

Mr. REID. Madam President, what is the matter now before the Senate?

The ACTING PRESIDENT pro tempore. The motion to proceed to S. 3254.

Mr. REID. Is there further debate on this matter?

The ACTING PRESIDENT pro tempore. Is there further debate on the motion to proceed?

If not, the question is on agreeing to the motion.

The motion was agreed to.

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

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

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

#### AMENDMENT NO. 2985

Mr. REID. Madam President, on behalf of Senator UDALL of Colorado, I call up amendment No. 2985.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. UDALL of Colorado, for himself, Mrs. MURRAY, Mrs. SHAHEEN, and Mr. BINGAMAN, proposes an amendment numbered 2985.

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

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

The amendment is as follows:

(Purpose: To strike section 313, relating to a limitation on the availability of funds for the procurement of alternative fuel)

Strike section 313.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I want to describe to the Senate what we just did. It is a little different from what we sometimes do around here, which is we have long threats of filibusters on motions to proceed; then, we, finally, often or sometimes reach unanimous consent agreements to proceed. What we did here—and it was very deliberate—was to proceed by motion, not by unanimous consent, to this bill so that if persons were going to filibuster the motion to proceed, they were then going to have to come to the floor and debate it—not just simply threaten to filibuster the motion to proceed, but they would have to come and actually debate it. Because I believe that is the correct way for us to operate.

Motions to proceed, I believe, have been abused. The threats to filibuster those motions have been allowed to be successful. One way we can overcome what has been a bad habit of allowing threats to filibuster motions to proceed

to succeed is to basically tell those folks, our colleagues, that if they want to filibuster a motion to proceed—in this case, the Defense authorization bill—they are going to have to come over and filibuster.

This is something which is significant. It may sound like a nuance to many. I think it probably would to most outside this body and our staffs as to what I am saying. But it is important to those of us who are trying hard to get this body to be more functional that we use the existing rules—and I am all in favor of rules changes, by the way—but that we use in the meantime the existing rules to get this body more functional than it is right now. And one of those existing rules is the one we just used, which is to proceed by a motion to proceed, and then to indicate, as our leader just did, there appears to be no one who wishes to be recognized to debate it, and then for the Chair to put the question, the Presiding Officer to then put the question to the body: All those in favor of the motion say “aye,” all those opposed say “nay.” The ayes have it, and now we are on the bill.

So, Madam President, I have a long opening statement. I will, however, with the assistance here of my friend, Senator MCCAIN, also make the following statement. There is no cloture motion which is filed or pending. We hope we can adopt this bill without a cloture motion. We are hopeful that people who have amendments will bring them over. We will try to dispose of them, either by saying we could agree to them or we cannot agree and putting them in line for debate; but proceeding in a way that if folks, colleagues, have amendments, they bring over those amendments and let us try to work those amendments through this process without having to go through cloture and without having to set aside pending amendments in order to make other amendments pending.

If we can proceed without a cloture motion, we are not going to have to use that process of setting aside pending amendments, making other amendments pending, because if we can avoid a cloture motion, we are not going to have a postcloture period where that pendency of amendments becomes relevant. If we are not going to need to go to a cloture, then it is not relevant that an amendment is made pending because the bill is open to amendment. That is what we are hoping to do.

We are willing to stay here late hours. Senator MCCAIN and I have spent a lot of time talking about this—we spent a lot of time getting this bill to the floor, by the way; and it came out of our committee unanimously—but we spent a lot of time talking about how do we get this bill done in 3 days because that is what we told the majority leader we think we can do. By the way, that is all the time we are going to have. The majority leader has made it clear we do not have more than 3 days.

We want colleagues, Senators, who have amendments to bring those amendments to us. We will try, if we cannot resolve them, to put them in packages. If they need to be debated and voted on, that is fine. That is what we are here for. We are going to then try to line up those amendments so that we will go back and forth to the extent we can between Democrats and Republicans offering amendments and voting on those amendments.

So, therefore, I intend to object, in the absence of a cloture motion being filed, to laying aside amendments because, again, in the absence of a cloture motion pending, there is no need to do that and it confuses and complicates the life of the managers of this bill. So I want to make that clear to our colleagues.

I wonder if Senator MCCAIN might have a comment on that.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, could I say, I thank my dear and old friend from Michigan. I was recollecting that he and I have now worked together for over a quarter of a century. But far more important than that, this legislation and how we handle it, I say to all my colleagues, can be a model for how this body should do business: Take up a piece of legislation, have amendments and debate, and move forward. If that requires long hours, and even occasionally a Friday or even more, then I think our colleagues should be prepared to do that. We are not sent here for a 3-day workweek. We are sent here to do the people's business.

I am not proud, Madam President—and I will not point fingers at anybody—it was judged by historians the last session of Congress was the least productive since 1947. Now, maybe Senator LEVIN and I were around in 1947, but we do not remember exactly what happened in those days. But the fact is that when we are looking at basically continuous gridlock, day after day, week after week, month after month, then we have to change the way we do business.

Hanging over all this, I say to my friends on this side of the aisle, is a change in the rules, which could cause what we used to call the nuclear option, which we were able to avoid some years ago when this sort of same thing was contemplated on the confirmation process of judges.

So we are now proceeding, I say to my friend from Michigan, without a motion to proceed, without a cloture vote, without the normal parliamentary back and forth that takes up 2 or 3 days of every week here, and we want people to come to the floor, have amendments—as there is one pending from the Senator from Colorado—we debate it openly and honestly, we have votes on it, and we move forward. If it requires quite a while—because we are talking about this Nation's security, the National Defense Authorization

Act—then we should be willing to spend those hours on it.

So it seems to me, if we can do what the distinguished chairman and I contemplate; that is, that we move forward with the amendments, we have open and honest debate—we will work with any of our Members to try to make sure their issues and their amendments get the consideration they deserve. But we also may have to put in long hours in order to do so. There is no reason to use a parliamentary mechanism to keep us from addressing this Nation's national security. The lives of the men and women who are serving are dependent upon the work we are doing, and for someone—individual Members of this body—to hold up the whole process because of his or her specific issue is not appropriate treatment of this issue.

I urge all my colleagues to cooperate. I believe we can show the entire country that we are capable of moving forward and addressing the issues in a measured, mature, and productive fashion, which is what the American people are demanding of us. I do not need to remind my colleagues of our approval ratings. But there is ample reason for that disapproval because we have not moved forward and done the people's business.

Again, I urge all my colleagues to show the kind of forbearance and the kind of maturity that is necessary in order to complete this legislation.

I would like to take this opportunity to thank my friend from Michigan, Chairman LEVIN, for his leadership in writing this year's Defense authorization bill. We have worked together for many years now, and the chairman has set a high standard of cooperation and bipartisanship that befits the esteemed history of the Senate Armed Services Committee.

I am pleased that we will finally have the opportunity to discuss and debate this crucial piece of bipartisan legislation, which has been on the Senate's calendar for almost 6 months. My colleagues and I have come to the Senate floor numerous times during those months to ask the majority leader to call up the Defense authorization bill. While I had hoped to get started on this bill much earlier, I do appreciate the majority leader's offer to bring up the bill with an open process for dealing with amendments. Unfortunately, here we are, with only a few weeks left in this Congress, just beginning debate on one of the most critical pieces of legislation the Congress annually considers. So I ask my colleagues' cooperation in offering relevant amendments with limited time for debate, so that we may afford all Senators an opportunity to address their ideas and concerns with respect to national defense.

Because of the delay in bringing up this bill, we are considering the Defense authorization bill under the imminent threat of budget sequestration mandated by last year's Budget Control Act. Pentagon leadership has re-

peatedly warned that these automatic, across-the-board cuts to defense spending, totaling almost half a trillion dollars over the next decade, would devastate the Department's ability to provide for the Nation's defense. Sequestration would undermine the readiness of the armed services; dramatically reduce our ability to project power and defend our interests at a time when the world is becoming more dangerous; jeopardize the livelihood of civilian and uniformed personnel alike; and bring with it the likelihood of hundreds of thousands of layoffs. Furthermore, the way in which these cuts would be applied will likely require that thousands of contracts be terminated and renegotiated at a huge cost to the taxpayer.

It is unconscionable that the President has not come to the Congress with a proposal to avoid the devastation of sequestration, not only on our national security but on our economic security as well. It has been over a year since the Joint Select Committee on Deficit Reduction, or supercommittee, admitted defeat, and the President has shown no leadership and offered no solutions to the impending sequestration. Many of us in this body have been meeting and discussing potential alternatives to sequestration. Sequestration will take effect on January 2, just a short time from now. We need leadership to avoid this disaster and to address the spending and revenue issues that have brought our Nation to the fiscal cliff.

The Fiscal Year 2013 National Defense Authorization Act contains many "must pass" authorizations, including a pay raise for our men and women in the Armed Forces, bonuses, health care, and quality of life programs that are essential to the readiness of our Armed Forces and the well-being of their families. The bill helps to address the needs of wounded service members and their families. Military construction and family housing projects cannot proceed without the specific authorizations contained in this bill.

This bill also includes important authorities that support our national security objectives around the world, including an extension of the Afghan Security Forces Fund, a program instrumental to our efforts to build the capacity of the Afghan Army and Police. It also extends the CERP program which provides commanders on the ground with the ability to fund small-scale humanitarian projects that directly benefit the Afghan people, as well as the Coalition Support Funds program which reimburses cooperating nations supporting the effort in Afghanistan. The bill also contains a provision mandating an independent assessment of the size, structure, and capability requirements of the Afghanistan National Security Forces necessary to provide enduring security for their country so it does not revert to a safe haven for international terrorism.

In the area of military compensation, according to the Congressional Budget

Office, the President's request for fiscal year 2013 for pay and benefits of current and retired members of the military represents more than one-quarter of DOD's total base budget request. In light of this, the bill would establish a Military Compensation and Retirement Modernization Commission to review these benefits and recommend any future changes necessary to ensure both quality of life and sustainable benefits for those who serve.

In the area of acquisition and contracting, the bill includes provisions that would improve how the Department buys weapons systems and other goods and services by prohibiting the use of cost-type contracts for the production of major weapon systems; requiring the Department to revise its "profit policy" to make sure that it effectively incentivizes contractors to control costs; requiring that the Department notify Congress of potential termination liability on contracts for major weapon systems; and calling on the Department to improve its guidance on how it procures capability in response to "joint emergent operational needs".

Several provisions in the bill continue the committee's strong oversight of troubled programs. The bill fences 50 percent of the funding for the second Ford-class aircraft carrier until the Navy submits a report on how it will control its construction costs, while the accompanying Senate report directs the Navy to recertify the current \$8.1 billion cost cap on CVN-79. Other provisions enhance oversight of, and transparency into, the Navy's Littoral Combat Ship Mission Packages; subject how the Air Force maintains and modernizes F-22A aircraft to greater oversight; and continue strong oversight of the F-35 program.

This year's bill also contains important initiatives intended to ensure proper stewardship of taxpayer dollars by codifying the 2014 goal for the Department of Defense to achieve an auditable statement of budgetary resources; requiring the implementation of recommendations provided by the GAO to eliminate duplicative programs and functions; imposing additional protections for DOD whistleblowers; and requiring a detailed cost estimate and personnel plan for the new Defense Clandestine Service.

Another important provision would require the commander of U.S. Cyber Command to provide a strategy for the development and deployment of offensive cyber capabilities to serve as deterrents to, and for response in the event of, a cyberattack. I believe strongly that cyber warfare will be the key battlefield of the 21st century, and I am concerned about our ability to fight and win in this new domain without a robust offensive capability. Crafting a comprehensive, well-defined strategy, required under this provision and others, should also spur U.S. Cyber Command to identify critical personnel

requirements for offensive cyber missions, which are presently understaffed.

Again this year, the committee restricted further construction on Guam related to the realignment of U.S. Marines in the Pacific theater until Congress has a clear understanding of the costs and strategic implications of the proposed force realignments on our strong allies in the region. The bill also contains no funding for the Office of Economic Adjustment activities on Guam, and it requires future requests for the construction of public facilities and infrastructure be specifically authorized by law, thereby eliminating another potential source of earmarks.

In addition, this bill would impose restrictions on DOD expenditures to develop a commercial biofuels industry. I strongly support continued Defense Department research in energy technologies that reduce fuel demand for our weapons systems and save lives on the battlefield. But I do not condone siphoning defense funds from those critical efforts to pay \$27 per gallon for biofuels or \$170 million to use as venture capital for the construction of a commercial biofuels refinery. This is not a core defense need and should be left to the private sector, or to the Department of Energy, which received over \$4 billion last year for energy research and development for related programs. The committee's action corrects this misplacement of priorities.

Even without the massive budget cuts that will occur if sequestration is not averted, the President last year proposed \$487 billion in defense budget cuts by fiscal year 2021. The total funding authorized in this bill reflects the President's reduced defense budget plan. However, within that total funding, the Armed Services Committee cut an additional \$3.3 billion from programs requested by the Department of Defense to fund congressional special interest items. I am concerned that, in light of the budget realities facing the Pentagon and the Nation, at a time when our military is being asked to make drastic cuts in personnel, some of our colleagues continue to divert resources from vital military requirements to fund unnecessary and unrequested projects.

Some argue that the Department of Defense does not have a monopoly on good ideas. While true, the committee has an obligation to ensure that funding added to new programs results in tangible value to our national security and our military personnel. Terms like "Committee initiative," as used in this bill, do not effectively disguise additions to the budget that are earmarks by any other name. Two perennial additions that highlight the problem of unrequested authorizations are the Industrial Base Innovation Fund, IBIF, and the Defense Rapid Innovation Program, DRIP, which together are earmarked for \$230 million in this bill. These funds were not requested by the Department of Defense and as a result,

the Department has struggled to put them on contract and manage the money for any useful purpose.

Serious threats face our Nation, most recently evidenced by the deaths of four brave Americans in Benghazi, and our Armed Forces are still engaged in operations in Afghanistan and deployed around the world. At the same time, our Nation is facing a severe fiscal crisis which is only weeks away, due to the unwillingness or inability of the President and Congress to agree on a solution to the current tax-and-spending stalemate.

And once again, Congress has failed to enact either an authorization or appropriations bill for the Department of Defense almost 2 months into the fiscal year. We have failed to provide the Department with a baseline to plan for sequestration, if it is ultimately not averted. Therefore, I urge my colleagues to swiftly approve this legislation so that a Defense authorization bill can be enacted before the end of the year.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank my good friend from Arizona for those comments.

Madam President, on behalf of the Senate Armed Services Committee, I am pleased to bring S. 3254, the National Defense Authorization Act for fiscal year 2013, to the Senate floor. The Armed Services Committee approved the bill by a unanimous, 26-0 vote, making this the 51st consecutive year that our committee has reported a defense authorization act. Every previous bill has been enacted into law.

This year's bill would authorize \$631.4 billion for national defense programs—the same amount as the President's budget request and \$31 billion less than the amount appropriated for fiscal year 2012. U.S. forces are drawing down in Afghanistan and are no longer deployed in Iraq. However, real threats to our national security remain and our forces are deployed throughout the globe. I am pleased that this bill provides our men and women in uniform the funding and support that they need as they engage in continued combat in Afghanistan, work to track down al-Qaida and associated forces in the Arabian Peninsula and North Africa, and perform other military missions around the world.

First and foremost, this bill continues the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world. For example, the bill authorizes a 1.7 percent across-the-board pay raise for all military personnel, extends over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by active-duty and reserve military personnel, and authorizes increases to several of these bonuses; does not accept Department of Defense

proposals that would have increased the cost of medical care for service members and their families by establishing enrollment fees for TRICARE Standard and TRICARE for Life, and increasing TRICARE deductibles and the annual catastrophic cap; authorizes \$30 million in supplemental impact aid and related education programs for the children of service members, and adjusts the impact aid formula to alleviate delays in impact aid funds; requires the Secretary of Defense to provide recommendations for statutory or regulatory changes to further increase career and service opportunities for women in the armed forces; and strengthens protections on consumer credit for members of the armed forces.

The bill includes funding needed to provide our troops the equipment and support that they need in Afghanistan, while preparing the way for a transition of responsibility to Afghan forces. For example, the bill funds the President's request for \$88 billion for overseas contingency operations; fully funds the President's request for \$5.7 billion to train and equip the Afghan National Army and Afghan Police—growing the capabilities of these security forces so those forces can continue the transition to taking the security lead throughout Afghanistan by 2014; reauthorizes the use of DOD funds to support a program to reintegrate insurgent fighters into Afghan society at the requested level of \$35.0 million; reauthorizes the Commanders' Emergency Response Program in Afghanistan with a reduction in the Administration's request, given reductions to U.S. force levels in Afghanistan; reauthorizes the Afghanistan Infrastructure Fund at a reduced level and restricts the availability of the authorized funds until the Secretary of Defense submits information on how new projects will be sustained following completion; and requires an independent assessment of the size and structure requirements of the Afghanistan National Security Forces necessary to ensure that Afghan forces are capable of providing security for their own country after 2014.

The bill also contains a number of provisions that will help improve the management of the Department of Defense and other federal agencies. For example, the bill enhances protections for contractor employees who blow the whistle on waste, fraud, and abuse on DOD contracts; restricts the use of "pass-through" contracts by requiring that at least 50 percent of the work on any service contract be performed by the prime contractor or by a subcontractor identified in the contract; lowers the cap on contractor salaries and compensation that is allowable for DOD reimbursement from \$750,000 to \$230,700; prohibits the use of cost-type contracts for the production of major weapon systems, with limited exceptions; and adds \$59 million to enable the DOD IG to provide more effective oversight and help identify waste,

fraud, and abuse in DOD programs, especially in the area of procurement.

There are a number of controversial issues that are not addressed in this bill.

First, the sole detainee-related provision in this bill is a one-year extension of existing language addressing certifications for transfers of GITMO detainees and the construction of facilities inside the United States to house GITMO detainees. I understand that some of my colleagues would like to revisit issues we addressed last year regarding the authority to detain individuals apprehended in the course of our ongoing fight with al-Qaida, the Taliban, and associated forces, and they have that right, but those issues are not addressed in the bill reported by the Senate Armed Services Committee.

Second, the bill does not authorize new rounds of base closures, as requested by the administration. In fact, the bill includes a one-year moratorium on implementing any realignment that would result in a military installation falling under the threshold for closure without going through the BRAC process. The Department of Defense has achieved savings through previous BRAC rounds, but there are other options—including further reductions to our overseas basing structure—that should be considered to achieve savings before Congress authorizes a new round of base closures inside the United States.

Third, in accordance with the policy that the Armed Services Committee has adopted over the last two years, the bill does not contain any earmarks, as defined in rule XLIV of the Standing Rules of the Senate. I continue to believe that we it is wrong for us to give up the power of the purse given to Congress in the Constitution. I don't believe that the executive branch has a monopoly on good ideas; in fact, I think that we are often more receptive to creative, new ideas that can lead to advances in the national defense than the defense bureaucracy is. Nonetheless, there are no earmarks in this bill.

Finally, I would like to discuss four issues in the bill that are of particular importance to the Department of Defense and the Nation.

First, the budget proposal included a plan by the Air Force to retire or realign various aviation units, resulting in a 4.8 percent reduction to the Air National Guard, compared to a reduction of only 1.2 percent to the active duty Air Force. The Air Force provided no convincing justification for the imbalance in these cuts. Some of the proposed cuts in National Guard force structure were accompanied by proposed increases in active duty force structure for the same aircraft. The rationale provided for other cuts was inconsistent with statements that the Air Force made as recently as two years ago about the capability of its aircraft. In fact, the Air Force was unable even to provide the committee

with consistent numbers documenting the impact of the proposed cuts on affected locations.

The bill before us rejects the Air Force plan and fully restores \$1.4 billion in fiscal year 2013 funding for the force structure that the Air Force proposed to cut—without increasing the overall top-line of the defense budget. While we understand that the Air Force has to make tough choices in its budget, major changes in Air Force structure are too important to be made without the support of objective analysis. For this reason, the committee bill would delay the actions proposed by the Air Force and instead establish a national commission to provide an objective analysis of how the structure of the Air Force should be modified to best fulfill current and anticipated mission requirements in a manner consistent with available resources. It is our expectation that this analysis will provide a far more sound and defensible basis for future force structure decisions.

Second, the bill establishes a Military Compensation and Retirement Modernization Commission to review elements of military compensation and retirement benefits with the objective of modernizing these systems, ensuring the long-term viability and sustainability of All-Volunteer force, and enabling a high quality of life for military families. In proposing such a commission, the Department of Defense took note of significant changes in the demographics of the national workforce and private sector retirement plans, concerns about the extent to which military compensation is deferred and the vesting of benefits is delayed, and the continuing fiscal pressures on the nation. As recommended by the Department, the provision in our bill provides for expedited legislative consideration of the commission's recommendations—including an up-or-down vote on those recommendations without amendment. Our legislation would ensure that proposed changes do not break faith with the current force by expressly requiring that the commission's recommendations grandfather all members serving in the armed forces as of the date of enactment of the provision.

Third, the bill includes a provision requiring the Department of Defense to develop and implement a plan to reduce the size of its workforce of civilian employees and contractor employees by an amount commensurate with the 5 percent reduction in military end-strength planned through fiscal year 2017. This provision recognizes the reality that a reduction in military end-strength and force structure should be accompanied by a comparable reduction in supporting elements.

In recent years, we have come to understand the critical role played by the acquisition workforce—and the risk that we could lose billions of dollars in failed acquisition programs by trying

save millions of dollars in ill-advised cuts to that workforce. But it is not just the acquisition workforce that plays a critical role in ensuring that our military is prepared to meet current and future challenges. DOD's civilian workforce also includes 45,000 nurses, pharmacists, and other medical professionals; 86,000 personnel in cybersecurity, information assurance and related fields; 15,000 personnel in science and technology; and 6,000 personnel in intelligence functions. Our civilian employee workforce plays a critical role in ensuring that our troops get the supplies that they need, that they receive the pay that they earn, that their bases are safe and well-maintained, and that their children receive the education that they deserve. Without this workforce, we would not be able to build, test, and maintain the weapon systems we need to face today's challenges, and we would not be able to conduct the research and development we need to keep our technological edge into the future.

In the current budget environment, however, no area of the Department of Defense can be off limits as we look for savings. I am well aware that the Department has already developed plans to reduce its civilian employee workforce by two to three percent over a 5-year period, and is achieving additional savings through an ongoing pay freeze for its civilian employees. However, these efficiencies initiatives were developed before the current budget crunch and fall short of the 5 percent reduction planned for military end strength. The cuts imposed on the Department's contractor employee workforce have been significantly less deep. The provision in our bill should ensure that savings achieved in the Department's civilian personnel workforce and contractor employee workforce are brought in line with the savings achieved through the newer, deeper cuts to military end strength. It is our expectation that the Department will utilize a deliberative, needs-based planning process to achieve this objective.

Finally, the bill includes a number of provisions on energy conservation, energy research, and alternative fuels. The Department of Defense is the single largest consumer of energy in the United States, spending close to \$20 billion a year on purchases of fuel and electricity. I am pleased that the bill authorizes \$150 million for the Energy Conservation Investment Program and \$200 million for the research of innovative technologies, including technologies that will enhance energy security and independence, through the Rapid Innovation Program. In the long run, these 12 investments should result in substantial savings in fuel costs, reduce logistics requirements for military operations, and enhance our energy security.

The bill also contains two provisions—each adopted on a razor-thin 13-12 vote—restricting the Department's continued investment in alternative

fuels. The first provision prohibits the use of fiscal year 2013 funds for the production or purchase of an alternative fuel if the cost exceeds the cost of traditional fossil fuels available for the same use. The second provision prohibits the Department from entering into a contract to plan, design, or construct a biofuels refinery or any other facility or infrastructure used to refine biofuels, unless specifically authorized by law. These provisions may result in short-term savings, but they will impose significant long-term costs by undermining the Department's efforts to diversify its fuel supplies and enhance its energy independence and security. It is my expectation that we will revisit these provisions as we debate this bill on the Senate floor.

As of today, we have roughly 1.4 million U.S. soldiers, sailors, airmen and marines serving on active duty—with tens of thousands engaged in combat in Afghanistan and stationed in other regional hotspots around the globe. While there are issues on which Members may disagree, we all know that we must provide our troops the support they need. Senate action on the National Defense Authorization Act for Fiscal Year 2013 will improve the quality of life of our men and women in uniform and their families. It will give them the tools that they need to remain the most effective fighting force in the world. Most important of all, it will send an important message that we, as a Nation, stand behind them and appreciate their service.

I look forward to working with my colleagues to pass this vital legislation.

AMENDMENT NO. 2985

Senator UDALL's amendment is now pending, and I am wondering whether there is a time agreement yet on this amendment and, if not, whether we can work on a time agreement.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Pursuant to Senator LEVIN's question about a time agreement, I ask unanimous consent that the majority side have 30 minutes to speak to my amendment and the Republican side have 15 minutes to speak to my amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Colorado.

Mr. UDALL of Colorado. I ask unanimous consent to speak to my amendment for 10, 12, maybe 15 minutes. I know Senator INHOFE would like to speak. Then I have additional speakers on our side.

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

Mr. UDALL of Colorado. Madam President, I rise today in support of the Department of Defense and our men and women in uniform who stand watch around the clock around the world to protect us from a truly staggering range of threats. As I have al-

luded, I rise specifically to speak to my amendment No. 2985, which I have introduced in concert with our military officials and leadership.

As a proud member of the Senate Armed Services Committee, I have designed this amendment to support the Department of Defense and their efforts to pursue alternative fuels and energy investments. Senators MURRAY, SHAHEEN, BINGAMAN, HAGAN, KERRY, BEGICH, and TOM UDALL have joined me in cosponsoring this legislation.

We, as Senators and as Americans, frequently acknowledge the courage and the sacrifice of our troops. But I would also point out that they are incredibly smart, insightful, and forward thinking. In order to keep ahead of current enemies and future threats, our military leaders must be students of history. They have to understand the past in order to predict the future. They have to be ready to face challenges from the air, sea, and land, and now increasingly from the cyber domain. They must prepare to defend our Nation from hostile nation States such as Iran and from terrorist organizations such as al-Qaida.

In order to do all of this, they must have the best technology in the world. We must also provide them with the flexibility to adapt to an ever-changing landscape and the resources they need to research, develop, and employ new technologies. That is our solemn commitment, and I would offer our solemn responsibility, to those who fight on our behalf. They have placed themselves between us and harm's way. In return, we promise to invest in the technology, training, and resources they need to stay safe.

For me and many of our colleagues that includes encouraging, supporting, requiring, actually, the DOD to invest in energy sources and fuel technologies that reduce our dependence on foreign oil. Ultimately, section 313 of the Defense authorization bill before us today would severely limit the ability of the Department of Defense to use alternative fuels.

Given the threats facing our Nation today and in the future, that is not acceptable. I want to point out the Department of Defense strongly opposes the constricting provisions in the current Defense authorization bill for that reason and for a number of other reasons. I want to quote what the Office of the Secretary of Defense says about section 313.

The OSD says that 313 is "detrimental to DOD's long-term energy security;" that it is "overly broad," "ambiguous," and it "restricts the flexibility of military commanders." Those are the DOD's words about this section. I want to point out I strongly agree with those words. Therefore, I have offered this very simple amendment that would remove this limiting provision from the bill. I firmly believe that removing section 313 of the Defense authorization bill is in the best interests of our military and our country. Let me tell you why.

In the carrying out of the work of our Nation, the Department of Defense consumes approximately 330,000 barrels of oil every single day. That works out to 120 million barrels of oil per year. That is a truly staggering number. This year, given those numbers, the military has already spent \$15 billion on fuel. Because of rising global oil prices that is about \$2.5 billion more than they forecast, and the year is not even over yet. We have another month to go.

Those rising costs in dollars and operational capability are staggering. Think of it this way: For every 25-cent increase in the price per gallon of oil, the military's fuel bill increases by \$1 billion. So then what happens? In order to make up for that shortfall, the DOD then has to pull money from the operations and maintenance accounts, which means that rising fuel costs result in less training, deferred maintenance, and reduced operational capability.

Let me be clear. The current language that was added to this bill by some of my colleagues tells the Defense Department they cannot pursue energy security and instead must rely on an energy source that is quickly eating away at their capabilities and effectiveness. That means our people are less prepared when they go into harm's way, and they are less ready to fight when it matters most. For me, and I hope for the majority of my colleagues, that is far too steep a price.

That is why the DOD is investing in technology to increase fuel efficiency, promote conservation, and to find alternatives to foreign oil. General Dempsey, the Chairman of the Joint Chiefs of Staff, has said simply but powerfully: Saving energy saves lives. It should tell us something that in an era of reduced DOD budgets our senior leaders remain fully committed to this effort. We should support them in these commonsense approaches. That is why the DOD is funding research and development for new fuels that can be made from biological feed stocks. And these are fuels that can be literally grown here and refined here, right in our own country, right at home.

