) who is also entitled to educational assistance under chapter 35 of this title may not receive assistance under both this section and such chapter, but shall make an irrevocable election (in such form and manner as the Secretary may prescribe) under which section or chapter to receive educational assistance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of the enactment of this Act.

AMENDMENT NO. 1256

(Purpose: To require a plan for the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan)

On page 484, strike lines 8 through 24 and insert the following:

(8) During the course of Operation Enduring Freedom, members of the Armed forces, intelligence personnel, and the diplomatic corps have skillfully achieved the core goal of the United States strategy in Afghanistan, and Secretary of Defense Leon E. Panetta has noted that al Qaeda's presence in Afghanistan has been greatly diminished.

(9) On May 1, 2011, in support of the goal to disrupt, dismantle, and defeat al Qaeda, President Obama authorized a United States operation that killed Osama bin Laden, leader of al Qaeda. While the impact of his death on al Qaeda remains to be seen, Secretary of Defense Robert Gates called the death of bin Laden a ''game changer'' in a speech on May 6, 2011.

(10) 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.

(11) Such nation-building efforts in Afghanistan are undermined by corruption, high illiteracy, and a historic aversion to a strong central government in that country.

(12) 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.

(13) 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.

(14) The United States Government will continue to support the development of Afghanistan with a strong diplomatic and counterterrorism presence in the region.

(b) BENCHMARKS REQUIRED.—The President shall establish, and may update from time to time, a comprehensive set of benchmarks to evaluate progress being made toward the objective of transitioning and transferring lead security responsibilities in Afghanistan to the Government of Afghanistan by December 31, 2014.

(c) TRANSITION PLAN.—The President shall 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.

(d) SUBMITTAL TO CONGRESS.—The President shall include the most current set of benchmarks established pursuant to subsection (b) and the plan pursuant to subsection (c) with each report on progress.

AMENDMENT NO. 1257

(Purpose: To require a plan for the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan)

On page 484, strike line 22 through line 24 and insert the following:

(c) TRANSITION PLAN.—The President shall 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.

(d) SUBMITTAL TO CONGRESS.—The President shall include the most current set of benchmarks established pursuant to subsection (b) and the plan pursuant to subsection (c) with each report on progress.

AMENDMENT NO. 1258

(Purpose: To require the timely identification of qualified census tracts for purposes of the HUBZone program, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. DESIGNATION OF QUALIFIED CENSUS TRACTS.

(a) DESIGNATION.—

(1) IDENTIFICATION OF HUBZONE QUALIFIED CENSUS TRACTS.—Not later than 2 months after the date on which the Secretary of Housing and Urban Development receives from the Census Bureau the data obtained from each decennial census relating to census tracts necessary for such identification, the Secretary of Housing and Urban Development shall identify and publish the list of census tracts that meet the requirements of section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986.

(2) SPECIFICATION OF EFFECTIVE DATES OF DESIGNATION.—

(A) HUBZONE EFFECTIVE DATE.—The Secretary of Housing and Urban Development, after consultation with the Administrator of the Small Business Administration, shall designate a date that is not later than 3 months after the publication of the list of qualified census tracts under paragraph (1) upon which the list published under paragraph (1) becomes effective for areas that qualify as HUBZones under section 3(p)(1)(A) of the Small Business Act (15 U.S.C. 632(p)(1)(A)).

(B) SECTION 42 EFFECTIVE DATE.—The Secretary of Housing and Urban Development shall designate a date, which may differ from the HUBZone effective date under subparagraph (A), upon which the list of qualified census tracts published under paragraph (1) shall become effective for purposes of section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect the method used by the Secretary of Housing and Urban Development to designate census tracts as qualified census tracts in a year in which the Secretary of Housing and Urban Development receives no data from the Census Bureau relating to census tract boundaries.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Small Business Administration 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 that—

(1) describes the benefits and drawbacks of using qualified census tract data to designate HUBZones under section 3(p) of the Small Business Act (15 U.S.C. 632(p));

(2) describes any problems encountered by the Administrator in using qualified census tract data to designate HUBZones; and

(3) includes recommendations, if any, for ways to improve the process of designating HUBZones.

Mr. MERKLEY. Mr. President, I call for the regular order.

The ACTING PRESIDENT pro tempore. The amendment is now pending.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, in a short while I hope we will have, and expect that we will have, some amendments that have been cleared on both sides that we are going to be able to offer and hopefully adopt.

What I thought I would do now is make a fairly lengthy statement about statements which have been made relative to the detainee provisions in S. 1867. First, I want to comment on the statements that were made in the Statement of Administration Policy—this is a so-called SAP. So when I refer to SAP during these comments, and I use that term, it is the acronym which means Statement of Administration Policy.

I am going to first quote exactly from the SAP, and then I am going to

comment and show why these statements I am referring to are inaccurate. From the SAP:

Section 1031 attempts to expressly codify the detention authority that exists under the authorization for Use of Military Force.

The authorization for use of military force is referred to as the AUMF. The quote continues:

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-Qaida and its associated forces, and have enabled us to confront the full range of threats this country faces from those organizations and individuals.

Well, Mr. President, given how important the administration says these authorities are, it should be helpful to have them codified so they can stand on the strongest possible footing.

The next quote:

Because the authorities codified in this section [1031] already exist, the administration does not believe codification is necessary and poses some risk.

The quote continues:

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.

The quote continues:

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.

Well, Mr. President, section 1031 was written by administration officials for the purpose of codifying existing authority. The description of persons covered is identical to the position taken by the administration and upheld in the courts. The provision specifically provides that nothing in the provision either limits or expands the authority of the President or the scope of the AUMF.

It is also worth noting that the SAP does not support the argument made by some Senators that section 1031 creates a new or unprecedented authority. On the contrary, the Statement of Administration Policy, the SAP, acknowledges the provision codifies existing law.

Now, this is hardly surprising since the committee accepted all of the administration's proposed changes to section 1031.

I am continuing to quote from the Statement of Administration Policy:

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.

Well, Mr. President, it is interesting that the SAP states the amendment would ''appear to'' mandate military custody. In fact, it does not mandate military custody and does not tie the administration's hands because it includes a national security waiver which allows suspects to be held in civilian custody.

Next quote:

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.

Well, the administration itself asked that we delete limitations in section 1031 on the applicability of detention authority inside the United States that would have excluded U.S. citizens and lawful residents based on conduct taking place inside the United States to the extent authorized by the Constitution. The exact words were ''except to the extent authorized by the Constitution.''

If it is appropriate to authorize military detention inside the United States under section 1031, it is not at all clear what ''serious and unsettled legal questions'' in this narrow category of cases could be raised by requiring such detention subject to a national security waiver. Further, nothing in section 1032 would require or even permit our military to ''patrol our streets.''

Section 1032 applies, by its very term, only to a person ''who has been captured in the course of hostilities'' authorized by the AUMF. The provision has no applicability to a person who has not already been so captured and does not speak to the question of when or where such a capture might be authorized.

The provision does not give the military authority to make arrests or conduct any law enforcement functions inside the United States.

Next quote:

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.

In answer to that, it is not clear what walls the administration thinks the provision builds. Nothing in this provision limits the participation of law enforcement or intelligence professionals in the interrogation of detainees in military custody or vice versa or the sharing of information.

Next quote:

Specifically, the provision would limit the flexibility of our national security professionals to choose, based on the evidence and the facts and the circumstances of each case, which tool for incapacitating dangerous terrorists best serves our national security interests.

The provision does not limit the flexibility of the executive branch to choose the appropriate tool for taking on terrorists. On the contrary, the provision expressly directs the President to establish procedures for making determinations of coverage, authorizes the executive branch waiver of military detention requirements where they do apply, and expressly authorizes the transfer of any detainee to civilian custody for trial.

The next quote from the SAP:

The waiver provision fails to address these concerns, particularly in time-sensitive operations in which law enforcement personnel have traditionally played the leading role.

It is not clear why the administration thinks the use of a waiver would be problematic in time-sensitive operations. The need for a waiver is not triggered until the executive branch determines an individual is covered. The President has control over who makes these determinations, how they are made, and when they are made, so the executive branch should not be faced by a determination of coverage for which it is not ready. And even if, for some reason, executive branch officials were not ready to deal with their own determination, the provision specifically provides that a determination of coverage may not be used to interrupt ongoing surveillance, intelligence gathering, or interrogation sessions.

The next quote from the SAP:

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 that the Executive and Judicial Branches are currently using for detention under 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.

The SAP is wrong. Detention under section 1032 is expressly limited to persons for whom detention is authorized under criteria currently used by the executive branch and the courts. The new and untested legislative criteria about which the SAP expresses concern is language narrowing the application of the provision to a small category of those for whom detention is already authorized.

Also, because the provision addresses only the question of whether an individual should be transferred to military custody after capture, it is not clear how it could possibly threaten the ability of executive branch officials to act swiftly and decisively to capture anybody.

Because the provision expressly states it may not be applied to interfere with an ongoing surveillance, intelligence gathering, and interrogations, it is not clear how it could possibly threaten the ability of executive branch officials to interrogate terrorism suspects or disrupt the collection of vital intelligence about threats to the American people.

The next quote from the SAP:

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.

The administration reviewed the language directing the President to develop procedures and they made several suggestions for improvements to that language. The committee adopted all of the administration's suggestions. The remaining change suggested by the administration, which the committee did not adopt, was a proposal to limit the application of the provision to persons captured abroad. This difference does not constitute a myriad of problems which are complex or hard to understand.

This is the last comment they make on that section:

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 language referred to was included to address concerns expressed by the administration. That does not in any way constitute an acknowledgment that the concerns were valid. Whether these concerns were valid or not, they have now been resolved by specific language in the revised provision.

Continuing:

The certification and waiver, required by section 1033 before a detainee may be transferred from Guantanamo 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.

The provision is not only ''intended to be somewhat less restrictive'' than provisions that are included in previous authorization and appropriations acts signed by the President, it is less restrictive. Unlike last year's bill, this provision includes a waiver, which allows the administration to proceed with a transfer even if the certification requirements cannot be met.

Congress has expressed strong concerns about recidivism among Gitmo detainees who have been released in the past. It cannot be in our national security interests to ''act swiftly'' if we fail to provide adequate safeguards against terrorists rejoining the fight against us.

In discussions on this issue, administration officials have made a single priority request—that the provision be made a 1-year limitation instead of a permanent limitation. And the committee agreed to that change.

Section 1034's ban—

And I am now continuing the quote from SAP—

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.

This provision is the same as the provisions included in last year's authorization and appropriations acts which were signed by the President. In discussions on this issue, administration officials made a single priority request—that the provision be made a 1-year limitation instead of a permanent limitation. The committee agreed to that change.

The next quote from the SAP:

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 considered views of all relevant agencies.

Section 1035 does not conflict with the Executive order of the interagency review process established in the Executive order; rather, it requires the issuance of procedures to implement the review process required by the Executive order.

The Executive order states that a Gitmo detainee will not be released if the interagency process results in a unanimous recommendation against release. The Executive order states that a Gitmo detainee will be released if the interagency process results in a unanimous recommendation for release. But it is silent as to what happens if the process does not result in a unanimous recommendation.

The provision in the bill addresses that issue by providing that no Gitmo detainee will be released without the consent of the Secretary of Defense. This does not contradict the Executive order; it is a truism, since nobody can be released without agreement of all of the agencies.

In discussions with the committee, administration officials did not even raise this provision as a priority issue.

Finally, on the Statement of Administration Policy, the SAP:

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.

The only new requirement imposed by section 1036 is the requirement for a military judge and legal representation for any detainee who will be held in long-term custody. In discussions with the committee, the administration did not object to this new requirement. On the contrary, the only change requested by the administration in this provision was to strike the words ''long-term.'' The committee did not agree to this proposed change because it would have been onerous to impose this requirement in the case of all detainees, including those who are captured and released or held on a short-term basis.

Mr. President, I now would like to move to my comments on some of the statements of the senior Senator from California. The first comment of Senator FEINSTEIN that I wish to address is the one where she said: ''Section 1031 needs to be reviewed to consider whether it is consistent with the September 18, 2001, authorization for use of military force.''

On this one, the committee accepted all of the administration's language changes which were written to ensure that the provision is consistent with the AUMF. The provision specifically states it does not ''limit or expand the authority of the President on the scope of the AUMF.'' The SAP on the provision states that ''the authorities codified in this section already exist'' under the AUMF.

The next quote from the Senator from California is the following. Section 1031:

. . . would authorize the indefinite detention of American citizens without charge or trial. Do we want to go home and tell the people of America that we're going to hold them if such a situation comes up without any review, without any habeas?

The committee accepted all of the administration's proposed changes to section 1031, and as the administration has acknowledged, the provision does nothing more than codify existing law. Indeed, as revised pursuant to administration recommendations, the provision expressly ''affirms'' an authority that already exists. The Supreme Court held in the Hamdi case that existing law authorizes the detention of American citizens under the law of war in the limited circumstances spelled out here, so this is nothing new.

The initial bill reported by the committee included language expressly precluding ''the detention of citizens or lawful resident aliens of the United States on the basis of conduct taking place within the United States, except to the extent permitted by the Constitution of the United States.''

The administration asked that this language be removed from the bill. Mr. President, 1031 does not refer to habeas and in no way limits habeas, nor could it. No American can be held in military detention without habeas review and no non-American can be held in military detention inside the United States without habeas. For non-Americans outside the United States, the bill requires the administration to establish review procedures, including, for the first time, a military judge and access to a military lawyer for the status determination.

The next quote of the Senator from California is the following. Under Section 1032:

. . . 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.

Mr. President, Section 1032 does not mandate military custody. It does not

tie the administration's hands because—and this is critically important—it includes a national security waiver which explicitly allows any suspect to be held in civilian custody. Nothing is automatic. The administration would have the discretion to waive military detention and hold a detainee in civilian custody if it decided to do so.

The next quote in the case of Najibullah Zazi:

If the mandatory military custody in the armed service bill was law—

The committee bill was law—

all of the surveillance activities, all of what the FBI did would have to be transferred immediately to the military. . . . Then the government would have been forced to split up co-defendants, even in cases where they otherwise could be prosecuted as part of the same conspiracy.

Zazi was a permanent legal resident. His co-conspirators 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.

It is not accurate to say everything the FBI did in the Zazi case would have had to be ''transferred immediately to the military.'' First, it is not at all clear Zazi was covered by the provision because we don't know that he was al-Qaida, and in any event there is an exclusion because he is a lawful resident alien of the United States.

Second, until a coverage determination was made, no transfer would be required and the President would decide how and when that determination would be made.

Finally, even if Zazi were somehow determined to be covered, the requirement could have been waived and Zazi could have been kept in civilian custody in the discretion of the executive branch.

Also, as to this statement that the executive branch would be forced to split up codefendants in the Zazi case, even if he was covered by the provision or in any other case, that is because the provision includes a waiver that would have allowed him to be held in civilian custody from the outset if the executive branch officials decided to do so and also because the provision expressly authorizes the transfer of any military detainee to civilian custody for trial in the Federal courts even without a waiver. So executive branch officials are always able to consolidate cases should they decide to do so in the Federal courts.

The next statement which the Senator made was the following:

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.

Taking the Justice Department at its word, there have been approximately 300 terrorist cases in Federal court over the last 10 years or about 30 a year. One-third of that number would be just 10 cases a year in which the executive branch officials would have to make determinations of coverage and, if necessary, exercise their waiver authority.

Even that number appears to be exaggerated. Cases of attempted al-Qaida attacks on American soil have been highly publicized and receive extensive scrutiny, understandably, in Congress. We are not aware of more than half a dozen cases, total, over the last decade. The reason the debate on this issue always seems to come back to the same handful of cases appears to be there only are a handful of cases that are covered by this provision potentially.

In her next quote:

The administration contends that the mandatory military custody is unwise because our allies will not extradite terror 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.

This provision expressly states that the waiver authority may be used to address these concerns and to assure an ally that a suspect will not be held in military custody if transferred to the United States and if that assurance is necessary to obtain that transfer. Administration officials suggested a wording change to preclude misinterpretation of this provision and the committee adopted the very wording proposed by the administration.

The next quote of the Senator from California is that Section 1033:

. . . essentially establishes a de facto ban on transfers of detainees out of Guantanamo, even for the purpose of prosecution in United States courts or in other countries.

There is no limitation at all in the bill on the transfer of Gitmo detainees to the United States for trial or for any other purpose. With regard to the transfer to other countries, Section 1033 is less restrictive than current law, which was signed by the President.

The next quote I would address is the following. Section 1033:

. . . requires the Secretary of Defense to make a series of certifications that are unreasonable and candidly unknowable before any detainee is transferred out of Guantanamo. Again, an example, the administration proposed eliminating the requirement that the Secretary of Defense certified that the foreign country from whence the detainee will be sent to is not quote 'facing a threat that is likely to substantially affect its ability to exercise its control over the individual.'

The same language was included in last year's authorization and appropriations bills that were signed by the President. We added a waiver provision this year to make it easier to transfer detainees. In discussion with the committee, the administration made a single priority request on this issue; that the provision be made a 1-year limitation instead of a permanent limitation, and the committee agreed to that change.

Finally, the last quote of the Senator from California from yesterday that I am going to address is the following:

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

This was the same allegation made by the statement of administration policy. It is erroneous, and I addressed the answer to that allegation in my remarks a little earlier today, relative to the statement of administration policy, the SAP, so I am not going to comment further. But I would direct everyone back to those comments on the statement of administration policy similar to that statement of the Senator from California, which I addressed at that time.

I appreciate the patience of our Presiding Officer. This was a long statement, but I think it is essential we understand there are issues that need to be debated and should be debated, but there is nothing but confusion created on an issue that is already complex when misstatements are made about what is in a bill of the committee and what is not in the bill of a committee.

