through a lot of unpopular legislation, and sometimes—and too often—the process has been skirted, and it has not been healthy for the Republic, which is one reason people have not been happy with it.

So we are at it again, in these last hours, attempting to force through legislation that is not acceptable to the people.

Proponents of the DREAM Act are sincere, and they insist this is a limited bill for young children of illegal immigrants who graduate from high school, get a college degree, and join the military. But the facts of the legislation are different. The DREAM Act would grant legislation to millions of illegal aliens, regardless of whether they go to or finish college or high school or serve in the military. It is certainly not limited to children. It would apply to people here illegally who are as old as 30. Because the bill has no cap or sunset, they will remain eligible at any future time.

Mr. President, I know my good friend, Senator DURBIN, who is such an able advocate, challenged me last night, or my staff, saying we were incorrect in saying that the Secretary of HHS would have the ability to waive some of the requirements in the bill. Just for my staff's sake, I want to read this part of the bill. He said it wasn't in there. My staff explained to his staff why they thought it was in there. The waiver section states:

> The Secretary of Homeland Security may waive the ground of deportability under paragraph 1 of section 237(a) for humanitarian purposes or family unity.

Maybe we can disagree how that might all be played out, but I think that is clearly a waiver provision in the bill.

The amnesty provision—and this is an amnesty bill, because it provides every possible benefit, including citizenship, to those who are in the country illegally, and I think that is a fair definition of amnesty. The amnesty provisions are so broad that they are open to those who have had multiple criminal convictions of up to two misdemeanors—just not three—and many criminal cases that are felonies are pled down to misdemeanors, including certain sex offenses, drunk driving, and drug offenses.

But the bill goes further, offering a safe harbor to those with pending applications, even if they pose some risk to the country. In other words, if you have filed and sought protection under the act, this can stay any action against you in any deportation proceedings.

I think it is particularly dangerous because the safe harbor would apply to those even from terror-prone regions in the Middle East. In fact, the DREAM Act altogether ignores the lessons of 9/11, going so for as to open up eligibility to those who previously defrauded immigration authorities, provided false documentation, as did many of the 9/11 hijackers on their visa applications.

Some have suggested this should not be a debate about policy but instead about compassion. But good policy, faithfully followed, is compassion. I ask my friends who support the legislation, what is compassionate about ignoring the public wishes and forcing people to live with a lawless border and a lawless immigration system that must be reformed and Congress refuses to reform? I ask them, is it compassionate to put illegal aliens in front of the line, ahead of those who have patiently waited and played by the rules? Is it compassionate to act in a way that undermines the integrity and consistency of our legal system—a system that is so important to our prosperity and liberty?

The message from the public has never been in doubt. Before we consider regular status for anyone living here illegally, we first must secure the border. My friend, BEN NELSON from Nebraska, has spoken on this for a half dozen years. When he speaks, he has a sign behind him that says ''border security first.'' That is what Senator MCCAIN has said. He has been a champion of immigration reform. He says he has come to understand with clarity that we must have security first.

That is what the American people have told us, I am convinced. If we do not do those actions first, if we pass this amnesty, we will signal to the world that we are not serious about the enforcement of our laws or our borders. It will say that you can make plans to bring in your brother, sister, cousin, nephew, and friends into this country illegally as a teenager, and there will be no principled reason in the future for the next Congress then sitting to not pass another DREAM Act. It will only be a matter of time before that next group that is here illegally will make the same heartfelt pleas we hear today.

It is time to end the lawlessness, not surrender to it. It is time to end the lawlessness that is occurring. This is a decisive vote. I urge my colleagues to oppose this reckless bill and commit ourselves, as a nation, to creating an immigration system that is just and lawful and that befits a nation as great as ours.

Mr. President, I ask unanimous consent that the time remaining that I have not used that has been allocated to the Republicans be divided as follows, and not necessarily in this order: Senator MCCAIN, 10 minutes; Senator CHAMBLISS, 5; Senator INHOFE, 10; Senator KYL, 5.

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

Mr. SESSIONS. Mr. President, we have it within our power to fix the broken immigration system. Last year, approximately 600,000 people were arrested entering our country illegally. That is lower than it has been, but a determined leadership from the President, from the Congress, can, within a matter of 1 or 2 years, end this problem, and then we can begin to wrestle with the difficult question of those who have been in our country for some time.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

ORDER OF PROCEDURE

Mr. LEVIN. How much time has been used by Senator SESSIONS?

The ACTING PRESIDENT pro tempore. The Senator has used 14 minutes.