This R&D effort I am alluding to is part of a proud legacy of military research programs that have benefited our entire country through many decades. So what I am saying is even under the threat of sequestration, investments in new energy technology and alternative fuels remain a top priority for our military leadership. For those who would say we cannot afford to spend money on alternative fuels, our uniformed senior leaders tell us otherwise and, in fact, suggest that we cannot afford not to make these investments.

Let me share another way of looking at this. The investment is tiny when we compare it to the potential payoff. For less than .03 percent of the defense budget, our military is building a foundation for a new domestic energy

source that could save billions of dollars and keep more of the money we do spend on fuel right here at home.

We spend about \$300 billion a year on overseas sources of oil—\$300 billion. If we could keep one-twentieth of a percent of that money at home we would pay for this program. Let me put it in perspective another way.

For about half of what we spend on military bands each year, we could be establishing a domestic energy industry. For less than the cost of a single F-35, we could diversify our energy portfolio and drive down costs. We would be taking billions of dollars out of the hands of terrorists and reducing the risk to our military personnel.

So in that context, what is the problem? Well, the proponents for cutting off these investments in alternative fuels argue that the Defense Department should not be involved in the development of new energy sources. I think it has already become clear, but I want to say it again: I could not disagree more. These biofuels, when we produce them, cannot be used as leverage against us. These refineries cannot be overrun by Nigerian rebels or blockaded by Iranian gun boats.

Energy security is national security. This is exactly the kind of investment our military should be making. In fact, military R&D has sustained the enormous technological advantage that we have maintained over our adversaries historically. Our willingness to invest in the future has kept us safe. So my colleagues say the DOD should not be spending money on energy development. I would respectfully remind them we have always spent money on energy development, and it has made us safer.

If that view had prevailed in years passed, we would not have a nuclear-powered Navy. Without military investment in emerging technologies, we would not have jet engines, microchips, microwave ovens, radar, or GPS navigation. Ensuring our energy security ought to be a national priority. Our reliance on foreign oil is a threat to our security and our economy. Our reliance on foreign oil harms our economy and our national security. Now we have the chance to do something about it.

This is a national problem. That is why DOD has partnered with the Department of Energy, Department of Agriculture, and private industry to find a solution. That is exactly how our government is supposed to work.

If we believe the DOD has a vested interest in having reliable sources of fuel and energy, then we should agree they have a role to play in ensuring that new fuels we have to develop meet their needs.

Now, as with any technology, the cost of alternative fuels starts high, but they are coming down steadily. As we all know, the price of oil continues to climb and, equally important, is subject to those sudden spikes due to unpredictable global events. My colleagues who are opposed to the DOD

energy programs would have us believe that alternative fuel prices are unaffordable. But let me share some facts.

In 2009 the Navy paid about \$66 per gallon for biofuels used for research. But that price decreased over a 3-year period by 61 percent. During that same period, oil prices rose by about 120 percent. Today, right now, drop-in biofuels for cars and jet aircraft are available for around \$4 per gallon. These costs will continue to drop if we keep making smart investments in smart technologies.

These are the facts, but even if we disagree with those points, there is another important factor I hope we will consider. Section 313 of the Defense authorization bill harms military missions and technologies that are being used right now to find and destroy our enemies.

Let me explain. The Office of the Secretary of Defense has said the language is so broad and so poorly defined that it would prohibit the DOD from purchasing any nonpetroleum fuel that costs more than traditional fuels. So we have to ask, what does that mean?

Let me give a couple of examples. That would include the solid oxide fuels used in rockets and missiles. That would include coal-to-liquid fuels. That includes alternative fuels purchased overseas where there are no petroleum-based fuels available, like in South Africa and in countries that have mandatory alternative fuel blends. It restricts fuel blends to a 50-50 ratio, even if that is not the best or the most practical mix.

So the outcome of that would be if the DOD wanted to use a more efficient or cost-effective mix of traditional fuel to biofuel, they would not be able to do so. So I believe section 313 of the bill we are debating will send the wrong political message as well. It will make investors wary of the U.S. Government's commitment to weaning ourselves off foreign oil. It would help keep us reliant on foreign oil. Let me list the countries: Russia, Venezuela, Iraq, Saudi Arabia, I have not even mentioned Iran.

It is poorly drafted and damaging to our security. Instead, we have an opportunity today to help our military and our country. This is how we move forward. This is not about an environmental agenda or some kind of a green conspiracy. It is about doing the right thing, supporting our military brass, establishing a stronger national security and energy security posture in the years ahead.

I urge my colleagues to support my amendment to strike section 313. As I conclude, I ask unanimous consent that Senators Gillibrand and TOM UDALL be added as cosponsors to my amendment No. 2985 to S. 3254.

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

Mr. UDALL of Colorado. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding that the Senator from New Hampshire has a time issue and she would like to have 5 minutes before my time will begin. That is acceptable.

I yield 5 minutes to my friend from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, first of all, I appreciate my colleague's graciousness in allowing me to speak first.

I rise today in support of Senator UDALL and his amendment, which would restore the Department of Defense' ability to invest in advanced biofuels. I don't think we should be tying the hands of our military as they attempt to manage a significant national security threat our energy dependence.

As our Nation has become more technology dependent, our energy use has increased dramatically. Businesses and families are more conscious than ever of how they use energy and its costs. Our military is no different.

Advanced technology has not only reshaped our economy, it has also changed how we think about defense. No matter how you look at it, as long as we are dependent on other nations for our energy, we have a fundamental strategic vulnerability. Fortunately, for the first time since the oil crisis in 1979 our military is making real progress addressing it. I hope we will get out of their way.

Over the past ten years the Department of Defense has invested significant time and resources into improving our nation's energy security.

Energy security is not some sort of feel-good, pie in the sky, goal that would be nice to have. Energy security is imperative to the success of today's military, and it becomes more critical with each passing generation.

As our Current Chairman of the Joint Chiefs General Dempsey has said: Without improving our energy security, we are not merely standing still as a military and as a Nation, we are falling behind.

Let's be clear: Energy security is national security. Our military leadership understands this. Our Sailors, Soldiers, Airmen and Marines understand this. Other countries including some of our strongest competitors also understand this. And we ignore this fact at our own peril.

As is often the case when our military commits itself to a new mission, particularly when you add a little friendly inter-service competition, we are seeing dramatic results. For example, new solar arrays and mini smart grids have allowed Marines at Forward Operating Base Jackson, in Helmand province, Afghanistan to cut their fuel use from 20 gallons to 2.5 gallons per day. More efficient cargo management and routing are projected to save Air Mobility Command half a billion dollars over the next decade. By reducing

drag, new stern flaps are expected to save the Navy almost \$500,000 annually per ship in fuel costs.

I saw the Navy's new stern flaps in person earlier this year during an Energy Subcommittee hearing I chaired aboard the USS Kearsarge. The purpose of the hearing was to highlight the significant advancements the Navy continues to make in both energy efficiency and harnessing new, renewable energy resources. One of those important, home-grown energy resources is biofuels.

Biofuels offer reliable, domestic energy, capable of powering our most advanced military equipment. The Navy recently demonstrated the capabilities of advanced biofuels during a massive exercise that featured a Carrier Strike Group powered exclusively on renewable energy, highlighted by a F-18 traveling at twice the speed of sound and a ship traveling at 50 knots.

Despite biofuels' impressive performance record and their potential strategic impact, we continue to hear two arguments against further investment by the Department of Defense.

The first is that energy investments should be handled by the Department of Energy and not the Department of Defense.

Energy security is going to require an all-of-government approach, and that is the direction we are currently going with the Department of Agriculture and the Department of Energy playing a fundamental role on the biofuels initiative. In addition, as the largest fuel consumer in the world today—and by far the largest in the U.S. Government—the Department of Defense has a special role to play in this effort.

Moreover, because of our dependence, we continually send our men and women in uniform into harm's way to maintain our access. In the past year alone, the Arab spring, conflict in Libya, and the threat of Iranian mining of the Strait of Hormuz have all demonstrated the challenges of assuring continuous access to overseas oil.

Not only is access to oil difficult to maintain, instability in the global price of oil continues to plague our economy and our defense budget as well. Every \$1 dollar increase in the price of oil per barrel costs DOD \$130 million. Last year alone, the Department was forced to shuffle \$1.3 billion from other accounts to cover increased fuel costs.

The second criticism we often hear is that biofuels are too expensive.

It is true that advanced biofuels are not yet in full production and cannot compete with an oil market that is over 100 years old. However, in the last two years alone, DOD investment has caused the price to drop dramatically. Moreover, biofuels are more immune from the price-shocks that are increasingly consuming our defense budget.

In addition, as many of you know, there are significant costs to traditional foreign sources of energy—un-

seen at the gas pump—associated with protecting our shipping lanes and oil supplies. For over 60 years, we have been patrolling the Persian Gulf. These costs for oil remain underappreciated.

The fact is, throughout its history, our military has played a leading role in energy innovation and development. From wind, to coal, to oil, to nuclear power, their ability to exploit new forms of energy has been key to our Nation's technological edge and combat effectiveness. As Admiral Greenert, Chief of Naval Operations, has noted, "efforts to reduce the Navy's dependence on fossil fuels and outdated energy technologies is in the finest traditions of military scientific leadership."

For our military the issue of energy security and investment in biofuels is simple: dependence on foreign oil is a strategic vulnerability, creates problematic fluctuations in the defense budget, and puts our men and women in uniform at unnecessary risk.

We need to make sure our military leaders are able to continue their historic tradition of identifying long-term challenges and seeking innovative ways to solve them. Energy use is no different and nothing—including the Congress—should get in the way. We can't allow the debate over the military's energy use to become a proxy for other ideological debates around energy. We should let our military do what it does best. We should let them lead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I hear all the time from my good friend who is involved in this. In this rare case it is true. The Senator from Colorado and I are very close friends, and he and I disagree on this issue. I think it is important for us to understand where this came from. Senator McCAIN and I are responsible for section 313, and I think when people understand what it is, all of these arguments I have heard against it, none of them holds weight. What we are trying to do is experiment in green energy at the expense of our ability to defend America, and our readiness. Our military is deployed in more locations around the world at a greater rate than was ever the case during the Cold War. I sometimes say, I look wistfully back on the days of the Cold War. Back then we had an enemy we could define. It was an enemy who was predictable. That is not the case anymore, and after almost two decades fighting and all of these contingencies worldwide, including four major regional conflicts with a force structure that is 40 percent smaller and equipment that is decades older than the military readiness during its decline, this is what we are faced with right now. All of this is coming at a time when the Obama administration has cut the defense budget, projecting over the 10-year period, by some \$487 billion. If the Obama sequestration becomes a reality, that would be \$1 trillion over

this period of time coming out of our defense budget.

Even the Secretary of Defense, President Obama's Secretary of Defense, said that would be devastating. He used the word "devastating." But if that were not enough, the Obama administration continues to force the military to spend greater proportions of its already depleted funds on an expensive green energy agenda, to include the purchase of biofuels for operational use and construction of commercial biofuel refineries.

I fully support the development and the use of alternative fuels, including biofuels, but not at the expense of the military. Secretary Mabus's primary focus must be or should be on the readiness of the Navy, not on propping up the biofuel industry.

By the way, I have to remind everyone we have a bureaucracy called the Department of Energy. They are the ones who are supposed to be doing all of this experimentation we talked about. Our Navy, according to the Chief of Naval Operations, ADM Jon Greenert, will see a 15-percent increase in the number of ships set to deploy, with the number of ships and attack boats deployed at any time rising from 93 today to 107 by 2016. This increased deployment rate will impact sailors and marines as well as the required maintenance of ships and aircraft.

President Obama talked about pivoting to Asia from the Middle East and some of the concentrations. This is going to create another very serious problem. When every defense cut dollar degrades our military readiness, why should we want our Navy to pay four times the amount than almost any other fuel, or in some cases 100 times the amount? With a military budget that continues to decrease, where is the Navy going to get additional funding to pay its biofuel bill?

What is the Navy willing to give up in order to pay this bill? What is DOD willing to give up in order to pay the higher fuel bills? They have been talking about this on the other side. However, the higher fuel bills are not what this section 313 is all about. We discussed this in the committee. I fully support the efforts that make it affordable are mixed in, but biofuels still face challenges in technologies that remain imprudent. Again, we have a Department of Energy that is supposed to be doing this.

This is a 2011 RAND report, which says:

There is no direct benefit to the Department of Defense and the services from using alternative fuels rather than petroleum-derived fuels. In short, the military is best served by efforts directed at using energy more efficiently in weapon systems and at military installations.

That is a 2011 RAND Commission direct quote.

Despite the recent assertions by biofuel lobbyists that the two biofuel provisions in S. 3254, the National Defense Authorization Act for fiscal year

2013, do not restrict the Department of Defense from purchasing alternative fuels, including biofuels, section 313 allows the continued use of the Department of Defense funding for biofuels for testing but precludes them from using the funds authorized for readiness and training. That is what this is all about, readiness.

Section 313 contained in the bill is intended to restore fiscal responsibility and accountability for defense spending at a time when our Nation simply cannot afford to waste taxpayers' funds on speculative green initiatives such as Solyndra and dozens of other companies that are foundering or bankrupt despite billions of government investment, as they call it.

A recent DOD report revealed that the biofuels program will amount to an extra \$1.8 billion a year in fuel costs to the Navy alone. That is just the Navy, not the Air Force, not the rest of them. This ludicrous pricetag is not surprising.

Through congressional oversight efforts, we found that in 2009—now listen to this, this is significant—the Navy paid an outrageous \$424 a gallon for 20,000 gallons of renewable diesel. In December of 2011, the Navy purchased 450,000 gallons of biofuels for \$12 million, equaling about \$27 a gallon. That is \$27 a gallon we are talking about in our defense budget when we are paying for something that should cost \$3, maybe \$4 a gallon.

The Navy is not the only service being subjected to this greening agenda. Last month the Air Force bought 11,000 gallons of alcohol to jet fuel at \$59 a gallon, twice as much per gallon as what the Navy was forced to spend. So we are talking about amounts such as \$400, \$450, and \$29 a gallon for fuel just to experiment, and this is something the Department of Energy should be doing if anyone is going to be doing it.

DOD has been forced to drastically cut its personnel, the number of brigade combat teams, ships, fighters, and airlift, and it has had to eliminate or postpone critical military modernization programs. Now thanks to President Obama's defense budget cuts, DOD can't afford to do business as usual. Yet they are being coerced to spend \$27 a gallon.

Secretary Panetta has warned repeatedly that President Obama's deep cuts will have a devastating effect to our economy. He used the word "devastating" when he talked about what was going to happen if he is successful in the next step, which would be the sequestration.

Knowing this, how could anyone support including another \$1.8 billion from an already stretched budget? President Obama's climate chief, Heather Zichal, defended the green fleet by arguing that even a dollar rise in gasoline prices would cost DOD \$30 million. I think my good friend, the Senator from Colorado, said essentially the same thing. I agree with it. If every \$1 of rise

in gas prices costs \$30 million, a \$27 increase in fuel costs due to the forced use of biofuels would add up to about \$660 million. So that argument falls completely flat.

Realizing that the economic angle is a political loser, the Obama administration has tried to say that it is about national security in getting off of foreign oil. That is where I want to get.

I spent several years as chairman of the Environment and Public Works Committee and several years as the ranking member. All during that time, people were saying the one thing we all agree on is we need to be off of foreign oil. We need not to be dependent upon the Middle East. Yet right now we know no one is going to refute this fact, no one in this room, no one today or in the future, that when we had the USGS reports and the other reports saying that we now are in a different position than we have been before. People are saying of the resources and the reserves in fossil fuels—and I am talking about "oil and gas"—we are No. 1 in the world now. We didn't used to be. Two years ago we couldn't have said that. Right now we are. We have the opportunity, and we can look at the opportunity, in terms of our reserves that are usable, of being totally self-sufficient.

The other thing that is so disturbing, when people talk about they don't want to be dependent on the Middle East, therefore we have to spend billions of defense dollars to experiment on biofuels when, in fact, we could be completely self-sufficient, all we have to do is do what every other nation in the world does, and what is that? Every other nation in the world depletes it. They go after their own resources. We have recoverable reserves in gas and oil to take care of this country for the next 50 and 90 years, respectively, and yet we are trying to use this as an argument to go and spend this money on experimental biofuels. I think that part of the argument has to be exposed for what it is. It is a phony argument.

You know, we look, we see, and people ask from around the world, they say why is it that your country, the United States—in my position on this committee I have been asked this many times—why is it that you are the only country that won't exploit its own resources, and I say, well, it is a political thing.

Right now if you want to do something about becoming energy totally sufficient—I asked the other day, because the President keeps saying, well, you know, you are wrong because if we were to develop all of our public lands and be able to get the resources off of that, it would take 10 years for that to reach the pump—I actually called up a man named Harold Hamm. He has testified before our committees up here in Washington several times. I said, let me ask you a question. I am going to be on a TV show and they are going to ask me, if this administration would lift all of the restrictions we have on

public lands how long would it take for the first barrel of oil that would come from that to reach the pumps? Otherwise, you go through the refining process and all of that, because we have heard this administration say it would take 10 years. Well, in fact, it would take—his answer was—and I said: Be careful, Harold Hamm, because I am going to use your name on nationwide TV. He said: Yes, I have thought about this. It would take 70 days. Not 10 years but 70 days.

So we are talking about sufficiency that we could have just in this country in a matter of days, not in a matter of years. And I only bring that up—and I know people don't think it should be part of this debate, but it is because they are using the argument that we have to use billions of defense dollars in experimenting with biofuels to wean us off fossil fuels when, in fact, we are doing that now. And we have a Department of Energy that is responsible for actually carrying that out. The argument completely falls on its face.

It was the U.S. Geological Survey report that revealed that America has 26 percent of the world's recoverable conventional oil reserves—which is more than we are using, so we could become independent—and almost 30 percent of the world's technically recoverable conventional gas resources. So with all these things in mind, the Congressional Research Service agrees and the USGS agrees we could become independent. So it all comes together.

This isn't happening in a vacuum. We have a good bill here, and we need to get it done in the short period of time given us by the leadership. I think we can do it. I agree with the chairman of the committee that we can get this done. But this one amendment is one that would, probably more than any other amendment, take away our ability to spend this money on readiness—on readiness for the experimental program on green energy.

With that, Mr. President, I yield the floor and reserve the remainder of the time.

Mr. LEVIN. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate proceed to vote in relation to the Udall amendment No. 2985; further, that there be no second-degree amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I wish to commend Chairman LEVIN, who has brought his usual thoughtful approach to these issues, and to thank him for his help specifically in two areas in which I have been interested.

I also see my friend Senator MCCAIN. He and I have worked often on these and other matters, and I thank him for his wise counsel as well.



Mr. President, as I indicated, I am going to talk briefly on two amendments in which I have a special interest. The first is the amendment of Senator UDALL to strike section 313 of the bill.

As a member of the Senate Committee on Energy and Natural Resources, I have followed closely the proposition that the Department of Defense is the single largest user of energy in the United States, with annual fuel expenditures in excess of \$16 billion. This is an extraordinary thirst the Department of Defense has for energy. It creates a host of issues for the Pentagon, and fluctuations in global energy prices can have dramatic effects on defense spending. For every \$10 increase in a barrel of oil, it costs the American military annually an extra \$1.3 billion.

Recognizing the potential instability DOD's current energy needs can cause, military experts from across the various branches of the armed services have begun looking at ways to cut energy use and find energy alternatives. I continue to hear all of this discussion about how this is somehow a "green agenda," that it is a subversive plot and that it is being forced upon a resistant Pentagon. I would like to take a minute or two to say that I don't think anything could be further from the truth, and I wish to describe for a moment why I feel that way.

First, those who oppose defense energy initiatives often argue that in today's fiscal environment, the country can't afford to waste money on energy programs when it is necessary to provide for our Nation's security. I don't believe it is an either/or proposition because my view is that an investment in energy efficiency and energy self-sufficiency is hugely important to protecting our country's national security in a dangerous time.

I have heard some argue that military research, development, and testing of alternatives to oil-based fuels is a "misplacement of priorities," but this argument is based largely on the proposition that biofuels currently cost more per gallon than petroleum. But the reality is that the makers of biofuels have not reached full-scale production, and the Department of Defense contracts include research and development costs. So any attempt at a gallon-to-gallon analysis of biofuels versus petroleum is really what I would call an apples-to-oranges comparison. The fact is that DOD investments in biofuels development have resulted in a cost-per-gallon reduction—a cost-per-gallon reduction of 94 percent in just the last 3 years.

Bloomberg New Energy Finance analysts predict that some aviation biofuels will be cost-competitive with standard jet fuel by 2018, given the continuation of current rates of development. So in about 5 years, the American biofuels industry could produce fuel for our military aircraft and vehicles at a cost equal to that of foreign oil.

The Truman National Security Project recently held a press call with retired generals, and one in particular was quoted as saying the following:

Moving away from oil . . . ensures we remain the most capable and effective fighting force on the planet. . . . And this is what this is all about. This is not about politics or saving polar bears. It is about being effective as a fighting force.

Those are not my words but the words of an important retired general.

So that is what this boils down to, in my view—having the most effective fighting force and being in a position to save the lives of our servicemembers.

I know there is going to be a fair amount of discussion throughout the debate on this bill about this issue, but I continue to believe that energy efficiency and energy self-sufficiency increase our national security. I hope my colleagues will support the Pentagon's alternative energy efforts and vote for Udall amendment No. 2985.

Briefly, I wish to turn my attention to the other amendment I have, and I again thank Chairman LEVIN and Senator MCCAIN for giving me this opportunity to speak.

This morning the Associated Press reported that Iraq war contractor Kellogg Brown & Root has sued the Federal Government to pay the \$85 million in damages KBR owes soldiers sickened because of KBR's negligence.

This case started in 2003 when members of the Oregon National Guard were assigned to provide security for contractors from KBR in Iraq at the Qarmat Ali water treatment facility. These soldiers and others were exposed to dangerous levels of chemicals, including sodium dichromate, which contains hexavalent chromium, one of the most carcinogenic chemicals on Earth.

A group of the exposed soldiers sued KBR based on the evidence indicating KBR managers were aware of the presence of the dangerous chemicals but failed to warn the soldiers working in and around the plant. A jury recently agreed that KBR was negligent and awarded the soldiers \$85 million in damages, and more of the affected soldiers also have lawsuits pending, so the damage awards, in my view, are likely to increase significantly.

However, a recently declassified indemnification provision in the contract between KBR and the U.S. military for work in Iraq passed all financial liability for misconduct from KBR to U.S. taxpayers, even in cases of—and I want to emphasize this—willful misconduct by KBR. These provisions also provided for unlimited reimbursement of legal costs incurred by KBR. In effect, the company—KBR—was handed a blank check drawn on the American taxpayer, and yesterday the company went to court to cash that check.

My amendment would prevent DOD from putting the American taxpayer on the hook for the negligence of contractors without notifying Congress. Our soldiers know when they sign up that

they are putting their lives on the line, but they expect their commanders and the contractors working beside them to not expose them to unnecessary risk.

Both the DOD inspector general and a jury have confirmed what Oregon soldiers and I and other members of the Oregon congressional delegation have been saying for years—that KBR failed to protect our soldiers from a known threat. We can't know if the fact that KBR had basically a get-out-of-jail-free card caused them to be negligent, but what we do know is we shouldn't let this happen again.

My amendment was debated as part of the last DOD authorization bill, and my understanding is that it was actually acceptable to both sides, but we weren't able to get it into the final bill. I hope now, especially in light of today's news right over the wire services this morning, we can agree to include this amendment before more of our brave men and women in uniform are harmed by the actions of negligent contractors who then try to pass the buck to American taxpayers.

I again thank Chairman LEVIN and his staff for their leadership, and I look forward to working with them, particularly on this amendment here this afternoon.

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

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to speak in favor of the Udall amendment, of which I am very pleased to be a cosponsor. I want to start, though, by thanking our terrific chairman, who we are so proud is from Michigan, and the distinguished ranking member for all their hard work in putting together what is incredibly important to support our troops and what they need, for their families' needs, and giving us tools for a strong defense.

Part of having a strong defense is making sure we give the military the flexibility they need and deserve to use the fuels that make sense for them and not tie their hands for any reason. As we go forward, we know there are opportunities to both save lives and dollars by using a variety of fuels. This amendment, by striking language that stops the military from having that flexibility, is very important.

We all know our dependence on oil has serious costs in terms of dollars but, more importantly, in terms of lives. One in every 50 convoys results in a U.S. casualty. We lose an American life from every 50 convoys. Since 2003 more than 3,000 troops have been killed in those attacks. Most of the time, military leaders will tell us: We are moving troops and moving fuel to be able to support the troops. So we need to give the military opportunities, whether it is from new kinds of hydrogen fuel cells or biofuels or advanced batteries.

There is a tremendous amount of work that is happening in Michigan through TACOM and TARDEC, which

are the arms of the Army that are doing the very important research and development of new technologies, and they have now developed advanced battery technology they are using in the field that will save money and lives. So these are important things to be doing as we move forward to the future, and the Udall amendment would guarantee we can continue to do that.

The Navy estimates that they spend about \$84 billion—\$84 billion—every year protecting oil supplies. Think about that—not being able to do what we need to do on the front lines in terms of defense but just protecting the oil supplies, shipping lanes, and commercial vessels in the Persian Gulf region alone.

Again, this amendment would save lives, save money, and it would allow the Department of Defense to move forward on these new technologies, such as hydrogen, E85, and biofuel blends for flex-fuel vehicles such as the ones we are building in Michigan. These new technologies are our future. They are our future in jobs, and they certainly are our future as it relates to saving dollars and getting us off foreign oil and, as I said before, are so important to our military and to all of us in saving American lives.

The operational benefits of using different kinds of fuel are enormous. We have research going on in Michigan right now around advanced batteries. I was pleased to be there at the launch of the first advanced-battery Jeeps going into the field, allowing those convoys of trucks to be brought down to a much smaller level and thus stopping the endangerment over the years of thousands of our troops. Shorter supply lines means more flexibility for our men and women in uniform and less danger for them on the front lines.

I strongly support the Udall amendment. I am pleased to be a cosponsor. This will give our military the flexibility they need to accomplish their mission. Why in the world would we want to limit the flexibility of our military as they move forward to the next generation of new technologies to save dollars and lives?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that Senators HAGAN, KERRY, BEGICH, and FRANKEN be added as cosponsors of my amendment No. 2985.

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

Mr. UDALL of Colorado. Mr. President, I believe we are reaching the end of our time.

The PRESIDING OFFICER. All Democratic time has expired.

Mr. UDALL of Colorado. I would add just a couple final remarks.

I think we have heard a compelling reason to remove section 313 from the National Defense Authorization Act. National security is energy security and vice versa. Let's stand with our military leadership, let's stand with

our NCOs, and let's stand with our enlisted personnel and ensure that the military can continue to invest in this important area of energy security which will save lives, create economic opportunity, and make sure we can project force abroad and protect the values we hold so dear.

I urge my colleagues to vote for this amendment at 2:00 p.m. We have a tentative agreement.

Mr. President, I yield the floor.

Mr. SANDERS. Mr. President, it is not a tentative agreement; there is a unanimous consent order that we are going to vote at 2 o'clock.

The PRESIDING OFFICER. The Senator is correct.

Mr. UDALL of Colorado. Mr. President, I urge all my colleagues to support this amendment at 2 p.m.

Mr. McCAIN. Mr. President, I inquire of the Chair, what are we waiting for?

The PRESIDING OFFICER. To get on the amendment offered by the Senator from Colorado.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I support the amendment introduced by Senator UDALL of Colorado. The purpose of this amendment is to strike section 313 from the National Defense Authorization Act that would place undue restrictions on Department of Defense's alternative energy investments. This provision, during our committee markup, passed by the closest of margins by a 13–12 vote.

Section 313 aims to block the Department from purchasing or producing alternative fuels if the cost exceeds that of traditional fossil fuels. This would force key decisions regarding energy security to be made exclusively on the basis of cost, without regard for the mission, military capability, or circumstance.

Maybe the intent of section 313 to kill the alternative fuel project currently being conducted under the authority of the Defense Production Act, Title III. However, the impact this provision would have on our military operators, creates a real strategic vulnerability to our men and women on the ground, which reach far beyond biofuels. For example, if the Department wanted to deploy a hydrogen-fueled unmanned aerial vehicle that could operate for an extended duration in a combat zone, this amendment would prevent that since the cost of hydrogen fuel may be higher than a traditional fossil fuel. Or if the Department wanted to generate fuel or energy at tactical locations, including waste-to-energy technology, which the DOD is exploring today, section 313 would again prevent that. Section 313 may also prevent the Department from purchasing non-traditional fossil fuels, such as E85 or B20 biofuel blends, for flex fuel vehicles. Potentially, any fuel which is not a "traditional fossil fuel" could be affected.