The words in the committee bill are words that are clear. They need to be debated, but they should not be exaggerated or misinterpreted. This is an important debate. We had a good debate yesterday, and I expect we will complete this debate on Monday so we can vote on these detention provisions and amendments relative thereto of Senator UDALL hopefully on Monday night.

I yield the floor.

AMENDMENT NO. 1087

Mr. LEAHY. Mr. President, I ask unanimous consent that the pending amendment be set aside, and amendment No. 1087, the Leahy FOIA amendment, be called up and then be set aside.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 1087.

The amendment is as follows:

(Purpose: To improve the provisions relating to the treatment of certain sensitive national security information under the Freedom of Information Act)

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.

Mr. LEAHY. Mr. President, today I offer an amendment to the National Defense Authorization Act, NDAA, that would address an overbroad exemption to the Freedom of Information Act, FOIA, contained in the bill. This amendment is supported by a broad coalition of open government groups from across the political spectrum. I hope that the Senate will adopt it.

For 45 years, the Freedom of Information Act has been a cornerstone of open government and a hallmark of our democracy, ensuring that the American people have access to their government's records. My amendment will help ensure that FOIA remains a viable tool for access to information that impacts the health and safety of the American public.

I am concerned that the exemption included in the NDAA would allow the Department of Defense to keep secret important information that Americans need to know to protect their own health and safety. For example, there have been alarming reports about the Department of Defense keeping citizens in the dark about health hazards, such as groundwater contamination on military facilities, by claiming that this information was a matter of national security. While I certainly understand the need for the government to keep certain sensitive information confidential, I believe this exemption goes too far.

This amendment adds a public interest balancing test to the Secretary of Defense's determination about whether to withhold critical infrastructure information from the public. This change will help ensure that truly sensitive information is protected, while allowing the public to obtain important information about potential health and safety concerns. An essentially identical provision is contained in the House-passed version of this bill.

The amendment I offer today will also revise the language in section 1044 related to Military Flight Operations Quality Assurance Systems to ensure that truly sensitive flight information is protected, while maintaining the public's interest in obtaining information about the safety of military aircraft.

This amendment strikes an appropriate balance between safeguarding the ability of the Department of Defense to perform its vital missions and the public's right to know. I hope that all Senators will support this commonsense amendment and that the Senate will adopt it without delay.

I ask unanimous consent that the text of a letter in support of this amendment be printed in the RECORD.

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

NOVEMBER 17, 2011.

DEAR SENATORS: On behalf of the undersigned organizations, we are writing to urge you to support an amendment offered by Senator Patrick Leahy (D-VT) to fix an overbroad and ill-defined provision relating to ''critical infrastructure information,'' in Section 1044 of the National Defense Authorization Act that could prevent the public from having access to critical health and security information.

Section 1044, as written in the bill passed by the Senate Armed Services Committee, grants the Secretary of Defense, or his delegate, the authority to expand protections from public disclosure for any information that could result in the ''disruption, degradation, or destruction'' of Department of Defense (DoD) operations, property, or facilities. The language defining ''critical infrastructure information'' is exceedingly broad, encapsulating information that is crucial for the public to understand public health and safety risks and information already protected under one of the Freedom of Information Act's (FOIA) other exemptions.

We believe that the provision is intended to address agency concerns about protecting information since the Supreme Court threw out the broad use of FOIA Exemption Two in Milner v. Department of Navy. Granting DoD carte-blanche to withhold information under an exceedingly broad and ill-defined rubric of ''critical infrastructure information'' is not the right step, especially given that DoD has misused such authority to hide information in the past.

Between 1957 and 1987, the United States Marine Corps knowingly allowed as many as one million Marines and their family members at Camp Lejeune to be exposed to a host of toxic chemicals, including known human carcinogens benzene and vinyl chloride. Civilian employees who worked on the base and people who live in the communities around the base near Jacksonville, NC, are now reporting a high incidence of cancers. For years, the Marine Corps kept this secret, blocking many attempts to uncover the truth—even after the first news of water contamination broke in 1987. Many FOIA requests for information about the contamination were denied, sometimes using Exemption Two in a way that is no longer allowable after this year's Milner decision. The entire truth about the incident only came to light in part from information accidentally (and temporarily) posted on the internet by the Marine Corps.

We support language in Senator Leahy's proposed amendment that helps protect against such cover-ups by requiring DoD to weigh whether there is an over-riding public interest in disclosing the information and further protects public health and safety by tightening the definition of ''critical infrastructure security information'' to make it clear that the Secretary may withhold only information that could substantially increase effectiveness of a terrorist attack. The Leahy Amendment also would slightly modify another exemption to FOIA in Section 1044 for information in the data files of the Military Flight Operations Quality Assurance System, which we support, though we would prefer it to be further narrowed or stricken altogether.

We urge you to pass the Leahy Amendment to narrow the overly-broad Section 1044, and welcome an opportunity to discuss this issue with you further. To reach our groups, you or your staff may contact Patrice McDermott, Director of OpenTheGovernment.org, at 202–332–6736 or pmcdermottriOpenthegovernmentorg or Angela Canterbury, Director of Public Policy at the Project On Government Oversight, at 202–347–1122 or acanterburygpogo.org.

Sincerely,

3P Human Security; American Association of Law Libraries; American Booksellers Foundation for Free Expression; American Library Association; American Society of News Editors; Association of Research Libraries; Agency for Toxic Substances and Disease Registry's Camp Lejeune Community Assistance Panel; Center for International Policy; Californians Aware; Citizens for Responsibility and Ethics in Washington—CREW; Defending Dissent Foundation; Environmental Working Group; Essential Information; Federation of American

Scientists; Feminists for Free Expression; Freedom of Information Center at the Missouri School of Journalism; Friends of the Earth; Fund for Constitutional Government; Government Accountability Project—GAP.

Heart of America Northwest; Just Foreign Policy; Liberty Coalition; National Association of Social Workers, North Carolina Chapter; National Coalition Against Censorship; National Freedom of Information Coalition; Northern California Association of Law Libraries; OMB Watch; OpenTheGovernment.org; Project On Government Oversight—POGO; Public Employees for Environmental Responsibility—PEER; Reporters Committee for Freedom of the Press; Society of Professional Journalists; Southwest Research and Information Center; Special Libraries Association; Sunlight Foundation; Tri-Valley CAREs (Communities Against a Radioactive Environment); Washington Coalition for Open Government

AMENDMENT NO. 1186

Mr. LEAHY. Mr. President, I ask unanimous consent to call up the Leahy-Grassley amendment No. 1186, Fighting Fraud to Protect Taxpayers Act, and it then be set aside.

The ACTING PRESIDENT pro tempore. 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. GRASSLEY, proposes an amendment numbered 1186.

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

Mr. LEAHY. Mr. President, I am proud to have joined once again with Senator GRASSLEY to offer the bipartisan Fighting Fraud to Protect Taxpayers Act as an amendment to the National Defense Authorization Act. Combating fraud is a vital issue on which we have a long track record of working together, with great success. In these trying economic times, cracking down on fraud, which has harmed so many hardworking Americans, is more important than ever.

Fraud in military contracting and procurement is a persistent problem which costs taxpayers millions and hurts our military men and women. This amendment will help the critically important effort to crack down on fraud in the military and elsewhere, and so including this amendment with the Department of Defense authorization bill makes good sense. I urge Senators from both parties to support this amendment.

One of the first major bills the last Congress passed was the Leahy-Grassley Fraud Enforcement and Recovery Act. That bill gave fraud investigators and prosecutors additional tools and resources to better hold those who commit fraud accountable and has led to significant successes. Our work is not done though. Our amendment reflects the ongoing need to invest in enforcement to better protect hardworking taxpayers from fraud.

In the last fiscal year alone, the Department of Justice recovered well over $6 billion through fines, penalties, and recoveries from fraud cases—far more than it costs to investigate and prosecute these matters. The recovery of these vast sums of money demonstrates that investment in fraud enforcement pays for itself many times over.

The centerpiece provision of the Fighting Fraud to Protect Taxpayers Act capitalizes on this rate of return by ensuring that a percentage of money recovered by the government through fines and penalties is reinvested in the investigation and prosecution of fraud cases. That means that we can ensure more fraud enforcement, more returns to the government, and more savings to taxpayers, all without spending new taxpayer money.

The bill also makes other modest changes to promote accountability and to ensure that prosecutors and investigators, including the Secret Service, have the tools they need to combat fraud. For example, it extends the international money laundering statute to tax evasion crimes and increases key fines. The bill also promotes accountability through increased reporting and transparency.

The renewed focus on fraud enforcement we have seen from Congress and this administration has yielded significant results, but we must continue to strengthen the tools that law enforcement has to root out fraud. Hardworking, taxpaying Americans deserve to know that their government is doing all it can to prevent fraud and hold those who commit fraud accountable for their crimes. Fighting fraud and protecting taxpayer dollars are issues Democrats and Republicans have long worked together to address. I thank Senator GRASSLEY for his commitment to these issues, and ask all Senators to support this amendment.

AMENDMENT NO. 1160 AND AMENDMENT NO. 1253 EN BLOC

Mr. WYDEN. Mr. President, I ask unanimous consent for the pending amendment to be set aside, and to call up amendment No. 1160 and amendment No. 1253 en bloc.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. WYDEN] proposes amendments en bloc numbered 1160 and 1253.

The amendments are as follows:

AMENDMENT NO. 1160

(Purpose: To provide for the closure of Umatilla Army Chemical Depot, Oregon)

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.

AMENDMENT NO. 1253

(Purpose: To provide for the retention of members of the reserve components on active duty for a period of 45 days following an extended deployment in contingency operations or homeland defense missions to support their reintegration into civilian life)

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

SEC. 515. TEMPORARY RETENTION ON ACTIVE DUTY AFTER DEMOBILIZATION OF RESERVES FOLLOWING EXTENDED DEPLOYMENTS IN CONTINGENCY OPERATIONS OR HOMELAND DEFENSE MISSIONS.

(a) IN GENERAL.—Chapter 1209 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 12323. Reserves: temporary retention on active duty after demobilization following extended deployments in contingency operations or homeland defense missions

''(a) IN GENERAL.—Subject to subsection (d), a member of a reserve component of the armed forces described in subsection (b) shall be retained on active duty in the armed forces for a period of 45 days following the conclusion of the member's demobilization from a deployment as described in that subsection, and shall be authorized the use of any accrued leave.

''(b) COVERED MEMBERS.—A member of a reserve component of the armed forces described in this subsection is any member of a reserve component of the armed forces who was deployed for more than 269 days under the following:

''(1) A contingency operation.

''(2) A homeland defense mission (as specified by the Secretary of Defense for purposes of this section).

''(c) PAY AND ALLOWANCES.—Notwithstanding any other provision of law, while a member is retained on active duty under subsection (a), the member shall receive—

''(1) the basic pay payable to a member of the armed forces under section 204 of title 37 in the same pay grade as the member;

''(2) the basic allowance for subsistence payable under section 402 of title 37; and

''(3) the basic allowance for housing payable under section 403 of title 37 for a member in the same pay grade, geographic location, and number of dependents as the member.

''(d) EARLY RELEASE FROM ACTIVE DUTY.—(1) Subject to paragraph (2), at the written request of a member retained on active duty under subsection (a), the member shall be released from active duty not later than the end of the 14-day period commencing on the date the request was received. If such 14-day

period would end after the end of the 45-day period specified in subsection (a), the member shall be released from active duty not later than the end of such 45-day period.

''(2) The request of a member for early release from active duty under paragraph (1) may be denied only for medical or personal safety reasons. The denial of the request shall require the affirmative action of an officer in a grade above O–5 who is in the chain of command of the member. If the request is not denied before the end of the 14-day period applicable under paragraph (1), the request shall be deemed to be approved, and the member shall be released from active duty as requested.

''(e) TREATMENT OF ACTIVE DUTY UNDER POLICY ON LIMITATION OF PERIOD OF MOBILIZATION.—The active duty of a member under this section shall not be included in the period of mobilization of units or individuals under section 12302 of this title under any policy of the Department of Defense limiting the period of mobilization of units or individuals to a specified period, including the policy to limit such period of mobilization to 12 months as described in the memorandum of the Under Secretary of Defense for Personnel and Readiness entitled 'Revised Mobilization/Demobilization Personnel and Pay Policy for Reserve Component Members Ordered to Active Duty in Response to the World Trade Center and Pentagon Attacks–Section 1,' effective January 19, 2007.

''(f) REINTEGRATION COUNSELING AND SERVICES.—(1) The Secretary of the military department concerned may provide each member retained on active duty under subsection (a), while the member is so retained on active duty, counseling and services to assist the member in reintegrating into civilian life.

''(2) The counseling and services provided members under this subsection may include the following:

''(A) Physical and mental health evaluations.

''(B) Employment counseling and assistance.

''(C) Marriage and family counseling and assistance.

''(D) Financial management counseling.

''(E) Education counseling.

''(F) Counseling and assistance on benefits available to the member through the Department of Defense and the Department of Veterans Affairs.

''(3) The Secretary of the military department concerned shall provide, to the extent practicable, for the participation of appropriate family members of members retained on active duty under subsection (a) in the counseling and services provided such members under this subsection.

''(4) The counseling and services provided to members under this subsection shall, to the extent practicable, be provided at National Guard armories and similar facilities close the residences of such members.

''(5) Counseling and services provided a member under this subsection shall, to the extent practicable, be provided in coordination with the Yellow Ribbon Reintegration Program of the State concerned under section 582 of the National Defense Authorization Act for Fiscal Year 2008 (10 U.S.C. 10101 note).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1209 of such title is amended by adding at the end the following new item:

''12323. Reserves: temporary retention on active duty after demobilization following extended deployments in contingency operations or homeland defense missions.''.

AMENDMENT NO. 1160

Mr. WYDEN. Mr. President, this first amendment has previously passed the Senate, and it would solve a problem created by the lawyers at the Pentagon who, in effect, at the last minute on a critical issue for eastern Oregon pulled the rug out from under our communities.

When we have a problem or conflict in our State, we solve it the Oregon way, by finding consensus and building common ground. That is why, when it became apparent 20 years ago that the U.S. Army's chemical depot in Umatilla, OR would be closing once all the chemical weapons were destroyed, the community leaders gathered all of the critical organizations together and began the process of planning what to do with the land once the facility closed.

The depot straddles two counties, several cities, and historic tribal lands. So suffice it to say, there are a lot of folks at home in my State who are interested in what happens to the land.

As progress was made in destroying the weapons at Umatilla, we were able to find consensus. The Federal Government helped. More than $1 million in grants was made available to move the project along. When the facility was listed in the 2005 BRAC recommendations for closure, the Pentagon eventually recognized the organizations that were involved in building this consensus in an official local reuse authority. Everything appeared on track, until last summer. That was, in effect, the time when at the last moment the Pentagon changed the rules.

After decades of planning and $1 million was spent pulling together an extraordinary communitywide consensus, a lawyer at the Pentagon decided to reinterpret the law and declared that the 2005 BRAC report, which became law when Congress didn't pass a resolution of disapproval, didn't matter. He decided that the Umatilla depot would be closed outside of the BRAC authority because the last of the chemical weapons wouldn't be destroyed until after the 6-year limit for completion of BRAC actions.

What this lawyer either didn't know, or chose to ignore, is this was precisely the intention of the BRAC Commission when they put the depot on the closure list. The BRAC report discusses the fact that the mission of destroying the chemical weapons wouldn't be completed until after deadline.

On page 239 of the report, the Commission found Secretary Rumsfeld's assertion that the chemical demilitarization would be complete by the second quarter of 2001 was optimistic. The Commission wrote:

An examination of status information for the depot's mission completion and subsequent closure revealed that dates may slip beyond the six-year statutory period for completing BRAC actions.

Therefore, the Commission took the Secretary of Defense's recommendation: ''Close Umatilla Chemical Depot, OR'' and changed it to: ''On completion of the chemical demilitarization mission, in accordance with treaty operations, close Umatilla Chemical Depot, OR.''

These facts make it clear that the Commission did not, as this Pentagon lawyer claimed, make a conditional recommendation that the facility only be closed if the chemical demilitarization mission is completed by September of 2011. Rather, the Commission acknowledged that the closure will have to happen when the demilitarization mission is complete, even if that is after September 2011. That decision by the Commission became law.

It is also important to note that the Commission was aware that the demilitarization mission had a deadline of its own. Under the terms of the Chemical Weapons Convention treaty, Umatilla had to complete the mission by April 29, 2012. The fact is, they actually beat the deadline.

The depot should be closed under BRAC so that the will of the community in the form of this local reuse authority and the will of Congress and the BRAC law will be taken into account. The Pentagon has to implement the law as it is, not as it wants it to be. But since the lawyers at the Pentagon seem to think there is some ambiguity, I seek to clarify it for them with my amendment. The amendment would require the Pentagon to follow the BRAC commission's report and close the Umatilla depot under BRAC.

Once again, I would like to note that this has already passed the Senate once. I am very appreciative of Chairman LEVIN, Senator MCCAIN, and all our colleagues who are involved, and I thank them.

AMENDMENT NO. 1253

Briefly—and I appreciate the courtesy of Chairman LEVIN on this matter—I want to discuss my second amendment, which I call the Soft Landing Act. I think we all recognize the extraordinary contributions that are made by our Guard and Reserve. They do tour after tour after tour, and we all understand that never in our Nation's history has the American military relied more on the Guard and Reserve than it has in the last 10 years. More than 800,000 members of the Guard and Reserve have been called to Active Duty since 9/11. As I indicated, they are serving repeated tours in Iraq and Afghanistan.

I strongly believe that, for the period from when a Guard member is holding a rifle to the time when they are holding a child back at home in beautiful Oregon, there is not sufficient time being given in order to have what I call a soft landing—an opportunity to reintegrate and get your life back in order and get back into the community. What we have is a very abrupt period where a soldier faces the trauma of combat and comes right back to the community and really does not get an adequate time to readjust. Literally in a matter of days, these guardsmen go from holding guns in the chaos of a combat zone to holding their children in the serenity of their own homes. It is a difficult transition.