Mr. LEVIN. Mr. President, I ask unanimous consent that now the Senator from Oregon be recognized for 3 minutes, and then I be recognized for 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection—

Mr. INHOFE. Mr. President, reserving the right to object, can the Senator amend that to include me for 10 minutes following his remarks?

Mr. LEVIN. I so amend my request.

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

The Senator from Oregon is recognized.

HEALTH CARE

Mr. WYDEN. Mr. President, Senators, let me thank all of you for your many kindnesses over the last 48 hours. When news about your prostate is ricocheting around the blogosphere, all the calls, notes, and even offers to object on my behalf have meant a lot. I only want to say that I just hope this encourages everybody to go out and get those physicals. What this is all about is prevention. We can agree that when it comes to health care that we all ought to focus on prevention.

DON'T ASK, DON'T TELL

Mr. WYDEN. Mr. President, briefly, it was so important for me to be here today because don't ask, don't tell is wrong. I don't care who you love. If you love this country enough to risk your life for it, you should not have to hide who you are. You ought to be able to serve.

The history of our wonderful Nation is spotted with wrongs, but this institution is at its best when it corrects those. That is the opportunity we will have today.

Don't ask, don't tell has resulted in the discharge of over 14,000 patriotic and talented service members who were otherwise qualified to serve their country.

A 2005 Government Accountability Office report says nearly 10 percent of those discharged under don't ask, don't tell have been linguists trained in critical languages such as Arabic, Farsi, and Chinese.

As a member of the Senate Intelligence Committee, let me tell you

that turning away Arabic, Farsi, and Chinese speakers is bad for national security. It makes it harder for us to win the war on terror. Don't just take my word for it. The fact is, the military now understands how important it is to make this change.

Today, the Senate has the opportunity to be on the right side of history. Don't ask, don't tell is a wrong that should never have been perpetrated. Let's move to end it today. Again, let me say thank you to all of you. I look forward to being with all of you next year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Senator from Oregon for his powerful statement and powerful presence. We look forward to 110 percent of that power being back with us in the days ahead.

Mr. WYDEN. I thank the Senator.

Mr. LEVIN. The Armed Services Committee held two excellent hearings to consider the final report of the working group that reviewed the issues associated with the repeal of don't ask, don't tell. That report concluded that allowing gay and lesbian troops to serve in the U.S. Armed Forces, without being forced to conceal their sexual orientation, would present a low risk to the military's effectiveness, even during a time of war, and that 70 percent of the surveyed members believe the impact on their units would be positive, mixed, or of no consequence.

As one servicemember told the working group:

> All I care about is can you carry a gun, can you walk the post.

In combat, the troops have told us that what matters is doing the job.

We also learned during the course of our hearings that while predictions of problems after repeal were higher in combat units than among troops, this commission found that the difference disappeared among those who had actual experience serving on the front lines with gay colleagues; that is, experience is a powerful antidote to negative stereotypes about gay service members.

We learned that when our close allies, Great Britain and Canada, were preparing to allow open service by gay and lesbian troops, there were concerns about problems there. Those concerns totally disappeared after they changed their policy to allow service, but those concerns—that level of concern in our allies' armies was higher than the current level of concern in our troops. Both those countries and other allies, such as Israel, made the transition with far less disruption than expected, and their militaries serve alongside ours in Afghanistan with no sign that open service diminishes their or our effectiveness.

Secretary Gates has assured everybody he is not going to certify that the military is ready for repeal until he is satisfied with the advice of the service chiefs that we have mitigated, if not eliminated, to the extent possible, risks to combat readiness, to unit cohesion and effectiveness. We learned that Secretary Gates, Admiral Mullen, and other senior military leaders are concerned that unless we pass this law; that is, without this legislation, they are going to be forced to implement a change in policy not when they can certify that they are ready, as provided for in this legislation, but when a court orders a change. The only method of repeal that places the timing of repeal and the control of implementation in the hands of our military leaders is the enactment of this bill.

There are a lot of reasons the repeal of don't ask, don't tell can and will, hopefully, happen, but we know it can happen without harming our military's effectiveness. Those are the reasons we can do this safely, but there are other reasons why we must end this discriminatory policy. In Admiral Mullen's memorable words, it is a policy which ''forces young men and women to lie about who they are in order to defend their fellow citizens.'' We should end this policy because it is the right thing to do.

Some have argued that this is social engineering or that this is partisan, even though this change is supported by the overwhelming majority of the American people. They are grossly mistaken.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. One minute.