Mr. President, the sponsors of section 313 have focused on current high costs associated with the production of alter-

native fuels. However, Secretary of the Navy, Ray Mabus, has already testified before the Armed Services Committee that the Navy will not purchase any alternative fuel for operational purposes until they are cost-competitive with traditional fossil fuels. It's as simple as that. The Department is positioning itself to take advantage of drop-in alternative fuels when they are cost competitive with traditional fossil fuels. This is a prudent insurance policy that requires investments today, which section 313 would prevent.

For years now, the Department has been subjected to significant spikes in the global price of oil, which has created huge bills to pay, leaving less funding for training exercises, flying hours, steaming days, and other negative impacts to readiness. The Department estimates that for every 25 cent increase in the prices of a gallon of oil, it costs the DOD an additional \$1 billion to cover the costs, whether it is a result of foreign actions or natural disasters such as Hurricane Katrina. The advancement of a reliable, domestic energy source such as biofuel would provide us with a safeguard against such unpredictable expenses. In my view, global price volatility is a burden the Department should not be subjected to, particularly if it can be avoided by establishing a viable domestic alternative. Yet section 313 appears designed to ensure that the DOD remains entirely dependent upon traditional fossil fuels.

Admittedly, the current price for alternative fuel is high. For example, the Navy purchased biofuel this past July for demonstration purposes at approximately \$16 per gallon. Yet small batches of any new technology are expensive, as that is the very nature of research and development. With time to develop a domestic alternative fuel market, the costs of alternative fuels will continue to drop, as the price has already been cut in half since 2009. Furthermore, our military has a rich history of innovation. Investments in technology such as global positioning services, microchips, and the Internet have each carried with them significant up-front costs, but have ultimately paid sizeable dividends far beyond their initial military usage.

The Navy has a notable and effective track record in the arena of alternative fuel development, going back to when the Navy first switched from sails to steam and coal in the 1850s. Once again from coal to oil around the time of World War I, and in the 1950s from oil to nuclear propulsion for aircraft carriers and submarines. And each period has had its complement of critics. Yet think of where we would be today without that long-term eye toward innovation and military capability.

In section 313 there is yet another practical problem in its exception clause, which allows the Department to continue engine or fleet certification of 50/50 fuel blends. That is far too narrow

to cover the wide-ranging array of research and development activities conducted by the Department. In the future, it may be determined that the proper ratio for a weapons platform requires a blend of 60/40, or 70/30. Limiting the DOD to only 50/50 blends would put an entirely arbitrary restriction upon the Department, and is simply not wise.

Mr. President, the DOD and Secretary Mabus have told us that the development of a domestic capability to produce cost-competitive advanced drop-in biofuels at a commercial scale is important to our long-term national security. It is a core defense need. We were also reminded of our strategic vulnerability to fossil fuels and the need to improve our energy security in the last iteration of the 2010 Quadrennial Defense Review. There are valid questions concerning how much a gallon of biofuel will cost in the long run compared to a traditional fossil fuel. Last year alone, the DOD purchased billions of gallons of fuel at a cost of \$15.3 billion to conduct worldwide military operations. And we now pay 225 percent more for fossil fuel than we did just 10 years ago. And 12 percent of our gross domestic product goes to fuel for automobiles. By striking section 313, we allow the DOD the freedom to pursue a domestic production capability and it is a smart long-term investment.

Keeping section 313 would hinder efforts currently underway to curtail our reliance on foreign oil by fostering a domestic biofuel capacity. Those in opposition to the Department's alternative energy investments have argued that the cost of these initiatives is too high. They claim that the money would be better spent on other priorities within the DOD. Mr. President, these arguments are shortsighted. The Department has told us that investment in alternative fuels represents less than 4 percent of the Department's total planned investment in operational energy initiatives over the next 5 years, and less than 0.6 percent of what the Department spent on fuel last year. Our military leaders have stated time and again that it is in our national security interest to make these strategic investments, that there is a concrete need to increase flexibility and insulate our forces against volatility in the global oil market. For the future, our men and women in uniform will need alternative fuels to keep our supplies diverse and effective, especially for our legacy fleet of ships and planes, which will be with us for decades to come. The DOD has been examining, testing, and certifying alternative fuels for operational use since 2003. Last July, the Navy successfully demonstrated biofuels with no operational differences in the performance of their ships and aircraft. These efforts are relatively small, yet an important part of the Department's strategy to improve energy security.

Section 313 is in direct conflict with these goals. Reducing our dependence

on fossil fuels is a strategic vision that has been articulated and embraced in the past on a bipartisan basis—by President George W. Bush in his 2006 State of the Union Address and by a large bipartisan majority in Congress in the Energy Independence and Security Act of 2007. That bipartisan path is still the best approach today.

I thank Senator UDALL and the cosponsors for introducing this important amendment. I urge my colleagues to support this effort to ensure that our military has the flexibility necessary to meet their energy requirements and bolster our national security, by striking section 313.

Mr. SANDERS. Mr. President, I understand Senator BAUCUS and Senator MURRAY are on their way and wish 5 minutes each to speak relative to this amendment. I ask unanimous consent that between now and 1 o'clock, they be allocated 5 minutes each and that the amendment then still would be the pending amendment.

I ask unanimous consent that we now proceed to the amendment of Senator MCCAIN and that when those two Senators arrive and are recognized, they be allowed to speak for 5 minutes each on the Udall amendment.

The PRESIDING OFFICER. Is there objection to the request for extra time for Senator BAUCUS and Senator MURRAY?

Without objection, it is so ordered.

Mr. SANDERS. Mr. President, I ask unanimous consent that Senator WEBB be added as a cosponsor to Senator MCCAIN's amendment that he is now going to offer.

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

The Senator from Arizona.

AMENDMENT NO. 3051

Mr. MCCAIN. Mr. President, I call up amendment No. 3051 and ask for its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. PORTMAN, proposes an amendment numbered 3051 to S. 3254.

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

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

The amendment is as follows:

(Purpose: To authorize additional Marine Corps personnel for the performance of security functions for United States embassies, consulates, and other diplomatic facilities abroad)

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

**SEC. 402. ADDITIONAL MARINE CORPS PERSONNEL FOR THE MARINE CORPS SECURITY GUARD PROGRAM.**

(a) ADDITIONAL PERSONNEL.—

(1) IN GENERAL.—The Secretary of Defense shall develop and implement a plan which shall increase the number of Marine Corps

personnel assigned to the Marine Corps Embassy Security Group at Quantico, Virginia, and Marine Security Group Regional Commands and Marine Security Group detachments at United States missions around the world by up to 1,000 Marines during fiscal years 2014 through 2017.

(2) PURPOSE.—The purpose of the increase under paragraph (1) shall be to provide the end strength and resources necessary to support an increase in Marine Corps security at United States consulates and embassies throughout the world, and in particular at locations identified by the Secretary of State as in need of increased security in light of threats to United States personnel and property by terrorists.

(b) CONSULTATION.—The Secretary of Defense shall develop and implement the plan required by subsection (a) in consultation with the Secretary of State pursuant to the responsibility of the Secretary of State for diplomatic security under section 103 of the Diplomatic Security Act (22 U.S.C. 4802), and in accordance with any current memorandum of understanding between the Department of State and the Marine Corps on the operational and administrative supervision of the Marine Corps Security Guard Program.

(c) FUNDING.—

(1) BUDGET REQUESTS.—The budget of the President for each fiscal year after fiscal year 2013, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, shall set forth as separate line elements, under the amounts requested for such fiscal year for each of procurement, operation and maintenance, and military personnel to fully fund each of the following:

(A) The Marine Corps.

(B) The Marine Corps Security Guard Program, including for the additional personnel under the Marine Corps Security Guard Program as result of the plan required by subsection (a).

(2) PRESERVATION OF FUNDING FOR USMC UNDER NATIONAL MILITARY STRATEGY.—In determining the amounts to be requested for a fiscal year for the Marine Corps Security Guard Program and for additional personnel under the Marine Corps Security Guard Program under paragraph (1), the President shall ensure that amounts requested for the Marine Corps for that fiscal year do not degrade the readiness of the Marine Corps to fulfill the requirements of the National Military Strategy.

(d) REPORTS.—

(1) REPORTS ON PROGRAM.—Not later than October 1, 2014, and annually thereafter through October 1, 2017, the Secretary of Defense shall, in coordination with the Secretary of State, submit to Congress a report on the Marine Corps Security Guard Program. Each report shall include the following:

(A) A description of the expanded security support provided by Marine Corps Security Guards to the Department of State during the fiscal year ending on the date of such report, including—

(i) any increased internal security provided at United States embassies and consulates throughout the world;

(ii) any increased support for emergency action planning, training, and advising of host nation security forces; and

(iii) any expansion of intelligence collection activities.

(B) A description of the current status of Marine Corps personnel assigned to the Program as a result of the plan required by subsection (a).

(C) A description of the Department of Defense resources required in the fiscal year ending on the date of such report to support the Marine Corps Security Guard program,

including total end strength and key supporting programs that enable both its current and expanded mission during such fiscal year.

(D) A reassessment of the mission of the Program, as well as procedural rules of engagement under the Program, in light of current and emerging threats to United States diplomatic personnel, and a description and assessment of options to improve the Program to respond to such threats.

(E) An assessment of the feasibility and advisability of authorizing, funding, and administering the Program as a separate program within the Marine Corps, and if such actions are determined to be feasible and advisable, recommendations for legislative and administrative actions to provide for authorizing, funding, and administering the Program as a separate program within the Marine Corps.

(2) REPORT ON CHANGES IN SCOPE OF PROGRAM IN RESPONSE TO CHANGING THREATS.—If the President determines that a modification (whether an increase or a decrease) in the scope of the Marine Corps Security Guard Program is necessary or advisable in light of any change in the nature of threats to United States embassies, consulates and other diplomatic facilities abroad, the President shall—

(A) notify Congress of such modification and the change in the nature of threats prompting such modification; and

(B) take such modification into account in requesting an end strength and funds for the Program for any fiscal year in which such modification is in effect.

Mr. MCCAIN. This amendment is to authorize additional Marine Corps personnel for the performance of security functions for the U.S. Embassies, consulates, and other diplomatic facilities abroad.

The tragic events in Benghazi on September 11 and the ongoing tumult throughout the Middle East and north Africa should serve as a stark reminder that the security environment confronting American personnel serving in U.S. Embassies and consulates abroad is as dangerous as any time I can remember.

Despite claims by some, al-Qaida and its affiliates remain dangerous and determined to kill Americans. This reality must force us to reassess the threat to U.S. Embassies and consulates around the world and provide additional resources and military end strength; that is, U.S. marines, to increase protection of diplomatic personnel from those threats. This amendment will do that. It will provide the necessary end strength and resources to support an increase in Marine Corps security at U.S. Embassies and consulates throughout the world—up to 1,000 additional personnel—in particular at locations identified by the Secretary of State as in need of increased security in light of known and emerging threats to U.S. personnel and property by terrorists.

Most Americans believe that U.S. marines are stationed to protect our Embassy personnel abroad, but I think they would be surprised to learn that marines are assigned in only slightly more than half of our diplomatic missions worldwide—182 missions in 137 countries. Moreover, their numbers are

small. A typical detachment consists of only six military Marine personnel. Today there are 126 U.S. diplomatic missions outside the United States without Marine Corps security protection, including parts of Asia and Africa where we suspect al-Qaida is expanding its presence.

As the nature of threats to American diplomatic personnel is changing, the Marine Corps security guard mission has not. The current mission of this program dates back to the post-war era of 1948, principally for the protection of classified information and equipment in diplomatic facilities.

The Marine Security Guard Program is also the only Marine Corps program that is under the operational command of the Department of State. For this reason, this amendment would also require the President to present discrete budget requests for Marine Corps security personnel overseas in support of diplomatic personnel and Marine Corps end strength and resources required to maintain readiness to protect our national security. These are distinct missions, and increasing one—as is necessary in light of the attack in Benghazi—cannot come at the expense of another.

Americans may believe our marines are the first line of defense in attacks on diplomatic compounds overseas. The truth is that they are not. They are not mandated to engage with attackers and in some cases may not be permitted to engage. For this reason, this amendment calls on the Department of Defense to reassess this mission and rules of engagement as we increase our capability to protect embassies and consulates throughout the world.

As the world now knows, there were no marine guards at the consulate at Benghazi at the time of the September 11 attack despite the rapidly deteriorating security situation. Would their presence have made a difference and saved the lives of our heroic Ambassador and his security personnel? I think I know the answer to that question, and so do the American people.

So I think it is time for the administration to rapidly complete a reassessment of the risk to U.S. personnel conducting diplomacy abroad posed by terrorists and others wishing to do us harm and ensure that personnel at all 285 missions, not just 182, have adequate protection, including by U.S. marines. I am not saying this amendment requires that marine presence at every one of these missions. What we are saying is that as a result of the risk assessments, we have sufficient authorization and appropriation for adequate protection, part of which—and a major part—is the presence of the U.S. Marine Corps.

I call on my colleagues to fulfill the mission of the Marine Security Guard Program to ensure that U.S. personnel are protected and authorize the necessary end strength and resources for the Marine Corps to achieve this necessary goal.

Mr. President, at this time I yield to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2985

Mrs. MURRAY. Mr. President, I thank the Senator from Arizona for allowing me to speak about an amendment we are going to be voting on at 2 o'clock. I wish to express my concerns with provisions in the Defense authorization bill that we are currently considering that would limit the Department of Defense in investing in alternative fuels.

This underlying bill is a very important piece of legislation. I have always supported it to make sure our military has the equipment and resources and effective policies it needs to perform its mission. But I can't support the inclusion of provisions that would severely limit the Department's ability to use alternative fuels. I strongly believe those limitations will cause lasting harm to our national security and our military readiness and our efforts to decrease American dependence on foreign oil. That is why we are considering an amendment that I cosponsored that will strike one of those troubling provisions in section 313 of the committee-passed bill.

As many of our colleagues are aware, DOD is the single largest consumer of oil in the world, using over 355,000 barrels of oil per day in fiscal year 2011. Even though we have increased the domestic supply of traditional fossil fuels here in the United States, the price of oil is still set on the global market. That means that DOD's fuel bill was significantly more than it had budgeted for, mostly, of course, due to the price of fuel being higher than expected. In fact, in fiscal year 2012, the Navy alone was \$500 million over its budget for fuel, and that is just one of our services. So what does that mean? It means our military leaders have had to pull billions of dollars from operational accounts in recent years, which has led to decreased unit readiness, deferred maintenance on some of their critical equipment, and less training for our troops preparing for deployment into harm's way. Conveniently, critics of biofuels leave out these very real threats when they insist on the kinds of harmful policies the amendment we are offering addresses.

It is true that alternative fuels will not replace fossil fuels in the immediate future, but it is also true that replacing even a fraction of the oil consumed by the Department of Defense with domestic alternative fuels will advance our national security and our military readiness, it will save many millions of dollars, and it will protect the Department from the price volatility of the global oil market and spur a domestic industry that will decrease our dependence on foreign oil.

Some of our colleagues have said this is all about the cost of alternative fuel, and they will likely use some misleading figures attributed to a training

exercise that actually, by the way, ended up proving these types of fuels work seamlessly. But the truth is that the cost of biofuels has decreased by over 50 percent in the last 2 years alone. The truth is that the test fuel purchase they like to mention was only 0.3 percent of the Navy's annual fuel bill. And the truth is that those concerns over costs don't take into account the very real and very high price of inaction and continued dependence on oil.

I mentioned earlier that the Department uses 355,000 barrels of oil every day. The Department estimates that for every 25-cent increase in the price per gallon of oil, it will spend over \$1 billion in additional fuel costs. Given the high price of oil and gas, that is not a bet I want to make long term.

We are facing difficult fiscal times, as everyone here knows, and the Department of Defense, like the rest of the Federal Government, has to make sure it is responsibly spending taxpayer dollars—today and tomorrow. The Department's efforts to develop alternative fuels is in keeping with the best traditions of military technology development programs.

In the past, programs have brought us products that have benefited both DOD and the civilian users, such as GPS or jet engines, microwave ovens, and cell phones. Our Navy pioneered the transition from sails to coal, from coal to oil, and from oil to nuclear power. I know we can make the next leap to alternative fuels—and we need to.

Our Nation's reliance on foreign oil is a significant and well-recognized military vulnerability. Our military leaders are telling us the ability to use fuels other than petroleum is critical to our national energy security. The Department is strongly opposed to the language limiting its flexibility in the committee-passed bill, and DOD supports our amendment.

I urge our colleagues to join us and support the amendment we will be voting on shortly and strike this troubling provision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3051

Mr. McCAIN. I ask unanimous consent the following Senators be added as cosponsors to my amendment No. 3051: Senators INHOFE, AYOTTE, BROWN of Massachusetts, and WEBB.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent Senator BOXER also be allocated 5 minutes to speak on the pending amendment.

The PRESIDING OFFICER. Is there objection? The Senator from Arizona.

Mr. McCAIN. Mr. President, are we going to voice-vote the amendment at this time?

Mr. LEVIN. Can I ask the Senator from Montana if he wishes to speak on the Udall amendment?

Mr. BAUCUS. Correct.

Mr. LEVIN. Mr. President, I know of no further debate on Senator McCAIN's amendment No. 3051. We are not quite ready.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I thank my good friends from Michigan and Arizona for their gracious willingness to find an opportunity for me to make a brief statement.

I rise today in strong support of the amendment to protect the military's ability to purchase American-made fuels.

Powering our military with American-made energy makes our country safer and our economy stronger. Tying our hands and forcing the American military to depend on foreign oil is short-sighted and dangerous. Instead, we need to give our commanders the flexibility to power our military with homegrown energy, like Montana camelina that supports jobs right here in America.

The Department of Defense is the largest single user of oil in the world—consuming more than 355,000 barrels of oil per day last year. Despite increased domestic production of fossil fuels, rising global prices and market volatility caused DOD's fuel bill to rise by more than \$19 billion in 2011. The trend is expected to continue.

This is why I strongly support the efforts of our military leaders—that is what they want—to develop and employ alternative fuels. Our military leaders recognize the problem of rising fuel costs and dependence on foreign oil. The Pentagon's largest energy user, the Air Force, has established a goal of purchasing half of its domestically consumed aviation fuel from alternative sources by the end of 2016. The Navy has also invested in the F-18 Green Hornet program—a fighter jet powered by a biofuel blend.

The DOD relies on a sustainable biofuel market to meet its goal of lessening the nation's dependence on foreign oil. It is very important to the Pentagon. Regrettably, a provision in the underlying bill will limit our military's ability to develop alternative fuels.

Members on both sides of the aisle are concerned that this section of the Committee-passed bill would cause harm to our national security and military readiness. That is why I am fighting to allow the Pentagon to enter into long-term deals to buy biofuels as long as they are made right here in the USA.

Montana is in the perfect position to provide the homegrown fuels our Nation needs to move toward energy security.

There is clearly a demand from both the military and the private sector to use American-made biofuels.

In 2011, the Navy, the Department of Energy and the Department of Agriculture aimed to assist the develop-

ment and support of a sustainable commercial biofuels industry. They investigated the development biofuels as alternatives to diesel and jet fuels.

The agreement included Montana farmers and corporations. Limitations placed on our military's procurement of alternative fuel would be detrimental to Montana's alternative fuel industry.

As a result of investing in biofuels, renewable Montana-grown crops like camelina have been used by our military as the predominate feedstock for biofuel blends. I call these freedom fuels. Why? Because they help get us off of foreign oil and help bring good paying jobs to Montana.

Researchers at Montana State University Northern in Havre, MT showed early that camelina to be a promising dryland crop for use in biodiesel and other bioproducts. Camelina, also known as "Gold of Pleasure," is an oilseed crop that includes canola, mustard and broccoli. The small-seeded, cool-climate crop has been grown in Europe and the Northern plains of the United States.

Since its initial production, the cost per gallon of camelina-based fuel in Montana has dropped annually by half.

That is another reason why I think it makes sense to ramp up our domestic energy production, whether it is biofuels wind, coal, oil, natural gas, or hydropower. We need an energy policy that puts America back in control. We must reduce our dependence on foreign oil and work to develop all of our domestic resources—just like we have in my State of Montana.

Alternative fuels will not replace fossil fuels all-together—no way. However, replacing even a small fraction of fuel consumed by our military with alternative fuels made here in the United States can improve strategic flexibility, insulate the defense budget from spikes in the cost fossil fuels, create good-paying jobs for Americans, and make the United States a more secure nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator BOXER be allocated 5 minutes of debate time on the Udall amendment.

The PRESIDING OFFICER. Is there objection?

AMENDMENT NO. 3051

Mr. LEVIN. We are waiting for just one further word on the McCain amendment. We hope to be able to voice-vote that in the next few minutes.

The PRESIDING OFFICER. On the matter of Senator BOXER, without objection, it is so ordered.

Mr. LEVIN. Mr. President, I support the McCain amendment.

Mr. McCAIN. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3051) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, was Senator BOXER's 5 minutes agreed to?

The PRESIDING OFFICER. Yes.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that there be a period of debate only on S. 3254, the Defense authorization bill, until 2 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### FISCAL CLIFF

Mr. NELSON of Florida. Mr. President, while we are waiting for further debate on the Defense authorization bill and any possible amendments, I wanted to offer a couple of comments regarding all of the concern in the Nation about the fiscal cliff as we approach that fateful day of December 31 and the need to get something done.

In the opinion of this Senator, sequestration, which is this additional cut of \$1 trillion in a most unorthodox way, is like a meat cleaver coming down and cutting off—I am rounding here—\$½ trillion off defense and \$½ trillion off nondefense discretionary. Sequestration, let us remember, in the historical context was never supposed to happen. Sequestration was a mechanism that was set up in the Budget Control Act in August 2011, almost a year and a half ago. The act called for \$1 trillion to be cut off of the top to begin with, and it set up a process by which additional deficit reduction over a 10-year period would occur. That process was—after the \$1 trillion was whacked off, which it already has been—a supercommittee of six from the House and six from the Senate would deliberate and a majority vote of that committee of 12 could determine additional deficit reduction that would apply over the next 10 years.

To give a little incentive for that supercommittee not to deadlock, the process of sequestration was set up

which, in effect, was this meat cleaver that in a nondiscriminate way was going to drop a meat ax approach of another \$½ trillion out of defense and \$½ trillion out of nondefense discretionary, which nobody wanted. It was never contemplated sequestration was going to go into effect because the effects were going to be so onerous that surely people of goodwill could come together on a 12-member committee and not deadlock. But, instead, at least one would provide the majority, even if it were only 7 to 5 out of the 12, because the alternative was so unpalatable.

Of course, we know what happened. People of goodwill, in this highly charged atmosphere of the coming Presidential election—this is almost a year and a half ago—could not agree. The ugly head of excessive partisanship raised itself, and the ugly head of excessive ideological rigidity raised itself, and the supercommittee deadlocked 6 to 6 which, under the law, left the meat cleaver to drop, the budget meat ax to drop. That is what we are facing today. We are facing something that nobody ever intended to go into effect.

So how do we get out of this? We have people of goodwill that have to be reasonable and utilize a little common sense, lessen their partisanship, lessen their ideological rigidity. That is the atmosphere under which we can come together.

I wish to tell a story and then I am going to sit down. I wish to tell the story about one of the brightest shining moments in government which occurred back in 1983 when this Senator was a young Congressman. We were within 6 months of Social Security running out of money. Two old Irishmen, one who was President, and his name was Reagan, and the other one who was Speaker, and his name was O'Neill, decided they were going to do something about this. They were reasonable people who could operate in a bipartisan way and in a nonideological way.

They said: What we are going to do is take this subject that is so thorny—namely, Social Security—so thorny at the time of elections, and we are going to take it off the table at the next election so as not to use it as a hammer to beat your opponent over the head, and we are going to do it in the mechanism of a blue ribbon panel that is going to make recommendations on the solvency of Social Security.

That committee met. They reported to the Congress in a bipartisan way, and the Congress passed that recommendation overwhelmingly. The President signed it into law, and that made Social Security solvent for the next 50-plus years from 1983. I think the most current estimates are that it is now something like 2034.

So we see what was done so effectively. But we have to have people of good will who will come together and will do so with some common sense,

which is what this place has not been operating on in a long while.

I wanted to share that memory of one of the great moments of government working as our government is intended to work.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. Mr. President, I rise to speak on behalf of the approximately 20,000 military families with loved ones on the autism spectrum. Sadly, thousands of these Americans suffering from autism are not receiving the treatments that are the best practices that have been determined they need. These military families are receiving fewer services than their civilian government counterparts across the country, many of whom have been rightly aided by laws passed in over 60 percent of our States representing over 75 percent of the country's population.

Autism places tremendous strains on our Nation's military families and non-military families—including tremendous health, financial, and emotional tolls. I wish to share briefly just a couple stories from our brave military families.

One veteran was severely wounded in Iraq while heroically serving our country. His injuries forced him to medically retire. Because he is retired, his autistic son Shane was no longer eligible to receive the ABA services he had previously received. The wait list for Medicaid waiver services is over 9 years. Shane's family had to sell their home to pay the roughly \$5,000 per month of out-of-pocket expenses that the ABA treatments require that he so desperately needs. The money is running out for their family, and their family's effort is only to do what is best for their son. Without any relief, we risk allowing brave military families just like this one to fall through the cracks.

Another Active-Duty marine, who has served in Iraq and Afghanistan three times, has maxed out his ABA care for therapy treatments to treat his 11-year-old autistic son Joshua. Joshua is nonverbal and his safety is a key concern, so Joshua is prescribed 35 hours of these ABA therapy treatments each week. Due to the severity of Joshua's symptoms, the family is faced with the nearly impossible decision of forgoing the recommended care for their son or paying the bills out of pocket as long as they are able to.

In my opinion—and it is shared by many families—this should never happen to any child, but it should also particularly not happen to the child of someone from our military service. That is why I am submitting an

amendment requiring TRICARE to cover medically recommended autism treatments, including ABA therapy, in a manner that is consistent with best practices so our military families, our heroes, get the care they need for their children, children such as Shane and Joshua.

Every parent who has a child with autism faces challenges in ensuring that their child has access to the treatments they desperately need. For military families, these challenges are often compounded by frequent deployments overseas, frequent movements to different bases across State lines, and sometimes gaps in coverage.

Today, TRICARE coverage of ABA is severely limited. It is capped at \$36,000 per year for an Active-Duty servicemember. This falls far below what is medically recommended. This care is limited to Active-Duty servicemembers only. Guard and Reserve families receive intermittent care, and children of retirees cannot get any coverage at all.

As a consequence, military servicemembers must often turn to State-run Medicaid programs to help their children, but these programs are often unavailable to a mobile military family because of the extensive wait lists. In Maryland, for example, the wait is 17 years long, essentially eliminating ABA coverage during the early development years when a child needs it most. The wait list in Virginia, for example, is over 10 years long.

Even more remarkable than TRICARE not covering these treatments is that the Office of Personnel Management has already determined that such treatments may be covered as medical therapies for Federal civilian employees. A recent court decision, which DOD is still reviewing and may appeal, determined that TRICARE must cover these treatments, but this decision is being applied under the most narrow definition in the interim, limiting the potential pool of providers. This amendment basically requires TRICARE to provide coverage and deliver services in a manner that is consistent with best practices. This would, thereby, improve access to care for our military families, and it would finally align TRICARE with the other types of coverage that is available in civilian sectors.

We have a duty to stand by our military families and to address this very difficult health issue that affects their children. When we ask our men and women to serve, we promise we will support them and their families. This amendment simply fulfills that promise.

I also rise to speak about another issue concerning the armed services authorization bill, and this is equally as serious and troublesome; that is, the issue of sexual violence.

While the vast majority of our servicemembers serve our country honorably and bravely and are simply the best our country has to offer, sexual violence in the military continues to

occur at an alarming rate by a minority of servicemembers who should not be serving.

Despite Secretary Panetta's efforts to create a zero-tolerance policy in 2011, still more than 3,000 military sexual assaults were reported. But the DOD's estimates themselves indicate that number is much closer to 19,000 cases.

In the words of DOD:

[Sexual violence in the military] is an affront to the basic American values we defend, and may degrade military readiness, subvert strategic goodwill, and forever change the lives of victims and their families.

All our service branches have in place some version of a policy that sends convicted sex offenders to an administrative separation process for discharge. However, the most recent Annual Report on Sexual Assault in the Military shows that in fiscal year 2011, 36 percent of convicted sex offenders remained in the Armed Services, despite these policies.

If one-third of convicted sex offenders within the military are being retained, then clearly we must do better. Creating a uniform standard to correct deficiencies in the respective branch policies would be a good step forward.

Experts reviewing current policies have found that the Navy has established a mandatory policy that calls for administrative discharge of any personnel who are convicted of a sex offense.

My amendment would require the Department to oversee that each service branch establish policies that would mandate servicemembers convicted of a sex offense be processed for administrative separation. This means each such perpetrator would get due process but that the process would be required.

This amendment is common sense, and it is one that would strengthen the policies the services have actually already put in place and reinforce DOD's zero-tolerance policy.