I want to make the point that it is a very different transition than most of our Active-Duty troops have. Many of our Active-Duty troops come back to communities that are close to facilities, close to bases. There is a variety of support services. Many of the guardsmen come back to communities that do not have the support of a large base.

It seems to me that the amount of personal and professional requirements that are placed on these patriotic, courageous Americans who serve in the Guard and Reserve warrants our making it possible for them to have what I call a softer landing getting back into their home communities.

I am very appreciative that Chairman LEVIN has given me the opportunity to discuss this briefly. He and I and his staff have talked about this before.

I will close by saying that to have all these men and women who have served with great valor in the Guard and Reserve coming home—we all understand they already face an unacceptably high unemployment rate. We know that in many instances they feel strongly about taking the time to get mental health services, to get back together again with their families, and very often the time period simply is insufficient for Guard members who come home. And right now, the reality can be pretty harsh. They go and serve their country. Their families are concerned about them being in harm's way for months on end, and then they come back with no job and no source of income to be able to support their families.

What this legislation does is provide a soft landing for Guard and Reserve members by allowing returning guardsmen and reservists to take up to 45 days—it is not a long period of time—to come back, get home, get their lives in order, and still get paid. My view is that this is part of the promise we have made in this country to take care of our troops. They did their best for us. We ought to do our best for them.

I am hopeful that the soft landing amendment, amendment No. 1253, will be included when this legislation passes here in the Senate.

I again express my appreciation to Chairman LEVIN. I know he is speaking on an important matter. I thank him for working on both of these amendments, and I look forward to working with him on these matters. He is our authority on these issues. I appreciate his courtesy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank the Senator from Oregon. We are happy to work with him. He is very deeply into these and so many other issues. His contribution is well known to all of us in the Senate. We are happy to work with him on these matters.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I would like to thank the chairman of the Armed Services Committee for such a thorough analysis of the detainee provisions represented in section 1031 through 1034 of the Defense authorization bill. This is a very important part of the Defense authorization bill, and I certainly appreciate the thoughtful analysis that the chairman did.

I would say that his thoughtful and detailed analysis addressed all the red herrings that have been raised about these particular provisions. Because if you read carefully the language in the provisions that were addressed by the Armed Services Committee, they do provide the flexibility that the administration says they have sought in making the best decisions on how to treat detainees, particularly those who become members of al-Qaida and come to our country to commit an attack against our country. We have to make sure we have the right provisions in place to protect Americans and the flexibility so the executive branch officials are able to decide what is the best track to handle a particular case or member of al-Qaida who comes to our country to, unfortunately, attack us.

I also wish to remind this body that these provisions of the Defense Authorization Act were passed out of the Senate Armed Services Committee on an overwhelming bipartisan basis. In fact, the entire Defense Authorization Act was voted out twice unanimously by the Armed Services Committee, including on Monday of this week, when we again voted out the entire provisions of this act unanimously.

So the particular provisions the chairman just discussed were the result of extensive discussions not only within the committee but also based upon testimony we heard over months from military officials regarding concerns they had about the lack of clarity in our detention policy, and that is where we came to the provisions in 1031 through 1034.

I wish to also remind this body there were many of us who would have gone much further in terms of how we would handle members of al-Qaida who come to our country to commit attacks against our citizens or those who would commit attacks against our citizens or soldiers overseas and our coalition partners. I brought forth an amendment on the CJS appropriations minibus that would have prohibited funding altogether for civilian trials of this same category for terrorists in the United States. So I would have liked to have gone much further. But I respect the amendment the committee voted out, which, in this instance, addressed the administration's concerns of allowing the administration a national security waiver to decide how to handle these cases whether they wanted to take a military track or a civilian track based on the national security interests of our country, which is, of course, what has to be foremost in these cases.

I wish to again remind everyone of the problem we have, which is that the priority, when we are dealing with a member of al-Qaida who is seeking to attack our country, has to be intelligence gathering. We have to make sure we give our executive branch agencies the tools they need to be able to gather information to know about future attacks and to protect our country.

What happens now in our civilian system is, if someone is arrested here, if they are in the civilian system, they are given rights that are part of our constitutional system, which is Miranda rights, for example. If they are in custody and there is interrogation, they have to be told they have the right to remain silent, that they have a right to a lawyer, and that they have a right to speedy presentment. These types of rights are incredibly important to our civilian system.

When we have a terrorist who is a member of al-Qaida, who is a foreigner, and who comes to this country to attack our country, the first thing they hear should not be ''you have the right to remain silent.'' We have to allow our executive branch officials the ability to make intelligence gathering the first priority. This amendment allows that and gives the executive branch the ability to decide in which system they want to treat them and to be able to prioritize intelligence gathering so we can protect Americans and make sure if someone who is a member of al-Qaida comes to our country to attack us, we can gather information without immediately having to tell them ''you have the right to remain silent.''

That is what is so important with this amendment. It was a bipartisan compromise. As I said, there are Members of the Senate, including myself, who would have liked to have gone much further. But we addressed so many of the concerns of the administration they came up with to make sure they had, with these provisions, the ability to not have to interrupt an interrogation, to conduct the interrogation as they saw fit, to make sure they could conduct ongoing surveillance, and to decide whether a military or civilian track was best based on our national security interests.

I will say just one thing with respect to the transfer provisions and the concerns that have been raised about the provisions set forth for transferring detainees from Guantanamo. This is an area that cried out for some clarification, and it is important that the standard the committee came up with is in statute. Actually, as the chairman mentioned, the reason the committee addressed this is because our defense officials raised some concerns about what the waiver provisions should be from Guantanamo. This has been an area of interest of mine because of where we are right now with the Guantanamo detainees.

Unfortunately, the reality is that 27 percent of those who have been released from Guantanamo have gotten

back into the fight and are back trying to kill us, our troops, and our coalition partners. This is an area where it was very important to have clear standards: where transfer would only be appropriate in the instances where we could ensure there wouldn't be recidivism so that we could protect our troops and our partners from having to see the very same individuals we had already had in custody at Guantanamo. So the provisions set forth here are very important to have that statutory standard for when transfers can be made and how they should be handled.

In fact, I would add, when we think about some of the detainees who have gotten back into theater whom we had in our custody at Guantanamo, they are conducting suicide bombings, recruiting radicals, and training them to kill Americans and our allies. Some of the former Gitmo detainees—and I think unfortunately it is a little bit of a badge of honor now to get back into theater and to be engaged in fighting again. Said al-Shihri and Abdul Zakir represent two examples of former Guantanamo detainees who returned to the fight and assumed leadership positions in terrorist organizations that are dedicated to killing Americans and our allies. Said al-Shihri has worked his way up to be No. 2 in al-Qaida in the Arabian Peninsula. We had him in our custody and, unfortunately, he was released. Abdul Zakir now serves as a top Taliban military commander and a senior leader in the Taliban Quetta Shura again fighting us and our allies.

Again, I am concerned that in the world of terrorists it has become a badge of honor to be released from Guantanamo and then to get back into the fight against us. So I just wanted to put in perspective what we heard from our senior defense officials over a period of months in the Armed Services Committee as to why it is important to have a standard that allows the Department of Defense, under limited circumstances and based on protecting our country, to transfer the detainees, but only when we have addressed the issue of recidivism and they are assured that these individuals aren't going to get back in theater and try to kill American soldiers or our allies. That is why this provision is in here, and I am very pleased it is in here to make sure we address this important issue to keep Americans protected and our allies protected.

I will repeat again that this was a bipartisan compromise. This morning the chairman very thoroughly went through each of the issues raised in the Statement of Administration Policy. Also, in my view, he thoroughly knocked down many of the red herrings that were raised about this provision on the Senate floor yesterday by Senators who are seeking to strike this provision from the Defense Authorization Act.

It is important that this body pass this Defense authorization. It is important for not only these provisions, but also so many of the provisions of this Defense authorization that give our troops the tools they need, as we tell them we are here to support them, to make sure we move forward with the Defense authorization, including these important provisions that address how we handle detainees.

Again, I wish to thank the chairman of the Armed Services Committee for his leadership on this issue. I know he has worked very hard in meeting with the administration, meeting with those of us on the other side of the aisle who actually wanted to go much further in coming up with a very strong, important piece of legislation that will protect Americans and move us forward and provide some clarity in an area where we need clarity to make sure our executive branch officials have the tools they need to gather intelligence to protect Americans from the terrorist attacks because, unfortunately, those who are members of al-Qaida still seek to kill us for what we believe, not for anything we have done, and we can't forget that.

So I thank the chairman.

AMENDMENTS NOS. 1179, 1230, 1137, 1138, 1247, 1246, 1229, 1230 AS MODIFIED, 1249, 1071, 1220, 1132, 1248, 1250, AND 1118 EN BLOC

Ms. AYOTTE. Mr. President, I ask unanimous consent on behalf of other Republican Senators to temporarily set aside the pending amendment and call up the following amendments en bloc: amendment No. 1179 on behalf of Senator GRAHAM; amendment No. 1230 on behalf of Senator MCCAIN; amendment No. 1137 on behalf of Senator HELLER related to the U.S. Embassy in Israel; also for Senator HELLER, amendment No. 1138 related to the repatriation of U.S. military remains from Libya; for Senator MCCAIN, amendment No. 1247 related to further restrictions on the use of defense funds on Guam; for Senator MCCAIN, amendment No. 1246 related to a commission for U.S. military force structure in the Pacific; for Senator MCCAIN, amendment No. 1229 related to a cybersecurity agreement between the Department of Defense and the Department of Homeland Security; for Senator MCCAIN, amendment No. 1230, as modified, related to the annual adjustment in enrollment fees for TRICARE Prime; for Senator MCCAIN, amendment No. 1249 related to cost-plus contracting—and this is also an amendment that I am cosponsoring; for Senator MCCAIN, amendment No. 1071 related to the oversight of the evolved Expendable Launch Vehicle; for Senator MCCAIN, amendment No. 1220 related to a GAO report of Alaskan Native Corporation contracting; for Senator MCCAIN, amendment No. 1132 related to a Statement of Budgetary Resource Auditability; for Senator MCCAIN, amendment No. 1248 related to authorizing ship repairs in the Northern Marianas; for Senator MCCAIN, amendment No. 1250 related to a report on the probation of the F–35B program; for Senator MCCAIN, amendment No. 1118 to modify the availability of surcharges collected by commissary stores.

I have to make a clarification on an amendment I previously offered on behalf of Senator MCCAIN: amendment No. 1230, as modified, Senator MCCAIN's amendment on TRICARE.

I ask unanimous consent from the chairman of the Armed Services Committee to allow the Senator from Alabama to speak.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before the Chair recognizes our friend from Alabama, let me thank the Senator from New Hampshire not just for her kind and warm remarks, but also for the great contribution she has made to our committee. It has been an extraordinary launch for her, if I may put it that way. I think—and I know our Presiding Officer would agree with me on this because he has been a witness as well—it has been a major contribution.

I thank the Senator. She has the kind of experience and is so committed to the security of this country that the Senator is already venerable as a member of our committee.

I yield the floor.

Ms. AYOTTE. I thank the chairman. He is very kind, and it has been wonderful to serve under his leadership on the Armed Services Committee, of which I would say, one of the great experiences in the Senate is that the Armed Services Committee—in a time when people see so much partisan—works on a very strong, bipartisan basis to ensure our country is protected.

With that, I would yield to my colleague who also serves on the Armed Services Committee, whom I have great respect for, Senator SESSIONS from Alabama.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. Without objection, the amendments the Senator from New Hampshire has offered will be considered to have been read and will be considered in the order they have been offered.

The amendments en bloc are as follows:

AMENDMENT NO. 1179

(Purpose: To specify the number of judge advocates of the Air Force in the regular grade of brigadier general)

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.''.

AMENDMENT NO. 1137

(Purpose: To provide for the recognition of Jerusalem as the capital of Israel and the relocation to Jerusalem of the United States Embassy in Israel)

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.

AMENDMENT NO. 1138

(Purpose: To provide for the exhumation and transfer of remains of deceased members of the Armed Forces buried in Tripoli, Libya)

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.

AMENDMENT NO. 1247

(Purpose: To restrict the authority of the Secretary of Defense to develop public infrastructure on Guam until certain conditions related to Guam realignment have been met)

Beginning on page 534, strike line 8 and all that follows through page 535, line 17, and insert the following:

(a) RESTRICTION ON USE OF FUNDS.—None of the funds authorized to be appropriated under this title, or amounts provided by the Government of Japan for military construction activities on land under the jurisdiction of the Department of Defense, may be obligated or expended to implement the realignment of United States Marine Corps forces from Okinawa to Guam as envisioned in the United States–Japan Roadmap for Realignment Implementation issued May 1, 2006, until—

(1) the Commandant of the Marine Corps provides the congressional defense committees the Commandant's preferred force laydown for the United States Pacific Command Area of Responsibility;

(2) the Secretary of Defense submits to the congressional defense committees a master plan for the construction of facilities and infrastructure to execute the Commandant's preferred force lay-down on Guam, including a detailed description of costs and a schedule for such construction;

(3) the Secretary of Defense certifies to the congressional defense committees that tangible progress has been made regarding the relocation of Marine Corps Air Station Futenma; and

(4) a plan coordinated by all pertinent Federal agencies is provided to the congressional defense committees detailing descriptions of work, costs, and a schedule for completion of construction, improvements, and repairs to the non-military utilities, facilities, and infrastructure on Guam affected by the realignment of forces.

(b) RESTRICTION ON DEVELOPMENT OF PUBLIC INFRASTRUCTURE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense is prohibited from using the authority provided by section 2391 of title 10, United States Code, to carry out any grant, cooperative agreement, or supplement of funds available under Federal programs administered by agencies other than the Department of Defense provided under this section that will result in the development (including repair, replacement, renovation, conversion, improvement, expansion, acquisition, or construction) of public infrastructure on Guam until the requirements under subsection (a) are satisfied.

(2) PUBLIC INFRASTRUCTURE DEFINED.—In this section, the term ''public infrastructure'' means any utility, method of transportation, item of equipment, or facility under the control of a public entity or State or local government that is used by, or constructed for the benefit of, the general public.

AMENDMENT NO. 1246

(Purpose: To establish a commission to study the United States Force Posture in East Asia and the Pacific region)

Strike section 1079 and insert the following:

SEC. 1079. COMMISSION TO STUDY UNITED STATES FORCE POSTURE IN EAST ASIA AND THE PACIFIC REGION.

(a) INDEPENDENT ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Defense shall establish a commission to conduct an independent assessment of America's security interests in East Asia and the Pacific region. The commission shall be supported by an independent, non-governmental institute which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and has recognized credentials and expertise in national security and military affairs with ready access to policy experts throughout the country and from the region.

(2) ELEMENTS.—The commission established pursuant to paragraph (1) shall assess the following elements:

(A) A review of current and emerging United States national security interests in the East Asia and Pacific region.

(B) A review of current United States military force posture and deployment plans, with an emphasis on the current plans for United States force realignments in Okinawa and Guam.

(C) Options for the realignment of United States forces in the region to respond to new opportunities presented by allies and partners.

(D) The views of noted policy leaders and regional experts, including military commanders in the region.

(b) MEMBERS OF THE COMMISSION.—

(1) COMPOSITION.—For purposes of conducting the assessment required by paragraph (a), the commission established shall include eight members as follows:

(A) Two appointed by the chairman of the Committee on Armed Services of the House of Representatives.

(B) Two appointed by the chairman of the Committee on Armed Services of the Senate.

(C) Two appointed by the ranking member of the Committee on Armed Services of the House of Representatives.

(D) Two appointed by the ranking member of the Committee on Armed Services of the Senate.

(2) QUALIFICATIONS.—Individuals appointed to the commission shall have significant experience in the national security or foreign policy of the United States.

(3) DEADLINE FOR APPOINTMENT.—Appointments of the members of the commission shall be made not later than 60 days after the date of the enactment of this Act.

(4) CHAIRMAN AND VICE CHAIRMAN.—The commission shall select a Chairman and Vice Chairman from among it members.

(5) 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.

(6) MEETINGS.—

(A) INITIAL MEETING.—Not later than 14 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.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the commission shall provide to the Secretary of Defense an unclassified report, with a classified annex, containing its findings. Not later than 90 days after the date of receipt of the report, the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall transmit the report to the congressional defense committees, together with such comments on the report as the Secretary considers appropriate.

(d) 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.

(e) 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.—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.

(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.

(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 or the Department of State 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.

(f) 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.

(g) TERMINATION OF PANEL.—The Panel shall terminate 45 days after the date on which the Panel submits its final report under subsection (c).

AMENDMENT NO. 1229

(Purpose: To provide for greater cybersecurity collaboration between the Department of Defense and the Department of Homeland Security)

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

SEC. 1088. CYBERSECURITY COLLABORATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF HOMELAND SECURITY.

(a) INTERDEPARTMENTAL COLLABORATION.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of Homeland Security shall provide personnel, equipment, and facilities in order to increase interdepartmental collaboration with respect to—

(A) strategic planning for the cybersecurity of the United States;

(B) mutual support for cybersecurity capabilities development; and

(C) synchronization of current operational cybersecurity mission activities.

(2) EFFICIENCIES.—The collaboration provided for under paragraph (1) shall be designed—

(A) to improve the efficiency and effectiveness of requirements formulation and requests for products, services, and technical assistance for, and coordination and performance assessment of, cybersecurity missions executed across a variety of Department of Defense and Department of Homeland Security elements; and

(B) to leverage the expertise of each individual Department and to avoid duplicating, replicating, or aggregating unnecessarily the diverse line organizations across technology developments, operations, and customer support that collectively execute the cybersecurity mission of each Department.

(b) RESPONSIBILITIES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall identify and assign, in coordination with the Department of Defense, a Director of Cybersecurity Coordination within the Department of Homeland Security to undertake collaborative activities with the Department of Defense.