Mr. LEVIN. Mr. President, I am not here for partisan reasons; I am here because men and women wearing the uniform of the United States who are gay and lesbian have died for this country because gay and lesbian men and women wear the uniform of this country and have their lives on the line right now in Afghanistan, Iraq, and other places for this country. One of those is a captain by the name of Jonathan Hopkins. He finished fourth in his class at West Point, commanded two companies—one in combat—and earned three Bronze Stars, including one for valor in combat. Yet that decorated combat leader had to leave the Army because of don't ask, don't tell. I am here because of SSgt Eric Alva, the first ground unit casualty of the war in Iraq. The first casualty in the war in Iraq was a gay soldier. The mine took off his right leg, and that mine that took off his right leg didn't give a darn whether he was gay or straight. We shouldn't either.

We cannot let these patriots down. Their suffering should end. It will end with the passage of this bill. I urge its passage today. It is the right thing to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding that I have 10 minutes, and I would like to ask the Chair to let me know when I have 1 minute remaining.

The ACTING PRESIDENT pro tempore. The Chair will so notify.

Mr. INHOFE. First of all, Mr. President, we have a couple of votes today on things we should have been addressing for a long period of time in order to get to the bottom of them, and one is the DREAM Act.

I think the Senator from Alabama did a thorough job of talking about the problems. I would only say this about the DREAM Act. I have been privileged over the past 20 years to probably give more speeches at naturalization ceremonies than anybody else I know. You look at these people who did it the legal way—they came in and learned the language, and I have to say, Mr. President, they probably know more about the history of this country than many of us in this Chamber. They do it the right way. They study, and they are proud. When I see something like this, which I believe is done purely for political reasons, I just can't imagine slapping these people in the face—the people who did it in the legal way—and saying it is all right to open the door.

So enough on that. I think that was covered by the Senator from Alabama.

I do wish to speak about don't ask, don't tell. I thought back in 1993, during the Clinton administration, that this probably wouldn't work. I was shocked when I found out how well it has worked for this long period of time; that is, the don't ask, don't tell policy. We have a saying in Oklahoma: If it ain't broke, don't fix it. This isn't broke. It is working very well.

This is something else I never believed would work, but I was a product of the draft—I was drafted into the U.S. Army. Yet today we have an all-volunteer force. Our recruitment and retention today in all services is over 100 percent. I look at this, and I wonder what effect this is going to have on that. I think we have some pretty good indications on what that effect would be.

First of all, the study that was supposed to take place was supposed to have the input of the members of the services. The ones I have talked to felt that it was already over. In fact, it was. We go out and ask them for their input as to the repeal of don't ask, don't tell, how it would affect our military and their operations, and then we turn around and go ahead and pass it. We did that on May 27. So I think they didn't respond, as they normally would to a survey, because the decision was already made.

When I look at this and I see things written into this—well, first of all, like 23 percent, even on this survey, said they would leave or think about leaving sooner than they had planned. That is 23 percent. Twenty-seven percent of the military members surveyed said they would not be willing to recommend military service to a family member or close friend. Our studies

have shown us that 50 percent of those who join the service do so at the recommendation of someone who is already in the service.

So when you look at this report, everyone in the working group—and the working group is made up of a large number of people—says they didn't tabulate the results, but when pressed, they said their sense on the don't ask, don't tell policy is that the majority of views expressed were against repeal of the current policy.

I think, if you really want to know, there are four very courageous chiefs of the services who have been willing to stand up and be counted.

General Casey is the Chief of Staff of the Army. After a long statement at a hearing we had on the 3rd of this month, he said:

> As such, I believe that implementation of the repeal of don't ask, don't tell in the near term will, one, add another level of stress to an already stretched force; two, be more difficult in combat arms units; and, three, be more difficult for the Army than the report suggests.

At the same December 3 hearing—so this is current stuff—General Schwartz of the Air Force said:

> Nonetheless, my best military judgment does not agree with the study assessment that the short-term risk to the military effectiveness is low. . . . I remain concerned with the outlook for low short-term risk of repeal to military effectiveness in Afghanistan.

He goes on to talk about the implementation.

> I therefore recommend deferring certification and full implementation until 2012, while initiating training and education efforts soon after you take any decision to repeal.

So there is General Schwartz of the U.S. Air Force agreeing with General Casey that this should not be implemented.

Then in that same hearing, General Amos said:

> While the study concludes that . . . repeal can be implemented now, provided it is done in [a] manner that minimizes the burden on leaders in deployed areas, the survey data as it relates to the Marine Corps' combat arms forces does not support that assertion.

He goes on to talk about the element of risk, which is a term we use in the military when you change something, and whether that risk will be low, medium, or high. The risk in this case ranges from medium to high in the estimates of these individuals who really know what they are talking about.