I am very pleased Senators COLLINS and SNOWE have joined me as cosponsors of this amendment, and I wish to thank them for their leadership.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARDIN. I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. CARDIN are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2985

Mr. WEBB. Mr. President, I would like to speak on the Udall amendment. I have great admiration and respect for the Senator from Colorado as well as his cousin who now presides. I have concerns about this amendment that were raised during the committee markup. I think they have become even more of a concern since that time period.

Let me begin by saying as someone who spent 5 years in the Pentagon, one as a marine and four as a defense executive, I would hope that the top order of business for our President as he begins his next term would be to call for a reexamination, a rigorous reexamination of all of the programs in the Department of Defense.

In other words, not quite to zero-based but to examine the justifications for all of the programs that are in place with an eye toward the realities of the future, I think we could benefit as a country. People who care about national security, but also care about the tax bills they are getting, would benefit as well from something of a triage of the programs in the Department of Defense.

We should ask the Secretary of Defense and his people who work—or her—with these programs to examine which programs in DOD are the must-haves, which are absolutely vital to our national security, and which programs are the need-to-haves, the programs that might place our national security at some level of risk if they were to be altered or modified. Then we also need to have some painful examination of programs that might be called the nice-to-haves, those that are essentially ancillary to the harder definitions of national security, even though they have been supported.

I would say these, the costly biofuels programs, in the sense that we are proposing to fund them in the operational environment at this time, would have to qualify as nice-to-haves. That does not mean we should eliminate the biofuels programs. There is money in R&D to continue to examine them.

But I will tell you, Mr. President, what a must-have is. A must-have is our shipbuilding program. When I was commissioned in the U.S. Marine Corps in 1968, we had 930 combatant ships in the U.S. Navy. By the time we went into the post-Vietnam drawdowns, we had 479 combatants.

When I was Secretary of the Navy in 1987–1988, we were able to rebuild the Navy up to 568 combatants. Since that time, national strategy has changed. Our commitments have changed, but the size of the Navy has been dramatically reduced down to the point where today it is about 285 operational combatant vessels.

We have been trying, since I came to the Senate, to rebuild the Navy up to a

minimum of 313 combatants. It is very difficult to do this when we have other programs in place that are not directly contributing to our national security but are competing for programs.

I understand the concerns about energy independence. I also would like to remind my colleagues of the advances we have made in this country in that area just over the past few years in a way that many of us could not even have imagined 6 years ago when I came to the Senate. The International Energy Agency just made a report called "The World Energy Outlook," and in this report as summarized by Reuters the United States, according to their estimates, will overtake Saudi Arabia and Russia as the world's top oil producer by 2017.

IAEA Chief Economist Faith Birol told a news conference in London that he believed the United States would overtake Russia as the biggest gas producer by a significant margin by 2015, and by 2017 it would become the world's largest oil producer.

Will this prediction hold out? I don't know, but are we on our way toward significant gains in terms of our energy independence? Yes, we are. The language in section 313, which this amendment proposes to strike—I want to be very clear about this—does not affect programs that have been discussed here in such areas as hydrogen fuel as a fuel of choice for engine design or doing away with R&D dollars. It is just not true.

It states, in part, that this restriction goes to the cost of producing or purchasing alternative fuels if they exceed the cost of producing traditional fossil fuel that would be used for the same purpose—very narrowly defined.

There is a second paragraph in section 313 that goes to an exception to this program, which only applies to 50–50 blends of fuels. I personally believe that section should be modified and actually could be modified in conference. I think it is too narrow. But in general this is not a paragraph that totally does away with the biofuels program in the Department of Defense.

We have to make decisions. We have to get competitive programs into the Department of Defense. We must increase the readiness. We are not proposing to decrease the research and development programs. For those reasons, I will be opposing this amendment with the hope that we can continue the R&D programs for biofuels.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am going to be very proud to support amendment No. 2985. I think it has to do with our military readiness; I think it has to do with our national security; and I think that the fact that we have this opportunity is commendable. I thank Senator UDALL for it.

Striking section 313 is important because that section harms DOD's ability to diversify its fuel supplies by devel-

oping and using effective alternative fuels.

Now, lots of colleagues can come down here and proclaim this isn't important or it is important. You know what, I want to listen to the DOD themselves and what they say. There was an Armed Forces press service news report in July 2012, and this is what they said:

Smart investing and less reliance on petroleum-based fuels will help ensure an agile, lethal, and adaptable combat force, and, ultimately, national security.

So, Mr. President, I was distraught when I heard that the Armed Services Committee, by one vote, put in the section that would stop the ability of the DOD to invest in these very important fuels so they can have an "agile, lethal, and adaptable combat force and, ultimately, national security."

Now this is coming from the DOD. Why on Earth would anyone support something that the DOD tried to take away, the ability of the DOD to have an agile force?

I don't understand it. I can't understand it. The report also quotes Assistant Secretary of Defense Sharon Burke who said:

The department is going to have ships, planes and vehicles that were designed to use petroleum fuels for a very long time to come. . . . [Alternative fuels] investment ensures our equipment can operate on a wide range of fuels, and that's important for our readiness over the long term.

How many wars do we have to have over oil?

How many wars do we have over oil? I can tell you a story from a colleague of mine who said he went up to the White House when George W. Bush was President before the Iraq war, and George W. Bush had pictures of all the oil wells in Iraq.

If anyone says there was no connection to oil and that war, I would say they are wrong. I have met with many veterans who say the same thing. They don't want to go and fight and die for oil.

So this is of critical importance, this vote. There is no more important mission for the Department of Defense than to fight and win battles needed to defend our Nation and return our troops home safely to their families.

Section 313 could undercut the ability of the Department of Defense to achieve these goals.

In a letter to Senator UDALL, Vice Admiral Cullom said:

Section 313—

That's the section we are trying to strike—

Section 313 is overly broad and has the potential to restrict investments that would address tactical and operational needs for our Navy. . . . As fuel technologies advance, the Navy may wish to test and satisfy multiple types of alternative fuel, including some that might be 100 percent alternative fuel, not a blend.

Why would anyone in this Senate want to stop us from developing alternative fuels? I don't get it. We are try-

ing so hard to become energy independent. We have made great success under President Obama with fuel economy in place and investment in alternative energy.

The military says it is important for them to "ensure an agile, lethal and adaptable combat force, and ultimately, national security." Their words. In addition to everything else, this is a need that the military has definitely outlined for us.

A Statement of Administration Policy on the House Defense authorization bill, which contains a nearly identical provision, says that affecting DOD's ability to procure alternative fuels in this way would "further increase America's reliance on fossil fuels, thereby contributing to geopolitical instability and endangering our interests abroad."

Some of the same people who called for boycotts on Iran, which I support, somehow believe it is not important for us to be free from reliance on those kinds of countries for our oil. It makes no sense. We can't make these compartments. We are going after countries that have oil, and we are right to do it because they are dangerous, many of them. We are embargoing. We have embargoes on many of them. We have sanctions on many of them. At the same time, with the other hand we are saying to the DOD: Forget about alternative fuels. It makes no sense from a national security perspective.

In addition to harming the military's ability to achieve its goals that I have outlined here, that were written very clearly by the Defense Department itself, section 313 precludes research into fuels such as hydrogen, which has the potential to power some military vehicles over much longer missions.

I have been around a while. Something tells me Big Oil is calling the shots. I would hope not, but I don't understand why this section, which Senator UDALL is trying to strike, is in this bill when the military says it is critical for them to continue this program.

The section could also prevent DOD from purchasing fuels that are sold today in the United States, such as E-85, which is 85 percent ethanol. The Department of Defense has flex-fuel vehicles in its suite that can run on E-85.

Can you imagine going after that as well? It would restrict DOD's efforts to develop technologies to generate fuel at tactical locations, including waste to energy. These are precisely the types of technologies in which the Nation should be investing.

I thank Senator UDALL for bringing this to our attention. This is a very important amendment, perhaps one of the most important I have voted on in a long time.

I will close by saying this: If you believe this country should be energy independent, then vote with Senator UDALL. If you believe it is dangerous for us to rely on oil from countries who want to cause us harm, then you



should support the Udall amendment. If you believe it is good for our health, our environment, to invest in alternative energy, then vote for the Udall amendment. It is a win-win-win and, most of all, the military tells us we should continue this program. It is important so that we have an agile, adaptable force, and it is important for our national security.

I will be proud to vote for this amendment.

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

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, the Senator from Colorado is recognized.

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

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

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that Senators BAUCUS, COONS, Mr. BROWN of Ohio, LIEBERMAN, STABENOW, CANTWELL, SCHUMER, DURBIN, Mr. JOHNSON of South Dakota, BENNET, BLUMENTHAL, WHITEHOUSE, and COLLINS be added as cosponsors to my amendment No. 2985.

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

Mr. UDALL of Colorado. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2985.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—62

Akaka	Collins	Kerry
Baucus	Conrad	Klobuchar
Begich	Coons	Kohl
Bennet	Durbin	Landrieu
Bingaman	Feinstein	Lautenberg
Blumenthal	Franken	Leahy
Blunt	Gillibrand	Levin
Boxer	Grassley	Lieberman
Brown (OH)	Hagan	Lugar
Cantwell	Harkin	McCaskill
Cardin	Hoeben	Menendez
Carper	Inouye	Merkley
Casey	Johanns	Mikulski
Cochran	Johnson (SD)	Moran

Murkowski	Rockefeller	Thune
Murray	Sanders	Udall (CO)
Nelson (NE)	Schumer	Udall (NM)
Nelson (FL)	Shaheen	Warner
Pryor	Snowe	Whitehouse
Reed	Stabenow	Wyden
Reid	Tester	

NAYS—37

Alexander	Enzi	Paul
Ayotte	Graham	Portman
Barrasso	Hatch	Risch
Boozman	Heller	Roberts
Brown (MA)	Hutchison	Rubio
Burr	Inhofe	Sessions
Chambliss	Isakson	Shelby
Coats	Johnson (WI)	Toomey
Coburn	Kyl	Vitter
Corker	Lee	Webb
Cornyn	Manchin	Wicker
Crapo	McCain	
DeMint	McConnell	

NOT VOTING—1

Kirk

The amendment (No. 2985) was agreed to.

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

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

The motion to lay upon the table was agreed to.

AMENDMENT NO. 3016

Mr. LEVIN. Mr. President, I now ask unanimous consent that we proceed to the consideration of amendment No. 3016 of Senator GILLIBRAND.

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

The clerk will report the amendment.

Mr. LEVIN. I was going to add something further to the request, and that is that there be 5 minutes of debate on the Gillibrand amendment and then Senator MIKULSKI be recognized to speak as in morning business for 5 minutes.

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

The Senator will suspend for a moment.

Mrs. GILLIBRAND. Mr. President, I request my amendment be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from New York [Mrs. GILLIBRAND], for herself, Ms. COLLINS, and Ms. SNOWE, proposes an amendment numbered 3016.

Mrs. GILLIBRAND. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for the processing for administrative separation from the Armed Forces of members who are convicted of certain sexual offenses under the Uniform Code of Military Justice and not punitively discharged in connection with such convictions)

On page 138, strike lines 14 through 20 and insert the following:

(8) A requirement that each Secretary of a military department establish policies that require that each member of the Armed Forces under the jurisdiction of such Secretary whose conviction for a covered offense is final and who is not punitively discharged from the Armed Forces in connection with such conviction be processed for administrative separation from the Armed Forces,

which requirement shall not be interpreted to limit or alter the authority of such Secretary to process members of the Armed Forces for administrative separation for other offenses or under other provisions of law.

(b) DEFINITIONS.—In this section:

(1) The term “covered offense” means the following:

(A) Rape or sexual assault under subsection (a) or (b) of section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice).

(B) Forcible sodomy under section 925 of title 10, United States Code (article 125 of the Uniform Code of Military Justice).

(C) An attempt to commit an offense specified in subparagraph (A) or (B) under section 880 of title 10, United States Code (article 80 of the Uniform Code of Military Justice).

(2) The term “special victim offenses” means offenses involving allegations of any of the following:

(A) Child abuse.

(B) Rape, sexual assault, or forcible sodomy.

(C) Domestic violence involving aggravated assault.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. GILLIBRAND. Mr. President, I rise to talk about an amendment that I believe is on an incredibly urgent matter.

Today the vast majority, almost all of our servicemembers, serve this country so honorably, so bravely. But there is a very small number who do not, who are engaging in sexual assault in the military. Despite Secretary Panetta’s efforts to have a zero tolerance policy in this country, in 2011 alone there were 3,000 military assaults reported, and the Secretary of Defense reports the real number is much closer to 19,000 assaults. In the words of the DOD, sexual violence in the military “is an affront to the basic American values we defend, and may degrade military readiness, subverts our strategic goodwill, and forever changes the lives of victims and their families.”

My amendment is very simple. Today each of the services have policies that address this issue, but the one that the Navy has is the best. My amendment requires the Department to oversee that each of the service branches has established a policy that would mandate that servicemembers convicted of sexual offenses will be processed for administrative separation.

The reason this is so important is because one-third of convicted sexual offenders in the military are still retained. They are still serving. So, obviously, we must do better. We need a uniform standard to correct these deficiencies in the respective branch policies to be able to serve our military families and our military members as we should.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I know of no further debate on the Gillibrand amendment.

Mrs. GILLIBRAND. Mr. President, I would like to say Senator COLLINS and Senator SNOWE are cosponsors of this amendment.

Ms. SNOWE. Mr. President, I am pleased to rise in support of this amendment, which will require that every military service must establish a crystal-clear, zero-tolerance policy that military personnel who are convicted of a sexual offense will not be permitted to continue to serve our Nation in uniform.

According to the Department of Defense, approximately 3,000 sexual assaults were reported in the military in 2011. Yet some estimate that the actual number of sexual assaults in our military in 2011 is closer to 19,000, accounting for the terrible reality that many attacks are never reported. Without question, this is an entirely unacceptable situation, and is another compelling reason that the Department of Defense, as well as Congress, must continue to do what is necessary to eliminate, once and for all, sexual assaults from occurring within our military ranks.

Unfortunately, as my colleague Senator GILLIBRAND has noted, each of the services have different policies for dealing with military personnel who are convicted of a sexual offense. As a result, according to the Department of Defense's April 2012 Sexual Assault Prevention and Response report, approximately 40 percent of servicemembers who have been convicted of a sexual offense in a courts-martial are not discharged or dismissed as part of that judgment.

Our honorable and law-abiding military personnel deserve far better. And that is why our amendment is so important. By requiring all military services to establish a policy that all who are convicted of sexual assaults must be processed for administrative separation from the military, we will remove from our military ranks sexual assault offenders who threaten the welfare of the men and women of our armed services, as well as their families.

I was very pleased to join with Senator GILLIBRAND in crafting this amendment, and urge my colleagues to join me in supporting its passage today. Unfortunately, our work is not yet done, which is why I have also joined with Senator KLOBUCHAR to develop several additional amendments to this bill in furtherance of the effort to eradicate sexual assault in the military. I urge my colleagues to join us in supporting each of these amendments as well. We owe it to our military personnel to do everything possible to stop sexual assaults from occurring within our armed services.

Mr. LEVIN. I know of no further debate on the Gillibrand amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on the adoption of the amendment, No. 3016.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

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

Mr. LEVIN. I understand under the unanimous consent agreement the Senator from Maryland is to be recognized for 5 minutes as in morning business.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

#### THE FISCAL CLIFF

Ms. MIKULSKI. Mr. President, I am not going to linger because there is much to be discussed on the Defense authorization. What I wish to talk about for a few minutes is about the safety and security of the United States of America, meaning our solvency and the demonstration of our ability to govern.

We need a sense of urgency about solving the fiscal cliff problem. We need to end the culture of delay in this institution. I am very concerned that as we talk about solving the problems of the fiscal cliff, there is this whole dynamic going on. There is this whole patter going on, from staff level to Senators. It is, oh, we are going to be here until Christmas Eve.

I think that is a disaster. I think it is a disaster for our economy, I think it is a disaster for the demonstration of our ability to govern, and I think it is a disaster for our standing in the world. We need to show we can govern ourselves, and we can put ourselves on a sound fiscal path with the right combination of growth, frugality, and ensuring a safety net for the most vulnerable of our citizens. I am here to say to my colleagues on both sides of the aisle, both sides of the dome, and even the White House: Let's get the job done. I propose let's really conscientiously work hard to make sure we have a framework that we could vote on by the weekend of December 15.

Why do I want December 15 as a deadline? It is Saturday. Mr. President, you, yourself, have tweeted about—Oh, let's have Saturday as Small Business Week. We have had cyber Mondays. Let's have a strong economy closing of the week before Christmas.

I can tell you, Mr. President, if we show that we can govern and actually pass a bill by Saturday, December 15, that does exactly what I said. It shows that we have a sense of frugality and are on a path where we are solving our issues around debt, but we also have the elements that promote growth and ensure a safety net for the most vulnerable. We could do three things: We could show that we can govern. That would be very big in the mind of the public, that we could govern ourselves. It would be important to the public, and it would be important to the world, particularly those who lend us money.

It would be an enormous sense of boosting consumer confidence 10 days before Christmas. We would show that we are on the way to solving our problems. For those who benefit from ei-

ther Federal employment or contracts with the Federal Government, there would be stability in their employment.

I can also say as to the stock market we could have a floor under the stock market, and we might even have a jump in the stock market. Just one-third of Americans believe Congress can be counted on to behave like responsible adults—only one-third. They have seen no compromise or cooperation. They have seen lip service. We don't need to be trading pet rocks over what we need to do, and we should not throw them either. We have to come together, both sides of the aisle, both sides of the dome, with the White House.

We do not lack in ideas. The content for a solution is not new. We have had excellent people working on this. We have seen Simpson-Bowles in a report, Domenici-Rivlin, wise heads giving us good ideas. We have had the supercommittee that fleshed out a lot of these issues and knows where the disagreements are. We have had the Gang of 6, the Gang of 8. Let's get to the Gang of 100 and pass this bill. I would be happy with the Gang of 51.

I want to be sure we know, because we do know, the ideas. We do not lack in ideas. What we lack is will and momentum to get this job done. My principles are simple and straightforward: No. 1, let's have a sense of urgency. No. 2, make sure when we look at cuts that we count the cuts that we have already done. For example, the \$900 billion we have done in the Budget Control Act because that would also include the \$450 billion that we have done in defense spending—the kinds of issues we have talked about. Let's also count the \$550 billion that we did in reforming Medicare during health care reform.

We have had good words, now we need good deeds and swift action. Just think what it would mean to reach an agreement by December 15. Americans could see that we can work together. Think about the energy this would unlock to avoid a sequester. Think about what a signal this would be to middle-class people on Main Street as well as the people on Wall Street because business would have certainty, we would have consumer confidence, and we could have a new self-confidence about ourselves that we could govern.

The Presiding Officer and I represent a great State. We represent a State that has an innovative economy, from both the Federal Government and its great Federal labs, such as NIH, to its great national security areas, such as the Cyber Command at Fort Meade. Yes, they would be devastated by a sequester. So would our contractors, both defense and civilians. Great iconic institutions such as Hopkins would take a huge hit in not only research and development but in providing care to the needy, care to the desperate who come from all over the country to get help for a sick child or an aging relative or to get eyesight restored at the

Wilmer Eye Institute. Sure, I am for jobs in Maryland, but I am here trying to stand for America.

We need to show we can govern, and we cannot wait until December 24, that somehow or another this is going to be Santa Claus, because if we don't act soon, we are going to get rocks in our socks, and I think they would be well deserved.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Illinois be allocated 7 minutes to speak as in morning business.

Mr. McCAIN. Mr. President, reserving the right to object, I ask that the Senator modify his request that the Senator be immediately followed by Senator KYL to offer an amendment, with the proviso that it is cleared by the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

#### THE DREAM ACT

Mr. DURBIN. Mr. President, we just concluded a Presidential campaign. Who could have missed it? There were a lot of issues that were discussed, but one of particular interest to me was one that involves a personal effort I have made to pass a piece of legislation known as the DREAM Act. I introduced the DREAM Act 11 years ago. Things move slowly in the Senate, but this has taken way too long.

It has been heartening over the years to watch the support for the DREAM Act grow among the American people. It has also been interesting to me that in the last Presidential campaign one of the issues asked of Governor Romney, as well as President Obama, point-blank, was: Are you for the DREAM Act? I guess that says quite a bit for this piece of legislation and the idea and principle behind it.

When I introduced the DREAM Act 11 years ago, it was because I met a young woman from Chicago, Tereza Lee, who was Korean, who came to this country as a child, was raised in the United States, but her parents never filed the necessary documentation. So Tereza Lee was graduating from high school in Chicago, an accomplished pianist, and she had been accepted at the Manhattan Conservatory of Music in the Juilliard School of Music, but she was undocumented, she was not a citizen, she was not here legally.

So she came to our office and asked what she could do, and we had to advise her mom, under the law, Tereza,

having lived in this country for more than 16 years, had to leave and go back to Brazil, where her family had been before they immigrated to the United States, wait 10 years, and then try to come back in. What a waste of talent. So I introduced the DREAM Act to give her and many like her a chance—a chance to be legalized, to become part of America.

Over the years, we have had many votes. I have always had a majority vote on the floor, a bipartisan majority vote, but I have been unable to break the filibuster from the other side of the aisle.

Well, now this issue's time has come because this President issued an executive order earlier this year to allow those who have been here and would qualify for the DREAM Act to stay without deportation if they registered, made it clear that they qualified otherwise for the DREAM Act, had no serious criminal past that would jeopardize anyone in the United States, and go through the process of review to be fingerprinted, to be basically identified as part of the system.

It was a great leap of faith for these young people, who had been here for so many years hiding, to step up in front of somebody and say: I am going to report myself to the Government of the United States. But they did it. Tens of thousands did it, and they continue to.

This deferred action that is being offered to so many of these young people gives them a chance now to work in the United States, to go to school in the United States, and to be here legally. That is why this issue is so important. But we are far from finished. We have not passed the law. We have an executive order from the President that gives them this chance.

This weekend, in Kansas City, MO, hundreds of DREAMers—that is what we call these young people now—are going to get together. They are part of the largest national organization of DREAMers: United We Dream. They will be planning their next effort—advocating for immigration reform legislation that will bring them and their families out of the shadows once and for all and give them a chance to earn their way to legal status and citizenship in America.

One part of immigration reform—the DREAM Act—is near and dear to me. But I want to see comprehensive immigration reform before it is all over. We know if we pass the DREAM Act, it will help the economy, creating new jobs and economic growth when the talent of these young people, as they come out of high school and college, is brought into our economy.

In my home State of Illinois, by 2030, the DREAM Act would contribute \$14 billion in economic activity and DREAMers would create up to 58,992 new jobs.

I come to the floor of the Senate frequently to tell their stories. They used to hide in the shadows. They did not want to talk about who they were be-

cause they were undocumented and afraid of being deported. Many were deported. But I came to the floor to tell the stories of those who had the courage to step up and identify themselves and run that risk, just so people knew who they were.

I will tell a story today about Pierre Beranstein.

Pierre and his sister were brought to the United States by their parents from Peru in 1998, when they were children. Pierre did not speak a word of English when he first arrived in Carrollton, TX, but he worked hard to learn English. He excelled academically and was accepted into the Academy of Biomedical Professions in his high school.

In 2006, Pierre was accepted at Harvard, one of the best universities in our country. He went on to get a bachelor's degree with honors. He is currently pursuing a master's degree at Harvard Divinity School.

In addition to working on this graduate degree, he is active in his community. Among many other volunteer activities, Pierre works at Renewal House, a domestic violence shelter in Boston.

His volunteer work led Harvard to award Pierre the Thomas E. Upham Scholarship, which is given to an outstanding graduate student committed to public service.

Pierre recently wrote an article about growing up as an undocumented immigrant. This is what he said:

I am not a criminal, a monster, a predator, or someone who sits at home doing nothing substantive or meaningful. I care for this country; I care for its successes as well as its struggles, for its joys as well as its sorrows. I am not asking that our government maintain an open-door policy for immigrants. I am simply asking that it give an opportunity to those of us who have proven ourselves.

Well, Pierre is right. America needs young people just like him, who love their country and are dedicated to caring for our society's most vulnerable.

So what do the American people think about the idea of the DREAM Act? Listen to a recent poll. A Bloomberg poll found that 64 percent of likely voters—almost 2 out of 3, including 66 percent of Independents—support the policy, compared to only 30 percent who oppose it. By a margin of 2 to 1, the American people know this is the right thing to do.

Now we need to pass comprehensive immigration reform. On our side, the negotiating effort will be led by Senator SCHUMER of New York, who chairs the Immigration Subcommittee, and a number of us will join in that effort. We are going to join with those on the other side—Senators JOHN McCAIN, LINDSEY GRAHAM, MARCO RUBIO, SUSAN COLLINS, RAND PAUL, and Senator-elect JEFF FLAKE—who have expressed an interest in this issue to make sure we move forward in a bipartisan fashion to try to finally find a solution to immigration reform.

Let me close by thanking Senator JON KYL and Senator KAY BAILEY

HUTCHISON. Yesterday they introduced the ACHIEVE Act, which has been called the Republican version of the DREAM Act. I have worked with them for a long time. We share many of the same ideas. We have some differences. I have some concerns, but I appreciate that Senator KYL and Senator HUTCHISON have come forward with this proposal.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent for 2 additional minutes, please.

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

Mr. DURBIN. I am sorry I will not have the chance to work with these two Senators on this measure because they are both retiring. But I hope we can build on what they have offered on their side of the aisle in a bipartisan fashion.

In that spirit, let me point out two major concerns with the ACHIEVE Act. The bill is limited to young people who arrived in the United States since the age of 13 or under. That would have the effect of excluding DREAMers who were brought when they were still children at the age of 14 or 15.

Let me give you two examples of people I know.

This is a picture I have in the Chamber of Tolu Olubunmi. She was brought to America from Nigeria when she was 14 years old. Tolu obtained a bachelor's degree in chemical engineering 10 years ago. She still cannot work as an engineer. We can use her talent.

Let me also show you a picture of Novi Roy. He was brought to America from India when he was 14 years old. Novi graduated from the University of Illinois at Urbana-Champaign with a bachelor's degree in economics and two master's degrees, one in business administration and one in human resources. His dream is to help provide affordable health care to a lot of people who do not have it in America.

Tolu and Novi should be eligible for the DREAM Act. They would not be under the ACHIEVE Act. The other thing is, I want them to have a path to citizenship. At the end of the day, after they have earned their stripes, paid their price, paid the taxes, did everything they were supposed to do, give them a chance—not to go to the front of the line but the back of the line—and give them a chance to be American citizens. It is the right thing to do.

It is time for this to become a truly bipartisan issue. I hope in the next Congress we can truly come together for the sake of these young people, and so many others just like them all across America, to finally let their dream come true.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3123

Mr. KYL. Mr. President, I send an amendment to the desk No. 3123.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. LIEBERMAN, Mr. INHOFE, Mr. RISCH, Mr. LUGAR, Mr. DEMINT, Mr. CORNYN, Mr. RUBIO, Mr. WICKER, Ms. AYOTTE, Ms. COLLINS, and Mr. SESSIONS, proposes an amendment numbered 3123.

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

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

The amendment is as follows:

(Purpose: To require regular updates of Congress on the military implications of proposals of the United States and Russia under consideration in negotiations on nuclear arms, missile defense, and long-range conventional strike system matters)

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

**SEC. 1064. BRIEFINGS AND CONSULTATIONS ON THE MILITARY IMPLICATIONS OF PROPOSALS OF THE UNITED STATES AND RUSSIA UNDER CONSIDERATION IN NEGOTIATIONS ON NUCLEAR ARMS, MISSILE DEFENSE, AND LONG-RANGE CONVENTIONAL STRIKE SYSTEM MATTERS.**

(a) BRIEFINGS AND CONSULTATIONS.—

(1) BRIEFINGS.—Not later than 30 days after the date of the enactment of this Act, and every 120 days thereafter, the Secretary of Defense shall, in coordination with the Chairman of the Joint Chiefs of Staff, provide to the appropriate committees of Congress a briefing on the military and strategic implications of any offer or proposal, by either the Russian Federation or the United States, to limit or control nuclear arms, missile defense systems, or long-range conventional strike systems, including any proposal as part of formal negotiations between the two countries or otherwise exchanged between official entities of the two countries.

(2) BASIS OF QUARTERLY CONSULTATIONS.—The briefings under paragraph (1) shall serve as the basis for quarterly consultations to be provided by the Secretary to the appropriate committees of Congress on any current proposals described in that paragraph.

(b) SENSE OF CONGRESS.—It is the sense of Congress that any agreement of the United States with the Russian Federation related to missile defense, nuclear weapons, or long-range conventional strike systems that would limit, constrain, or reduce the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2, of the Constitution of the United States, as consistent with section 303(b) of the Arms Control and Disarmament Act.