(2) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall identify and assign, in coordination with the Department of Homeland Security, one or more officials within the Department of Defense to coordinate, oversee, and execute collaborative activities and the provision of cybersecurity support to the Department of Homeland Security.

AMENDMENT NO. 1230, AS MODIFIED

(Purpose: To modify the annual adjustment in enrollment fees for TRICARE Prime)

On page 220, strike line 13 and all that follows through page 221, line 6, and insert the following:

''(c) COST-OF-LIVING ADJUSTMENT IN ENROLLMENT FEE.—(1)(A) Whenever after September 30, 2011, and before October 1, 2012, the Secretary of Defense increases the retired pay of members and former members of the armed forces pursuant to section 1401a of this title, the Secretary shall increase the amount of the fee payable for enrollment in TRICARE Prime by an amount equal to the percentage of such fee payable on the day before the date of the increase of such fee that is equal to the percentage increase in such retired pay. In determining the amount of the increase in such retired pay for purposes of this subparagraph, the Secretary shall use the amount computed pursuant to section 1401a(b)(2) of this title.

''(B) Effective as of October 1, 2013, the Secretary shall increase the amount of the fee payable for enrollment in TRICARE Prime on an annual basis by a percentage equal to the percentage of the most recent annual increase in the National Health Expenditures per capita, as published by the Secretary of Health and Human Services.

''(C) Any increase under this paragraph in the fee payable for enrollment shall be effective as of October 1 following the date on which such increase is made.

''(2) The Secretary shall publish in the Federal Register the amount of the fee payable for enrollment in TRICARE Prime whenever increased pursuant to this subsection.''.

(b) CLARIFICATION OF APPLICATION FOR 2013.—For purposes of determining the enrollment fees for TRICARE Prime for 2013 under the first sentence of section 1097a(c) of title 10, United States Code (as added by subsection (a)), the amount of the enrollment fee in effect during 2012 shall be deemed to be the following:

(1) $260 for individual enrollment.

(2) $520 for family enrollment.

AMENDMENT NO. 1249

(Purpose: To limit the use of cost-type contracts by the Department of Defense for major defense acquisition programs)

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

SEC. 808. LIMITATION ON USE OF COST-TYPE CONTRACTS.

(a) PROHIBITION WITH RESPECT TO PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall modify the acquisition regulations of the Department of Defense to prohibit the Department from entering into cost-type contracts for the production of major defense acquisition programs (MDAPs).

(2) EXCEPTION FOR JOINT URGENT OPERATIONAL NEEDS.—The prohibition under subsection (a) shall not apply in the case of a particular cost-plus contract if the Under Secretary for Acquisition, Technology, and Logistics—

(A) certifies, in writing, with reasons, and on the basis of a validation of a joint urgent operational need by the Joint Requirements Oversight Council, that a cost-type contract is needed to provide capability required to satisfy a joint urgent operational need; and

(B) provides the certification to the congressional defense committees not later than 30 business before issuing a solicitation for the production of a major defense acquisition program.

(b) CONDITIONS WITH RESPECT TO DEVELOPMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 818(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2329; 10 U.S.C. 2306 note) is amended—

(1) in paragraph (1), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraphs:

''(3) all reasonable efforts have been made to define the requirements sufficiently to allow for the use of a fixed-price contract for the development of the major defense acquisition program; and

''(4) despite these efforts, the Department of Defense cannot define requirements sufficiently to allow for the use of a fixed-price contract for the development of the major defense acquisition program.''.

(c) REPORTING OF COST-TYPE DEVELOPMENT CONTRACTS.—Not later than 30 business days before issuing a solicitation for the development of a major defense acquisition program, the Secretary of Defense shall submit to the congressional defense committees notice of the proposed award and the written determinations required under paragraphs (1) and (4) of section 818(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007, as amended by subsection (b), and the reasons supporting the determinations.

(d) DEFINITIONS.—In this section:

(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term ''major defense acquisition program'' has the meaning given the term in section 2430(a) of title 10, United States Code.

(2) PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term ''production of a major defense acquisition program'' means the production, either on a low-rate initial production or full-rate production basis, and deployment of a major system that is intended to achieve operational capability that satisfies mission needs, or any activity otherwise defined as Milestone C, or Key Decision Point C in the case of a space program, under Department of Defense Instruction 5000.02 or related authorities.

(3) DEVELOPMENT OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term ''development of a major defense acquisition program'' means the development of a major defense acquisition program or related increment of capability, the completion of full system integration, the development of an affordable and executable manufacturing process, the demonstration of system integration, interoperability, safety, and utility, or any activity otherwise defined as Milestone B, or Key Decision Point B in the case of a space program, under Department of Defense Instruction 5000.02 or related authorities.

AMENDMENT NO. 1071

(Purpose: To require the Secretary of Defense to report on all information with respect to the Evolved Expendable Launch Vehicle program that would be required if the program were designated as a major defense acquisition program not in the sustainment phase)

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.

AMENDMENT NO. 1220

(Purpose: To require Comptroller General of the United States reports on the Department of Defense implementation of justification and approval requirements for certain sole-source contracts)

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.

AMENDMENT NO. 1132

(Purpose: To require a plan to ensure audit readiness of statements of budgetary resources)

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.

AMENDMENT NO. 1248

(Purpose: To expand the authority for the overhaul and repair of vessels to the United States, Guam, and the Commonwealth of the Northern Mariana Islands)

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

SEC. 1024. AUTHORITY FOR OVERHAUL AND REPAIR OF VESSELS IN COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

Section 7310(a) of title 10, United States Code, is amended—

(1) in the subsection heading, by striking ''UNITED STATES OR GUAM'' and inserting ''UNITED STATES, GUAM, OR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS''; and

(2) by striking ''United States or Guam'' both places it appears and inserting ''United States, Guam, or the Commonwealth of the Northern Mariana Islands''.

AMENDMENT NO. 1250

(Purpose: To require the Secretary of Defense to submit a report on the probationary period in the development of the short take-off, vertical landing variant of the Joint Strike Fighter)

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

SEC. 158. REPORT ON PROBATIONARY PERIOD IN DEVELOPMENT OF SHORT TAKE-OFF, VERTICAL LANDING VARIANT OF THE JOINT STRIKE FIGHTER.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the development of the short take-off, vertical landing variant of the Joint Strike Fighter (otherwise known as the F–35B Joint Strike Fighter) that includes the following:

(1) An identification of the criteria that the Secretary determines must be satisfied before the F–35B Joint Strike Fighter can be removed from the two-year probationary status imposed by the Secretary on or about January 6, 2011.

(2) A mid-probationary period assessment of—

(A) the performance of the F–35B Joint Strike Fighter based on the criteria described in paragraph (1); and

(B) the technical issues that remain in the development program for the F–35B Joint Strike Fighter.

(3) A plan for how the Secretary intends to resolve the issues described in paragraph (2)(B) before January 6, 2013.

AMENDMENT NO. 1118

(Purpose: To modify the availability of surcharges collected by commissary stores)

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.''.

Mr. LEVIN. If the Senator from Alabama, our friend, would yield for one second.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. We are then on the regular order; is that correct?

The PRESIDING OFFICER. The Senator is correct. The regular order will be restored.

Mr. LEVIN. So the regular order is the Levin-McCain amendment; is that correct?

The PRESIDING OFFICER. That is correct.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I do believe the Defense authorization bill has been moved in the way more legislation needs to be handled in the Congress. I am confident that is in large part due to the leadership of Senator LEVIN, who is a professional, skilled lawyer, who knows the big picture and the small details of the legislation. It has been a pleasure to work with him over the years. I have learned a great deal about our defense from him and how legislation is enacted. So I want to express my appreciation for that.

And I thank Senator MCCAIN, who brings a vast knowledge of defense and military issues, and who is courageous in defending what he believes the legitimate interests of the United States are. That has been a real pleasure.

I will join Senator LEVIN in thanking Senator AYOTTE for her leadership. Her contributions to our committee have been immediate, and that is reflected in the fact that Senator MCCAIN has asked her to manage the floor today for him. I also appreciate the Senator's work on the budget and the effort we have made there.

AMENDMENTS NOS. 1182, 1183, 1184, 1185, AND 1274 EN BLOC

Mr. President, I ask unanimous consent to temporarily set aside the pending amendment and call up the following amendments en bloc: amendment No. 1182, dealing with Army brigade combat teams; amendment No. 1183, dealing with the nuclear triad; amendment No. 1184, dealing with naval surface vessels; amendment No. 1185, dealing with missile defense; and amendment No. 1274, dealing with the detention of enemy combatants.

The PRESIDING OFFICER. Without objection, those amendments are considered pending in that order.

The amendments en bloc are as follows:

AMENDMENT NO. 1182

(Purpose: To prohibit the permanent stationing of more than two Army Brigade Combat Teams within the geographic boundaries of the United States European Command)

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.

AMENDMENT NO. 1183

(Purpose: To require the maintenance of a triad of strategic nuclear delivery systems)

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.

AMENDMENT NO. 1184

(Purpose: To limit any reduction in the number of surface combatants of the Navy below 313 vessels)

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.

AMENDMENT NO. 1185

(Purpose: To require a report on a missile defense site on the East Coast of the United States)

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.

AMENDMENT NO. 1274

(Purpose: To clarify the disposition under the law of war of persons detained by the Armed Forces of the United States pursuant to the Authorization for Use of Military Force)

On page 360, between lines 17 and 18, insert the following:

(5) Notwithstanding disposition under paragraph (2) or (3), further detention under the law of war until the end of hostilities authorized by the Authorization for Use of Military Force.

Mr. SESSIONS. Mr. President, I wish to share a few general comments about where we are. All of us have been confronting, whether we want to or not—I think some of us more realistically than others—the debt situation this Nation faces. We are, indeed, borrowing 40 cents of every $1 we spend. That is an unsustainable path. We have already had 3 consecutive years of deficits exceeding $1 trillion, and we are projected to have another trillion-dollar deficit next year.

The debt under President Obama has now increased by 42 percent in the first 3 years of his term in office. It is an unsustainable course. We have to do better.

The National Defense Authorization Act represents our committee's vision for defense in the future. We have done something about the spending problem America has. As we calculate the numbers, we are down from $548 billion—in actual money spent on the Defense Department last year—to $527 billion this year, an actual reduction, in noninflation-adjusted dollars, of over $20 billion, which represents about a 5-percent reduction, a 4-percent reduction in defense spending.

That is what all of our accounts should be doing. But, indeed, that is not happening. In the other aspects of discretionary spending—defense being the largest portion of discretionary spending in the Congress—the other agencies and departments are not showing a reduction at all. Indeed, they are showing an increase, even after nondefense discretionary spending increased 24 percent in the first 2 years under President Obama.

Some think the base defense budget has been surging—and it has been increasing over the last decade—but it has increased 84 percent over the past decade. I will note that Medicaid, for example, has increased over 100 percent. Food stamps are now up to $80 billion this year. It is four times what it was in 2001, from $20 billion to about $80 billion.

So defense has not been surging out of proportion, I would suggest, to the other spending programs in our government. In fact, it has been increasing, even in this decade long of war against terrorism, at a rate that is not excessive, in my view. It has been a pretty significant increase under realistic controls and not out of proportion to what we are concerned about. However, it is looking to be hammered a great deal more in the future, disproportionate, again, to what is happening in other spending accounts.

The Defense Department now is working on a total reduction in spending of $489 billion more, which is about 10 percent of what we would expect to spend in the next 10 years. That is because of the Budget Control Act we passed in August that required reductions in spending in discretionary accounts. The choices so far have been to reduce defense spending far more than the other accounts.

In addition, if the deficit committee—the 12 supercommittee members—if they do not reach an accord, we all need to understand there will be an automatic sequester. Many people thought—and I think Senators probably thought—if that were to be done, it would be done across the board in an equal way. Not so. If that happens, $600 billion additional would be taken out of defense, and items such as food stamps, Medicaid, the earned income tax credit, Social Security—all of those would have no reductions. So it would amount to almost a 20-percent reduction in the Defense Department in real dollars over 10 years.

It should not have been that way. The agreement should not have targeted the Defense Department in such a Draconian way. We cannot allow that to happen.

All accounts need to be tightened. Every agency and department has to tighten its belt, including the Defense Department, but not disproportionately so.

Admiral Mullen said, if this were to occur, it would ''hollow us out,'' it could break the Defense Department and our military; so did Leon Panetta, President Obama's Secretary of Defense. He said it was basically an unacceptable situation, and he agreed with Admiral Mullen, who was sitting beside him at the time of that testimony, and in response to questions I asked of him.

When I asked him about it—the hearing was on another subject—he responded with passion, Secretary Panetta did, and expressed deep concern about the course of our Defense Department if these cuts were to take place.

I will quote former Secretary Robert Gates, who served President Bush and President Obama. Recently, he said this:

> I think, frankly, the creation of this supercommittee was a complete abdication of responsibility on the part of the 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 any of the tough decisions.'' So now we're left with this sword of Damocles hanging over the government, hanging over defense, and if these cuts are automatically made, I think that the results for our national security will be catastrophic.

That is what the former Secretary of Defense, a most respected Secretary, said not long ago. So I think that is fundamentally correct, that we are proceeding on a path that disproportionately impacts the Defense Department and would be damaging in a way that is not necessary and should not happen.

A lot of these other programs have been surging out of control with problems after problems—whether it is Solyndra loans that were made, apparently knowing the company is going under—those kinds of things we need to focus on. To suggest they cannot have any cuts, and all the cuts have to fall on defense, or a disproportionate number of them, is a mistake.

I am a firm believer that the Defense Department, and every department of our government, has to tighten its belt, and we cannot continue with business as usual, and we should be having reductions in spending in every single bill that is coming before us. But I am afraid the only bill that will actually show an actual reduction in spending is the Defense bill, when we have men and women in harm's way right now on guard to defend our country.

I feel we need to get our act together. I am hopeful this committee of 12 can reach an accord that would not hammer the Defense Department additionally from the huge cuts they are already being asked to make over the next 10 years. Maybe they can help us begin to get on a path to fiscal responsibility. But I am doubtful they are going to make a big change. Hopefully, they will make some agreement, but it does not look hopeful we will have the kind of financial alteration of spending in America that is necessary to get our country on the right path.

After all, Admiral Mullen, the Chairman of the Joint Chiefs of Staff, said last year that the greatest threat to our national security is our debt. We are already seeing how it impacts us when you see these cuts being discussed and being threatened.

I want to thank Senator AYOTTE—a former prosecutor, attorney general of New Hampshire—for jumping in right away into the very critical issue of detainees and how they should be treated in the United States. In the short time she has been here, she is making a big difference on that.

I was involved in it on the Judiciary Committee. I have been involved in it on the Armed Services Committee. I am basically exhausted with it. I remain flabbergasted. I think you are right, Senator AYOTTE. This is progress I believe you have made in these negotiations, but I think we have gone too far in many of these ideas already. It does not make common sense.

Let me say a couple of things about it. When a person is at war against the United States and they are captured in combat activities against the United States, they are able to be detained. They do not have to be tried. They do not have to be given Miranda rights. They have to comply with the Geneva Conventions about food and the right to communicate, and, within limits, they can be interrogated. All of those things are part of the Geneva Conventions. And they are to be detained until the war is over. That is so fundamentally logical. Why in the world would a person who is fighting an enemy and could have killed the enemy at one moment and captures them the next moment then be required, while the war is still ongoing, to release them so they can shoot you again and attack you again?

This is perfectly logical. It is part of the history of war, and it has long been established that when you capture enemy combatants, you can detain them until the conflict is over. But we have had this obsessive desire and attack by some that the people who have been captured need to be released, and they insisted that they be released. So they started with the least dangerous members, and they have released, I guess now, a majority of the people who have been detained. And among the least dangerous members who have been released, as Senator AYOTTE says, we now have 27 percent who have been identified as in the war, attacking us now, and one of them is one of the top leaders in al-Qaida. This was never necessary.

Guantanamo is a perfectly logical place to hold these individuals, and how it became such a political issue—and President Obama campaigned on it, and Attorney General Eric Holder was out there complaining about it. Then he gets in as the Attorney General of the United States, and they commence to make some serious errors, in my opinion.

One of the biggest errors was to create a presumption that somebody who has been apprehended attacking the United States should be treated in civilian courts. I know Senator AYOTTE

just said this earlier, but people need to know. If you are going to try someone in civilian court, you have to give them the Miranda immediately because when they come before the judge, if they made an admission without Miranda, it cannot be used against them. And you have to tell them immediately that they are entitled to a lawyer. When you capture people in a war, you don't give them lawyers. That has never been a part of the rules of war. And they are guaranteed presentment, the right to speedy trial in Federal court within 70 days. They are entitled to a preliminary hearing. So all of the other bad guys and terrorists now have an opportunity to know that you have captured their co-conspirator, perhaps, and are aware of the circumstances and may scatter in a way that you would not want to occur.

So these are realistic things. So if there is a presumption—first of all, I would say all of the cases should be tried in military commissions, if they are tried, and not in civilian court. But certainly the presumption should be that they would be in military commissions because if the presumption, as Attorney General Holder has declared, is that it is civilian, then you have to do the warning.

I remember in one of my hearings, Senator LINDSEY GRAHAM, a JAG officer in the Air Force—still trains as a reservist—grilled I believe it was Attorney General Holder and asked him: Well, what would happen if bin Laden were captured? Would you give him Miranda rights? And he could not answer the question. He would not answer the question because under his presumption, if Osama bin Laden were apprehended, he should be given Miranda rights.

So that is the nub of the problem we have been wrestling with, and we have had a lot of political rhetoric, in my opinion, attacked President Bush time and time again. They did not conduct everything perfectly, but many of the attacks on President Bush, his Department of Justice, and his military were unfair.