I also have a quote from General Amos of just 2 days ago. This was actually on December 14, as opposed to the 3rd. He said:

> When your life hangs on the line, you don't want anything distracting . . . Mistakes and inattention or distractions cost Marines' lives. So the Marines came back and said, ''Look, anything that's going to break or potentially break that focus and cause any kind of distraction may have an effect on cohesion.'' I don't want to permit that opportunity to happen. . . . If you go up to Bethesda Hospital . . . Marines are up there with no legs, none. We've got Marines at Walter Reed with no limbs.

This is the statement of General Amos. Let me repeat. He said:

> When your life hangs on the line, you don't want anything distracting . . . Mistakes and inattention or distractions cost Marines' lives.

So we are talking about marines' lives in this case, and that is the significance.

I could go on. We have been talking about this now for a long period of time as to some of the very serious problems.

I have a letter I read some time ago from 41 retired chaplains who sent a letter to President Obama and Secretary Gates stating that normalizing homosexual behavior in the Armed Forces will pose a significant threat to chaplains' and servicemembers' religious liberty. The letter warned that reversing the policy will negatively impact religious freedom and could even affect military readiness and troop levels because the military would be marginalizing deeply held religious beliefs.

I know we are very short on time—votes are going to be coming up—but I have to respond to something the distinguished chairman of the Armed Services Committee said. He was saying we will not implement this until we find out and make a determination, and he was speaking of himself, Admiral Mullen, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President; that they are not going to implement this until they have studied this and determined it is not going to have the risks and all that.

But wait a minute, let's look at what they have already said. They have already made up their minds. President Obama said this year: I will work with Congress and our military to finally repeal the law that denies gay Americans the right to serve the country they love because of who they are. Secretary Gates said: I fully support the President's decision. The question before us is not whether the military prepares to make this change but how we best prepare for it. And Secretary Gates also said he strongly preferred congressional action as opposed to court action. Admiral Mullen had already made up his mind. These are his words: Mr. Chairman, speaking for myself, it is the right thing to do. That is why, when people stand up and say they are not going to do this until such time as these three people certify that it is the right thing to do, they have already done it. That is what is behind this. I don't want anyone out there to think this is an open process.

The last thing I would say is that I will be spending New Year's Eve in Afghanistan with the troops, and I know what they are going to say. They are going to say the same thing they said before: We were under the impression last January that we were going to have input in this. We haven't had input.

So I think if you want to pursue this, we should have the time to go ahead and do it the right way, not try to do it at the last minute, before—well, one day before my 51st wedding anniversary.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent there be 5 minutes additional time on each side, an additional 5 minutes be allowed for Senator GRAHAM on this side.

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

Mr. MCCAIN. I thank the Chair and my colleagues and the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I start by noting it has been a pleasure to work with Senator LIEBERMAN, Senator COLLINS, Chairman LEVIN, Senator GILLIBRAND, and others in the effort to repeal this outmoded law.

I have spoken many times about the repeal of don't ask, don't tell and how it improves our national security, but I would like to make a few additional short points today before we take this important vote at 10:30.

First, repealing this law is not about scoring political points or catering to a special interest group. Rather, it is about doing the right thing for our national security, especially during a time of two wars. Instead of turning away qualified interpreters, mechanics, infantrymen, and others, we need every able-bodied man and woman who is willing to fight for their country.

An exhaustive study by the Pentagon recently revealed what numerous reports have shown, that don't ask, don't tell can be repealed without harmful effects. In fact, what it shows is our national security will be enhanced by this repeal. That is one of the reasons our Defense Secretary, Robert Gates, and the Chairman of the Joint Chiefs of Staff, Admiral Mullen, have strongly urged us to repeal the law this year, before we adjourn this week.

Second, the United States lags—sadly lags—behind the world's other top militaries which allow open service by gays and lesbians. Our troops fight next to servicemembers from many of these countries every single day. There is no evidence showing that our military operations in Afghanistan or Iraq are negatively affected by allowing gay servicemembers to serve openly alongside U.S. servicemembers.

Third, the vast majority of Americans support repealing this harmful law. As the Pentagon study showed, our servicemembers are complete professionals. They will comply with the repeal, and they will not allow open service to negatively affect the jobs they do.

Finally, if the Senate does not act to give the Department of Defense and the President the authority to end this policy, then we are leaving the issue in

the hands of the courts. Secretary Gates has said it makes far more sense to bring certainty to don't ask, don't tell through legislation rather than through lawsuits.

Let me end with the words of a Marine captain who wrote a courageous opinion piece this week that was in the Washington Post. He said:

> It is time for ''don't ask, don't tell'' to join our other mistakes in the dog-eared chapters of history textbooks. We all bleed red, we all love our country, we are all Marines. In the end, that is all that matters.