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

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

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Com-

mittee on Appropriations of the House of Representatives.

Mr. KYL. Let me begin by saying that I send this amendment to the desk with an understanding of the chairman of the Foreign Relations Committee and of the Armed Services Committee that before I would request a vote on this amendment, we would work out the language, the specific language of this amendment, along with the ranking members, and would not ask for a vote unless that is achieved.

This amendment has been offered not only for myself, but also Senators LIEBERMAN, INHOFE, RISCH, LUGAR, SESSIONS, DEMINT, CORNYN, RUBIO, WICKER, AYOTTE, and COLLINS. Our purpose is to get a greater involvement at an earlier stage of the Senate in discussions between the United States and the Russian Federation regarding nuclear arms, missile defense, and potentially long-range conventional strike systems. These are all three matters that have been the subject of treaties and agreements.

There has been an indication by different people within the administration, indeed even the President, that he may be wanting to talk to the Russian Federation representatives about additional agreements in these areas.

There have been concerns that the Congress is not adequately briefed on those discussions and certainly not at an early enough date. Clearly, if these agreements reach a formal stage, they can require ratification by the Senate. We think it is important that they not be, in effect, negotiated in their entirety before they are known to the Senate and before some input from Members of the Senate can be provided to the administration.

What the amendment as originally introduced therefore would do is to require regular updates of Congress on the military implications of proposals that the United States and Russia have under consideration in their negotiations on nuclear arms, missile defense, or long-range conventional strike systems, and in its current form would require the Secretary of Defense to brief the Foreign Relations, the Armed Services, and the Appropriations Committees.

One of the changes that we might want to make here is that the briefings might include other groups within the Congress as well. These briefings could occur, under this proposal, no later than 30 days after the act goes into force, and would affect the quarterly briefings where the administration would, on a quarterly basis, provide consultation between the Congress and the Secretary of Defense regarding any proposals to limit or reduce nuclear arms, missile defense or, as I said, long-range conventional strike systems.

The amendment also does something else which we may have to modify the language of, but it would express the sense of Congress that any agreement between the United States and Russia

that would limit or constrain or reduce our missile defense or our nuclear weapons or long-range conventional strike systems in any militarily significant manner could only be done pursuant to the treaty-making power of the President as set forth in the Constitution. And that, of course, is in order to protect our right to consult, provide advice and consent to any matters that reach that level of negotiation between the administration and, in this case, the Russian Federation.

We will have more to say about this if we have an opportunity to further debate. As I said, I am happy to sit down with the chairman of the Senate Foreign Relations Committee and the Armed Services Committee to consider any changes they might want to make to this language with the purpose of getting it adopted, rather than just having something to talk about.

This is something we need. Congress needs to be advised. We need to be consulted on matters this important. I do not think the administration would argue with that; it is a matter of coming to an agreement on how we would actually do it.

I appreciate the cooperation of the chairman of the committee and the ranking member.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Arizona, Senator KYL, for his willingness to sit down and try to work this out in a way which is satisfactory to him and the Foreign Relations Committee. We very much appreciate that. We know what he is after and we believe there should be consultation. So we are trying to make that happen.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

AMENDMENT NO. 3099

(Purpose: To improve mental health care programs and activities for members of the Armed Forces and veterans)

Mrs. MURRAY. Mr. President, I call up amendment No. 3099.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 3099.

Mrs. MURRAY. I ask unanimous consent that the reading of the amendment be dispensed with.

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

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

Mrs. MURRAY. Mr. President, the amendment that is pending in front of us is to improve the mental health and suicide prevention services. It is language that is derived from our Mental Health ACCESS Act, which was unanimously approved by the Veterans' Affairs Committee.

This amendment is critical legislation that improves how DOD and VA provide mental health care. I think everyone in this body knows about it and is distressed by the alarming rate of suicide and mental health problems in our military and veterans populations.

We know our servicemembers and veterans have faced unprecedented challenges, multiple deployments, difficulty finding a job here at home, isolation in their communities, and some have faced very tough times reintegrating into family life with loved ones trying to relate but not knowing how. These are the challenges our servicemembers and veterans know all too well. But even today as they turn to us for help, we are losing the battle.

Time and again we have lost servicemembers and veterans to suicide. While the Departments of Defense and Veterans Affairs have taken very important steps toward addressing this crisis, we know more does need to be done. We know any solution depends on reducing wait times and improving access to mental health care. We know they need to have the proper diagnosis, and we know we need to achieve true coordination of care and information between the Departments of Defense and Veterans Affairs.

What this amendment does is require a comprehensive, standardized, suicide prevention program across the Department of Defense. It requires the use of best medical practices in suicide prevention and behavioral health programs to address some serious gaps that exist in the current programs, and this amendment expands eligibility for VA mental health services to family members of our veterans. This amendment would also give servicemembers an opportunity to serve as peer counselors to fellow Iraq and Afghanistan veterans and create a quality assurance program for the historically troubled disability evaluation system.

It would require the VA to offer peer support services at all medical centers and create opportunities to train more veterans to provide these needed peer services. It will require the VA to establish accurate and reliable measures for mental health services.

We must have an effective suicide prevention program in place. It is often only on the brink of crisis that a servicemember or a veteran seeks care. If they are told, sorry, we are too busy to help you, we have lost the opportunity to help them. To me and to all of us here, that is not acceptable.

I wish to thank Senator LEVIN and Senator MCCAIN for their work on this Defense authorization bill and for their help in bringing this amendment to the floor today. I believe there are no objections to this amendment, and I hope we can move it as quickly as possible.

I would ask unanimous consent to add Senator BAUCUS as an original cosponsor.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I wish to commend and thank Senator MURRAY for her huge effort in this area. Her efforts on behalf of our veterans and our troops have been instrumental in bringing some of the corrections that are needed to the forefront, and we very much welcome this amendment. It touches issues which are very much on the minds of most Americans; that is, the mental health care we provide for our veterans and for our troops.

I simply not only support this amendment, but I wish to commend Senator MURRAY for her leadership and her initiative and I hope and believe it can be passed on a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 3099.

The amendment (No. 3099) was agreed to.

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

Mrs. MURRAY. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. LEAHY. Madam President, I know we have matters under discussion with the distinguished chairman and the distinguished ranking member of the committee. I have discussed with them that I am not bringing up an amendment at this point. But let me talk about an amendment that I will bring up and expect to pass at some point.

The amendment I will call up at some appropriate point is legislation I have been trying to get enacted for more than 3 years called the Dale Long Public Safety Officers' Benefits Improvement Act. This legislation improves the Public Safety Officers' Benefits Act, which is the Federal death and disability program for our Nation's first responders who are killed or disabled in the line of duty.

Just so Senators will know, an earlier version of this legislation was adopted here on the Senate floor by voice vote in December 2011. The Presiding Officer will recall it was almost exactly a year ago when we brought that up. It was adopted as part of the FAA Air Transportation Modernization and Safety Improvement Act. During the course of conference negotiations related to the FAA legislation, the House Judiciary chairman LAMAR SMITH and I negotiated additional measures to be added to the legislation. Our work together produced a package of improvements that contains a modest expansion of benefits for deserving emergency medical responders, and a host of reforms to make the Public Safety Officers' Benefits program stronger, more effective, and more cost efficient.

The legislation has become one of the cornerstones of the partnership we have between the Federal Government and our first responders and will make that partnership even stronger. In fact, the reforms Chairman SMITH and I developed in consultation with the Department of Justice and the first responder community completely offset and eliminate an estimated modest increase in spending.

Unfortunately, at that time, due to an error made by the Congressional Budget Office, the matter was dropped from the FAA conference report. The CBO, to their credit, later corrected their error, and provided an official cost estimate which makes clear this legislation will result in no new Federal spending. I ask unanimous consent to have printed in the RECORD a copy of that letter.

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

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

June 22, 2012.

H.R. 4018—PUBLIC SAFETY OFFICERS' BENEFITS  
IMPROVEMENTS ACT OF 2012

*As ordered reported by the House Committee on  
the Judiciary on June 6, 2012*

CBO estimates that implementing H.R. 4018 would have no significant cost to the federal government. Enacting the bill could affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects would be insignificant for each year. The legislation would not affect revenues.

Under current law, the families of public safety officers who have died as a result of injuries sustained in the line of duty are eligible for a one-time payment of about \$320,000. Public safety officers who have been permanently disabled are eligible for the same payment, but this payment is subject to the availability of appropriated funds.

This legislation would make members of rescue squads or ambulance crews operated by nonprofit entities eligible for benefits paid when public safety officers are permanently disabled or die as a result of injuries sustained in the line of duty. H.R. 4018 also would narrow the eligibility of members of rescue squads or ambulance crews for benefits under the Public Safety Officers' Benefit (PSOB) program; as a result, some individuals would no longer receive benefits that they could receive under current law. The bill would prevent individuals from receiving certain benefits under the program if they receive payments from the September 11th Victim Compensation Fund of 2001. In addition, the proposed legislation would make many technical and administrative changes that aim to expedite the processing of claims for benefits.

Based on the number of fatalities of members of nonprofit rescue squads or ambulance crews in recent years, CBO expects that, on average, a few persons each year would be affected by the proposed legislation and that additional payments from the PSOB program would be made. CBO estimates that those payments would total \$13 million over the 2013–2022 period. However, based on information from the Department of Justice, we expect that those costs would be offset by savings from other provisions of the bill that would result in fewer persons receiving PSOB payments than will receive them under current law. As a result, CBO esti-

mates that enacting the legislation would have no significant net effect on direct spending or discretionary spending from the PSOB program.

H.R. 4018 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Mr. LEAHY. Despite our setback, Chairman SMITH and I were, and have remained, determined to move forward. I know I have his full support for inclusion of this measure in the Defense authorization measure we now consider, and I greatly appreciate the efforts he made in a bipartisan manner to get this done. In fact, the legislation containing this amendment was unanimously passed in the House of Representatives in June of this year by a voice vote.

I know a lot of Senators on both sides of the aisle care about reforming government programs and making the Federal Government work better. This is a bipartisan measure that does that. It will speed up claims processing, it will reduce costs to the Department of Justice, and it will lessen unnecessary paperwork burdens for claimants. It has passed with overwhelming Democratic and Republican support in the House. It had stalled in the past over misguided objections. Some might say this is not the responsibility of Congress. As a constitutional matter, that is simply not true. It is a matter of policy.

Since 1976, Congress has made the judgment that the right thing to do is to take care of surviving spouses and children of police officers, firefighters, and emergency medical responders who are killed in the line of duty. Congress has always provided assistance to these heroes. If there is a Senator who believes this is beyond the responsibility of Congress, then introduce and defend legislation to repeal the policy first enacted in 1976.

Americans take care of each other. We live by the ideal that we take care of our own. Just as the Federal Government is working hard to help those suffering from Hurricane Sandy or as the Federal Government provides critical assistance to people and communities devastated by tornadoes or droughts or wildfires, just as Congress stood by the families of those killed in the attacks of September 11, 2001, we take care of our own. We always will.

As I said, at some appropriate time I will call up the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Will the Senator from Vermont yield?

Mr. SANDERS. Yes.

Mr. LEVIN. I understand the Senator will take about 10 minutes; is that correct?

Mr. SANDERS. Somewhere in that vicinity.

Mr. LEVIN. And then the Senator will take approximately 10 minutes?

Mr. WHITEHOUSE. I would like to be recognized at the conclusion of the remarks of the Senator from Vermont for about 10 minutes.

Mr. LEVIN. I ask that the two Senators be recognized for 10 minutes each in morning business.

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

WALL STREET

Mr. SANDERS. Madam President, sometimes there is no end to arrogance. I find it literally beyond comprehension that we have folks from Wall Street who receive huge bailouts from the people of our country, from working families in this country, because of the greed and recklessness and illegal behavior that Wall Street did to drive us into this recession, and now these very same people are coming here to Congress to lecture us and the American people about how we have to cut Social Security, Medicare, and Medicaid while they enjoy huge salaries and retirement benefits.

Lloyd Blankfein is the CEO of Goldman Sachs. In 2006 and 2007 he was the highest paid executive on Wall Street, making over \$125 million in total compensation. My understanding is that he has wealth of hundreds of millions of dollars. Goldman Sachs received a \$278 million refund—Goldman Sachs did—from the IRS in 2008 even though it made a profit of \$2.3 billion. During the financial crisis, Goldman Sachs received a total of \$814 billion in virtually zero interest loans from the Federal Reserve and a \$10 billion bailout from the Treasury Department. This is the CEO of Goldman Sachs. Now, with his huge wealth, he is coming here to Washington to lecture the American people on how we have to cut Social Security, Medicare, and Medicaid for tens of millions of Americans who are struggling now to keep their heads above water.

This is a statement Lloyd Blankfein recently made, I believe, on a TV show:

You're going to have to, undoubtedly, do something to lower people's expectations, the entitlements, and what people think they're going to get because they're not going to get it. Social Security wasn't devised to be a system that supported you for a 30 year retirement after a 25 year career . . . So there will be certain things, like the retirement age will have to be changed, maybe the benefits will have to be affected, maybe some of the inflation adjustments will have to be revised . . . But, in general, entitlements have to be slowed down and contained.

This comes from a man worth hundreds of millions of dollars whose company, along with the rest of the companies on Wall Street, drove this country

into the recession it is in, which, by the way, contributed to the deficit we are in. He is coming to Capitol Hill to lecture us and lecture the working families in this country on how we have to cut Social Security, Medicare, and Medicaid. I think arrogance has no end, that people from Wall Street can come down here and tell us that.

I think most Americans understand that the reason we are in the terrible recession we are in right now and the reason we went from a \$236 billion surplus when Bill Clinton left office has everything in the world to do not with Social Security but with the fact that we went into the wars in Iraq and Afghanistan and forgot to pay for them; we gave huge tax breaks to people such as Mr. Blankfein and did not offset them; passed the Medicare Part D prescription drug program, not paid for; and as a result of the Wall Street recession, significantly less revenue is now coming into the Federal Government. That is why we went from a \$236 billion surplus in 2001 to a \$1 trillion deficit today.

The deficit is a serious issue and it has to be addressed, but it has to be addressed not in the way that Mr. Blankfein, Pete Peterson, and the other Wall Street billionaires want us to address the deficit but in a way that is fair to working people. Among other things, we have to protect Social Security, protect Medicare, protect Medicaid.

I was appreciative the other day when I read that the White House has said something that many of us have wanted them to say, which is that Social Security had nothing to do with the deficit; Social Security should be treated separately. I think that is a real step forward. Many of us signed a letter to that effect.

But what does worry me is this issue of chain CPI. I want everybody to understand what the chain CPI is about. Nobody outside of Capitol Hill knows what it is about. What it is about is reformulating how we determine COLAs. If this chain CPI passed, what it would mean is that if somebody was 65 now—this would go into effect immediately if it were passed—by the time they were 75, there would be a \$560-a-year reduction in what they otherwise would have gotten in Social Security benefits through the COLAs. By the time they are 85, it would be \$1,000 a year. We must defeat any and all efforts to oppose a chain CPI not only on Social Security beneficiaries, but it would also apply, if my colleagues can believe this, to disabled veterans. Mr. Blankfein and his other CEO friends on Wall Street really want us to balance the budget on the backs of the disabled vets? Well, this Senator surely is not going to support that.

There are ways to deal with deficit reduction that are fair. Everybody has to understand that we have already cut approximately \$1 trillion in benefits. So when we talk about \$4 trillion in deficit reduction, \$1 trillion has already taken place.

Second of all, obviously, at a time when the wealthiest people are doing phenomenally well and we have growing wealth and income inequality in America, of course we have to repeal Bush's tax breaks for people making \$250,000 a year or more. That is another \$1 trillion. We have to appreciate the fact that one out of four corporations in America doesn't pay a nickel in taxes. We can bring in significant amounts of revenue through tax reform that asks corporations to start paying their fair share of taxes. We are losing \$100 billion a year because corporations and the wealthy are stashing their money in the Cayman Islands and other tax havens, thus losing substantial revenue in the United States.

Defense spending has tripled since 1997. We are now spending almost as much as the rest of the world combined. Let's take a serious look at defense spending. If we do that, make some changes toward efficiency in Medicare and Medicaid, make them more efficient but not cut benefits, we can move toward serious deficit reduction without cutting Social Security, without cutting Medicare, and without cutting Medicaid.

We just had an election a few weeks ago—November 6—and what I think the American people said is that the time is now for the wealthy to start paying their fair share of taxes. We have seen poll after poll after poll, including from some very conservative people who are saying do not cut Social Security, Medicare, and Medicaid. I think it is time for the Senate and the Congress to start listening to the American people. Let's go forward with deficit reduction, but let's not do it on the backs of the elderly, the children, the sick, or the poor.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

#### CLIMATE CHANGE

Mr. WHITEHOUSE. Madam President, we are working toward a national defense authorization act, and as we do that, I rise to discuss the importance of assessing and planning for and mitigating the national security effects of climate change.

Our changing climate is not simply a green issue invented by environmentalists and conservationists; climate change threatens our strategic interests, our military readiness, and our domestic security in many ways. It is a serious national security issue—so says not just me but the U.S. Department of Defense and, indeed, our national intelligence community.

In 2011 the Defense Science Board provided the Secretary of Defense guidance for a governmentwide approach to preparing for the effects of climate change, concluding that “climate change will only grow in concern for the United States and its security interests.”

The 2010 Quadrennial Defense Review by the Department of Defense noted that climate change is one of the

things that “will play important roles in the future security environment.”

The White House's 2010 national security strategist stated that “climate change . . . threaten(s) the security of regions and the health and safety of the American people.”

Back to 2008, Dr. Thomas Fingar, then Deputy Director of National Intelligence for Analysis and the Chairman of the National Intelligence Council, said that “global climate change will have wide-ranging implications for U.S. national security interests for the next 20 years.”

In a report requested by the CIA, the National Research Council wrote this year that “while climate change alone does not cause conflict, it may act as an accelerant of instability or conflict.”

In 2006 the Center for Naval Analysis, a federally funded research and development center that has advised the Navy and Marine Corps since 1942, convened a military advisory board of retired three-star and four-star admirals and generals and asked them to report on national security and the threat of climate change. The report stated:

While uncertainty exists . . . regarding . . . the future extent of projected climate change, the trends are clear. The nature and pace of climate changes being observed today . . . pose . . . grave implications for our national security.

And, of course, as the Presiding Officer knows, in the 5 years since, the evidence has tracked the worst of those climate change projections, not the most gentle.

Our Nation's top military strategists, our Nation's top researchers, the National Research Council, and the National Academy of Sciences all have recommended that our national security institutions prepare for threats caused by climate change.

On the other hand, we have a tiny fringe of scientists, many of whom are funded by industry, that denies these facts and urges us to maintain the status quo. In effect, that little fringe urges us to do nothing. This is the same strategy, often the same organizations, and in some cases even the same people who denied in the past that cigarettes are bad for us or that lead paint harms children. They are professional, industry-paid deniers at large.

The choice is a clear one, and I recommend we follow the findings of our military leaders. They have determined that climate change is real and that our national security requires us to reject the false science of the climate deniers.

The National Intelligence Council has identified more than 30 U.S. military installations that are threatened by risks associated just with rising sea levels. One is Diego Garcia. It is a small island south of India and home to a logistics hub for U.S. and British forces in the Middle East and to Air Force Satellite Control Network equipment. The Navy reports that the average elevation of Diego Garcia is approximately 4 feet. Even absent a

storm or tsunami, this installation is threatened by inundation from slow and steady sea level rise.

The Norfolk Naval Air Station and Naval Base on the southern end of the Chesapeake Bay is the Navy's largest supply center and home to the U.S. Atlantic fleet. A New York Times analysis this past weekend using U.S. Geological Survey and NOAA data showed that a 5-foot sea level rise would permanently flood portions of that base. The base is at continuing risk, of course, from storm surges. By the way, a 5-foot sea level rise is now predicted to be a possibility in this century.

Eglin Air Force Base on Florida's gulf coast, the largest Air Force base in the world, is threatened by storm surge, sea level rise, and saltwater infiltration. We know that climate change loads the dice for more and more severe extreme weather.

Retired Brigadier General Steven Anderson and retired Lieutenant General Daniel Christman recently used Hurricane Katrina as an example of how extreme weather can cause what they call "negative operational impacts" to our military. In response to Katrina, the National Guard mobilized 58,000 National Guard members to the relief effort at the same time that 79,000 Guard members were deployed fighting the war on terrorism. The generals pointed out that although Louisiana's physical infrastructure did not hold, our National Guard did hold. But the limits of even our exceptional National Guard would be tested by these changes in extreme weather, and it is imperative that we prepare our emergency management and responders for a new normal of new extremes.

Climate change will also create new strategic challenges. Climate events such as droughts and heat waves, floods and storms exacerbate political and military tensions in areas around the world with fragile governments and instability. This can result in violent conflict and in refugee problems.

It is not just the shock of extreme weather that portends danger. As the temperature of the air and ocean steadily rises, the amount of moisture in the atmosphere will change and the composition of the oceans will change. Habitats will change, growing conditions will be altered, and the snows and glaciers that feed great rivers will change, changing the seasonal flows of the rivers. The world's great agricultural deltas will face both those changes in the rivers and rising sea levels. All of these changes will disrupt food supplies and water resources. Many poorer regions are unprepared to deal with the effects of famine, drought, crop failure, flooding, and disease that can be anticipated. These slower moving climate disasters will create migration, competition for resources, and government instability that in turn sets the stage for more international unrest.

Last, the changing environment will affect our military's operating environ-

ment. Sea ice in the Arctic is already vanishing, and new Arctic waterways are opening. In September, Reuters reported that the first Chinese icebreaker crossed the Arctic, with the expedition leader explaining how surprised he was to find the route to be so open. In addition to new shipping routes, the reduction in Arctic sea ice makes oil, gas, and mineral exploration more likely there. These new operational challenges will expand the Coast Guard's mission along our Arctic borders and the Navy's mission in the Arctic Ocean.

The Department of Defense and our intelligence community have accepted the science of climate change and the fact that we need to prepare for it. We customarily rely on the professional judgments of the sober and thoughtful leaders of these great national security organizations. Their assessments are based on sound and comprehensive science and analysis. I respect the solemn mission our national security institutions have to protect the United States and its interests, and I trust their judgment.

Their judgment is echoed by significant Republican leaders. Our former colleague, Senator John Warner, Republican of Virginia, who was the chairman of the Senate Armed Services committee, has said:

Leading military and security experts agree that if left unchecked, global warming could increase instability and lead to conflict in already fragile regions of the world.

He continued:

We ignore these facts at the peril of our national security and at great risk to those in uniform who serve this nation.

George Shultz was Secretary of Treasury and Labor and Director of the Office of Management and Budget under President Nixon, and the Secretary of State under President Reagan. He leads the Hoover Institution's Shultz-Stephenson Task Force on Energy Policy and has also served on the advisory boards of Stanford's Precourt Institute for Energy and MIT's Energy Initiative. In his words, ". . . the globe is warming, which is not a matter of opinion, but a matter of fact. The arctic is melting. If you could bring together the constituencies concerned with national security, the economy and the environment—both local and global—that would be a potent coalition."

So I hope Members on both sides of the aisle can agree that when it comes to protecting our American interests at home and abroad, we should believe our national security institutions when they warn us of the security and strategic implications of climate change rather than align ourselves with a questionable fringe of industry-allied deniers. Ultimately, as I have said before on this floor, we are beholding to our children and grandchildren to do something about the carbon pollution that is causing this climate change. And history's verdict for our failure will be harsh.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, in a moment I am going to ask unanimous consent that we proceed to a debate, to Senator FEINSTEIN, who will speak on an amendment that she intends to offer but not offer it at this time. I will then ask she be followed by Senator PAUL, who will speak on that same amendment. It is our intention then to move to a vote on the Leahy amendment to improve the Public Safety Officers' Benefits Program. This falls within the jurisdiction of the Judiciary Committee, but the chairman, whose amendment it is, and the ranking member, Senator GRASSLEY, have both approved this amendment, and I would simply alert other Senators that if they wish to speak on this amendment, for or against, that it is our intention to proceed to a vote on the Leahy amendment following the speaking of Senator PAUL and Senator FEINSTEIN.

So I ask unanimous consent that the Senate proceed in that way.

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

Mr. LEVIN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the distinguished chairman.

I am going to offer an amendment—a version of it was introduced as a separate bill last year as S. 2003. The cosponsors of the amendment are Senators PAUL, LEE, COONS, COLLINS, LAUTENBERG, GILLIBRAND, and KIRK. I ask unanimous consent to add Senators TESTER, JOHNSON of South Dakota, SANDERS, WHITEHOUSE, and HELLER as cosponsors to the amendment.

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

Mrs. FEINSTEIN. This amendment is almost identical to the bill I introduced a year ago. That bill has a bipartisan group of 30 cosponsors. It is called the Due Process Guarantee Act, and the co-sponsors include five Republicans: Senators LEE, PAUL, COLLINS, KIRK, and MORAN. Thanks to Chairman LEAHY, the bill had a hearing earlier this year in the Judiciary Committee, as the Presiding Officer will so note, on February 29, 2012.

The amendment I will offer clarifies questions that arose during last year's defense authorization bill about the U.S. Government's power to detain its citizens indefinitely. Last year's bill had detention provisions in it that never had a hearing in the Judiciary Committee, the Intelligence Committee, or the Armed Services Committee.

Let me just take a minute to describe why this is such an important issue for me.

When I was a very young girl—I remember it was a Sunday because my father worked every other day of the week—my father took me down to a racetrack just south of San Francisco



called Tanforan. It was the beginning of World War II. The racetrack was then a staging point for Japanese Americans en route to more permanent detention centers.

Here is the edict that was put out:

Western Defense Command and Fourth Army Wartime Civil Control Administration, Presidio of San Francisco, California, April 1, 1942, Instructions to All Persons of Japanese Ancestry, Living in the Following Area:

Then it describes the area. It says:

All Japanese persons, both alien and non-alien, will be evacuated from the above designated area by 12:00 o'clock noon Tuesday, April 7, 1942.

No Japanese person will be permitted to enter or leave the above described area after 8:00 a.m., Thursday, April 2, 1942, without obtaining special permission from the Provost Marshal of the Civil Control Station.

This was an order which remanded all persons of Japanese ancestry into custody for the duration of World War II.

Let me show you a little of what these facilities looked like. Shown in this picture I have in the Chamber is Tanforan Racetrack, and these are the barracks that were put up to house Japanese-American citizens and non-citizens—only because they were of Japanese ancestry.

In this next picture, this is what it looked like close up. This is a young person walking out of this small cell in that barrack.

In this next picture, these are Japanese Americans standing in line—and here is the racetrack—either to get food or for some other reason.

This stuck in my memory, and I believe it was a stain on the greatness of this country. As I saw the barbed wire, these men, women, and children housed in horse stables, in small buildings, as you can see, it was an experience I will never forget.

To ensure that this shameful experience was never repeated, almost 30 years after the 1942 evacuation order was issued, Congress passed and President Nixon signed into law the Non-Detention Act of 1971, which repealed a 1950 statute that explicitly allowed detention of U.S. citizens without charge or trial.

The Non-Detention Act of 1971 clearly states:

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

Despite this history, during last year's debate on the Defense authorization bill some in this body advocated for the indefinite detention of American citizens. This is an issue that has been the subject of much legal controversy since 9/11.

Proponents of indefinitely detaining citizens apprehended in the U.S. argue that the Authorization for Use of Military Force—what we call the AUMF—that was enacted in the wake of 9/11 is “an act of Congress,” in the language of the Non-Detention Act, that authorizes the indefinite detention of Amer-

ican citizens regardless of where they are captured.

They further assert that their position is justified by the U.S. Supreme Court's plurality decision in the 2004 case of *Hamdi v. Rumsfeld*. However, that position is undercut by the 2003 case of *Padilla v. Rumsfeld* in the Second Circuit Court of Appeals. So we have a kind of muddle.

But let me discuss the facts of the *Hamdi* case because it is important to note that Yaser Esam Hamdi was a U.S. citizen who took up arms on behalf of the Taliban and was captured on the battlefield in Afghanistan. The Supreme Court effectively did uphold his military detention, so some of my colleagues seize upon this to say that the military can today indefinitely detain even U.S. citizens who are arrested domestically.

However, the Supreme Court's opinion in that case was a decision by a 4-to-4 plurality that recognized the power of the government to detain U.S. citizens captured abroad as “enemy combatants” for some period, but otherwise repudiated the government's broad assertions of executive authority to detain citizens without charge or trial.

To the extent the *Hamdi* case permits the government to detain a U.S. citizen “until the end of hostilities,” it does so only under a very limited set of circumstances; namely, citizens taking an active part in hostilities who are captured in Afghanistan and who are afforded certain due process protections, at a minimum.

Additionally, decisions by the lower courts have contributed to the current state of ambiguity. For example, consider those decisions involving Jose Padilla, a U.S. citizen who was arrested in Chicago. He was initially detained pursuant to a material witness warrant based on the 9/11 terrorist acts.