Do you know that not a single person in Guantanamo was ever waterboarded, that the U.S. military never participated in that? These were intel interrogations done under limited circumstances to a very few people. Whether they should have been done or not, we can all argue and disagree, but the idea that the U.S. military, the Defense Department, was systematically torturing and abusing prisoners is absolutely untrue. No military under such difficult circumstances has performed so well.

Another subject. One of my amendments deals with a subject I have had an opportunity to be engaged in for some years. Around 2002, 2003, or 2004, I led a congressional delegation to Europe dealing with the extent of our forces in Europe, how many we have deployed there, and the opportunity we had and maybe the need we have to bring home some of those forces.

We were going through a BRAC process in the United States, closing bases and consolidating bases. That process did not apply officially to Europe and bases around the world. And a number of us were engaged in that. I recall that Senator SAXBY CHAMBLISS and MIKE ENZI traveled with us to Europe, and we examined—went to Germany and Italy and Spain, and we saw the bases that were important to the United States, bases that we really needed and we had good support from our allies on and that would be enduring bases. And there was a plan in place to reduce the deployment in areas where it was less important.

So as a matter of background, I would share these thoughts. Since 2004, the Defense Department has had a plan to transfer two of its four combat brigades in Europe back to the United States as part of a larger post-Cold War realignment. However, in April of this year—-April of this year—the Department of Defense announced it would maintain three combat brigades and the fourth would not leave Europe until 2015.

Earlier this year, Admiral Stavridis told the Senate Armed Services Committee that roughly 80,000 troops remain in Europe. Moving a brigade combat team back to the United States would have cut U.S. forces by 5,000 personnel.

A 2010 plan developed by a congressionally appointed committee found that cutting one-third of the U.S. military presence in Europe and the Pacific would save billions of dollars over 10 years. I do believe significant cost savings can be realized. In addition to these savings, stationing these troops in the United States would have a stimulative effect on State and local economies, with these soldiers and families living in their local economies and being able to stay with their families more easily and reducing the number of extensive movements of personnel and families to deploy in different places around the world. So I believe we need stay on track with this plan.

A February 2011 GAO report found that DOD posture planing guidance does not require the EUCOM—the European Command—to include comprehensive cost data in its theater posture plan. As a result, DOD does not have critical information that can be used by decision-makers as they deliberate posture requirements.

The GAO analysis showed that of the approximately $17 billion obligated to the services to support installations in Europe between 2006 and 2009, approximately $13 billion—78 percent—was for operation and maintenance costs. Now, those countries want our people there. It brings American money to their economy—just like we would like to have a brigade combat in Alabama, New Hampshire, or some other places. It is good for the economy.

NATO and European allies, however, are not meeting their defense spending obligations. Many of our allies do not meet the EU standard. The United States should not be continuing to subsidize NATO and European allies' defense spending. They need to participate some more.

I believe there are significant savings that could be found by bringing both of these brigade combat teams to the United States, as has been planned.

I would ask, is Europe more threatened today than it was 2, 3, 4, 6 years ago? I do not think so. They do not think so. Europeans committed to 2 percent of their GDP to be committed to defense, but many of those nations are down to 1 percent. They are not even fulfilling their 2 percent goal. The United States is at 4 percent of GDP on defense, almost.

I think the Europeans need to be prepared to understand that they cannot live off the United States. There is a great book by Kagan called ''Paradise and Power.'' It is very insightful, a very insightful book. It says, in a sense: Europeans are comfortable. Why? Because they are under the umbrella of American power. They have been comfortable with that. They do not feel threatened. They are not paying their fair share of the defense burden. And they do not like it when we want to bring home troops. Give me a break. It is time to do something about that.

I believe all of our allies around the world, whether in the Pacific or in Europe or in other areas of the globe, ought to work with us in partnership so that we can be most effective in providing some stability around the world. But the idea that the United States can unilaterally fund a security force for the whole world is unrealistic. It can't be sustained.

I just cannot possibly see how we need this many troops in Europe at this point in history. I believe it would be good for our economy to have those troops back home in the United States. You can have the bases there that we could surge and meet any challenge in short order. I believe that is the right approach.

I see my friend, Senator ENZI. We traveled together on that trip to Europe a number of years ago to examine the bases that we felt should be permanent and the ones that should be closed.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I would like to give my thanks to the Senator from Alabama for his comments about the concerns he has about our detainee policy and about how important it is that we have the right policies in place to protect Americans so that we can prioritize gathering intelligence.

I also wanted to share in his concerns about what is happening with the supercommittee in terms of the impact on our national security. There is no question that there are areas where we can do much better and be more effective with taxpayer dollars on defense

spending. But we cannot subjugate our national security for our failure around here to do our job and to have courage to take on the entire budget and bring ourselves on a path of fiscal responsibility.

So I know the Senator from Alabama has been a great leader in this area, and I appreciate his comments in that regard.

AMENDMENT NO. 1249

Mr. President, I also wanted to speak briefly on an amendment that has already been made pending that Senator MCCAIN and I are cosponsoring together.

Over the last year, as a new Member of the Senate and the Senate Armed Services Committee, one of the concerns I have had is the way we do contracting at the Department of Defense. My overall impression has been that a third year law student could negotiate much better terms for the United States than we have been negotiating for the country. In some of the negotiations with our defense contracts we end up on the hook when contractors don't perform or it takes longer than they indicate, and we seem to always bear the financial burden of that.

When we look at the fiscal state of the country and where we are, we need to reform that process. That is what drew my interest to this issue. Senator MCCAIN has long worked on this issue of reforming our acquisition process, and I have great respect for the work he has done there. So we have offered on this National Defense Authorization Act amendment No. 1249, which would prevent millions of dollars in wasteful contract cost overruns from the Department of Defense on major defense acquisition programs and help to ensure that our warfighters have the weapons and systems they need to protect our Nation but doing so within budget and on time frames that contractors commit to for our needs to make sure we have what we need to protect our country.

According to the Government Accountability Office, in a March 2011 report entitled ''Defense Acquisitions: Assessments of Selected Weapons Programs,'' from fiscal year 2010 collectively, we ran more than $400 billion over budget and were an average of almost 2 years behind schedule for major defense acquisitions programs.

Today, half of the Department of Defense major defense acquisition programs do not meet cost performance goals. Eighty percent of our major defense acquisition programs have an increase in unit costs from initial estimates that were given. While there can be many factors that explain the cost overruns, the cost-type contracts have been a significant contributing factor in why we have these overruns both for production and development of our major defense acquisition programs. We have to address these cost overruns, particularly at a time when we are asking our Department of Defense to reduce spending. We need to get the maximum bang for our buck and hold contractors accountable when they do not perform what we have contracted them for. We need to make sure the terms of our contracts are good for the United States and are fiscally responsible, and that is what this amendment would do.

It would prohibit the use of cost-type contracts for the production of major defense acquisition contracts and limit the use of cost-type contracts for major defense acquisition development contracts. This represents the core investment in our Nation's military, and as these costs increase, and as the Department of Defense faces the looming prospect of major budget cuts over the next decade, we have to address this now for our troops and for our national security. We have to get this right.

I am hoping for and I ask my colleagues to support this amendment we are bringing forward. Again, I would say on behalf of Senator MCCAIN, who has done so much work in this area, reforming our acquisition process and getting this right is so important to what we are asking our military to do right now, which is to do more with less.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENTS NOS. 1146, 1147, 1148, 1204, 1294, 1293, 1206, AND 1292

Mr. LEVIN. Mr. President, I ask unanimous consent to call up the following amendments, the first four on behalf of Senator JACK REED, Nos. 1146, 1147, 1148, and 1204; a fifth for Senator REED, amendment No. 1294; No. 1293, a Levin amendment; No. 1206, a Boxer amendment; and No. 1292, a Menendez amendment; and I then ask unanimous consent that we return to the regular order.

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

The amendments are as follows:

AMENDMENT NO. 1146

(Purpose: To provide for the participation of military technicians (dual status) in the study on the termination of military technician as a distinct personnel management category)

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.

AMENDMENT NO. 1147

(Purpose: To prohibit the repayment of enlistment or related bonuses by certain individuals who become employed as military technicians (dual status) while already a member of a reserve component)

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.

AMENDMENT NO. 1148

(Purpose: To provide rights of grievance, arbitration, appeal, and review beyond the adjutant general for military technicians)

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.

AMENDMENT NO. 1204

(Purpose: To authorize a pilot program on enhancements of Department of Defense efforts on mental health in the National Guard and Reserves through community partnerships)

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.

AMENDMENT NO. 1294

(Purpose: To enhance consumer credit protections for members of the Armed Forces and their dependents)

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

SEC. 577. ENHANCEMENT OF CONSUMER CREDIT PROTECTIONS FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) PROHIBITED ACTIONS.—Subsection (e) of section 987 of title 10, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' at the end;

(2) by redesignating paragraph (7) as paragraph (9); and

(3) by inserting after paragraph (6) the following new paragraphs:

''(7) the creditor charges the borrower a fee for overdraft service (as that term is defined by the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) and implementing regulations) in connection with a withdrawal from an automated teller machine or a one-time debit card transaction;

''(8) the creditor charges the borrower a fee for overdraft service (as so defined) where such fee is triggered as the result of the institution having posted the borrower's transactions in order from largest to smallest; or''.

(b) REGULATIONS.—Subsection (h)(3) of such section is amended—

(1) by inserting ''at least every two years'' after ''consult''; and

(2) by adding at the end the following new subparagraph:

''(H) The Bureau of Consumer Financial Protection.''.

(c) CONSUMER CREDIT.—Subsection (i)(6) of such section is amended by adding at the end the following new sentence: ''Such term shall also include credit under an open end consumer credit plan (as defined by section 103 of the Truth in Lending Act (15 U.S.C. 1602) and implementing regulations), except that the Secretary of Defense may exclude credit under such a plan that provides for amortizing payments over a period of at least 92 days.''.

AMENDMENT NO. 1293

(Purpose: To authorize the transfer of certain high-speed ferries to the Navy)

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

SEC. 1024. TRANSFER OF CERTAIN HIGH-SPEED FERRIES TO THE NAVY.

(a) TRANSFER FROM MARAD AUTHORIZED.—The Secretary of the Navy may, from funds available for the Department of Defense for fiscal year 2012, provide to the Maritime Administration of the Department of Transportation an amount not to exceed $35,000,000 for the transfer by the Maritime Administration to the Department of the Navy of jurisdiction and control over the vessels as follows:

(1) M/V HUAKAI.

(2) M/V ALAKAI.

(b) USE AS DEPARTMENT OF DEFENSE SEALIFT VESSELS.—Each vessel transferred to the Department of the Navy under subsection (a) shall be administered as a Department of Defense sealift vessel (as such term

is defined in section 2218(k)(2) of title 10, United States Code).

AMENDMENT NO. 1206

(Purpose: To implement common sense controls on the taxpayer-funded salaries of defense contractors)

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.''.

AMENDMENT NO. 1292

(Purpose: To require the President to impose sanctions with respect to the Central Bank of Iran if the President determines that the Central Bank of Iran has engaged in conduct that threatens the national security of the United States or allies of the United States)

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

SEC. 1243. IMPOSITION OF SANCTIONS WITH RESPECT TO 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 WITH RESPECT TO THE CENTRAL BANK OF IRAN.—

''(1) DETERMINATION REQUIRED.—

''(A) IN GENERAL.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012, the President shall determine whether the Central Bank of Iran has engaged in conduct that threatens the national security of the United States or allies of the United States, taking into consideration whether the Bank has—

''(i) facilitated activities of the Government of Iran that threaten global or regional peace and security;

''(ii) sought to evade multilateral sanctions directed against the Government of Iran on behalf of that Government;

''(iii) engaged in deceptive financial practices or mechanisms to facilitate illicit transactions with non-Iranian financial institutions;

''(iv) conducted transactions prohibited by binding resolutions of the United Nations Security Council or allowed itself to be used to permit conduct prohibited by such resolutions;

''(v) conducted transactions on behalf of persons designated by the United States for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

''(vi) provided financial services in support of, or otherwise facilitated, the ability of Iran to—

''(I) acquire or develop chemical, biological, or nuclear weapons, or related technologies;

''(II) construct, equip, operate, or maintain nuclear enrichment facilities; or

''(III) acquire or develop ballistic missiles, cruise missiles, or destabilizing types and amounts of conventional weapons; or

''(vii) facilitated a transaction or provided financial services for—

''(I) Iran's Revolutionary Guard Corps; or

''(II) a financial institution whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with—

''(aa) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

''(bb) Iran's support for acts of international terrorism.

''(B) SUBMISSION TO CONGRESS.—The President shall submit in writing to the appropriate congressional committees the determination made under subparagraph (A) and the reasons for the determination.

''(2) IMPOSITION OF SANCTIONS.—Subject to paragraphs (4), (5), and (6), if the President determines under paragraph (1)(A) that the Central Bank of Iran has engaged in conduct described in that paragraph, the President shall—

''(A) prohibit, or impose strict conditions on, 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 significant financial transaction with the Central Bank of Iran; and

''(B) impose sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the Central Bank of Iran.

''(3) ADDITIONAL SANCTIONS.—In addition to the sanctions required to be imposed under paragraph (2), and subject to paragraph (4), the President may impose such other targeted sanctions with respect to the Central Bank of Iran as the President determines appropriate to terminate the engagement of the Central Bank of Iran in conduct described in paragraph (1)(A) and activities described in subsection (c)(2).

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

''(5) APPLICABILITY OF PROHIBITIONS AND CONDITIONS ON ACCOUNTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (2)(A) applies with respect to financial transactions commenced on or after the date that is 60 days after the date on which the President makes the determination required by paragraph (1)(A).

''(B) PETROLEUM TRANSACTIONS.—Paragraph (2)(A) 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 on which the President makes the determination required by paragraph (1)(A).

''(6) WAIVER.—The President may waive the application of paragraph (2) for a period of 180 days, and renew such a waiver for additional periods of 180 days, if the President—

''(A) determines that such a waiver is necessary to the national security interest of the United States; and

''(B) submits to the appropriate congressional committees a report—

''(i) providing the justification for the waiver; and

''(ii) describing—

''(I) any concrete cooperation the President has received or expects to receive as a result of the waiver; and

''(II) any assurances the President has received or expects to receive as a result of the waiver from foreign financial institutions that such institutions have ceased engaging in financial transactions with the Central Bank of Iran related to terrorism or the facilitation, acquisition, or financing of weapons of mass destruction.''.

The PRESIDING OFFICER. The majority leader.

RENO WILDFIRE

Mr. REID. Mr. President, Reno, NV, is a beautiful place. It is right below the great Lake Tahoe, the beautiful Sierra Nevada Mountains. It is a beautiful picturesque place.

I was troubled this morning to wake up and find that Reno, NV, is in trouble because of a devastating fire. We have more than 500 acres that have been burned, and we have a number of homes that have been destroyed. The problem we have is, because of these beautiful Sierra Nevada mountains that are towering over Reno, we get devastating winds, and those winds are blowing now. The winds are at 60 miles an hour while they are trying to control this fire. It is ravaging everything in its path.

So my thoughts are certainly with the families who have lost their homes and the thousands of residents who have been evacuated. The Pinehaven and Caughlin Ranch neighborhoods at this time have been particularly affected. But this terrible fire is raging across these acres in Reno and Washoe County. We have fire crews from all over the region that are trying to stop this disaster, trying to get this rampaging fire under control, but the winds are so strong that helicopters can't take off. So there is a lot of help that should be available that isn't because the winds are so difficult and because, as I said, the helicopters can't get off the ground.

Of course, I called my son Leif as soon as I heard about this. The phone was answered by my little granddaughter Nina, who was trying to explain to me what was going on. Her dad—my son—had been called to his best friend's home to try to help him. He had been ordered to evacuate. They have no water. Alfredo Alonso's home has no water because there is a well and the electricity is out so he can't pump water. But my son couldn't make it there because the police stopped him. They wanted no one coming into the neighborhood because they are evacuating everyone. But my son and his children—my four grandchildren—seem to be well, and they are quite a ways away from the fire.

Of course, I express my appreciation to the brave firefighters who have been working around the clock to contain the blaze and to the dedicated first responders who acted so quickly to protect lives and assist in the evacuation.

Mr. President, it is times such as this we understand what happens to local governments when they have to lay off people—firefighters, police officers. It has happened all over Nevada and all over this country. We were here, as you remember, a week or two ago trying to get assistance for places such as Reno and other communities in America for their fire and police, but the bill was defeated. But these people who are working are shorthanded, so they are

working long hours there. It is impossible to say how many lives they have already saved, but they have.

So my heart, and all our hearts, go out to the firefighters as they carry on with this difficult work to control the flames and protect the communities. I will continue to follow the progress of this fire, and, of course, I will assist Mayor Bob Cashell and members of the Reno City Council and the Washoe County Commission with anything they think I can do to help. I support Governor Sandoval's decision to request a Federal emergency declaration, as firefighters and first responders are doing their utmost to contain things.

So Reno and all of Washoe County can depend on my support in any way they think I can help, and I will continue, as I have indicated, and I indicate for the second time, to monitor this situation very closely.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, first of all, let me say to the majority leader that our thoughts and prayers go out to folks in Nevada, and we certainly hope this emergency situation is rectified in the near term.

In Georgia, we had about 400,000 acres destroyed by a forest fire back earlier this summer, and it is always a tragedy. Loss of property is one thing, but injury and potential loss of life, obviously, is very much a part of that, and our hearts go out to all the residents. Our thanks go out to these brave men and women who are fighting those fires out there, as they did in my State, to get them under control.

AMENDMENT NO. 1304

Mr. President, I ask unanimous consent that the pending amendment be set aside and that my amendment, which is at the desk, be made pending.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS] for himself and Mr. ISAKSON, Mr. INHOFE, Mr. HATCH, Mr. LEE, and Mr. COBURN, proposes an amendment numbered 1304.