I yield the floor.

Mr. GRAHAM. Mr. President, I think Senator MCCAIN asked I be recognized for 5 minutes. If that is correct, I would like to proceed.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GRAHAM. Mr. President, it is a week before Christmas. I don't know where we will be next week. All I can say is, the Senate is taking up some very important matters—the don't ask, don't tell repeal. The Marine Corps Commandant said he believes changing this policy this way would cause distraction among the Marine Corps to the point that he is worried about increased casualties. Let's hope he is wrong. But you have to ask yourself, is he crazy to say that and is he the kind of man who would make such a chilling statement without having thought about it?

My advice to my colleagues is that the Marine Corps Commandant is a serious man who is telling this body and this Nation that repeal, as being envisioned today, could compromise focus on the battlefield, and we are in two wars.

The review from the military is positive in one area, negative in the other. The Army, the Air Force, particularly the Marine Corps have cautioned us not to do this now this way. Other people have said now is the time. I can only tell you that those in close combat units have the most concern about repealing this policy.

Some will say this is a civil rights issue of our time, the day has come, we need to move forward as a nation. The Marine Corps does not have that view. They have a different view, that this is about effectiveness on the battlefield at a time of war, not about civil rights.

It is up to the Members of the body to determine who is right and who is wrong; to be cautious or to boldly go forward. But to those Senators who will take the floor today and announce this as a major advancement of civil rights in America, please let it be said that you are doing it in a fashion that those who have a different view cannot offer one amendment. We are doing this in a way that the Senate, those of us who want to maybe speak for the Marine Corps and have some amendments and ideas that may make this less distracting, have zero ability to offer an amendment on a policy change that the Commandants of the Marine Corps, the Air Force, and the Army say is problematic.

To those who are pushing this process, it is not appreciated. It is not appreciated by your fellow Senators, and I don't think it is going to be appreciated by the men and women who are going to have to live under this kind of change.

Does that matter? Apparently not. That says a lot about the Senate. That says a lot about modern politics.

To the DREAM Act, I have been involved in comprehensive immigration reform for many years. Senator DURBIN and I have talked about how to make the DREAM Act part of comprehensive immigration reform. To those who have come to my office, you are always welcome to come, but you are wasting your time. We are not going to pass the DREAM Act or any other legalization program until we secure our borders. It will never be done stand-alone. It has to be part of comprehensive immigration reform.

There is a war raging in Mexico that is compromising our national security. I would argue that the best thing for the Senate to do, the House to do, the administration to do, is work together to secure our borders before we do anything else.

To those who are bringing up this bill today, I know why you are doing it. You are not doing it to advance the issue. You are doing it to advance your situation politically. It is not appreciated. You are making it harder. You care more about politics in the last 2 weeks than you care about governing the country. This will not help America do the things America does. It is not appreciated.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. LIEBERMAN. Mr. President, if I may, I would say that of the time we have, this side will yield 5 minutes to the Senator from Virginia, and I thank him for coming over to speak.

Mr. WEBB. Mr. President, I rise in support of the notion that we need to make adjustments to this policy, this don't ask, don't tell policy. I say that after many years of thought and consideration and also in light of the analysis that has been provided by the Department of Defense to the Armed Services Committee, on which I sit.

I would say to my friend from South Carolina, I take the points he has made about the concerns in small-unit cohesion and that has gone into the formula I have used myself in order to come to this conclusion.

We need, first of all, to understand what this is and what it is not. The question is not whether there should be gays and lesbians in the military. They are already there. According to General Hamm, who conducted this extensive study, approximately the same percentage of the military is gay and lesbian as in our general population. The question is not about whether anyone should be able to engage in inappropriate conduct as a result of this policy, because we will not allow that and we will be very vigorous in our oversight of the Department of Defense to make sure that does not occur.

The question is whether this policy, as it was enacted, works today in a way that, on the one hand, can protect small-unit cohesion or to sort that out and, on the other, allow people to live honest lives.

Here is what we have. We have a Secretary of Defense, who served in the Air Force and who implemented a policy of nondiscrimination when he headed the CIA, coming forward strongly and saying he believes the alteration of this policy will work. I would remind my colleagues, he began as Secretary of Defense in the Bush administration.

We have a Chairman of the Joint Chiefs, who has an extensive career in surface warfare, starting with small destroyers up to commanding fleets, saying he believes the policy should change and that it can work.

We have a Vice Chairman of the Joint Chiefs, a marine, saying he believes this policy should change and it can work.