In *Padilla*, the Second Circuit held that AUMF did not authorize his detention, saying:

We conclude that clear congressional authorization is required for detentions of American citizens on American soil because . . . the Non-Detention Act . . . prohibits such detentions absent specific congressional authorization.

The Second Circuit went on to say that the 2001 Authorization for Use of Military Force—and I quote—“is not such an authorization, and no exception to [the Non-Detention Act] otherwise exists.”

So here is the problem. We have the Supreme Court that says one thing in a limited way and a federal appeals court that says another thing on an issue not directly addressed by the Supreme Court. When we debated this issue on the Senate floor last year, the Senate ultimately agreed to a compromise amendment which passed by an overwhelming 99-to-1 vote. I worked on that with Senators LEE, PAUL, LEVIN, MCCAIN, DURBIN, LEAHY, and the amendment provided the following:

Nothing in this section shall be construed to affect existing law or authorities relating

to the detention of United States citizens, or lawful resident aliens of the United States, or any other persons who are captured or arrested in the United States.

Now, that was adopted to say, leave things as they are right now. It preserved the current state of the law, continuing to leave it to the courts to resolve who is right about whether the AUMF authorizes the military detention of anyone apprehended domestically.

I believe strongly the time has come now to end this legal ambiguity and to state clearly once and for all that the AUMF or other authorities do not authorize such indefinite detention of Americans apprehended in the United States.

To accomplish this, we are offering an amendment which affirms the continuing application of the principles behind the Non-Detention Act of 1971. It amends that act to provide clearly that no military authorization allows indefinite detention of U.S. citizens or green card holders who are apprehended inside the United States.

The amendment states, “An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States unless an Act of Congress expressly authorizes such detention.”

That affirms the Second Circuit's clear statement rule from the *Padilla* case. Some may ask why this amendment protects green card holders as well as citizens. Others may ask why the amendment does not protect all persons apprehended in the United States from indefinite detention? Let me be clear. I would support providing the protections in this amendment to all persons in the United States whether lawfully or unlawfully present.

But the question is, Is there enough support in this body to expand this amendment to cover others besides U.S. citizens and green card holders? I do not believe there is. We got 45 votes last year on a similar amendment protecting U.S. citizens. We have reworked the amendment and gained more support this year, as reflected in the co-sponsors we have today. So my hope is that at least we can clear up the law with strong protections for citizens and legal permanent residents.

Wherever we draw the line on who should be covered by this legislation, I believe it violates fundamental American rights to allow anyone apprehended in the United States to be detained without charge or trial. The FBI and other law enforcement agencies have proven time and time again they are up to the challenge of detecting, stopping, arresting, and convicting terrorists found on U.S. soil, having successfully arrested, detained, and convicted hundreds of these heinous people, both before and after 9/11.

For example, since January 2009, 98 individuals have been successfully arrested inside the United States by the

FBI and other Federal or local law enforcement officers on terrorism-related charges. Last month, the staff of the Senate Intelligence Committee compiled a list of the individuals arrested in the past 4 years as part of more than 50 different terrorism investigations. The list was based on publicly available information from the FBI, the Congressional Research Service, and media reports. I have it here and I ask unanimous consent to have the list printed in the RECORD.

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

TERRORIST ARRESTS AND PLOTS STOPPED IN THE UNITED STATES 2009-2012

(COMPILED BY SENATE INTELLIGENCE COMMITTEE STAFF BASED ON PUBLICLY AVAILABLE INFORMATION FROM THE FBI, THE CONGRESSIONAL RESEARCH SERVICE, AND MEDIA REPORTS)

(1) Ralph Deleon, (2) Miguel Alejandro Santana Vidriales (Santana), (3) Arifeen David Gojali—Conspiracy to Provide Material Support to Terrorism—November 2012.

On Friday, November 16, 2012, the FBI arrested Deleon, Santana, and Gojali who were planning to travel to Afghanistan to attend terrorist training and commit violent jihad. Deleon, of Ontario, California, is a lawful permanent resident alien, born in the Philippines. Santana, of Upland, California, is a lawful permanent resident, born in Mexico, and whose application for citizenship is pending in the U.S. Gojali, of Riverside, California, is a United States citizen. According to a criminal complaint filed in U.S. District Court in the Central District of California, the defendants conspired to provide material support to terrorists knowing or intending that such support was to be used in preparation for or in carrying out: conspiracy to kill, kidnap, maim, or injure persons and damage property in a foreign country; killing and attempting to kill officers and employees of the United States; killing nationals of the United States; conspiracy to use a weapon of mass destruction outside the United States; and bombing places of public use and government facilities. The complaint further alleges that Santana, Deleon, and Gojali conducted preliminary training in southern California at firearms and paintball facilities to prepare for terrorist training overseas.

(4) Quazi Mohammad Rezwanaul Ahsan Nafis—Plot to Bomb New York Federal Reserve Bank—October 2012.

On October 17, 2012, the FBI arrested Ahsan Nafis, a Bangladeshi national, as he attempted to detonate what he believed to be a 1,000-pound bomb at the New York Federal Reserve Bank in lower Manhattan's financial district. The defendant faces charges of attempting to use a weapon of mass destruction and attempting to provide material support to Al Qaeda. According to an FBI press release, the accused, "traveled to the United States in January 2012 for the purpose of conducting a terrorist attack on U.S. soil. Nafis, who reported having overseas connections to Al Qaeda, attempted to recruit individuals to form a terrorist cell inside the United States. Nafis also actively sought out Al Qaeda contacts within the United States to assist him in carrying out an attack."

(5) Adel Daoud—Plot to Bomb Downtown Chicago Bar—September 2012.

On Friday September 14, 2012, Adel Daoud attempted to detonate what he believed to be a car bomb outside a bar in downtown Chicago. Daoud, a U.S. citizen, was arrested as part of an ongoing FBI counterterrorism op-

eration after he was discovered on the Internet seeking information on how to conduct terrorist attacks. According to an FBI press release, "In about May 2012, two FBI online undercover employees contacted Daoud in response to material Daoud posted online and thereafter exchanged several electronic communications with Daoud. According to the affidavit, during these communications Daoud expressed an interest in engaging in violent jihad, either in the United States or overseas."

(6) Douglas L. Wright, (7) Brandon L. Baxter, (8) Anthony Hayne, (9) Connor C. Stevens, and (10) Joshua S. Stafford—Plot to Bomb Brecksville-Northfield High Level Bridge in Ohio—May 2012.

These five men were arrested on May 1, 2012 after they attempted to detonate an explosive device set on the Brecksville-Northfield High Level Bridge in Ohio that was given to them by an undercover FBI agent. The accused men are self-proclaimed anarchists who considered carrying out a series of attacks, but ultimately decided to target the bridge in Ohio after an initial plot to use smoke grenades to distract law enforcement in order for co-conspirators to topple financial institution signs atop high rise buildings in downtown Cleveland failed to materialize. "The defendants conspired to obtain C-4 explosives contained in two improvised explosive devices to be placed and remotely detonated," according to the complaint.

(11) Bakhtiyor Jumaev and (12) Jamshid Muhtorov—Conspiracy to Provide Material Support to the Islamic Jihad Union (IJU)—March 2012.

On March 15, 2012, the FBI arrested Bakhtiyor Jumaev who was charged with one count of conspiracy to provide material support to the Islamic Jihad Union (IJU). The FBI had been conducting an investigation into the activities of Jumaev and his associate, Jamshid Muhtorov, who was arrested in January 2012 on similar charges. Jumaev and Muhtorov had pledged support for the IJU and Jumaev sent funds to Muhtorov, specifically intended for the IJU. The U.S. Government has designated the IJU as a Foreign Terrorist Organization.

(13) Amine El Khalifi—Plot to carry out a Suicide Bomb Attack against the U.S. Capitol—February 2012.

Amine El Khalifi, an illegal immigrant from Morocco, was arrested on February 17, 2012 for attempting to detonate a bomb in what was envisioned to be a suicide attack against the U.S. Capitol Building. According to an FBI press release, "El Khalifi allegedly traveled to a parking garage near the U.S. Capitol building. El Khalifi took possession of a MAC-10 automatic weapon and put on a vest containing what he believed to be a functioning bomb. Unbeknownst to El Khalifi, both the weapon and the bomb had been rendered inoperable by law enforcement. El Khalifi walked alone from the vehicle toward the United States Capitol, where he intended to shoot people and detonate the bomb. El Khalifi was arrested and taken into custody before exiting the parking garage." The FBI made initial contact with Khalifi in January 2011. Over the course of the year he cited his anger over the "war on terrorism" and the "war on Muslims" as his rationale behind planned attacks against a military installation and a restaurant in Washington D.C. After acquiring and testing dummy explosives given to him by FBI affiliates, Khalifi modified his plans to conduct a suicide attack against the U.S. Capitol.

(14) Sami Osmakac—Plot to Bomb Locations in Tampa, Florida—January 2012.

On January 7, 2012, the FBI arrested Sami Osmakac, a naturalized U.S. citizen born in the former Yugoslavia (Kosovo) on one count

of attempted use of a weapon of mass destruction. The FBI used a sting operation to apprehend Osmakac who was 25 years old at the time of his arrest. According to FBI investigators, in September 2011, an FBI source reported that Osmakac and another person had asked for Al Qaeda flags at the source's business. The source continued to interact with Osmakac and report to the FBI about his activities. Osmakac allegedly expressed interest in obtaining firearms and explosives for attacks he was planning in the Tampa area, and the source introduced him to an FBI undercover employee reputed to have access to such materials. The undercover employee supplied Osmakac with hand grenades, an assault rifle, a pistol, a car bomb, and an explosive belt. Osmakac was unaware that the items actually did not work. In the course of his plotting Osmakac purportedly discussed targets such as "night clubs in the Ybor City area of Tampa, the Operations Center of the Hillsborough County Sheriff's Office in Ybor City, and a business in the South Tampa," according to a DOJ press release. Muslims in Tampa reportedly aided the FBI in its investigation. Osmakac purportedly exhibited extremist views prompting at least one local Muslim to tell authorities about him.

(15) Jose Pimentel—Plot to Bomb New York City Targets and Troops Returning from Combat Overseas—November 2011.

On November 19, 2011, New York City police arrested a convert to Islam named Jose Pimentel on terrorism charges. According to New York City Police Commissioner Raymond W. Kelly, Pimentel purportedly discussed killing U.S. military personnel returning home from Iraq and Afghanistan, in conjunction with bombing post offices in and around Washington Heights and police cars in New York City, as well as a police station in Bayonne, N.J. The alleged would-be bomber was building explosive devices when he was arrested after two years of surveillance by the New York City Police Department (NYPD). Pimentel reportedly discussed his plans with an individual he did not know was a NYPD criminal informant. Pimentel sympathized with Al Qaeda and drew inspiration from now-deceased radical cleric Anwar al-Awlaki. The alleged would-be bomber purportedly tried but failed to correspond with Awlaki via e-mail, and the cleric's death may have sped up Pimentel's plotting. According to the criminal complaint filed in the case, the NYPD tracked Pimentel's internet activity, finding that Pimentel had posted online pro-Al Qaeda material as well as an article detailing how to make a bomb from Inspire Magazine. Working in the apartment of an NYPD criminal informant, Pimentel supposedly followed Inspire's bomb making instructions, scraping match heads, collecting the incendiary material, as well as drilling holes in three pipes, among other steps.

(16) Mansour Arbabsiar—Plot to Assassinate the Saudi Ambassador to the United States—October 2011.

Mansour Arbabsiar was arrested after he approached a DEA informant, who he believed was a member of Los Zetas, to hire the cartel to carry out a terrorist attack against the Saudi ambassador at a restaurant in Washington. Mr. Arbabsiar had many connections to Iran's military and the Qods Force.

(17) Rezwana Ferdaus—Plot to Attack U.S. Capitol and Pentagon—September 2011.

On September 28, Rezwana Ferdaus, a U.S. citizen from Ashland, MA, was arrested on terrorism charges. He allegedly plotted to attack the Pentagon and the U.S. Capitol with explosives-laden remote-controlled airplanes. According to DOJ, he also planned a ground assault in conjunction with his aerial

attack, intending to use firearms and to involve six conspirators in this phase of his plot. Ferdaus also purportedly attempted to provide Al Qaeda with modified cell phones he believed would be used as detonators for improvised explosive devices intended to harm U.S. soldiers abroad. As described by DOJ, FBI undercover employees acting as members of Al Qaeda supplied Ferdaus with money, fake explosives for the airplanes, firearms, and hand grenades. In turn, (among other things) Ferdaus provided the cell phone detonators to these phony Al Qaeda recruiters as well as a training video on how to construct them. Ferdaus supposedly began plotting in 2010. In January 2011, he discussed his plans with an FBI informant. In May 2011, he visited the Washington, DC, area to conduct surveillance of his targets and view the site from which he intended to launch his remote-controlled airplanes. According to the FBI, Ferdaus believed that one of his airplanes could collapse the Capitol dome.

(18) Agron Hasbajrami—Plot to Fight in Pakistan—September 2011.

On September 6, 2011, Agron Hasbajrami was arrested at John F. Kennedy International Airport in New York City as he tried to board a flight to Turkey. Hasbajrami allegedly planned to join a jihadist fighting group in the Federally Administered Tribal Areas of Pakistan. He also purportedly sent more than \$1,000 to Pakistan to support the efforts of a militant with whom he communicated.

(19) Naser Abdo—Plot to Attack Targets Near Fort Hood—July 2011.

On July 27, 2011, U.S. Army Private Naser Abdo was arrested near Fort Hood in Texas for allegedly plotting a shooting spree and bombing in the area—near the same place where Army Major Nidal Hasan reportedly killed 13 individuals in 2009. Abdo, described in the media as a Muslim soldier in the 101st Airborne Division at Fort Campbell, KY, was supposedly absent without leave from the Army after applying for conscientious objector status. A November 2011 superseding indictment charged Abdo with one count of attempted use of a weapon of mass destruction, one count of attempted murder of officers or employees of the United States, two counts of possession of a firearm in furtherance of a federal crime of violence, and two counts of possession of a destructive device in furtherance of a federal crime of violence. Abdo allegedly purchased gunpowder, shotgun ammunition, and a magazine for a semi-automatic pistol at a gun store near Fort Hood. An employee at the gun store supposedly brought Abdo to the attention of law enforcement officers. Federal officials have noted that Abdo also possessed a .40 caliber handgun, bomb making materials, and an article on how to construct an explosive device, among other items. The article was from Inspire, an English-language magazine produced by Al Qaeda in the Arabian Peninsula.

(20) Ulugbek Kodirov—Plot to Assassinate President Obama—July 2011.

Ulugbek Kodirov, an Uzbek living in Alabama, was arrested when he sought assistance to kill President Obama either by shooting him or using explosives. The affidavit said that the source whom Kodirov contacted for help told authorities that Kodirov supported Islamic extremists and regularly viewed jihadist websites.

(21) Emerson Begolly—Plot to Encourage Jihadist Acts in the United States—July 2011.

On July 14, 2011, Emerson Begolly, a U.S. citizen from New Bethlehem, PA, was indicted for attempting to encourage jihadists to commit acts of terrorism within the United States and distributing information related to explosives online. In August 2011,

he pleaded guilty to “soliciting others to engage in acts of terrorism within the United States and to using a firearm during and in relation to an assault on FBI agents.” According to DOJ, Begolly posted “links to a 101-page document that contain[ed] information on how to set up a laboratory, conduct basic chemistry, and manufacture explosives.”

(22) Abu Khalid Abdul-Latif and (23) Walli Mujahidh—Plot to Attack Seattle Military Processing Center—June 2011

On June 22, 2011, Abu Khalid Abdul-Latif and Walli Mujahidh, were arrested on terrorism and firearms charges for plotting to attack a Seattle military processing center. An FBI sting operation apprehended the two as they took possession of machine guns they had purchased for the plot. The firearms had been rendered inert as part of the sting operation. Assistant Attorney General for National Security Todd Hinnen described the plot as, “driven by a violent, extreme ideology.” While the two reportedly had not worked out all of the details of their plot, they allegedly were frustrated by “American war policies” and hoped for an attack that would garner wide attention.

(24) Yonathan Melaku—Plot to Shoot Targets in Washington, DC, Area—June 2011

On June 23, 2011, DOJ announced that Yonathan Melaku, an Ethiopian native living in Alexandria, VA, was charged with destruction of property and firearm violations. These charges stemmed from five shootings at military installations in Northern Virginia between October and November 2010. No one was harmed in the shootings. It is unclear to what extent Melaku, a Marine Corps reservist, was driven by jihadist motivations; however, investigators linked Melaku to a spiral notebook with numerous Arabic statements referencing the Taliban, Al Qaeda, Osama bin Laden, “The Path to Jihad,” as well as a list of several other individuals associated with foreign terrorist organizations. Law enforcement officials also found a video when they searched Melaku’s bedroom. It reportedly depicted “Melaku in an automobile driving near what appears to be the U.S. Marine Corps Heritage Museum and repeatedly firing a handgun out the passenger-side window.” In the video, he allegedly states, “that’s my target. That’s the military building. It’s going to be attacked,” and then he shouts, “Allah Akbar.”

(25) Waad Ramadan Alwan and (26) Mohamad Shareef Hammadi—Material Support to Al Qaeda in Iraq—May 2011

Alwan and Hammadi were arrested on May 25, 2011 in Kentucky on charges to commit conspiracy to kill U.S. nationals abroad and provide material support, including weapons, to Al Qaeda in Iraq among other charges.

(27) Ahmed Ferhani and (28) Mohamed Mamdouh—Plot to Attack New York City Targets—May 2011

On May 12, 2011, Ahmed Ferhani (an Algerian native living in Queens, NY) and Mohamed Mamdouh (a naturalized U.S. citizen from Morocco) were arrested for plotting to blow up a synagogue as well as churches in New York City. However, the duo had not chosen a specific target. New York City officials alleged that Ferhani was driven by a hatred of Jews and a belief that Muslims are mistreated the world over. He and Mamdouh allegedly had purchased firearms and a hand grenade from an undercover detective posing as a gun dealer.

(29) Joseph Jeffrey Brice—Testing Explosives and Proving Material Support to Terrorists—May 2011

Joseph Jeffrey Brice was arrested on charges of manufacturing an unregistered firearm and later an additional charge of providing material support for terrorism. Police began to take an interest in Mr. Brice

after he was seriously injured in April 2010 while testing a homemade bomb. Investigators discovered videos Brice posted that depicted suicide bombings in Pakistan and links to a terrorism magazine with instructions on how to make explosives. He also posted bomb making videos to YouTube under the name “StrengthofAllah.” Mr. Brice also plotted with an unidentified man to rob a Zions First National bank in Idaho although the plot was never acted upon. Authorities believe Brice was not a Muslim; rather, he assumed a Muslim identity online in order to sell his bomb-making expertise.

(30) Hafiz Muhammed Sher Ali Khan, (31) Irfan Khan, and (32) Izhar Khan,—Material Support to the Pakistani Taliban—May 2011

Six individuals located in South Florida and Pakistan were indicted in the Southern District of Florida on charges of providing financing and other material support to the Pakistani Taliban, a designated foreign terrorist organization. Three of them were located abroad. Hafiz Muhammed Sher Ali Khan, Irfan Khan, and Izhar Khan were arrested in the U.S.

(33) Kevin William Harpham—Attempt to Use an Explosive Device—March 2011

On March 9, 2011, Kevin Harpham was arrested for placing an explosive device alongside a planned Martin Luther King Jr. Day Unity March. Harpham admitted that he was a white supremacist and white separatist.

(34) Khalid Ali-M Aldawsari—Plot to Bomb U.S. Targets—February 2011

On February 23, 2011, FBI agents arrested Khalid Ali-M Aldawsari, a citizen of Saudi Arabia and resident of Lubbock, TX. He was charged with attempted use of a weapon of mass destruction. He also allegedly plotted to purchase material to make an improvised explosive device and had researched potential U.S. targets. A chemical supplier provided information to the FBI about a suspicious attempted purchase by Aldawsari. Prosecutors have stated that among the targets Aldawsari researched was the home address for former President George W. Bush. He also researched the names and home addresses of three American soldiers who had previously served at Abu Ghraib prison in Iraq.

(35) Roger Stockham—Plot to Attack Shia Mosque in Michigan—January 2011

Roger Stockham was arrested on January 24, 2011 outside the Islamic Center of America in Dearborn, Michigan. Mr. Stockham, a Vietnam veteran from Southern California, was caught with explosives in his vehicle outside the Michigan mosque. Authorities found a large but undisclosed quantity of class-C fireworks including M-80s, which are banned in Michigan, in his car. Mr. Stockham had a history of mental health issues and criminal acts ranging from kidnappings to attempted bombings.

(36) Antonio Martinez—Plot to Bomb Armed Forces Recruiting Center—December 2010

Antonio Martinez (aka Muhammad Hussain), a U.S. citizen from Baltimore was charged with attempting to detonate a bomb outside of a U.S. Armed Forces recruiting center in Catonsville, Maryland on December 8, 2010. Unbeknownst to him, Mr. Martinez was working with undercover FBI agents the whole time as they had been monitoring him since October 1, 2010 when a confidential source tipped off authorities to the potential danger. Martinez had attempted to recruit up to five other people to his plot, but they all declined to help him.

(37) Mohamed Osman Mohamud—Plot to Bomb Christmas Tree Lighting Ceremony—November 2010

Mohamed Osman Mohamud a US Citizen from Somalia was charged with attempting to detonate a vehicle bomb at a Christmas

tree lighting ceremony in Portland, OR on November 26, 2010. The arrest was the culmination of a months-long investigation and the explosives he was trying to detonate were inert. Mohamad was in touch with contacts in Pakistan and he was trying to travel overseas to engage in a violent jihad, according to the FBI. Mohamad told undercover agents that he had been trying to commit a violent jihad for 4 years, since he was 15.

(38) Mohamad Abdi Yusuf and (39) Abdi Mahdi Hussein—Material Support to Al-Shabaab and Conspiracy to Structure Financial Transactions—November 2010

On November 1, 2010, Mohamad Abdi Yusuf was arrested on charges of providing material support to al Shabaab and one charge of conspiracy to structure financial transactions. Abdi Mahdi Hussein was arrested one day later on a charge of conspiracy to structure financial transactions. The indictment alleged that Yusuf and Hussein sent funds to al Shabaab supporters in Somalia from licensed money remitting businesses operating in the United States, in part by using fictitious names and telephone numbers to conceal the nature of their activities.

(40) Farooque Ahmed—Plot to Bomb Washington, DC, Subway Stations—October 2010

Farooque Ahmed was arrested on October 27, 2010, and charged with conspiring with others he believed to be Al Qaeda operatives to bomb subway stations in Washington, DC. His co-conspirators turned out to be undercover law enforcement officers.

(41) Abdel Hameed Shehadeh—Travel Abroad to Wage Jihad—October 2010

Abdel Hameed Shehadeh was arrested on October 22, 2010, in Honolulu, HI. Among the accusations against him were that he tried to join the U.S. military so he could be deployed to Iraq but would desert and fight with anti-American insurgency forces.

(42) Sami Samir Hassoun—Plot to Detonate an Explosive Device—September 2010

Sami Samir Hassoun was charged with one count each of (1) attempted use of a weapon of mass destruction and (2) attempted use of an explosive device after placing a backpack which he thought contained an explosive device into a curbside trash receptacle near a crowded nightclub.

(43) Amina Ali and (44) Hawo Hassan—Material Support to Terrorist Group al Shabaab—August 2010

On August 15, 2010, 2 Americans and 12 others were charged with terrorism-related crimes linked to the Somali-based organization known as al Shabaab. There were only two arrests of Amina Ali and Hawo Hassan women charged with raising money to support al Shabaab through door-to-door solicitations and teleconferences in Somali communities in Minnesota. Indictments were also unsealed in Minnesota, Alabama, and California charging the other 12 individuals who were believed to be fugitives in Somalia.

(45) Shaker Masri—Attempted Travel to Somalia or Afghanistan to Fight—August 2010

Shaker Masri was arrested by the FBI on August 3, 2010, just before he was allegedly planning to travel to Somalia or Afghanistan to join either al-Shabaab or Al Qaeda. The FBI used a cooperating source who met Masri in November 2008 and subsequently consensually recorded conversations with him for the investigation. According to court documents, Masri encouraged the cooperating source to “review speeches” by Anwar al-Awlaki.

(46) Paul Gene Rockwood and (47) Nadia Rockwood—Charged with Perjury in a Terrorism Investigation—July 2010

Both Paul Rockwood and his wife pleaded guilty to one count of willfully making false statements to the FBI involving terrorism. According to the plea agreements and other

documents filed with the court, Paul Rockwood converted to Islam, and later became a strict adherent to the violent jihad-promoting ideology of cleric Anwar Al-Awlaki. According to the filed court documents, after he moved to King Salmon, Alaska in 2006, Paul Rockwood continued his adherence to Al-Awlaki's ideology and by early 2010, he formalized a target list to include 15 specific locations all outside the state of Alaska. In April 2010, Paul Rockwood gave his written target list to his wife, Nadia, who, knowing of its purpose, carried the list with her on a trip to Anchorage. The FBI's Joint Terrorism Task Force (JTTF) subsequently obtained the target list. On May 19, 2010, JTTF agents questioned Paul Rockwood and provided him a copy of the target list. In response to agents' questions, Rockwood made false statements, denying he had created such a list, denying the purpose of the list and denying ever having such a list. JTTF agents also questioned Nadia Rockwood on May 19, 2010, about transporting the target list authored by her husband to another person. In response, Nadia Rockwood also made false statements to FBI agents.

(48) Zachary Adam Chesser and (49) Proscovia Kampire Nzabanita—Conspiracy to Murder “South Park” Creators—July 2010

On July 21, 2010, Zachary Adam Chesser, of Fairfax County, Va., was arrested on charges that he provided material support to al-Shabaab, a designated foreign terrorist organization. According to court documents, Chesser maintained several online profiles dedicated to extremist jihad propaganda. Chesser eventually admitted to encouraging violent jihadists to attack the writers of South Park, including highlighting their residence and urging online readers to “pay them a visit.” Chesser's wife, Proscovia Kampire Nzabanita, eventually pleaded guilty to making a false statement to an FBI agent during the course of the FBI's investigation of her husband.

(50) Mohamed Alessa and (51) Carlos Almonte—Attempting Material Support to Terrorism—June 2010

On June 5, 2010, two New Jersey residents, Mohamed Alessa and Carlos Almonte, were arrested at JFK in New York prior to boarding separate flights to Egypt. Authorities alleged the two had hoped to eventually link up with al-Shabaab in Somalia. The following day, they were charged with conspiracy to kill Americans abroad. They are alleged to have vowed to “slice up” troops in “a thousand pieces,” according to the criminal complaint which cites conversations secretly recorded by a NYPD undercover officer.

(52) Tarek Mehanna—Providing Material Support to Al Qaeda—June 2010

Tarek Mehanna (of Sudbury, Massachusetts) and Ahmad Aboursamra (a fugitive in Syria) were charged with conspiring to aid Al Qaeda, as well as attempting to commit murder in a foreign country, conspiracy to commit provide false information to law enforcement, as well as a number of other counts of false statements to law enforcement. Only Mehanna was arrested.

(53) Barry Walter Bujol, Jr.—Attempting to Provide Material Support to Al Qaeda—June 2010

Barry Walter Bujol, Jr. was charged with attempting to provide material support to AQAP and aggravated identity theft.

(54) Faisal Shahzad—Attempted Car Bombing in Times Square—May 2010

Faisal Shahzad was arrested on May 3, 2010 and eventually pleaded guilty to 10 crimes stemming from attempting to detonate a car bomb in Times Square on May 1, 2010. Shahzad was apprehended after being identified at JFK Airport after U.S. Customs agents recognized him from video taken at

Times Square. Two other individuals were indicted in connection with this terrorist plot:

(55) Mohammad Younis was arrested in September 2010 and accused of operating an unlicensed money transmitting business which provided funds to Faisal Shahzad. There are no allegations, however, that Younis was aware of the intended use of the money. In the indictment, he was charged with operating an unlicensed money transfer business between the United States and Pakistan and conspiracy to operate an unlicensed money transfer business. In August 2011, he pleaded guilty to the former charge.

(56) Aftab Ali was charged in a criminal complaint in November 2010 with immigration fraud and making false statements. The complaint alleges that Ali provided \$4,900 to Shahzad in February 2010 as part of a hawala transaction. The complaint does not allege that Ali was aware of the intended use of the money by Shahzad, but in April 2011, Ali pleaded guilty to charges of unlicensed money transmitting and immigration document fraud. He was sentenced to time served and ordered to be deported.