The amendment is as follows:

(Purpose: To require a report on the reorganization of the Air Force Materiel Command)

Strike section 324 and insert the following:

SEC. 324. REPORTS ON DEPOT-RELATED ACTIVITIES.

(a) REPORT ON DEPOT-LEVEL MAINTENANCE AND RECAPITALIZATION OF CERTAIN PARTS AND EQUIPMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Defense Logistics Agency (DLA), in consultation with the military departments, shall submit to the congressional defense committees a report on the status of the DLA Joint Logistics Operations Center's Drawdown, Retrograde and Reset Program for the equipment from Iraq and Afghanistan and the status of the overall supply chain management for depot-level activities.

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

(A) An assessment of the number of backlogged parts for critical warfighter needs, an explanation of why those parts became backlogged, and an estimate of when the backlog is likely to be fully addressed.

(B) A review of critical warfighter requirements that are being impacted by a lack of supplies and parts and an explanation of steps that the Director plans to take to meet the demand requirements of the military departments.

(C) An assessment of the feasibility and advisability of working with outside commercial partners to utilize flexible and efficient turn-key rapid production systems to meet rapidly emerging warfighter requirements.

(D) A review of plans to further consolidate the ordering and stocking of parts and supplies from the military departments at depots under the control of the Defense Logistics Agency.

(3) FLEXIBLE AND EFFICIENT TURN-KEY RAPID PRODUCTION SYSTEMS DEFINED.—For the purposes of this subsection, flexible and efficient turn-key rapid production systems are systems that have demonstrated the capability to reduce the costs of parts, improve manufacturing efficiency, and have the following unique features:

(A) VIRTUAL AND FLEXIBLE.—Systems that provide for flexibility to rapidly respond to requests for low-volume or high-volume machined parts and surge demand by accessing the full capacity of small- and medium-sized manufacturing communities in the United States.

(B) SPEED TO MARKET.—Systems that provide for flexibility that allows rapid introduction of subassemblies for new parts and weapons systems to the warfighter.

(C) RISK MANAGEMENT.—Systems that provide for the electronic archiving and updating of turn-key rapid production packages to provide insurance to the Department of Defense that parts will be available if there is a supply chain disruption.

(b) REPORT ON AIR FORCE MATERIEL COMMAND REORGANIZATION.—

(1) RESTRICTION ON REORGANIZATION ACTIVITIES.—With respect to the planned reorganization of the Air Force Materiel Command announced on November 2, 2011, the Secretary of the Air Force shall make no changes related to organizational alignment, reporting officials, or any other change related to oversight or the duties of system program managers, sustainment program managers, or product support managers who reside at installations where Air Logistics Centers or depots are located until 60 days after the report required under paragraph (2) is submitted to the congressional defense committees.

(2) REPORT.—

(A) IN GENERAL.—The Secretary of the Air Force shall submit to the congressional defense committees a report containing an analysis of alternatives for alignment and reporting of Air Force System Program Managers and Product Support Managers.

(B) ELEMENTS.—The report required under subparagraph (A) shall—

(i) focus on the impacts to Air Force life cycle management, sustainment, readiness, and overall support to the warfighter that would likely be realized through the various alternatives;

(ii) address legal, financial, and other relevant issues;

(iii) identify criteria for evaluating alternatives;

(iv) include a list of alternatives, including analysis and recommendations relating to the alternatives;

(v) describe cost and savings factors; and

(vi) focus on how the Air Force should be best organized to conduct life cycle management and sustainment, with overall readiness being the highest priority.

Mr. CHAMBLISS. Mr. President, I rise to voice my support for the 2012 National Defense Authorization Act, S. 1867. This is one of the most important bills the Senate considers each year, and this is the ninth Defense authorization bill I have been involved in drafting since being elected to the Senate. It sets funding levels and implements policies for the Department of Defense and provides pay raises for our men and women in uniform.

After extended debate, this bill, which authorizes $662 billion for the Department of Defense and national security-related aspects of the Department of Energy, was passed unanimously out of the Senate Armed Services Committee. The committee was in a difficult situation this year, considering our Nation's fiscal crisis. As I have firmly believed all along, everything, including defense spending, must be on the table to address our fiscal circumstances.

In the midst of intense budget negotiations, I am pleased we can offer and debate a bill that addresses the real need to reduce government spending in a responsible and calculated manner. As several of my colleagues have already stated on the Senate floor, the National Defense Authorization Act cuts a considerable amount from the defense budget, as requested by the President. It is $27 billion less than the administration requested and $43 billion less than the amount appropriated for 2011. These were very difficult decisions to make, but it was the fiscally responsible thing to do given our Nation's fiscal situation.

I am pleased the committee was able to make these cuts without jeopardizing our national security. Given the unstable state of affairs around the world, now is not the time to slash important programs that help our military carry out their responsibilities. We still have widespread enemies and interests around the world. With this in mind, the bill authorizes $3.2 billion for DOD's Mine Resistant Ambush Protected Vehicle fund; authorizes $10.3 billion for U.S. Special Operations Command, an increase of 6 percent above fiscal year 2011 levels; and authorizes more than $2.4 billion for DOD's counter-improvised explosive device activities.

In recent months, we have seen what a remarkable impact a small, elite force of U.S. soldiers can have, and I am pleased this bill authorizes a deserved funding increase for U.S. Special Operations Command in order to expand their resources, training, technology, and equipment to accomplish their missions. Along with funding, this bill will extend the authority of Special Operations Forces to provide support to operations fighting against terrorism around the world.

Regarding our ongoing operations in Afghanistan and elsewhere overseas, the bill allocates $11.2 billion for training and equipping the Afghan security forces commensurate with recommendations from the Commander of

U.S. Central Command, and fully supports the budget request of $1.75 billion in Coalition Support Funds to reimburse key partner nations supporting U.S. military operations in Operation Enduring Freedom.

I am also pleased that I will be leaving later on today, along with Senator BURR, and heading to Afghanistan to visit our troops and to visit with our commanders on the ground, both from an intelligence standpoint as well as an operational standpoint. This is the fourth Thanksgiving I have had the opportunity to be on the ground with our troops and to look them in the eye, with their boots on the ground, and tell them how much we, as policymakers, but more importantly we, as Americans, appreciate the great sacrifice each and every one of them is making and how much we appreciate the great job they are doing of protecting America and protecting Americans.

This bill also authorizes $500 million for counterterrorism, capacity-building activities, including targeted efforts in east Africa and Yemen, and fully supports the budget request of $524 million to support the activities of the Office of Security Cooperation in Iraq in overseeing and implementing foreign military sales to the Iraqi security forces.

Keeping in mind the strategic value of our nuclear deterrent and our ongoing need to modernize and maintain our nuclear triad, the bill authorizes $1.1 billion to continue to develop the Ohio-class replacement program, the SSBN(X), to modernize the sea-based leg of the nuclear deterrent system.

The U.S. military requires the capability to counter a growing amount of nontraditional threats. In this bill, we strengthen our forces on the threat of cyber warfare and the proliferation of weapons of mass destruction and their means of delivery. It is no secret that American computer networks are the victim of attempted hacking from state and non-state actors around the world on a regular basis. With funds authorized in this bill, the Department of Defense will be able to better guard against the threat of cyber attacks.

I am also pleased that in this bill we were able to focus on the well-being of our brave men and women fighting on the front lines for our freedom overseas, as well as their devoted family members back at home who make sacrifices every single day. The bill authorizes $100.6 billion for military personnel, including costs of pay, allowances, bonuses, death benefits, and permanent change of station moves. The bill also authorizes a 1.6-percent across-the-board pay raise for our service men and women as well as authorizes over 30 types of bonuses and special pays aimed at encouraging enlistment, re-enlistment, and continued service by Active-Duty and Reserve component military personnel. Our attention remains on improving the quality of life of the men and women of the Armed Forces and their families, as well as Department of Defense civilian personnel, through fair pay, policies, and benefits, including first-rate health care, while addressing the needs of wounded, ill, and injured servicemembers and their families.

Let me also briefly address the amendment I have just filed. I have been working for the last several weeks with my colleagues, Senators ISAKSON, HATCH, LEE, INHOFE, and COBURN, on an issue related to the reorganization of the Air Force Materiel Command.

Let me first say that I support this reorganization. It is the first major reorganization of the Materiel Command by the Air Force in some 60 years. I support the Air Force's need and desire to make themselves more efficient and more effective, and for the most part, I believe the proposed reorganization will do that.

In these tight budget times, when we are all going to have to accept streamlined budgets and resources, some loss of jobs and positions is, unfortunately, inevitable, and I realize that. However, there is one issue with respect to this proposed reorganization that I think we are all having a hard time understanding and that relates to how the reorganization may affect the way the Air Force organizes for sustainment of weapon systems.

The proposed reorganization would take some of the key personnel who are helping to orchestrate these sustainment efforts and put them in a separate chain of command from their partners in carrying out those sustainment efforts. This is hard to understand. And, in a time when our Air Force is working harder than ever and keeping their aircraft in the fleet longer than ever, it is hard to imagine how a change such as the Air Force is proposing here will help sustainment of weapon systems.

We are working with the Air Force on this issue, and we are still in negotiations, but this is an issue for which we have yet to receive a satisfactory explanation, and we have not reached a conclusion of this issue. I think the Air Force needs to clearly understand that there is a risk here. There is a risk that this reorganization may have some unintended consequences specifically related to the readiness of our Air Force. This is serious. We have not seen any explanation for how the Air Force arrived at their proposed course of action on this specific issue or why they think it will improve readiness. I would also note that the way the Air Force is seeking to reorganize in this respect goes against some of the basic principles and recommendations of a recent, very thorough report on this specific issue.

It is with these issues in mind that we are filing this amendment. I very much look forward to the Air Force's explanations on this issue and to having this reorganization be executed in a way that allows the Air Force to conserve personnel and resources, organize more efficiently, and sustain weapon systems to support the warfighter in the most effective way possible.

In conclusion, I am extremely proud of the hard work the Armed Services Committee Members and staff have done to put together this Defense authorization bill. I would particularly like to compliment our leadership, Chairman LEVIN and Ranking Member MCCAIN, on the job they have done and their willingness to work with Members of the Committee on our specific issues—issues such as the one Senator AYOTTE and I discussed on the floor yesterday, along with Senator GRAHAM, Senator MCCAIN, and Senator LEVIN, regarding detainee policy, of which we have none at the present time and to which folks such as Senator AYOTTE have given a great deal of thought and have come up with some very logical ways in which we can address this issue of detainees so that we can get actionable intelligence from those detainees and, at the same time, ensure they are treated in ways that are respectful to our system of jurisprudence on the military side as well as on the civilian side.

I want to also say that we have had a couple of hiccups along the way, but staff on both sides, the majority and minority, have addressed those hiccups, and we have been working very closely to try to ensure that the issues we raised with staff after the bill was filed have been addressed and are in the process of being taken care of.

As a reflection of the extremely tight budget environment, we have taken responsible reductions in spending; however, we maintain our commitment to the Armed Forces by providing funds and authorizations to protect our national security and support our men and women on the front lines, as well as their dedicated families here in America.

I look forward to the remainder of the debate on this bill when we return after our Thanksgiving break.

To all of our men and women who wear the uniform of the United States of America, Happy Thanksgiving.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, I thank the Senator from Georgia for his leadership on the Armed Services Committee and also for the important work he has been doing as the vice chair of the Intelligence Committee to make sure our country is protected. He is particularly knowledgeable on these issues of how we treat detainees, and we did have a detailed colloquy on the floor. His insight has been so important in making sure we have the right policies in place to protect America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent to speak as if in morning business.

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

(The remarks of Mr. ENZI pertaining to the introduction of S. 1909 are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

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

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

Mr. ENZI. Mr. President, I ask unanimous consent to speak as in morning business.

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

THE NATIONAL DEBT

Mr. ENZI. Mr. President, I was sorry to hear the supercommittee is in trouble, that they might not be able to agree. Then this morning's Washington Post front page headline was ''Debt Panel Failure Won't Cause Catastrophe.''

Every day we do not find a solution, every day we spend is a catastrophe. We have maxed out our credit cards. Here is one way that came to my attention. I was traveling in Wyoming and I checked into the hotel for the night. The person checking me in, very embarrassed, said: I am sorry, but it will not take your credit card. It was a Federal credit card.

I said: Goodness, we are in more trouble than I thought. I gave them my personal credit card and that went right through so I am not sure where we are. But I know we have maxed out our credit cards and not just that but also the symbolic credit cards that we have. We have as much debt as we probably can sustain and as debt comes due across the world for other countries, it is going to be tougher and tougher to be able to sell more debt.

We are kind of in the same situation as Greece and Italy, except for two things. No. 1 is we are a big, flexible country that has pulled itself out of terrible situations time and time again, and we will do it this time too. We also own our own money supply. That helps.

When constituents ask what can they expect, I always start the conversation by saying you should expect to get no more than what the 2008 level was. We increased things considerably after that with the stimulus bill and that increased some bases. We have to get back down to 2008, just as a beginning.

I have to say the President has had a chance to change direction. I have to congratulate the President for naming a deficit commission. I even like the people he named to it, with Senator Simpson from Wyoming and Erskine Bowles heading up that committee. I think they did some tremendous work. I think we should pay more attention to what they had to say.

I had a little disappointment when the President did his State of the Union speech following their report. He had an opportunity to repaint the same bleak picture that committee painted and America would have understood better. Although from traveling across our country, and particularly in Wyoming, I know the people there understand it better than Congress does. But he could have changed it by repainting that picture and then he could have followed it up with a solution which would have been his budget. Instead, his budget was another stimulus plan. It has been voted on by Congress. It was not voted for by Congress, it was voted on by Congress, and it was voted 97 to nothing—it was defeated. I think the deficit commission report would have done much better.

Congress has also had the chance to change direction—and in some cases we have. We have kind of eliminated earmarks. There are still some of them that are slipped in, but we kind of eliminated them. We have a couple new problems. Now we add demonstration projects. We have always had demonstration projects, but now we do it as a substitute for earmarks and that is where we allow maybe five States to have an opportunity to do a particular program to see if it works. So we fund it in a minimal amount—that still is millions. The difficulty is that at the end of the period of time for that demonstration project, they all work. They are all spectacular. They all would save America if we just put it in every single State and funded it from the Federal Government.

It can't happen. We are out of money. There are lots of good ideas out there, lots of good ideas that would help. When those ideas are proved—the idea with the demonstration is that it would demonstrate well enough how good it is that somewhere at the local level that project would be picked up and done or forgotten. But, no, we do make them a national program and we do fund them forever in chunks of time.

Another thing we are doing is that we propose a project and, because we like the word ''pay-for,'' because we should pay for whatever we are doing, we put up a project, we put a 2-year limit on the project, and then we pick a pay-for by showing some program that, if it were eliminated for 10 years, might bring in that amount of revenue. We cannot pay for a 2-year program with 10 years' worth of revenue because somebody is going to spend the rest of that anyway and it may never be collected. A Congress can change its mind all the time. We have to quit using gimmicks and we have to quit adding new programs. What part of maxed out credit cards don't we understand? We have to quit buying votes with dollars we do not have.

We do have to address mandatory spending. Social Security and Medicare have been a problem for a long time. I remember when I first came to Congress, President Clinton was the President and he called for a special conference on Social Security. We had 1 day where we got to be initiated into what all the problems were—fantastic speakers. We had a second day where Members of the House and Congress met in smaller committees to work on pieces of the Social Security problem. We came up with a plan and President Clinton looked at the plan and met with us as a group and said: If all of you are willing to put your fingerprint on this, we will do it. We can only do it if everybody puts their fingerprint on it so both parties are responsible for it, and everybody in the room agreed to do that.

Unfortunately, we were distracted a little bit by something called Monica Lewinsky, and that bill never came up anywhere.

The situation we are in right now is passing bills to fail. Each side has a tendency to put up a bill that has something good in it, packaged with something they like but the other side doesn't like. It is going to get defeated on the basis of what each side doesn't like and the good part is left out. That is not going to get anything done for us.

We have tried the stimulus bill. We got negligible effects on jobs. It did escalate the basis for budgets and it was the use of one-time money. That has created some problems for it. We hear that 30,000 teachers and firefighters are going to be laid off. That comes from safety money and education money that went to the States. It was one-time money. They cannot use one-time money for a continuing contract. If a State did, yes, they are having to lay off people because the stimulus is not being repeated each and every year.

Are there solutions? Yes, there are solutions. I am optimistic about the solutions. I do recognize everything has to be on the table and we should all reread the deficit commission report. We have to ask constituents to suggest their own programs to reduce.

In the spring, we will be inundated by a whole lot of people who will be ready to have us support the program that makes a difference in their life and the life of the community. I always ask them how we are going to pay for it? They always suggest somebody else's program to cancel. There are never any suggestions of how to consolidate within their own program and do it. They have to do it and each of us in Congress needs to evaluate our own programs. Not all of them can be sacred cows. I wish to congratulate Senator RUBIO and Senator COONS for a jobs creation bill they have put together. They have taken the diverse bills from both sides of the aisle and several others and looked to see if there was any common thread. All they did was pick out the common thread from each of those and put them into a bill. If both sides and others in Congress like it, why would that not pass and pass quickly?

I congratulate our Congresswoman LUMMIS, from Wyoming. She is on the Appropriations Committee. I think that is the first time we have ever had anybody on the Appropriations Committee. She gets into the details of the budget. In fact, she has gotten into details of the budget down to very small

amounts, so much that she has been told she is not going to be invited on any trips with any of the rest of them. That is probably what we need right now, and I congratulate her on her attention to detail.

Another thing we have to do is make sure the bills go to committee. I have been a committee chairman. I have been a ranking member. I know when a bill goes to committee, that is where we can get into the details of the bill, and we can do nuances. When a bill comes to the floor of the Senate, and it came from the President to the leader and then to us, the amendments we put in are not very workable as far as reaching agreement from both sides. They are kind of an up-or-down vote. They are very political, and that kind of stymies what we are trying to do.