Most interestingly, we have General Hamm, who conducted this study, a former enlisted Army soldier, an infantry officer whose religious beliefs cause him great concerns about the notion of homosexuality, at the same time saying this policy should change and it can be changed.

That is what we are seeing. The question, and I think Senator GRAHAM laid it out very well, is whether a change in this policy will create difficulties in small-unit cohesion. That depends, as I mentioned during these hearings, on how this policy is implemented. I wrote a letter yesterday to Secretary Gates, wanting to reaffirm my understanding that this repeal would contemplate a sequenced implementation for the provisions for different units in the military as reasonably determined by the service chiefs, the combatant commanders, in coordination with the Secretary of Defense and Chairman of the Joint Chiefs.

I ask unanimous consent it be printed in the RECORD.

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

(See exhibit 1.)

Mr. WEBB. He responded to me this morning. I ask his full letter be printed in the RECORD.

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

(See exhibit 2.)

Mr. WEBB. He said:

> This legislation would indeed permit a certification approach as you suggest. . . . The specific concerns you raise will be foremost in my mind as we develop an implementation plan.

Without this, I would say, I would not be voting to repeal this. I have spent my entire life in and around the military, including 5 years in the Pentagon. With this understanding and with the notion that we need to be putting a policy into place that allows an

open way of living among people who have different points of view, I am going to support this legislation.

EXHIBIT 1

U.S. SENATE,
Washington, DC, December 17, 2010.

Hon. ROBERT GATES,
Secretary of Defense, The Pentagon, Washington, DC.

My purpose in writing is to reconfirm my understanding that the certification requirements contained in the Don't Ask, Don't Tell Repeal Act of 2010 contemplate a sequenced implementation of its provisions for different units in the military, as reasonably determined by the service chiefs and unified combatant commanders in coordination with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.

This was my understanding of the response I received from General Cartwright when I raised the issue during his testimony December 3, 2010. Specifically, I asked if the process could be considered service-by-service, combat arm-by-combat arm, or unit-by-unit. He agreed that this was a correct interpretation.

Knowing of your many current commitments, I would very much appreciate a short, written confirmation or clarification on this matter as soon as possible.

Sincerely,

JIM WEBB,
U.S. Senator.

EXHIBIT 2

SECRETARY OF DEFENSE,

Washington, DC, December 17, 2010.

Hon. JIM WEBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR WEBB: Thank you for your letter of December 17, 2010, regarding the certification requirements contained in the Don't Ask, Don't Tell Repeal Act of 2010.

In response to your question, it is my understanding that this legislation would indeed permit a certification approach as you suggest. We have not determined the specific methodology that would be used should this legislation pass, but I can assure you that the specific concerns that you raise will be foremost in my mind as we an implementation plan. Further, the Chairman of the Joint Chiefs of Staff and I remain committed to working closely with the Service Chiefs and the Combatant Commanders in developing this process.

As Admiral Mullen and I have stated previously, neither he nor I would sign a certification until we were satisfied, after having consulted with each of the Service Chiefs and Combatant Commanders, that risks to combat readiness, unit cohesion, and effectiveness had, in fact, been mitigated, if not eliminated, to the extent possible for all Services, commands, and units.

Sincerely,

ROBERT M. GATES.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I believe under the previous order I have 5 minutes of Senator MCCAIN's time. I would like to take a minute to speak on this issue of repeal of don't ask, don't tell. I wish to start by talking about the process.

Here we are, once again, at the end of the year, 1 week before Christmas, dealing with a very sensitive, a very emotional issue that is of critical importance to our men and women in the military, as well as every other American, but most significantly those men and women who are willing to put their lives in harm's way to protect America and protect Americans—and they do such a good job of that. What we have seen is the House took up a bill, passed a bill, it comes to the Senate, direct to the floor, no opportunity for amendments, limited opportunity for debate—which we will have today—and then we are going to vote.

I see the assistant majority leader is here. I wish to say that as we move into next year, get ready—get ready—because this game can be played by both sides. There will be a number of bills that are passed in the House next year that the majority is not going to want to vote on. But they better believe those bills are going to be coming to the floor of the Senate in the same way this bill is coming, and we are going to insist on that.

Second, let me just say we are in the middle of two military conflicts, where men and women are getting shot at, injured, killed, doing heroic acts, and providing for freedom in a part of the world that is of critical importance to all Americans and, at the same time, making sure, as they fight that battle in Iraq and Afghanistan, those individuals who would seek to do harm to America and Americans are not allowed to do so.

We have a policy in place called don't ask, don't tell that has been in place for 18 years now and it has worked. Admiral Mullen, in his testimony before the Senate Armed Services Committee, said that as a commander he had to terminate individuals who decided to let it be known they were a member of the gay or lesbian community, and he did.