(57) Khalid Ouazzani—Providing Material Support to Al Qaeda—May 2010

Ouazzani swore an oath of allegiance to Al Qaeda in June 2008. Ouazzani admitted that, from August 2007 to February 2010, he participated in a conspiracy to provide material support or resources to Al Qaeda. Ouazzani admitted that he personally provided more than \$23,000 to Al Qaeda and performed other tasks at the request of and for the benefit of Al Qaeda. Ouazzani also had conversations with others about various ways to support Al Qaeda, including plans for them to fight in Afghanistan, Iraq, or Somalia.

(58) Wesam el-Hanafi and (59) Sabirhan Hasanoff—Providing Material Support to Al Qaeda—April 2010

Wesam el-Hanafi and Sabirhan Hasanoff were indicted for conspiring to provide material support, including computer advice and assistance, to Al Qaeda.

(60) Colleen R. LaRose, (61) Jamie Paulin Ramirez, and (62) Mohammad Hassan Khalid—Material Support to Terrorists—March 2010

On March 9, 2010 Colleen LaRose was charged with conspiracy to provide material support to terrorists, conspiracy to kill in a foreign country, making false statements to a government official, and attempted identity theft. The indictment charged that LaRose, an American citizen who went by the alias “Jihad Jane”, was part of a group who recruited men on the Internet to wage violent jihad in South Asia and Europe, and recruited women on the Internet who had passports and the ability to travel to and around Europe in support of violent jihad. Additionally, LaRose was accused of directly plotting to kill a citizen of Sweden. LaRose, aka “Jihad Jane,” pleaded guilty in February 2011 in the Eastern District of Pennsylvania and Ramirez pleaded guilty in the Eastern District of Pennsylvania in March 2011.

On April 2, 2010, Jamie Paulin Ramirez, a U.S. citizen and former resident of Colorado, was also charged with conspiracy to provide material support to terrorists, and linked to the same group as LaRose. The superseding indictment charged that LaRose and Ramirez traveled to and around Europe to participate in and in support of violent jihad.

Finally, on October 20, 2011, Mohammad Hassan Khalid was also charged with providing material support to terrorists linking back to the same case as LaRose and Ramirez. The indictment alleged that, from about 2008 through July 2011, Khalid conspired with LaRose, Ramirez, and others to provide material support and resources, including

logistical support, recruitment services, financial support, identification documents and personnel, to a conspiracy to kill overseas.

(63) through (71) Nine Members of Militia Group "The Hutaree" Charged with Attempted Use of Weapons of Mass Destruction—March 2010

Six Michigan residents, two Ohio residents, and a resident of Indiana were charged with attempted use of weapons of mass destruction among other charges. The indictment alleged that nine individuals who were part of the Lenawee County Michigan militia group called the Hutaree, conspired to oppose by force the authority of the U.S. government. The indictment further alleged that the Hutaree planned to kill an unidentified member of local law enforcement and then attack the law enforcement officers who gathered for the funeral. According to the plan, the Hutaree would attack law enforcement vehicles during the funeral procession with improvised explosive devices, which, according to the indictment, constitute weapons of mass destruction.

(72) Raja Ladrassib Khan—Provided Material Support to Al Qaeda—March 2010

Khan was arrested and charged with sending money orders to Ilyas Kashmiri, a Pakistani Al Qaeda Leader on multiple occasions knowing that the money was going to a terrorist organization.

(73) Hosam Maher Husein Smadi—Attempting to use a Weapon of Mass Destruction—March 2010

On September 24, 2009, Hosam Maher Husein Smadi was arrested and charged in a federal criminal complaint with attempting to use a weapon of mass destruction after he placed an inert/inactive car bomb near Fountain Place, a 60-story glass office tower in downtown Dallas. Smadi repeatedly espoused his desire to commit violent jihad and had been the focus of an undercover FBI investigation.

(74) Omer Abdi Mohamed—Conspiring to Provide Material Support to Murder, Kidnap, and Maim Abroad—November 2009

The indictment alleged that Omer Abdi Mohamed conspired to provide material support to kill, kidnap, maim, or injure persons in a foreign country. Among the activities alleged against Mohamed were that he recruited young men to send to Somalia to fight for al-Shabaab. In July 2011, Mohamed pleaded guilty to the charges filed against him.

(75) Abdow Munye Abdow—False Statements in a Terrorism Investigation—October 2009

On October 13, 2009, a federal grand jury returned a two-count indictment charging Abdow Munye Abdow with making false statements to the FBI after being stopped during a road trip from Minneapolis to Las Vegas with young men, allegedly facilitating their travel to Somalia to fight for al-Shabaab.

(76) David Coleman Headley and (77) Tahawwur Hussain Rana—Terrorism Conspiracy—October 2009

On October 29, 2009, David Coleman Headley and Tahawwur Hussain Rana were arrested for their alleged roles in conspiracies to provide material support and/or to commit terrorist acts against overseas targets, including facilities and employees of a Danish newspaper that published cartoons of the Prophet Mohammed in 2005. Eventually Headley pleaded guilty to a dozen charges of terrorism stemming from the November 2008 terrorist attack in Mumbai, India. Headley also admitted to attending training camps in Pakistan to prepare for terrorist attacks and to traveling to Mumbai to conduct surveillance in 2005.

(78) Najibullah Zazi, (79) Adis Medunjanin, and (80) Zarein Ahmedzay—Conspiracy to

Use Weapons of Mass Destruction—September 2009

On Sept. 8, 2009, Zazi drove from Denver to New York, carrying explosives and other materials necessary to build bombs and carry out attacks in New York City, including a plan to bomb the New York subway system. However, shortly after arriving in New York, Zazi learned that law enforcement was investigating his activities, so he traveled back to Denver, where he was arrested on Sept. 19, 2009. Medunjanin and Ahmedzay were later arrested in connection with Zazi's bombing plot. All three men had traveled to Pakistan for terrorist training and along with others, planned the New York terrorist attacks. Three other individuals were indicted in connection with this terrorist plot:

(81) Mohammed Wali Zazi, Najibullah Zazi's father was arrested in the fall of 2009 for lying to investigators. On February 1, 2010, he was indicted for conspiring to dispose of his son's bomb-making materials and chemicals. In July 2011, the elder Zazi was found guilty in federal court on one count of conspiracy to obstruct justice and one count of obstruction of justice.

(82) Ahmad Wais Afzali, a Queens Imam, was arrested for tipping off Zazi to the FBI investigation. Afzali had been a source of information for federal and New York City investigators in the past. On March 4, 2010, Afzali pleaded guilty to lying to federal officials. He stated in court that he lied about a conversation he had with Zazi tipping him off to the FBI's investigation.

(83) Naqib Jaji, Zazi's uncle, eventually pleaded guilty to obstructing justice.

(84) Michael Finton—Plot to Bomb the Springfield, Illinois, Federal Building—September 2009

On September 23, 2009, Michael C. Finton, who had converted to Islam was arrested after he drove a van he thought was loaded with explosives—but was actually full of inert materials provided to him by the FBI—to the Paul Findley Federal Building in Springfield, IL. Prosecutors say he parked and locked the vehicle, then moved a few blocks away before twice making cell phone calls he believed would trigger a blast that would kill or injure people inside the building. In May 2011, he pleaded guilty to attempting to bomb the building and was sentenced to 28 years in prison.

(85) Daniel Patrick Boyd, (86) Hysen Sherifi, (87) Anes Subasic, (88) Zakariya Boyd, (89) Dylan Boyd, (90) Mohammad Omar Aly Hassan, and (91) Ziyad Yaghi—Terrorism Violations—July 2009

On July 27, 2009, seven individuals in North Carolina were charged with conspiring to provide material support to terrorists and conspiring to murder, kidnap, maim, and injure persons abroad. The indictment alleged that Daniel Boyd and the other defendants conspired to provide material support and resources to terrorists, including currency, training, transportation, and personnel. The defendants also conspired to murder, kidnap, maim, and injure persons abroad during this period. The object of the conspiracy, according to the indictment, was to advance violent jihad.

(92) James Cromitie, (93) David Williams, (94) Onta Williams, and (95) Laguerre Payen—Plot to Blow up Synagogues and Shoot down U.S. Military Planes—May 2009

These four men were arrested for plotting to bomb synagogues in the Bronx, New York. Additionally, they planned to use Stinger, surface to air missiles, to shoot down military planes at New York Air National Guard Base. The men were contacted by FBI informants and given inert weapons, which they proceeded to try and use, which is when they were apprehended.

(96) Salah Osman Ahmed—Providing Material Support to al-Shabaab—July 2009

On February 19, 2009, Salah Osman Ahmed pleaded guilty to providing material support to al-Shabaab.

(97) Abdifatah Yusuf Isse—Providing Material Support to al-Shabaab—April 2009

On February 19, 2009, Abdifatah Yusuf Isse pleaded guilty to providing material support to al-Shabaab.

(98) Kamal Said Hassan—Providing Material Support to al-Shabaab—February 2009

On February 19, 2009, Kamal Said Hassan pleaded guilty to providing material support to al-Shabaab and making false statements to the FBI.

Mrs. FEINSTEIN. It is also important to understand that suspected terrorists who may be in the United States illegally can be detained within the criminal justice system using at least the following four options: One, they can be charged with a Federal or State crime and held; two, they can be held for violating immigration laws; three, they can be held as material witnesses as part of Federal grand jury proceedings; and, four, they can be held under section 412 of the PATRIOT Act for up to 6 months.

I wish to be very clear about what this amendment is and what it is not about. It is not about whether citizens such as Hamdi and Padilla or others who would do us harm should be captured, interrogated, incarcerated, and severely punished. They should be. But what about an innocent American? What about someone in the wrong place at the wrong time with the wrong skin color?

The beauty of our Constitution is that it gives everyone in the United States basic due process rights to a trial by a jury of their peers. That is what makes this Nation great. As Justice Sandra Day O'Connor wrote for the plurality in *Hamdi v. Rumsfeld*:

As critical as the Government's interests may be in detaining those who actually pose an immediate threat to the national security of the United States during ongoing international conflict, history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others who do not present that sort of threat.

Just think of it. If someone is of the wrong race and they are in a place where there is a terrorist attack, they could be picked up, they could be held without charge or trial for month after month, year after year. That is wrong. Experiences over the last decade prove the U.S. is safer now than before the 9/11 attacks. Terrorists are behind bars, dangerous plots have been thwarted. The system is working and hopefully improving each day.

So I think now is the time to clarify U.S. law to state unequivocally that the government cannot without trial or charge indefinitely detain Americans and green card holders captured inside this country.

The Federal Government experimented with indefinite detention of U.S. citizens during World War II, a mistake we now recognize as a betrayal of our core values. Let's not repeat it. I urge my colleagues to support this amendment.

I yield the floor for Senator PAUL.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise to support Senator FEINSTEIN's amendment. I compliment her on her work. I also echo the importance of the right to trial by jury. In fact, I am appalled that anyone would think we could arrest anyone in our country without charging them and giving them a right to a trial. It seems so fundamentally un-American.

I agree with her also that I think the Supreme Court would apply this to anyone. Our amendment will say citizens and permanent residents. But I think the Supreme Court, if challenged, will uphold the right to trial by jury of anyone within the United States.

Today, we will either affirm the right to trial by jury or restrict it. Today, we will vote to affirm the sixth amendment to the Constitution or we will spurn it. Today, we will vote to affirm 800 years of history, beginning with the Magna Carta, or we will relinquish or, at the very least, diminish a right that Jefferson referred to as "the only anchor yet imagined by man, which a government can be held to the principles of its Constitution." The right to trial by jury was a check on oppressive government.

Opponents of the right to trial by jury will come and they will argue that the American homeland is now a battlefield and that we must circumscribe our right to trial by jury to be safe from terrorists. But if we give up our rights, have not the terrorist won? If we let fear relinquish our rights—if we relinquish our rights because of fear, what is it exactly then we are fighting for?

We are asked to relinquish our rights because the battlefield is limitless. It is, though, not a temporary suspension they are asking for, and they request this because they also say the battle is also without limit. This is not a war that is going to end, nor is it a right they will suspend temporarily. They are asking people to relinquish their right to trial by jury for the rest of this limitless war.

Those Senators who would propose limiting the right to trial by jury, they deflect and demur that everyone will still have a habeas hearing. A habeas hearing is important. They must present the body and a judge might say: Why are you holding this person? But it is not the end of due process; it is the beginning of due process.

A habeas hearing is not due process. It is the beginning. We must still have a trial by jury or we do not have the due process our Founding Fathers fought for. Those Senators who would abridge this and say a habeas hearing is enough should remember Blackstone's admonition, "Every new tribunal, erected for the decision of facts without the intervention of a jury . . . is a step towards establishing aristoc-

racy, the most oppressive of absolute governments."

We are told we cannot do this. We have to put these people outside the constitutional court, that somehow we need something beyond the Constitution, that the Constitution is not enough to convict terrorists. Yet hundreds of terrorists have been convicted. In fact, two terrorists in my little small town, Bowling Green, KY, were apprehended and were tried and were convicted to life for terrorism. We can do it.

We are told that only terrorists associated with al-Qaida will this be applied to. We will only take away the right to trial by jury if they are part of al-Qaida. But part of the security apparatus also tells us to know your neighbor. Know your neighbor so you can report your neighbor.

In fact, we are told by the government some of the characteristics that might make you a terrorist. We are told by the Department of Justice that if you have stains on your clothing, that if you are missing fingers, if you have changed the color of your hair recently, that if you prefer to pay in cash, that if you own weatherized ammunition, if you own multiple guns, you might be a terrorist; that your neighbor should report you.

Do we want to relinquish our right to trial by jury if the characteristics of terrorism are wanting to pay by cash? In Missouri, they had fusion centers. They are supposed to accumulate information about terrorists and sort of assimilate Federal and local and have better communications.

Sounds good. I am all for better communications. Before 9/11 we did mess up. We did not communicate well. But from this fusion center comes a document that says: Beware of people who have bumper stickers supporting third-party candidates, beware of people who believe in stricter immigration laws, beware of people who support the right to life; they might be terrorists. This is an official document. Do we want to give up the right to trial by jury when we are being told someone who keeps food in their basement might be a terrorist?

Am I the only one who fears the relinquishing of a right we have had for 800 years? Am I the only one who fears that a terrorist might be someone whom we might describe as someone who is a constitutionalist? This is an ancient right to trial by jury we have had since virtually the beginning of our historic times. The Greeks and the Romans had a form of right to trial by jury.

In 725 A.D., Morgan of Glamorgan, the Prince of Wales, said, "For as Christ and his Twelve Apostles were finally to judge the world, so human tribunals should be composed of twelve wise men." We have been doing this for hundreds upon hundreds of years. We saw it as a way to check the oppression of the King but also to check the potential oppression of government.

England and America have for centuries prized this right to trial by jury. It seems a shame to scrap it now. Our Founders believed so firmly in the right to trial by jury that they enshrined it in the body of the Constitution, again in this sixth amendment and again every State of the Union has within the body of its constitution the right to trial by jury.

It seems a shame to scrap it now. Churchill proudly remembers our joint devotion to trial by jury. He writes, "We must never cease to proclaim in fearless tones the great principles of freedom and the rights of man which are the joint inheritance of the English-speaking world and which through the Magna Carta, the Bill of Rights, habeas corpus, trial by jury and the English common law find their most famous expression in the Declaration of Independence."

Senator LaFollette, a famous Senator from Wisconsin, put it well. He said:

Let no man think that we can deny civil liberty to others and retain it for ourselves. When zealot agents of the government arrest suspected radicals without warrant, hold them without prompt trial, deny them access to counsel and admission of bail . . . we have shorn the Bill of Rights of its sanctity . . .

Today we have a chance to reaffirm our belief in the right to trial by jury. We have a chance to replace fear with confidence, confidence that no terrorist and no country will ever conquer us if we remain steadfast, steadfast to the principles of our founding documents.

We have nothing to fear except our own unwillingness to defend what is naturally ours, our God-given rights. We have nothing to fear that should cause us to relinquish our rights as free men and women. I urge my colleagues to reject fear, to reject the siren call for an ever more powerful government.

Justice White put it well when he said:

A right to jury trial is granted criminal defendants in order to prevent the oppression by the government.

It is not just about a fair trial, it is about checking your government. This vote today is about more than just combating terrorism or a fair trial, it is about relinquishing the right to the checks and balances, to the checks that cause and help us to check the relentless growth of government. It is about whether a free people are willing to remain steadfast in our defense of an 800-year-old right that finds justice for the accused and provides restraint and limits on despotism.

I hope my colleagues will today vote against limitations on the trial by jury, recognize its sanctity, and recognize the importance of something that brings Members from the right side of the aisle together with Members of the left side of the aisle who believe strongly in the defense of the Bill of Rights.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I rise today to speak in favor of the Feinstein-Lee amendment to the National Defense Authorization Act. At the outset, I wish to note this amendment is the product of bipartisan discussion and collaboration on an issue that is important to all Americans. I am pleased to have been a part of that process.

Senator FEINSTEIN and I have worked closely together over the course of the past year to craft what we believe represents a very prudent course in protecting both our Nation and our liberties at the same time. Security is important. And precisely because it is important it must not be acquired at the expense of our individual liberty. It may well be said that government's most important basic responsibility is to protect the liberties of its citizens. Our Nation has fought wars on American soil and around the world in defense of individual liberty, and we must not sacrifice this most fundamental right in pursuit of greater security, especially when we can achieve security without compromising liberty.

The Feinstein-Lee amendment does precisely that. It protects liberty by ensuring that no American will be deprived of due process. The fifth amendment states:

No person . . . shall be deprived of life, liberty or property, without due process of law.

The sixth amendment, likewise, guarantees that individuals accused of a crime will have access to an attorney and access to a trial by a jury consisting of that person's peers. Our amendment protects those rights and it provides the following:

An authorization to use military force, a declaration of war, or any similar authority shall not authorize detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States.

It is important to note the Supreme Court has never specifically held that an authorization for the use of military force somehow authorizes the indefinite detention of a U.S. citizen or a U.S. person apprehended within the United States, and I don't think we should break new ground here. I don't think we should start opening that precedent and suggest that is somehow acceptable. The Constitution does, in fact, require nothing less than traditional due process for all Americans apprehended within the United States.

As Supreme Court Justice Anthony Scalia has written:

The gist of the Due Process Clause, as understood at the founding and since, was to force the government to follow . . . common-law procedures traditionally deemed necessary before depriving a person of life, liberty, or property. When a citizen was deprived of liberty because of alleged criminal conduct, those procedures typically required committal by a magistrate followed by indictment and trial.

I understand and respect, of course, the fact that we live in perilous times. We, unfortunately, as Americans have enemies not only around the world but even within our own borders. This is

unfortunate. This creates challenging times for us. I hope and pray every day we will be successful in fending off those who would harm us, those who hate our way of life and everything about us and will do everything in their power to destroy us and our liberty. But that does not—it cannot, it will not—mean we, as Americans, should surrender our basic instinct to be free.

We must stand behind our 225-year-old founding document as it has been amended to ensure that our liberty isn't taken away from us to give us a path toward providing for our security without jeopardizing the freedom our American citizens cherish so much and have fought so hard and for so long to protect.

Granting the U.S. Government the power to deprive its own citizens of life, liberty, or property without full due process of law goes against the very nature of our Nation's great constitutional values. This amendment—the Feinstein-Lee amendment—protects those values. I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, somewhere on this desk I have a unanimous consent request.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Senator BAUCUS be added as a cosponsor to my amendment No. 3018.

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

Mrs. FEINSTEIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I ask unanimous consent that it now be in order for Senator LEAHY to call up his amendment No. 2955; that the time until 6 p.m. be equally divided in the usual form; that at 6 p.m. the Senate proceed to a vote in relation to the Leahy amendment No. 2955; further, that there be no amendments in order to the Leahy amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, but I am not objecting, I wish

to engage in a colloquy with the distinguished chairman.

Is it our intention to continue to consider amendments following this amendment, and I don't know whether there is a possibility of votes, but we certainly—isn't it correct to say we could consider amendments, and we will try to dispose of them given the limited time we have to consider the bill?

Mr. LEVIN. It would be my hope that after this vote, we would be able to clear amendments, perhaps—

Mr. MCCAIN. Debate.

Mr. LEVIN. And to have the Senators debate amendments.

I know Senator COBURN will be here between now and 6 o'clock to debate the Leahy amendment. We don't need to protect him further since the time is equally divided, and he can have part of the half hour of time.

But it is my hope that people who want to dispose of amendments will come after the 6 o'clock vote and bring these amendments to our attention, see if our staffs can make progress, clear amendments, and maybe package some votes for tomorrow morning. We can make progress after this vote if our colleagues will cooperate with us.

Mr. MCCAIN. I thank my friend, and I do not object.

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

AMENDMENT NO. 2955

(Purpose: To improve the Public Safety Officers' Benefits Program)

Mr. LEAHY. Mr. President, I call up amendment No. 2955.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 2955.

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

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

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

Mr. LEAHY. Mr. President, this is actually a simple amendment. It strengthens the Public Safety Officers' Benefits Act. That is the Federal death and disability program that we have for our Nation's first responders who are killed or disabled in the line of duty. There is nothing new to this body in this amendment.

An earlier version of this legislation was adopted on the Senate floor by voice vote in December of 2001. It was adopted as part of the FAA Air Transportation Modernization and Safety Improvement Act. In fact, following the Senate's adoption of the amendment, I worked closely with the House Judiciary chairman, the distinguished Member of the House, Congressman LAMAR SMITH of Texas. He and I added additional reforms so we ended up with an improved bill. We ended up with a

modest expansion of benefits for deserving emergency medical responders and a host of reforms to make the Public Safety Officers' Benefits Program stronger, more efficient, and more cost-effective.

The most important thing, CBO, which initially had concern, reviewed it and found this cost nothing. The CBO recognized the cost savings associated with the reforms and efficiencies that we incorporated and determined that the modest expansion of benefits was fully offset by these reforms. What we are saying, since 1974, this country has recognized that we have first responders who are killed and disabled in the line of duty whose families deserve our help. This bipartisan legislation does that.

We have determined that a police officer who is shot in the line of duty, a first responder, a firefighter, an emergency medical responder and others who are killed in the line of duty, died as a result of their work in the line of duty, that they would have and share in the same benefit we have provided for the whole country. This clarifies the policy for all first responders who serve their communities in an official capacity.

It is hard to think of anybody who could possibly disagree with this amendment. It costs taxpayers nothing. It builds upon and improves what we have always done.

Let me tell a story. Before we had this act, before we had this law, when I was a young State's attorney, the police chief in Manchester, VT, responding to a burglary, was shot and killed. He was a man, the sole support of his wife and his aging mother. It turned out there was no program at that time, no assistance from the state or Federal Government. This was prior to 1974, 1976, and there was no program to care for them, to care for the widow. Therefore, there was not even money to pay for his funeral.

I was president of the Vermont State's attorneys association at the time, and I started making calls around the State. We quickly raised the money for his funeral and for some modest help for his family. I still remember that funeral. It was one of those days we often have in the winter during a snowfall when there are very large snowflakes. They call them silver dollar snowflakes, and they are very large. They were falling gently out of the sky. But on the two-lane road leading to this small church, a typical New England church with a white steeple on it, for miles and miles all we saw is that of the snow coming down in the reflection. The blue lights from the police cars were flashing, the red lights from the firetrucks were flashing, and the white and red lights from the ambulances were flashing. I have never forgotten that.

Today, thanks to Federal legislation, if that happened again, there would at least be benefits, as it should be. But this is something that could happen in

Vermont or Rhode Island or any other State in this country. This measure contained in this amendment were passed in the House overwhelmingly by voice vote in June of this year. It passed here on the floor of the Senate by voice vote before that. It has no cost to the taxpayers, which is something Chairman SMITH and I worked on together to ensure. I hope it will pass and at 6 o'clock we vote on it.

I reserve the balance of my time and I suggest the absence of a quorum and ask that time be equally divided during the call of the quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that Senator DEMINT be added as a cosponsor of the amendment entitled "Feinstein-Collins amendment No. 3018."

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

Ms. COLLINS. Mr. President, I rise to speak in support of the amendment offered by Senator FEINSTEIN. The purpose of our amendment is to make clear that a U.S. citizen or legal permanent resident arrested in this country cannot be detained indefinitely without charge or trial. This amendment is necessary because current law with respect to the indefinite detention of U.S. citizens within the United States remains unclear after more than 11 years of a persistent conflict in which the enemy often does not distinguish itself from civilians.

Without this amendment, it is conceivable that an American citizen could be arrested, detained, and held without charge or trial in order to address the gap in the law. Our amendment is necessary.

Last year the fiscal year 2012 National Defense Authorization Act defined the scope of the detention authority provided under the 2001 Authorization for Use of Military Force for detainees captured outside the United States. But the scope of detention authority, as it relates to U.S. citizens and lawful residents captured or arrested inside the United States, was left nebulous.

Because of this legal ambiguity, despite the guarantees enshrined in our Constitution, an American citizen could be indefinitely detained without charge or trial, even if they are detained in the United States.

I do not believe that many of us intended to authorize such a sweeping detention authority within the United States when we voted to allow our military to pursue al-Qaida following the 9/11 attacks.

Because Congress was responsible for authorizing the use of military force in the first place, it is our duty, our obli-

gation, to define carefully the scope of the detention authority we intended in the AUMF. If we do not clarify this important issue, the Federal courts and the executive branch will be left to substitute their judgment for ours. This amendment specifically addresses the issue of American citizens and lawful permanent residents detained in the United States, and it would clarify that it is not the intention of the Congress to allow for their indefinite detention.

Let me briefly mention what the Feinstein-Collins amendment does not do.

First, it does not change the ruling in *Hamdi v. Rumsfeld*. In that case, the Supreme Court ruled that an American citizen who wages war against U.S. troops in an active combat zone can be taken into preventive detention in order to keep that person from continuing to wage war overseas against American military forces.

When an American citizen leaves this country to wage war against his fellow citizens, he relinquishes certain rights, otherwise supported by the Constitution, and I agree with the Court's decision in this case.

Next, this amendment does not preclude intelligence gathering subsequent to a suspected terrorist being taken into detention.

The intelligence gathered from a suspect in the hours or days after his arrest can be vital to preventing further acts of violence or in uncovering terrorist networks at home or abroad. This amendment balances the ability to gather this important information with the suspect's rights by providing some flexibility within the Constitution's bounds.

For example, it does not circumscribe the existing public safety exception to *Miranda*. This exception permits law enforcement, in certain circumstances, to engage in a limited and focused unwarned interrogation and allows the government to introduce the statement as direct evidence in a judicial proceeding. Law enforcement officials, confronted with an emergency, may question a suspect held in custody about an imminent threat to public safety without providing *Miranda* warnings first.

In addition, nothing precludes other Federal agents from gathering intelligence without providing *Miranda* rights. Under current law, a U.S. citizen cannot be tried in a military tribunal, and that does not change under our amendment.

Finally, this amendment does not change the treatment of those who are here on temporary visas, such as students or travelers—the kind of visas that were used by the 9/11 terrorists.

In closing, let me talk about how this amendment would have changed the treatment of some U.S. citizens detained under the authorization for use of military courts during the last 11 years had it become law.

First, because this amendment only covers American citizens captured in



the United States, it would not have affected the detention of John Walker Lindh, for example. So the only U.S. citizen affected by this amendment would have been Jose Padilla. If this amendment were the law, Jose Padilla's detention would have ended as it did under the Bush administration—in a Federal courtroom, where he was charged with aiding terrorists in a terrorist organization.

Since 2001 terrorism has claimed far too many victims, both abroad and here in our country. But it is crucially important that in pursuing the war on terrorism, we must assure our fellow citizens their constitutional rights—the very foundation of what makes us Americans. For this reason, I am proud to be a cosponsor of Senator FEINSTEIN's amendment, and I strongly urge its adoption.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2955

Mr. COBURN. Mr. President, I would like to spend a few minutes noting why I am against the expansion of the Dale Long Public Safety Officers' Benefits Improvements Act. And it is a great example of where we find ourselves in the country. If you read the Constitution and look at the enumerated powers, we have a Federal program to benefit what is really the responsibility of States. Now, nobody is going to say this isn't a beneficial program to those poor families who might need this. And the chairman of the Judiciary Committee has done a wonderful job in terms of offsetting this so that there is no additional cost, and for that I congratulate him. But this is a great example of why we have \$88 trillion in unfunded liabilities and are \$16 trillion in debt—because we are doing a function that is truly the responsibility of the States.

The PSOB Program was originally designed, in its original design, to be a model so that the States would set up and demonstrate to them how they could structurally set up their own programs. Over the last 30 years, Congress has continued to expand this program, and now we spend about \$81 million to \$85 million a year on this program. I am not saying it is not needed money for the families, but we are going to expand a program that is truly not a Federal responsibility.

I have no hopes this will be defeated. I know it won't. But I wanted to raise this question: Given what is in front of us, it is one thing to meet the needs under our Federal requirements for Medicare and Medicaid, but when are we going to stop expanding programs that aren't truly our responsibility? The cause is great. It is appropriate for a government agency to help in times for the people who actually put their lives on the line for us. But is it a Federal responsibility? The answer is no, it is not. It is a State responsibility. As we assume more and more responsibilities for the States, with budget deficits in excess of \$1 trillion, what we are

going to do is find ourselves at a point where we are going to have to make cuts in programs that are our responsibility.