We have to quit doing comprehensive bills. We can do them in stages. We can do parts of them. They can be very major parts, but they can be done in parts.

I remember reading a book about the compromise of 1850. Henry Clay put himself in the hospital trying to pass this huge compromise. When he did, some of his friends took the bill, broke it into parts, four parts, and got all the parts passed. Now, there were only four people in all of the Senate at that time who voted for all the parts, but all the parts passed. There should be a lesson in there for us. I do follow an 80-percent rule; I found we can agree on 80 percent of the issues. If we stick to that 80 percent, we can pick any one issue and we can solve 80 percent of that problem. We can solve 100 percent if we can get everybody to think of an alternative way to do that, one sticky part that we have polarized for years.

Another thing we need to do is eliminate duplication. Senator COBURN and I took a look at the primary department that comes under the jurisdiction of the Health, Education, Labor, and Pensions Committee. We found $9 billion in duplication. Because it is duplication, we cannot eliminate $9 billion because there are some who would stay and do the same thing the other group was doing. It stimulated Dr. COBURN enough that he looked at all the programs. In all of the programs he found $900 billion worth of duplication.

Duplication is not like fraud, waste, and abuse. Fraud, waste, and abuse, we don't know how much is out there. We catch a piece at a time, and we speculate on how much there is. But duplication is specific because it is already in the budget.

We can look at what they are paid right now, and if we eliminate that, it is a specific amount. When he talks about $900 billion worth of duplication, it is $900 billion worth of duplication. We ought to be able to get rid of at least $450 billion of that. Half of it could be duplication. It is twice as much of what we effectively need.

Why did we find $9 billion in one agency and $900 billion by looking at all of them? When we go outside the jurisdiction, we find—this one always kind of interests me—financial literacy programs in virtually every department and agency in this Federal Government. If we really have financial literacy, would we be in the position we are in now? I don't think so. So that is a whole lot of duplication. It is duplicating each and every agency. If we have only one jurisdiction over one agency, that is the only place we can eliminate it.

When I got here there were 119 preschool programs. I took a look at them, and there were quite a few of them that were failing according to their own evaluation—not my evaluation, their own evaluation. We were able to get that down to 69 programs. There are 69 preschool programs at the present time. Here is the interesting part of that: Only eight of those are under the Department of Education. Sixty-one of them are in other departments. It seems like we could have consolidation and maybe some elimination of duplication.

Also, we have the States and the local governments coming to us and saying: We are out of money. We need money, and we don't have any money. We cannot afford to help them that way.

I have put in a bill to help them collect the sales tax already due them, and this is the marketplace fairness bill that would take care of their infrastructure and their jobs. So I hope everyone will take a look at that.

Finally, another solution would be the Buy Back America Bonds that I spoke about just a little while ago. If everybody bought some bonds, that could reduce the amount of debt held by foreign countries; that would help us and then that would reduce the amount of spending by an equal amount. There are solutions out there. It is time we got busy on them.

I thank the supercommittee for their work and ask everybody to pay attention to whatever they come up with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENTS NOS. 1259, 1260, 1261, 1262, 1263, 1080, 1296, 1151, 1152, 1209, 1210, 1236, AND 1255

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the following amendments be called up en bloc.

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

Mr. LEVIN. They are, Senator SHERROD BROWN, 1259, 1260, 1261, 1262, 1263; Senator LEAHY, 1080; Senator WYDEN, 1296; Senator PRYOR, 1151, 1152; and Senator BILL NELSON, 1209, 1210, 1236, and 1255.

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

The amendments en bloc are as follows:

AMENDMENT NO. 1259

(Purpose: To link domestic manufacturers to defense supply chain opportunities)

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

SEC. 325. LINKING DOMESTIC MANUFACTURERS TO DEFENSE SUPPLY CHAIN OPPORTUNITIES.

The Secretary of Defense is authorized to work with the Hollings Manufacturing Partnership Program and other manufacturing-related local intermediaries designated by the Secretary to develop a multi-agency comprehensive plan to expand domestic defense and industrial base supply chains with involvement from other applicable Federal agencies or industry consortiums—

(1) to identify United States manufacturers currently producing, or capable of producing, defense and industrial base equipment, component parts, or similarly performing products; and

(2) to work with partners to identify and address gaps in domestic supply chains.

AMENDMENT NO. 1260

(Purpose: To strike section 846, relating to a waiver of ''Buy American'' requirements for procurement of components otherwise producible overseas with specialty metal not produced in the United States)

Strike section 846.

AMENDMENT NO. 1261

(Purpose: To extend treatment of base closure areas as HUBZones for purposes of the Small Business Act)

At the end of title XXVII, add the following:

SEC. 2705. SMALL BUSINESS HUBZONES.

Section 152(a)(2) of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 632 note) is amended by inserting before the period at the end '', beginning on the date of enactment of the National Defense Authorization Act for Fiscal Year 2012''.

AMENDMENT NO. 1262

(Purpose: To clarify the meaning of ''produced'' for purposes of limitations on the procurement by the Department of Defense of specialty metals within the United States)

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

SEC. 889. ADDITIONAL DEFINITION RELATING TO PRODUCTION OF SPECIALTY METALS WITHIN THE UNITED STATES.

Section 2533b(m) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(11) The term 'produced', as used in subsections (a) and (b), means melted, or processed in a manner that results in physical or chemical property changes that are the equivalent of melting. The term does not include finishing processes such as rolling, heat treatment, quenching, tempering, grinding, or shaving.''.

AMENDMENT NO. 1263

(Purpose: To authorize the conveyance of the John Kunkel Army Reserve Center, Warren, Ohio)

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

SEC. 2823. LAND CONVEYANCE, JOHN KUNKEL ARMY RESERVE CENTER, WARREN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Western Reserve Port Authority of Vienna, Ohio (in this section referred to as the ''Port Authority''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 6.95 acres and containing the John Kunkel Army Reserve Center located at 4967 Tod Avenue in Warren, Ohio, for the purpose of permitting the Port Authority to use the parcel for development of a port facility and for other public purposes.

(b) INCLUSION OF PERSONAL PROPERTY.—The Secretary of the Army may include as part of the conveyance under subsection (a) personal property located at the John Kunkel Army Reserve Center that—

(1) the Secretary of Transportation recommends would be appropriate for the development or operation of a port facility at the site; and

(2) the Secretary of the Army agrees is excess to the needs of the Army.

(c) INTERIM LEASE.—Until such time as the real property described in subsection (a) is conveyed to the Port Authority, the Secretary of the Army may lease the property to the Port Authority.

(d) CONSIDERATION.—

(1) CONVEYANCE.—The conveyance under subsection (a) shall be made without consideration as a public benefit conveyance for port development if the Secretary of the Army determines that the Port Authority satisfies the criteria specified in section 554 of title 40, United States Code, and regulations prescribed to implement such section. If the Secretary determines that the Port Authority fails to qualify for a public benefit conveyance, but the Port Authority still desires to acquire the property, the Port Authority shall pay to the United States an amount equal to the fair market value of the property to be conveyed. The fair market value of the property shall be determined by the Secretary.

(2) LEASE.—The Secretary of the Army may accept as consideration for a lease of the property under subsection (c) an amount that is less than fair market value if the Secretary determines that the public interest will be served as a result of the lease.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Port Authority 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 conveyance 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) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Army and the Port Authority. The cost of such survey shall be borne by the Port Authority.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1080

(Purpose: To clarify the applicability of requirements for military custody with respect to detainees)

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''.

AMENDMENT NO. 1296

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

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

SEC. 848. REPORTS ON USE OF INDEMNIFICATION AGREEMENTS.

(a) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following:

''§ 2335. Reports on use of indemnification agreements

''(a) IN GENERAL.—Beginning October 1, 2011, not later than 90 days after the date on which any action described in subsection (b)(1) occurs, the Secretary of Defense shall submit to the congressional defense committees and the Committees on the Budget of the House of Representatives and the Senate a report on such action.

''(b) ACTION DESCRIBED.—(1) An action described in this paragraph is the Secretary of Defense—

''(A) entering into a contract that includes an indemnification agreement; or

''(B) modifying an existing indemnification agreement in any contract.

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

''(A) section 2354 of this title; or

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

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

''(1) the name of the contractor;

''(2) the actual cost or estimated potential cost involved;

''(3) a description of the items, property, or services for which the contract is awarded; and

''(4) a justification of the contract including the indemnification agreement.

''(d) NATIONAL SECURITY.—The Secretary may omit any information in a report under subsection (a) if the Secretary—

''(1) determines that the disclosure of such information is not in the national security interests of the United States; and

''(2) includes in the report a justification of the determination made under paragraph (1).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by adding at the end the following new item:

''2335. Reports on use of indemnification agreements.''.

AMENDMENT NO. 1151

(Purpose: To authorize a 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)

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.

AMENDMENT NO. 1152

(Purpose: To recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law)

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.''.

AMENDMENT NO. 1209

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

At the end of subtitle 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.

AMENDMENT NO. 1210

(Purpose: To require an assessment of the advisability of stationing additional DDG–51 class destroyers at Naval Station Mayport, Florida)

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.

AMENDMENT NO. 1236

(Purpose: To require a report on the effects of changing flag officer positions within the Air Force Material Command)

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

SEC. 1030. REPORT ON EFFECTS OF CHANGING FLAG OFFICER POSITIONS WITHIN THE AIR FORCE MATERIAL COMMAND.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall conduct an analysis and submit to the congressional defense committees a report on the effects of changing flag officer positions within the Air Force Materiel Command (AFMC), including consideration of the following issues:

(1) The effect on the weapons testing mission of AFMC.

(2) The potential for lack of oversight if flag positions are reduced or eliminated.

(3) The reduced experience level of general officers managing challenging weapons development programs under a new command structure.

(4) The additional duties of base management functions impacting the test wing commander's ability to manage actual weapons testing under the new structure.

(b) COMPTROLLER GENERAL ASSESSMENT.—Not later than 60 days after the submittal of the report under 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.

AMENDMENT NO. 1255

(Purpose: To require an epidemiological study on the health of military personnel exposed to burn pit emissions at Joint Base Balad)

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

SEC. 723. EPIDEMIOLOGICAL STUDY ON HEALTH OF MILITARY PERSONNEL EXPOSED TO BURN PIT EMISSIONS AT JOINT BASE BALAD.

The Secretary of Defense shall conduct a cohort study on the long-term health effects of exposure to burn pit emissions in military personnel deployed at Joint Base Balad. The study shall include a prospective evaluation from retrospective estimates of such exposures. The study shall be conducted in accordance with recommendations by the Institute of Medicine concluding that further study is needed to establish correlation between burn pit exposure and disease.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENTS NOS. 1281, 1133, 1134, 1286, 1287, 1290, AND 1291

Ms. AYOTTE. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment and call up the following amendments en bloc: Senator MCCAIN's amendment No. 1281 regarding the transfer of arms to Georgia; Senator BLUNT's two amendments, Nos. 1133 and 1134; Senator MURKOWSKI's two amendments, Nos. 1286 and 1287; and Senator RUBIO's two amendments, Nos. 1290 and 1291.

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

The amendments en bloc are as follows:

AMENDMENT NO. 1281

(Purpose: To require a plan for normalizing defense cooperation with the Republic of Georgia)

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

SEC. 1243. DEFENSE COOPERATION WITH REPUBLIC OF GEORGIA.

(a) PLAN FOR NORMALIZATION.—Not later than 90 days after the date of the enactment of this Act, the President shall develop and submit 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 plan for normalizing United States defense cooperation with the Republic of Georgia, including the sale of defensive arms.

(b) OBJECTIVES.—The plan required under subsection (a) shall address the following objectives:

(1) To reestablish a normal defense relationship with the Republic of Georgia.

(2) To support the Government of the Republic of Georgia in providing for the defense of its government, people, and sovereign territory, consistent with the continuing commitment of the Government of the Republic of Georgia to its nonuse-of-force pledge and consistent with Article 51 of the Charter of the United Nations.

(3) To enhance the ability of the Government of the Republic of Georgia to participate in coalition operations and meet NATO partnership goals.

(4) To resume the sale by the United States of defense articles and services that may be necessary to enable the Government of the Republic of Georgia to maintain a sufficient self-defense capability.

(5) To encourage NATO member and candidate countries to restore and increase their sales of defensive articles and services to the Republic of Georgia as part of broader NATO effort to deepen its defense relationship and cooperation with the Republic of Georgia.

(6) To ensure maximum transparency in the United States-Georgia defense relationship.

(c) INCLUDED INFORMATION.—The plan required under subsection (a) shall include the following information:

(1) A needs-based assessment, or an update to an existing needs-based assessment, of the defense requirements of the Republic of Georgia, which shall be prepared by the United States Armed Forces.

(2) A description of each of the requests by the Government of the Republic of Georgia for purchase of defense articles and services during the two-year period ending on the date of the report.

(3) A summary of the defense needs asserted by the Government of the Republic of Georgia as justification for its requests for defensive arms purchases.

(4) A description of the action taken on any defensive arms sale request by the Government of the Republic of Georgia and an explanation for such action.

(d) FORM.—The plan required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

AMENDMENT NO. 1133

(Purpose: To provide for employment and reemployment rights for certain individuals ordered to full-time National Guard duty)

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.

AMENDMENT NO. 1134

(Purpose: To require a report on the policies and practices of the Navy for naming the vessels of the Navy)

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.

AMENDMENT NO. 1286

(Purpose: To require a Department of Defense Inspector General report on theft of computer tapes containing protected information on covered beneficiaries under the TRICARE program)

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

SEC. 705. DEPARTMENT OF DEFENSE INSPECTOR GENERAL REPORT ON THEFT OF COMPUTER TAPES CONTAINING PROTECTED INFORMATION ON COVERED BENEFICIARIES UNDER THE TRICARE PROGRAM.

The Inspector General of the Department of Defense shall submit to the congressional defense committees a report on the circumstances surrounding the theft of computer tapes containing personally identifiable and protected health information of approximately 4,900,000 covered beneficiaries under the TRICARE program from the vehicle of a contractor under the TRICARE program. The report shall include the following:

(1) An assessment of the risk that the personally identifiable and protected health information so stolen can be accessed by a third party.

(2) Such recommendations as the Inspector General considers appropriate to reduce the risk of similar incidents in the future.

AMENDMENT NO. 1287

(Purpose: To provide limitations on the retirement of C–23 aircraft)

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

SEC. 136. LIMITATION ON RETIREMENT OF C–23 AIRCRAFT.

(a) IN GENERAL.—Upon determining to retire a C–23 aircraft, the Secretary of the Army shall first offer title to such aircraft to the chief executive officer of the State in which such aircraft is based.

(b) TRANSFER UPON ACCEPTANCE OF OFFER.—If the chief executive officer of a State accepts title of an aircraft under subsection (a), the Secretary shall transfer title of the aircraft to the State without charge to the State. The Secretary shall provide a reasonable amount of time for acceptance of the offer.

(c) USE.—Notwithstanding the transfer of title to an aircraft to a State under this section, the aircraft may continue to be utilized by the National Guard of the State in State status using National Guard crews in that status.

AMENDMENT NO. 1290

(Purpose: To strike the national security waiver authority in section 1032, relating to requirements for military custody)

On page 362, strike lines 8 through 15.

AMENDMENT NO. 1291

(Purpose: To strike the national security waiver authority in section 1033, relating to requirements for certifications relating to the transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and entities)

On page 365, line 9, strike ''and subsection (d)''.

On page 367, line 14, strike ''and subsection (d)''.

On page 368, strike line 13 and all that follows through page 370, line 13.

Ms. AYOTTE. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask for the regular order after all of those actions are taken.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENTS NOS. 1071, 1086, 1106, 1140, AND 1219 EN BLOC

Mr. LEVIN. Mr. President, I ask unanimous consent to call up five amendments en bloc which have been cleared by myself and the ranking member as follows: amendment No. 1071 on behalf of Senator MCCAIN, to require the Secretary of Defense to report on all information with respect to the Evolved Expendible Launch Vehicle Program that would be required if the program were designated as a major defense acquisition program not in the sustainment phase; amendment No. 1086 on behalf of Senators ROBERTS and MORAN, to authorize and request the President to award the Medal of Honor posthumously to CPT Emil Kapaun of the U.S. Army for acts of valor during the Korean War; amendment No. 1106 on behalf of Senator MCCAIN, to require a report on the status of the implementation of accepted recommendations in the Final Report of the 2010 Army Acquisition Review Panel; amendment No. 1140 on behalf of Senator CASEY, to require a report by the Comptroller General on the Department of Defense Military Spouse Employment Program; and amendment No. 1219 on behalf of myself, to provide authority to order military Reserves to Active Duty to provide assistance and response to a disaster or emergency.

Ms. AYOTTE. Mr. President, the amendments have been cleared on our side.

The PRESIDING OFFICER. Without objection, the amendments are as listed.

The amendments en bloc are as follows:

AMENDMENT NO. 1071

(Purpose: To require the Secretary of Defense to report on all information with respect to the Evolved Expendable Launch Vehicle program that would be required if the program were designated as a major defense acquisition program not in the sustainment phase)

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.

AMENDMENT NO. 1086

(Purpose: To authorize and request the President to award the medal of Honor posthumously to Captain Emil Kapaun of the United States Army for acts of valor during the Korean War)

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.

AMENDMENT NO. 1106

(Purpose: To require a report on the status of the implementation of accepted recommendations in the Final Report of the 2010 Army Acquisition Review panel)

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.

AMENDMENT NO. 1140

(Purpose: To require a report on 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.

AMENDMENT NO. 1219

(Purpose: To provide 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 emergencies)

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.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate consider the amendments en bloc, the amendments be agreed to, and the motions to reconsider be laid upon the table.

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

The amendments (Nos. 1071, 1086, 1106, 1140, and 1219) were agreed to.