I said in an additional question to him when he responded to that: Did you have a morale issue when you had to terminate those people? He said: No; morale remained high.

Morale today, in every branch of our service, is probably as high as it has ever been in the last several decades. Recruiting and retention are at all-time highs. But what does this survey that was sent out on this issue to military personnel and military families show? First of all, it does not address the issue of: Do you support repeal of don't ask, don't tell? They did not ask the question. The survey assumes the repeal and talks about implementation. What is interesting about the survey is that the individuals who conducted it, in addition to sending out pieces of paper, also had personal interviews, they had online, back-and-forth chats with individual members of the military, and a majority of the individuals who wear the uniform of the United States who had personal interaction with the individuals who did the survey were opposed to the repeal of don't ask, don't tell.

The survey does show that nearly 60 percent of the respondents from the Marine Corps and the Army combat arms said they believe repeal would cause a negative impact on their unit's effectiveness. Among marine combat arms, the percentage was 67 percent. And we think this is a good idea? We think it is a good idea when 67 percent of those marines who are in foxholes and are dodging bullets around corners in Afghanistan as we speak today, who say that this is going to have an impact on them, we think it is a good idea to repeal this policy?

And, by the way, this has nothing to do with the valiant service that gays and lesbians have provided to the United States of America. That is a given. We all agree with that. But what the Marine Corps and what the Army, as well as what the Air Force Chief said is this is not the time to repeal this. In the middle of a military conflict is not the time to repeal a policy that is working, that has the potential for affecting morale, it has the potential for affecting unit cohesiveness, and it also, most significantly in my mind, according to both General Casey and General Amos, does have the potential for increasing the risk of harm and death to our men and women who are serving in combat today.

If for no other reason, we ought not to repeal this today. Should it be done at some point in time? Maybe so. But in the middle of a military conflict is not the time to do it. So as we think about this, and we think about the men and women who are serving, and the fact that, as Senator INHOFE alluded to earlier—I will not repeat all of those numbers—but the fact is that if the percentages in response to the survey turn out to be true, then we are going to have about 30 percent of marine combat forces who are going to get out early and not reenlist, and we are going to have to replace them. We have got about 25 percent of those combat troops in the Army who are not going to reenlist and who would like to get out early.

If that happens, we are going to have 250,000 soldiers and marines that need to be replaced in short order. When I asked Secretary Gates about it, he said: Well, that is not going to happen. Well, if it does happen, we are going to have serious consequences.

I do hope common sense will prevail here and that we will not get cloture, and we can move on to something that is extremely important to the men and women of America at this time in our calendar year.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair. I would yield myself up to 8 minutes of the time on our side.

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

Mr. LIEBERMAN. Mr. President, I want to thank Chairman LEVIN, Senator UDALL of Colorado, and Senator WEBB for their informed and informative remarks in support of the motion to concur with the House in regard to

repealing the policy that has come to be known as don't ask, don't tell.

I think that in considering this matter today we have an opportunity not just to right a wrong, not just to honor the service of a group of American patriots who happen to be gay and lesbian, not just to make our military more effective, but to advance the values that the Founders of our country articulated in our original American documents.

I want to talk very briefly about that, because it is important to set what we are doing here in the context of history. From the beginning, America has been a different Nation. We did not define ourselves based on our borders. Our Founders defined America based on our values, and none stated more powerfully than those words in the opening paragraph of the Declaration of Independence that: There are self-evident truths. This is a political statement, a constitutional statement, but also a religious statement.

There are self-evident truths, and one of them is that all of us are created equal and endowed by our Creator with those unalienable rights to life, liberty, and the pursuit of happiness. In the second paragraph, our Founders say, in the Declaration, that they are forming this new government, America, in order to secure those rights to life and liberty. The sad fact is, at the moment they adopted the Declaration of Independence, these rights were not enjoyed for a lot of Americans, including, of course, the slaves, most of all, but women had no legal rights to speak of.

One way I think I like to look at American history is as a journey to realize, generation after generation, in a more perfect way, to make ours a more perfect Union, the rights given in the Declaration of Independence, the rights promised in the Declaration of Independence and, of course, with a lot of pain and turmoil we have done that with regard to race in our country, certainly true with regard to women.

We have created an ethic. It is the promise of America, but in some sense it is what we also call the American dream, that in this country you are judged not by who you are but how you perform. In this country, no matter where you were born or how you were born, the fact is you are able to go—if you play by the rules and you work hard, you should be able to go as far as your talents will take you, not any characteristic that one might associate with you, any adjective that one might put before the noun ''American'' whether it is White American, Black American, Christian, Jewish American, gay or straight American, Latino, or European American, that you should be entitled to go as far as your talents and your commitment to our country will take you.