All I ask you to do is think about whether this is truly a responsibility of the Federal Government and whether we ought to be expanding the program. It is well-intentioned and does great work, I don't discount that. It is well-deserved, I don't discount that. But is it a responsibility of the Federal Government?

I would state to the chairman that I would be happy to have a voice vote on this and not force a vote because I know the outcome and we shouldn't waste everybody's time to do that. So I ask for a voice vote and to vitiate the vote that is scheduled for 6 o'clock.

The PRESIDING OFFICER. Is there objection to that request?

Mr. LEVIN. Mr. President, I am not sure what that request was.

The PRESIDING OFFICER. The request was for a voice vote on the Leahy amendment now.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will be asking for the yeas and nays at the appropriate time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Vermont.

Mr. LEAHY. Mr. President, it is my understanding that we will be voting at 6 p.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. And as I understand, the managers will be requesting a rollover vote.

Mr. President, how much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. LEAHY. Mr. President, the distinguished gentleman from Oklahoma has noted his objection, and I appreciate him doing that, but I would also note that we share different views on this. For example, the Senator from Oklahoma was the lone vote opposing the Bulletproof Vest Partnership Grant Act of 2012. The Bulletproof Vest Partnership Grant Program has saved the lives of hundreds and even thousands of our police officers. He opposes the Public Safety Officers' Benefits Act, which provides a Federal death benefit to surviving families of first responders who are killed in the line of duty. And he is objecting to the passage of the bipartisan, bicameral, and cost-neutral Public Safety Officers' Benefits Improvements Act of 2012, which would make important reforms to a program that has assisted the families of thousands of police officers and other first responders who have lost their lives protecting their communities and fellow citizens.

During the months when we were trying to pass the Public Safety Officers' Benefits legislation, we heard from Chuck Canterbury, the highly respected president of the Fraternal

Order of Police. He is one of our Nation's law enforcement leaders. He wrote to the chairs of both the Senate and House Judiciary Committees about the distinguished Senator's opposition to this cost-neutral Public Safety Officers' Benefits Program reform, and he concluded:

The FOP views this not as a politician embracing the principle of federalism, but as a . . . ploy to place even greater strain between law enforcement and other public safety officers that serve on the local and State level and their colleagues employed by the Federal government. When a police officer puts himself in harm's way, he does not stop to think about jurisdiction. He does not ask the offender if he is committing a local, State, or Federal crime. He acts in the best interest of the safety of those he swore to protect. A family that loses a loved one in the line of duty should not just be left adrift, their sacrifice ignored because their loved one was a local firefighter or State Trooper and not a Federal agent.

I hope the Senate will overwhelmingly pass this bipartisan piece of legislation. We have always supported our first responders. I think back to my own experience in law enforcement and also the experience of former Senator Ben Nighthorse Campbell from Colorado, who I joined to write legislation, based upon his experience in the sheriff's department in Colorado, and my experience as a prosecutor, to provide assistance to state and local law enforcement to obtain bulletproof vests. The amendment we consider today is in that same spirit. Anybody who served in law enforcement, anybody who served as a volunteer firefighter or emergency medical responder, anybody in any part of this country who serves in these capacities knows the need for this. The fact that we have been able to improve the existing law, with no cost to the taxpayer, is even better.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from the Congressional Fire Services Institute, International Association of Fire Chiefs, International Association of Fire Fighters, National Fire Protection Association, National Volunteer Fire Council, and the American Ambulance Association in support of this legislation.

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

NOVEMBER 28, 2012.

Hon. PATRICK LEAHY,  
Chairman, Senate Committee on the Judiciary,  
Washington, DC.

DEAR CHAIRMAN LEAHY: We are writing to express support for S.A. 2955, which would amend S. 3254, the National Defense Authorization Act to include language from the Public Safety Officers' Benefits Improvements Act (PSOBIA). As you know, the Public Safety Officers' Benefits (PSOB) program provides critical assistance to the families of public safety officers who suffer a fatal injury in the line of duty and to public safety officers who suffer a permanently disabling injury in the line of duty.

PSOBIA would make several important changes to how PSOB is administered, including making employees and volunteer members of private, non-profit EMS/rescue

agencies eligible. Volunteer and career firefighters and EMTs in private, non-profit fire departments already qualify for PSOB while their counterparts in non-fire-based, private non-profit EMS systems generally do not. PSOBIA fixes this inequity.

The bill also clarifies that public safety officers who suffer a fatal vascular rupture injury in the line of duty are eligible for PSOB. The Hometown Heroes Survivors Benefits Act was enacted in 2003 and created a presumption that public safety officers who suffer a fatal heart attack or stroke within 24 hours of engaging in emergency response activity are considered to have died as a result of a line of duty injury and thus qualify for PSOB. Vascular rupture is a type of injury that is similar to but technically distinct from heart attack and stroke.

To reiterate, our organizations support S.A. 2955, which makes several minor but extremely important changes to how the PSOB program operates without any additional cost to the federal government.

Sincerely,

CONGRESSIONAL FIRE  
SERVICES INSTITUTE,  
INTERNATIONAL  
ASSOCIATION OF FIRE  
CHIEFS,  
INTERNATIONAL  
ASSOCIATION OF FIRE  
FIGHTERS  
NATIONAL FIRE PROTECTION  
ASSOCIATION  
NATIONAL VOLUNTEER FIRE  
COUNCIL.

AMERICAN AMBULANCE ASSOCIATION,  
November 27, 2012.

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

Hon. JOHN MCCAIN,  
Ranking Member, Committee on Armed Services,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEVIN AND RANKING MEMBER MCCAIN: We are writing to ask your support for a critical amendment to the FY 13 National Defense Authorization Act (NDAA) Senate Amendment 2955, the Dale Long Public Safety Officers' Benefits Improvements Act of 2012.

The American Ambulance Association (AAA) is the primary trade association for ground ambulance service agencies whose combined membership provides emergency and non-emergency medical services to over 75% of the U.S. population. Each day our first responders put their lives on the line to serve our nation, yet they face an inequity in the existing Public Safety Officer Benefits Program, a longstanding Federal program designed to help honor those that lose their lives in the line of duty.

In order to fix this inequity, we strongly urge you to support Senate Amendment 2955. The amendment includes critical improvements to the Public Safety Officers' Benefits Program, also known as the Dale Long Public Safety Officers' Benefits Improvements Act of 2012. This amendment would make members of rescue squads or ambulance crews operated by nonprofit entities eligible for benefits paid when a public safety officer is permanently disabled or dies in the line of duty. The amendment also includes a host of important reforms to the program including the reduction of claims processing and administrative to name a few. Just as importantly, the Congressional Budget Office has provided a neutral score on the issue.

Every state in the country has communities that have elected to have their emergency medical services provided by nongovernmental EMS agencies. The Public Safety Officer Benefit (PSOB) program, how-

ever, currently applies only to those public safety officers employed by a federal, state, or local government entity. The brave men and women employed by nongovernmental EMS agencies provide the same vital emergency medical services as governmental officers and do so daily in the same dangerous environments. It is unfair to penalize nongovernmental public safety officers and their families simply because their employer is a non-profit EMS agency which cannot afford to offer the same level of benefits as the PSOB program. This amendment would correct this inequity.

We thank you for all your years of service to our country and to the support you've provided to the nation's first responders. Again, we urge you to support Senate Amendment 2955 as you move forward on the NDAA bill. If you have any questions, please do not hesitate to contact Tristan North of the AAA at tnorth@the-aaa.org or 202-486-4888.

Thank you.

Sincerely,

STEVE WILLIAMSON,  
President,  
American Ambulance Association.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask to call up amendments Nos. 3007, 3008, 3009, 3010, and 3013.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. And No. 3011.

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Indiana.

Mr. COATS. Mr. President, I was listening to the dialog here that was going back and forth.

The PRESIDING OFFICER. The Republican time has expired under the current order.

Mr. MCCAIN. Mr. President, I ask unanimous consent for 2 additional minutes for the Senator from Indiana.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COATS. Mr. President, I just wanted to comment that I was listening to the discussion going on here about the Leahy amendment.

I don't know what the history of all this is, but I simply want to say that I think the Senator from Oklahoma asked a very legitimate question that we all ought to consider; that is, Is this legitimately a Federal responsibility? Given the fiscal plight that we are in and careening toward the cliff, do we want to keep expanding Federal programs? But in deference to his colleagues and the timeframe here, he said he understands that it will be a virtually unanimous vote despite his question, which is legitimate and I think we all ought to consider. But that was rejected. And then the response to somebody who I think was trying to be deferential to the Senator from Vermont and his proposals sort of is put in a position where it looks as though he is not trying to be conscious of the situation that exists.

I think he asked a legitimate question to which all of us, given our current fiscal situation, ought to give due consideration.

I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I would note that this is a very modest expansion of benefits for emergency medical technicians who serve at the direction of a state emergency response system, and is entirely offset by other provisions in the amendment. It simply reforms and improves what is already law and adds no cost—no Federal cost.

And if I could have the attention of the Senator from Indiana, this is less an expansion than a correction to a gap in the existing law. It is a reform of programs we have, and it is of no cost to the Federal taxpayers.

I see the Senator from Arizona on the floor. I am perfectly willing to yield back my time and go to vote if he wishes.

Mr. MCCAIN. I thank the chairman.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, two things.

No. 1, we are going to proceed to the rollcall vote in a moment, and with Senator MCCAIN's support and consent, I would like to let our colleagues know we will be here after this vote. That doesn't mean there will be any additional votes tonight. That is not up to us to decide; that is the leadership call. But we will be here to try to clear amendments for either voice votes or for votes tomorrow if there are no rollcall votes today or for debate. Senator MCCAIN and I are prepared to stay here to receive the amendments people want to discuss and to see if we can't get some of them cleared and perhaps voice-voted tonight.

Mr. MCCAIN. I yield all remaining time.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK), and the Senator from Kentucky (Mr. PAUL).

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

The result was announced—yeas 85, nays 11, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—85

Akaka	Blumenthal	Cantwell
Alexander	Blunt	Cardin
Ayotte	Boozman	Carper
Barrasso	Boxer	Casey
Baucus	Brown (MA)	Chambliss
Begich	Brown (OH)	Cochran
Bennet	Burr	Collins

Conrad	Landrieu	Roberts
Coons	Lautenberg	Rockefeller
Crapo	Leahy	Rubio
Durbin	Levin	Sanders
Enzi	Lieberman	Schumer
Feinstein	Lugar	Sessions
Franken	Manchin	Shaheen
Gillibrand	McCaskill	Shelby
Grassley	McConnell	Snowe
Hagan	Menendez	Stabenow
Harkin	Merkley	Tester
Hatch	Mikulski	Thune
Heller	Moran	Toomey
Hoeven	Murkowski	Udall (CO)
Hutchison	Murray	Udall (NM)
Inouye	Nelson (NE)	Vitter
Isakson	Nelson (FL)	Warner
Johanns	Portman	Webb
Johnson (SD)	Pryor	Whitehouse
Kerry	Reed	Wicker
Klobuchar	Reid	
Kohl	Risch	

NAYS—11

Coats	DeMint	Kyl
Coburn	Graham	Lee
Corker	Inhofe	McCain
Cornyn	Johnson (WI)	

NOT VOTING—4

Bingaman	Paul
Kirk	Wyden

The amendment (No. 2955) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. I have been talking now with Senator MCCAIN. This is what our plan is for tonight and for the morning. In the morning, we would hope we would be able—we would first hope to address the Kyl amendment. We would hope to take up and dispose of the Kyl amendment first thing in the morning.

We would then expect to move to Senator AYOTTE's amendment, to which there may or may not be a second-degree or a side-by-side amendment offered. After that matter is disposed of, we would expect then to move to a Hagan amendment. And, in between, it is our intent to offer cleared amendments.

I will let Senator MCCAIN join me on this. But these are amendments which have been cleared. People will have a chance overnight to look at them and see if there is any reason that they want rollcall votes or voice votes on these. If there are, we expect they are going to have to come down, object, and vote on those matters. But our staff works hard. We work with the committees of jurisdiction, we work with people we believe have any interest in these amendments. We have perhaps 50 or 100 amendments which we are looking at.

We want to accommodate Senators. We also want to accommodate potential opponents. We have done our best to do both, sponsors and opponents. But that is our plan for tonight and for tomorrow morning. We expect we would then ask Senator HAGAN to be recognized tonight to speak on an

amendment, not to call it up but to speak on an amendment that she would be offering tomorrow in the queue which I just described.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the distinguished chairman. I think we have made reasonably good progress today. I think we have disposed of a number of important amendments. We still have a number of issues, particularly the detainee issue, which will probably require that we have a number of speakers. But also I hope we could reach a time limit on that.

The Senator mentioned that there may be possibly a side-by-side or a second-degree amendment to the Ayotte amendment. But I think the chairman would agree, we have made pretty good progress. We have still got quite a long way to go. We have a full day tomorrow. Hopefully we can get it down to a bare minimum of amendments so we can finish.

I thank all of our colleagues for their cooperation. We thank the Senator from North Carolina for discussing her amendment this evening.

Mr. LEVIN. There will be no more votes tonight. After Senator HAGAN's remarks are completed, I ask unanimous consent that there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

The Senator from North Carolina.

Mrs. HAGAN. Mr. President, Mr. President, I wish to call up amendment No. —

Mr. LEVIN. Forgive the interruption again, Mr. President. I hate to interrupt. There will be no amendments called up tonight. The expectation is that you would be recognized tomorrow in that queue to call up the amendment, but that tonight you proceed without calling the amendment up, holding that off until tomorrow.

Mrs. HAGAN. Mr. President, I wish to speak about an amendment I am going to call up tomorrow, amendment No. 3995. I believe it is critical, this amendment to our long-term national security. In August of 2011, the Secretaries of the Departments of Agriculture, Energy, and the Navy signed a memorandum of understanding to invest \$170 million each to spur the production of advanced aviation and marine biofuels under the Defense Production Act.

This joint memorandum of understanding requires substantial cost sharing from private industry of at least a 1-to-1 match. The main objective of this memorandum of understanding is to spur the construction or retrofit of commercial scale advanced biofuel refineries. These facilities will produce drop-in advanced biofuels meeting military specifications. They will be located in geographically diverse locations for ready market access, and will have no significant im-

act on the supply of agricultural commodities for the production of food.

As the largest single consumer of fuel in the world, the Department of Defense uses approximately 120 million barrels of oil each year, spending over \$17 billion in fiscal year 2011 on fuel. This dependency on a single source of energy leaves our military's readiness at risk.

When the price of oil goes up \$1, it costs the Navy an additional \$30 million and the entire Department of Defense over \$100 million. Last year alone, this forced the Navy to pay an additional \$500 million because the price of fuel was higher than budgeted.

DOD is not going to allow these additional fuel costs to directly affect our missions in Afghanistan. However, cost overruns could force the military to curtail training and less urgent operations resulting in increased risk to future missions. Developing a commercially viable biofuels industry could help DOD diversify its fuel source and reduce the risk of energy volatility.

Our senior military leaders understand that programs such as this MOU are critical to national security. In July, the Secretary of the Navy, the Chief of Naval Operations, and the Marine Corps Commandant expressed their concern to Chairman LEVIN.

The demand for fuel in theater means we depend on vulnerable supply lines, the protection of which puts lives at risk. Our potential adversaries both on land and at sea understand this critical vulnerability and seek to exploit it.

The Navy and the Marine Corps have been aggressively evaluating how both energy efficiency and alternative sources of energy can provide tactical benefits to expeditionary forces.

Given the impact of this MOU to our national security, I was disappointed when the Senate Armed Services Committee marked up the fiscal year 2013 Defense authorization bill and an amendment was adopted that would prevent the Defense Department from participating further in the MOU. The bipartisan amendment that I offer today seeks to strike that measure.

I believe Senators on both sides of the aisle agree that energy security is a national security imperative.

However, there are honest disagreements over how the United States pursues energy independence. These divergent views are reflected in the debate over the joint MOU.

One argument used by opponents of the MOU is budget related. Given the current budget restraints, the Department of Defense should not be spending resources to help spur a commercially viable advanced biofuels industry. It is important to put in context the amount of money the Navy is spending on this program. The \$170 million dedicated to the MOU in one fiscal year represents .03 percent of the entire fiscal year 2013 budget request of the Department of Defense. Let me repeat that. It is .03 percent.

This is not to dismiss concerns about our current budget situation. I too am

deeply concerned about our country's fiscal path, and I continue to advocate for Congress to put politics aside and remake the tough choices necessary to ensure future generations are not burdened by unsustainable debt. However, as we tackle our budgetary challenges, we must not harm programs important to our national and economic security. This joint MOU is one such program.

What about the cost of advanced biofuels? In the past 2 years, the cost of biofuels purchased for these 50–50 fuel blends used in Navy training exercises has dropped by over 50 percent. Moreover, the Navy has made clear that they will not procure large quantities of biofuels for operations until they are cost competitive with traditional fuels. The MOU is bringing the cost of biofuels in line with petroleum, and now is not the time to stop the program from reaching its goals.

As I mentioned earlier, diversifying our energy mix will also help protect our military from the costs associated with price spikes in oil. Sudden energy cost increases force DOD to reallocate finite resources away from long-term priorities.

Critics of the MOU often say if the government wants to promote advanced biofuels, we have a Department of Energy. Of course, the Department of Energy has an important role to play, but so does the Navy and the Department of Agriculture. From my perspective, leveraging the unique capabilities of each agency, in partnership with the private sector, exemplifies the type of innovative approach needed to solve our country's most vexing problems.

Looking back in history, the Navy's leadership on energy innovation is nothing new. It was the Navy that shifted from sail to steam in the middle of the 19th century, steam to oil in the early 20th century, and pioneered nuclear power in the middle of the 20th century. At each of these transitions, there were those who questioned the need, challenged the cost, or simply opposed change of any kind.

I want to make clear that today's debate is not about oil versus biofuels. I was very pleased with the recent International Energy Agency report that projected that the United States would be the world's top oil producer by 2020 and a net exporter of oil around 2030. However, this does not mean we should abandon efforts to diversify our energy supply.

In 1913, on the eve of World War I, Winston Churchill made a historic decision to shift the power source for the British Navy ships from coal to oil. This decision was not without controversy, but Churchill successfully argued that safety and certainty in oil lies in "variety and variety alone."

Although at the time Churchill was talking about oil, his message is just as applicable to today's debate about biofuels. True energy security requires energy diversity.

I urge my colleagues at a later date—tomorrow—to support this amendment.

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

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The legislative clerk proceeded to read as follows.

Mr. MORAN. Mr. President, I ask unanimous consent the quorum call be rescinded.

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

Mr. MORAN. Mr. President, even in this dysfunctional Senate, we as Members, we as Senators have a unique opportunity to be advocates for those who need our help, and we need to provide a voice for those who are in need. For years—a decade, really—I have been an advocate for allowing increased engagement with Cuba. I have been an advocate for Kansas and American farmers having the opportunity to sell their agricultural commodities to Cuba. I have always believed that increased engagement with Cuba is a better way to bring about the changes that we all desire for the Cuban people.

Additionally, I thought that our policy toward Cuba was especially damaging and created a significant disadvantage to Kansas farmers and their competition for markets around the globe, and it was ineffective because it was a unilateral embargo. The market and demand for American commodities do exist off our coastline, and yet Congress and administrations over the years have failed to make it possible for there to be much sale or much relationship, commercial relationship, with the people of Cuba.

For more than a decade I have worked to open those Cuban markets to American agriculture. In 2000 I offered an amendment to the Treasury appropriations bill when I was in the House of Representatives that removed those trade sanctions on food, agriculture, commodities, and medicine. It paved the way for American farmers to sell their crops to Cuba for the first time in more than 40 years.

The language of that amendment ultimately became part of legislation called the Trade Sanctions Reform and Export Enhancement Act, TSRA. Over the years, administrations have made changes that have tightened the rules under that legislation and made it, again, difficult for our farmers to sell agricultural commodities to Cuba. On multiple occasions I have fought to reverse those decisions, those new rules by administrations, to make it easier for us to sell those commodities. We are not even talking about trade; we are simply talking about the sale for cash of those commodities.

In fact, we went through this last year as I offered an amendment to an appropriations bill that was approved by the Appropriations Committee to change those regulations. I say all that because I want to highlight how important and how long term my interest in this issue has been, but that is not the point of what I want to talk about tonight. I want to establish that this

matters. But even despite the fact that it matters, I have taken a hiatus, in fact, and announced to the Appropriations Committee this year that I would not be offering that amendment again.

It is not that I have changed my mind about the value of engagement or the importance for Kansas and American farmers to be able to sell their commodities to Cuba, but it is a sincere recognition on my part that the Cuban Government has a responsibility to cooperate with the United States on an issue that many of us are concerned about, which is the unjust detention of an American citizen, Alan Gross.

Nearly 3 years ago, December 3, 2009, Alan was arrested in Havana where he had been working as a U.S. Government subcontractor that had a contract for USAID, an agency whose mission is to help those in need. As a USAID subcontractor, Alan had made five trips to Cuba where he helped a small, peaceful, nondissident Cuban Jewish community. He was arrested. He was detained without charges for 14 months. Later, he had a 2-day trial resulting in a 15-year prison sentence for alleged "actions against the independence or territorial integrity of the State."

Since his arrest, now a long time ago, his detention so long ago, Alan's health has deteriorated. He has lost more than 100 pounds and suffers from several debilitating medical conditions. During his imprisonment, several members of his family have faced serious illness. His daughter has been diagnosed with breast cancer, and his 90-year-old mother has been diagnosed with inoperable cancer.

In light of Alan's continued detention, deterioration of his health, and the health problems experienced by his family, 42 of my colleagues joined me and Senator CARDIN earlier this year calling on the Cuban Government to release Alan on humanitarian grounds and allow him to return to his family in the United States. In recent news—in fact, just yesterday—I learned from a press report that Cuba planned to make an announcement regarding Alan Gross. It fueled hope on the part of many of us that the announcement would be that he would be released. Sadly, unfortunately, today the announcement was nothing other than their assessment, Cuban assessment, that Alan is in good health.

I asked my staff and others who know me and know about this issue to say their prayers last night that the release would occur. Once again, Cuba has failed to do what is right and proper. It is unclear whether their claim that Alan Gross is in good health is true. Certainly, many reports indicate that is not the case. He has never been examined by an independent medical examiner, something that is required by international law.

It is past time for Cuba to release Alan and allow him to return to his family. Failure to do so makes any improvement in the relationship between

our two countries so much more difficult and highly unlikely. I think that would benefit the people of Cuba, but their government continues to take an unjust course. Alan should be released and Cuba should do the right thing. Mr. Gross devoted his professional life to helping others through his work in international development. He and his family have suffered more than most could endure over the last 3 years.

Continuing our efforts to bring Alan home, next week, on December 3—the 3-year anniversary—Senator CARDIN and I will introduce a resolution calling for the immediate and unconditional release of Mr. Gross. I ask my colleagues to join us in supporting this resolution to help send the clear message to Cuba that even those of us who want a better relationship, even those of us who have been willing to cast the votes to increase that opportunity for a relationship between the United States and Cuba, want Alan Gross to come home. It is my hope the Cuban Government will reverse course and that Alan can finally come home to his wife Judy and to their family.

I ask my colleagues to join me in that effort and perhaps, more importantly, I ask Americans to join us in the prayer for Alan's release.

I yield the floor.

#### TRIBUTE TO BAILEY FINE

Mr. CARDIN. Mr. President, I rise today to recognize and give thanks to my State director, Bailey Fine, who is retiring at the end of the 112th Congress after 27 years of devoted service. There is great sadness but deep appreciation as I say goodbye to Bailey who, in 1982, ran my reelection campaign to the Maryland House of Delegates; then served as my campaign aide during my first congressional race in 1986; as my district director for 20 years; and, finally, as my State director during my first term in the Senate.

Over the years, Bailey has been a friend to my entire family, a trusted confidant, a reliable sounding board for my legislative district and statewide agendas. For more than three decades I have been truly fortunate to have her at my side, providing knowledgeable advice and a commonsense approach to the many issues that face Members of the House and Senate.

Bailey is a people person who understands how our work in Washington affects the everyday lives of Marylanders, and she regularly reminds my staff and me of that fact. Bailey's knowledge of Baltimore and of Maryland is unparalleled. She grew up in Northern Virginia but settled in Baltimore in 1970 where she worked first for the Housing Commissioner and later for the late Mayor William Donald Schaeffer.

During her years handling special projects for the mayor, Bailey developed a deep love for Baltimore City and a true understanding of how Baltimore works. Bailey became a creative genius at promoting and highlighting the

many achievements of the city under Mayor Schaeffer. Before Mayor Schaeffer left city hall, he nominated Bailey to serve as president of the Baltimore City school board. In that role, she helped parents navigate the school bureaucracy, suggested workable solutions for teachers, and brought a commonsense approach to the Baltimore City school system.

But Bailey's knowledge and expertise goes beyond how government works. She has her pulse on Baltimore and on Maryland. She knows the key players in the city and the State, many of them on a personal level. For many years Bailey has been the go-to person when people need to get things done.

Without a doubt, Bailey has been an invaluable resource to my entire staff, to me, and to the people of Maryland. But she is also a tireless advocate and a voice for families and individuals who may not have had the understanding or resources to access the services they need. Whether it is working with the mayor of Oakland when spring floods threatened a dam near the town, getting housing and other services for a veteran, or working with community groups to improve their schools, Bailey is a relentless public servant. There is also no denying that her energy and enthusiasm are unstoppable and unsurpassed and that her retirement will leave a real void.

Through her efforts, so many people have been connected to jobs, affordable housing, quality health care, or government benefits. So many of these people have benefited from her advocacy, their lives changed for the better, and most of them will never know her name. To me, that is the highest form of public service.

I ask my Senate colleagues to recognize the many contributions that Bailey has made and the example she has set for public service. I also want to take this opportunity to thank Bailey's family, her husband Stanley, and her children Michael and Laura, for their support and understanding as Bailey has worked to help others.

Today is Bailey and Stanley's 41st wedding anniversary, and on December 8 Laura will be married. Please join me in wishing Bailey Fine a healthy and happy retirement and well-deserved time with her family.

#### REFORMING THE SENATE RULES

Mr. UDALL of New Mexico. Mr. President, I wish to talk about our efforts to change the Senate rules. There has been a great deal of comment on this subject lately.

I have listened with great interest to the arguments against these changes by the other side. Let me just say at the outset: Senators MERKLEY, HARKIN, and I are not talking about taking away the rights of the minority. We are not abolishing the filibuster.

But there must be change. The unprecedented use and abuse of the filibuster and other procedural rules has

prevented the U.S. Senate from doing its job. We are no longer the world's greatest deliberative body. In fact, we barely deliberate at all.

For most of our history, the filibuster was used very sparingly. But in recent years, what was rare has become routine. The exception has become the norm. Everything is filibustered, every procedural step of the way, with paralyzing effect. The Senate was meant to cool the process, not send it into a deep freeze.

For some reason, ever since the Democratic majority came into the upper Chamber in 2007, the Senates of the 110th, 111th, and current 112th Congress have witnessed the three highest totals of filibusters ever recorded. A recent report found the current Senate has "passed a record-low 2.8 percent of bills introduced in that chamber, a 66 percent decrease from the last Republican majority in 2005–2006, and a 90 percent decrease from the high in 1955–1956."

Our proposal to reform the rules is simple, it is limited, and it is fair. Again, we are not ending the filibuster. We preserve the rights of the minority. We are only proposing that, No. 1, Senators should be required to go to the floor and actually tell the American people why they oppose a bill or nominee in order to maintain a filibuster; and No. 2, motions to proceed to a bill or to send a bill to conference should be nondebatable. These are sensible changes. Yet we are warned that these simple reforms will transform the very character of the Senate, will leave the minority without a voice. These arguments are covers for continued abuse of the rules.

The reforms are modest—some would say too modest. But they would discourage the excessive use of filibusters. The minority still has the right to filibuster, but not the right to do so by simply making an announcement and then going out to dinner or, more likely, to a fundraiser.

Nevertheless, the other party insists we are attacking the rights of the minority. But there seems to be another message, too, with a truly odd logic. They say that if we make any reasonable changes in January, they may make radical ones in the future. In short, if we dare to reform any rule, they might throw out all of them when they are in the majority. How this comports with their stated concern for the rights of the minority is unclear.

It is also being argued that we are breaking the rules to change the rules. This has been repeatedly charged by the minority leader. We disagree. We are reforming the rules to save the Senate. The status quo is abusing the rules and debasing the Senate. It is a choice between rules reform and rules abuse.

History contradicts the minority leader as well. Members of the other side have agreed with changing the rules when they have been in the majority. The RECORD is already chock