Mr. MENENDEZ. Mr. President, one of the greatest—if not the greatest threats to the security of our Nation and our ally Israel—is the concerted effort by the Government of Iran to acquire the technology and materials to create a nuclear weapon that will alter the balance of power in the Middle East, and which would most certainly lead to hostilities. To forestall or ideally prevent this scenario, we must use ALL of the tools of peaceful diplomacy available to us.

Simply put, we must do everything in our power to prevent Iran from obtaining a nuclear weapon. I am pleased to offer an amendment that will limit Iran's ability to finance its nuclear ambitions by sanctioning the Central Bank of Iran, which is complicit in Iran's efforts.

This amendment will require the President to make a determination about whether the Central Bank of Iran's conduct threatens the national security of the United States or its allies based on its facilitation of the activities of the Government of Iran that threaten global or regional peace and security, its evasion of multilateral sanctions directed against the Government of Iran; its engagement in deceptive financial practices and illicit transactions, and most importantly its provision of financial services in support of Iran's effort to acquire the knowledge, materials, and facilities to enrich uranium and to ultimately develop weapons of mass destruction.

Last week we learned just how far down the nuclear road Iran has come. The International Atomic Energy Agency's report indicates that Iran continues to enrich uranium and is seeking to develop as many as 10 new enrichment facilities; has conducted high explosives testing and detonator development to set off a nuclear charge, as well as computer modeling of a core of a nuclear warhead; and has engaged in preparatory work for a nuclear weapons test. We also learned that an August IAEA inspection revealed that 43.5 pounds of a component—used to arm nuclear warheads—was unaccounted for in Iran and that Iran is working on an indigenous design for a nuclear payload small enough to fit on Iran's long-range Shahab-3 missile, a missile capable to reaching Israel.

These revelations—combined with Iran's provocative effort in October to assassinate the Saudi Ambassador to the United States—demonstrate that Iran's aggression has taken a violent turn and that we can expect that if it gets a nuclear weapon that it will use that weapon.

This amendment will impose sanctions on any foreign financial institutions that engage in significant transactions with the Central Bank of Iran, with the exception of transactions in food, medicine, and medical devices. It sends the message that you have a choice—to do business with the United States or to do business with Iran.

Iran has a history of exporting terrorism—against coalition forces in Iraq, in Argentina, Lebanon, and even in Washington; and while Iran's drive to advance its nuclear weapons program has been slowed by U.S. and international sanctions, it remains undeterred. Today, we take the next step to isolate Iran politically and financially.

I also look forward to continuing to work with the administration and with my colleagues on both sides of the aisle to achieve our shared goals and to make this a bipartisan initiative.

Our efforts to date have been transformative, but Iran has adapted to the sanctions, unanticipated loopholes have allowed the regime to adjust and circumvent the sanctions and drive forward its effort to achieve a robust nuclear program.

We have to be just as prepared to adjust and adapt by closing each loophole that arises. By identifying the Central Bank of Iran as the Iranian regime's partner and financier of its terrorist agenda we can begin to starve the regime of the money it needs to achieve its nuclear goals.

AMENDMENT NO. 1114

Mr. BEGICH. Mr. President, I am pleased to speak on amendment No. 1114 to S.1867, the National Defense Authorization Act for Fiscal Year 2012. The amendment is cosponsored by Senators SNOWE, CASEY, LEAHY, GRAHAM, MURKOWSKI, AKAKA, PRYOR, BROWN of Massachusetts, TESTER, and MANCHIN.

This amendment can be explained very simply. It expands the ability of Reserve component members and surviving spouses to travel on military aircraft when space is available.

Members of the National Guard and Reserve and surviving military spouses make great sacrifices for our Nation. However, too often these individuals do not receive the benefits they have earned for their service. For example, Reserve component members' and retirees' space-available travel privileges are limited within the United States and their family cannot travel with them.

As we all know, the National Guard and Reserve contributions to our Nation's defense since 9/11 are invaluable. There is no reason why their ability to travel on a military aircraft when space is available should be limited or restricted just because they are in the Guard or Reserve. They have fought in Iraq and Afghanistan. They have lost comrades. Virtually every member of the National Guard in Alaska has deployed in support of Iraq or Afghanistan.

Surviving spouses of a military member eligible for retired pay or of a member killed in the line of duty retain no space-available travel privileges at all after the death of their spouse. Yet they have made a lifetime commitment to the military or, in many cases, lost their loved one in war—the ultimate sacrifice.

We must continue to provide support to our surviving spouses and recognize their commitment to our military. As many of our Nation's most senior leaders have said, families are the backbone of the military. We must continue to recognize the National Guard and Reserve who are such a vital part of our Nation's defense and homeland security.

In this time of fiscal constraint, this amendment gives us the opportunity to support our National Guard, Reserves, and surviving spouses without a cost to taxpayers. The amendment is budget neutral.

The amendment is supported by the National Guard Association of the United States, Air Force Sergeants Association, and the Gold Star Wives.

Mr. President, I urge my colleagues to join me in providing better benefits—at no cost—to surviving spouses and Reserve component members.

AMENDMENT NO. 1149

Mr. BEGICH. Mr. President, today I am pleased to speak about my amendment No. 1149. I would like to thank my cosponsor, Senator MURKOWSKI, for her work on this amendment.

This amendment is very simple. It authorizes the Air Force to enter into a land exchange and conveyance in Alaska.

The exchange will resolve land-use conflicts between the municipality of Anchorage, Joint Base Elmendorf-Richardson, and Eklutna, an Alaska Native village.

By working out this agreement, we are ensuring the airmen and soldiers at the joint base have more land available to continue the vital training they need to defend our Nation.

All Federal agencies involved support this land exchange and conveyance. This includes the Air Force and Bureau of Land Management.

I appreciate my colleagues' consideration of this amendment and urge their support.

Mr. LIEBERMAN. Mr. President, I rise today, with my colleagues, Senator COLLINS, Senator AKAKA, and Senator LUGAR, to support an amendment to improve the efficiency and effectiveness of our government by fostering greater integration among the personnel who work on critical national security and homeland security missions.

The national security and homeland security challenges that our Nation faces in the 21st century are far more complex than those of the last century. Threats such as terrorism, proliferation of nuclear and biological weapons,

insurgencies, and failed states are beyond the capability of any single agency of our government—such as the Department of Defense, DOD; the Department of State; or the intelligence community—to counter on its own.

In addition, threats such as terrorism and organized crime know no borders and instead cross the so-called foreign/domestic divide—the bureaucratic, cultural, and legal division between agencies that focus on threats from beyond our borders and those that focus on threats from within.

Finally, a new group of government agencies is now involved in national and homeland security. These agencies bring to bear critical capabilities—such as interdicting terrorist finance, enforcing sanctions, protecting our critical infrastructure, and helping foreign countries threatened by terrorism to build their economies and legal systems—but many of them have relatively little experience of involvement with the traditional national security agencies. Some of these agencies have existed for decades or centuries—such as the Departments of Treasury; Justice; and Health and Human Services, HHS—while others are new since 9/11, such as the Department of Homeland Security, DHS.

As a result, our government needs to be able to apply all instruments of national power—including military, diplomatic, law enforcement, foreign aid, homeland security, and public health—in a whole-of-government approach to counter these threats. We only need to look at our government's failure to use the full range of civilian and military capabilities to stymie the Iraqi insurgency immediately after the fall of Saddam Hussein's regime in 2003, the government's failure to prepare and respond to Hurricane Katrina in 2005, and the government's failure to share information and coordinate action prior to the attack at Fort Hood, TX, in 2009, for examples of failure of interagency coordination and their costs in terms of lives, money, and the national interest.

The challenge of integrating the agencies of the executive branch into a whole-of-government approach has been recognized by congressionally chartered commissions for more than a decade. Prior to 9/11, the commission led by former Senators Gary Hart and Warren Rudman, entitled the U.S. Commission on National Security in the 21st Century, issued reports recommending fundamental reorganization to integrate government capabilities, including for homeland security.

In 2004, the 9/11 Commission, led by former Governor Tom Kean and former Representative Lee Hamilton, found that the U.S. Government needed reform in order to foster a stronger, faster, and more efficient governmentwide effort against terrorism.

And in 2008, the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, led by former Senators Bob Graham and Jim Talent, called for improving interagency coordination in our Nation's defenses against bioterrorism and other weapons of mass destruction.

Congress has long recognized that a key way to better integrate our government's capabilities is to provide strong incentives for personnel to do rotational assignments across bureaucratic stovepipes. The personnel who serve in our government are our Nation's best and brightest, and they have and will respond to incentives that we institute in order to improve coordination across our government.

In 1986, Congress enacted the Goldwater-Nichols Department of Defense Reorganization Act. That legislation sought to break down stovepipes and foster jointness across the military services by requiring that military officers have served in a position outside of their service as a requirement for promotion to general or admiral.

Twenty-five years later, this requirement has produced a sea change in military officers' mindsets and created a dominant military culture of jointness.

In 2004, Congress enacted the Intelligence Reform and Terrorism Prevention Act at the 9/11 Commission's recommendation and required a similar rotational requirement for intelligence personnel. The Director of National Intelligence has since instituted rotations across the intelligence community as an eligibility requirement for promotion to senior intelligence positions, and this requirement is helping to integrate the 16 agencies and elements of the intelligence community.

Finally, in 2005, Congress enacted the Post-Katrina Emergency Management Reform Act to improve our Nation's preparedness for and responses to domestic catastrophes and instituted a rotational program within the Department of Homeland Security in order to integrate that Department.

This proven mechanism of rotations must be applied to integrate the government as a whole on national security and homeland security issues. Indeed, the Hart/Rudman Commission called for rotations to other agencies and interagency professional education to be required in order for personnel to hold certain positions or be promoted to certain levels. And the Graham/Talent Commission called for the government to recruit the next generation of national security experts by establishing a program of joint duty, education, and training in order to create a culture of interagency collaboration, flexibility, and innovation.

The executive branch has also recognized the need to foster greater interagency rotations and experience in order to improve integration across its agencies. In 2007, President George W. Bush issued Executive Order 13434 concerning national security professional development and to include interagency assignments. However, that Executive order was not implemented aggressively toward the end of the Bush administration and has languished as the Obama administration pursued other priorities.

Clearly, it is time for Congress to act and to institute the personnel incentives and reforms necessary to further integrate our government and enable it to counter the national security and homeland security threats of the 21st century.

In June of this year, I joined with Senator SUSAN M. COLLINS and Senator DANIEL K. AKAKA to introduce the bipartisan Interagency Personnel Rotation Act of 2011, S. 1268. Companion legislation was introduced in the House of Representatives on a bipartisan basis by Representative GEOFF DAVIS and Representative JOHN F. TIERNEY. The legislation was marked up by the Committee on Homeland Security and Governmental Affairs on October 19, 2011. I am pleased that Senator RICHARD LUGAR, ranking member of the Committee on Foreign Relations, has joined as a cosponsor of that bill. Senator COLLINS, Senator AKAKA, Senator LUGAR, and I are pleased to offer the Interagency Personnel Rotation Act, with minor modifications from the marked-up version, as an amendment to the National Defense Authorization Act for Fiscal Year 2012.

The purpose of this amendment is to enable executive branch personnel to view national security and homeland security issues from a whole-of-government perspective and be able to capitalize upon communities of interest composed of personnel from multiple agencies who work on the same national security or homeland security issue.

This amendment requires that the executive branch identify ''Interagency Communities of Interest''—which are subject areas spanning multiple agencies and within which the executive branch needs to operate on a more integrated basis. Interagency communities of interest could include counterinsurgency, counterterrorism, counter proliferation, or regional areas such as the Middle East.

This amendment then requires that agencies identify positions that are within each interagency community of interest. Government personnel would then rotate to positions within other agencies but within the particular interagency community of interest related to their expertise.

Government personnel could also rotate to positions at offices that have specific interagency missions such as the national security staff. Completing an interagency rotation would be a prerequisite for selection to certain Senior Executive Service positions within that interagency community of interest. As a result, personnel would have the incentives to serve in a rotational position and to develop the whole-of-government perspective and the network of contacts necessary for integrating across agencies and accomplishing national security and homeland security missions more efficiently and effectively.

Let me offer some examples of how this might work.

An employee of the U.S. Agency for International Development, USAID, who specializes in development strategy could rotate to a DOD counterinsurgency office to advise DOD in planning on how development issues should be taken into account in military operations, while a DOD counterinsurgency specialist could rotate to USAID to advise on how development priorities should be assessed in a counterinsurgency.

A Treasury employee who does terrorist finance work could benefit from a rotation to Department of Justice to understand operations to take down terrorist cells and how terrorist finance work can help identify and prosecute their members, while a Justice employee would have the chance to learn from the Treasury's financial expertise in understanding how sources of funding can affect cells' formation and plotting.

An HHS employee who specializes in public health could rotate to a DOD counterinsurgency office to advise on improving public health in order to win over the hearts and minds of the population to counter insurgency, while a DHS employee could rotate to HHS in order to learn about HHS's work to prepare the U.S. public health system for a biological terrorist attack.

The cosponsors of this amendment and I recognize the complexity involved in the creation of interagency communities of interest, the institution of rotations across a wide variety of government agencies, and having a rotation as a prerequisite for selection to certain Senior Executive Service positions. As a result, our legislation gives the executive branch substantial flexibility—including to identify interagency communities of interest; to identify which positions in each agency are within a particular interagency community of interest; to identify which positions in an interagency community of interest should be open for rotation and how long the rotations will be; and, finally, which Senior Executive Service positions have interagency rotational service as a prerequisite.

To be clear, this legislation does not mandate that any agency be included in an interagency community of interest or the interagency personnel rotations; instead, this legislation permits the executive branch to include any agency or part of an agency as the executive branch determines that our Nation's national and homeland security missions require.

Finally, I wish to stress that this amendment is designed to be implemented with no cost to the executive branch.

First, this amendment is designed to be implemented without requiring any additional personnel for the executive branch. The amendment envisions that rotations will be conducted so that there is a reasonable equivalence between the number of personnel rotating out of an agency and the number rotating in. That way, no agency will be short staffed as a result of having sent its best and brightest to do rotations; each agency will be receiving the best and brightest from other agencies.

Second, this amendment relies on the office that is currently implementing the executive branch's national security professional development program to implement this framework instituted by this amendment. This office is currently housed at DOD, and the legislation would move the office and its three employees to the Office of Management and Budget and the Office of Personnel Management, which have oversight responsibility for this framework. Thus, no new staff would be required to administer the framework set forth in the amendment.

Third, this amendment has a 5-year implementation period which requires the executive branch to create two interagency communities of interest—for emergency management, and stabilization and reconstruction—to restrict the number of personnel doing rotations to 20 to 25 per year per each of these two interagency communities of interest, and to restrict the rotations to within a metropolitan area in order to avoid any relocation costs.

Fourth, this amendment requires that personnel doing a rotation receive the same training by the receiving agency that the receiving agency would provide to its own new employees, rather than more elaborate training that would incur costs.

And fifth, this amendment requires that any reports produced pursuant to the amendment be submitted on line rather than published in hard copy.

Let me close by answering a common objection to government reorganization. To quote the 9/11 Commission:

> An argument against change is that the nation is at war, and cannot afford to reorganize in midstream. But some of the main innovations of the 1940s and 1950s, including the creation of the Joint Chiefs of Staff and even the construction of the Pentagon itself, were undertaken in the midst of war. Surely the country cannot wait until the struggle against Islamic terrorism is over.

I urge my colleagues to take bold action to improve the efficiency and effectiveness of our government in countering 21st century national security and homeland security threats by promptly adopting this amendment to the National Defense Authorization Act for Fiscal Year 2012.

REPEAL OF JACKSON-VANIK TRADE RESTRICTIONS ON MOLDOVA

Mr. LUGAR. Mr. President, I rise in support of an amendment to the National Defense Authorization Act, which would repeal the Cold War-era Jackson-Vanik trade restrictions on Moldovan products and thereby provide impetus for closer U.S. strategic engagement between our two nations.

I have introduced this legislation in the previous three Congresses and believe that the time is ripe for Moldova to finally be granted permanent normal trade relations. Moldova has been in the WTO since 2001 but still remains subject to Jackson-Vanik, despite currently being in full compliance with Jackson-Vanik-related concerns. Until the United States terminates application of Jackson-Vanik on Moldova, the U.S. will not benefit from Moldova's market access commitments nor can it resort to WTO dispute resolution mechanisms. While all other WTO members currently enjoy these benefits, the United States does not.

The Republic of Moldova has been evaluated every year and granted normal trade relations with the United States through annual presidential waivers from the effects of Jackson-Vanik. The Moldovan constitution guarantees its citizens the right to emigrate and this right is respected in practice. Most emigration restrictions were eliminated in 1991 and virtually no problems with emigration have been reported since independence. More specifically, Moldova does not impose emigration restrictions on members of the Jewish community. Synagogues function openly and without harassment. As a result, several past administrations, including this one, have found that Moldova is in full compliance with Jackson-Vanik's provisions.

The United States and Moldova have established a strong record of achievement in security and non-proliferation cooperation. We have encouraged Moldova's ambition of European integration, particularly in light of the new coalition that was swept to power in 2009, the Alliance for European Integration.

One of the areas where we can deepen U.S.-Moldovan relations is bilateral trade. In light of its adherence to freedom of emigration requirements, compliance with threat reduction and cooperation in the global war on terrorism, the products of Moldova should not be subject to the sanctions of Jackson-Vanik.

The continued support and encouragement of the United States and the international community will be key to encouraging the Government of Moldova to follow through on important reforms. The permanent waiver of Jackson-Vanik and establishment of permanent normal trade relations will be the foundation on which further progress in a burgeoning economic, trade, and security partnership can be made.

I am hopeful that my colleagues will join me in supporting this important amendment.

FDIC

Mr. CHAMBLISS. Mr. President, I rise today to bring to the Senate an issue of critical importance.

Last night, the Senate was able to pass by unanimous consent legislation