In our generation, it seems to me that the movement to realize the promise of the Declaration has been one of the places that has been most at the forefront and realized most significantly is in regard to gay and lesbian Americans, to promise that, in our time, we will guarantee, as a matter of law, that no one will be denied equal opportunity based on their sexual orientation. They will be judged by the way they live and the way they perform their jobs. That is why the existing don't ask, don't tell policy is, in my opinion, inconsistent with basic American values.

It is not only bad for the military, it is inconsistent with our values. I want to say it is particularly bad for the military, because in our society, the American military is, in my opinion, the one institution that still commands the respect and trust of the American people, because it lives by American values. It fights for American values. It is committed to a larger cause and not divided by any division, including party.

So to force this policy as the don't ask, don't tell does on our military is to force them to be less than they want to be, and less than they can be. Admiral Mullen, the No. 1 uniformed military officer in our country today, said very powerfully:

> We—
>
> The military—
>
> are an institution that values integrity, and then asks other people to join us, work with us, fight with us, die with us, and lie about who they are the whole time they are in the military.

That, Admiral Mullin says, is what does not make any sense to me. I agree. The fact is this is not just a theory we are talking about. The fact is that under the don't ask, don't tell policy, more than 14,000 members of our military have been discharged since 1993, not because they performed their military responsibilities inadequately, not because they violated the very demanding code of personal conduct in the military, but simply because of their sexual orientation.

I think if you view this as an issue, that can be controversial in the realm of rhetoric or theory. But if you face those 14,000—and I have talked to a lot of them—yesterday, an Air Force major, commanding more than 200 members of the Air Force—all sorts of commendations, tossed out simply because someone did not like him, found out he was gay, and he was pushed out.

A student at one of the academies, at the top of his class, same thing. Because of his sexual orientation, tossed out. You know we spend, by one estimate, more than half a billion dollars training those 14,000 members of the American military that we discharged solely because of their sexual orientation. What a waste. These people simply want to serve their country.

I know you, Mr. President, have probably had the same experience I have. When you talk to any of the 14,000, why are they lobbying, pleading with us to repeal don't ask, don't tell? They want to go back and serve our country. They want to put their lives on the line for our security and our freedoms. Does it make any sense to say no to them simply because of a private part of their person?

In the survey that was done as part of the Pentagon report, there are some remarkable numbers. One of them is that of the gay and lesbian members of our military surveyed, only 15 percent said they would come out, that they would reveal their sexual orientation. One of them was quoted as saying, and I paraphrase: That is private. That is not part of my responsibility in the military. None of us do that in the military.

And, incidentally, when, as I hope and pray don't ask, don't tell is repealed, gay and lesbian members of the military, just as straight members, will be held to the highest demands and standards of the military code of conduct. If they are involved in any inappropriate behavior, they will be disciplined.

Mr. President, I ask unanimous consent for 2 additional minutes of the time we have.

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

Mr. LIEBERMAN. The other significant number in the survey I thought was this: Well over two-thirds of the members of our military surveyed, 120-some-odd thousand surveyed, said that they thought the military was ready for this change.

I know there has been talk about the marines. There is a fascinating number about the marines. A significant number of the marines are worried about this change in policy. But among those marines who have served in marine units with gay and lesbian marines, 84 percent say no problem. Why? Because we do not care, when we are out in combat, what somebody's race or gender or ethnicity or religion or sexual orientation is; all we care is whether they have got our back and they are a good member of the unit.

My friends have said that this simply—if, and I hope when this measure passes, and don't ask, don't tell is repealed, it authorizes the repeal, but it does not finish it. It starts a deliberative process in which, without time limit, the Secretary of Defense, the President, the Chairman of the Joint Chiefs of Staff, have to decide that it is time for the repeal to occur. It is a very reasonable process. And it saves the military, as Secretary Gates has said over and over again, from facing an order from a court that forces the military to do this immediately.

Bottom line, and I will speak personally here, I was privileged about 10 years ago—incidentally, thinking of the DREAM Act, I am a grandchild of four immigrants to America. Could they have ever dreamed that I would end up a Senator—2,000 have had the opportunity—to be the first Jewish American to run on a national ticket?

I will never forget. Someone called me up that day and said how thrilled they were, a member of another minority group, and said: You know, Joe,

here is what is significant. When a barrier falls for one group of Americans, the doors of opportunity open wider for all Americans.

I think we have that opportunity today to make our great country even greater, and our best-in-the-world military even better.

I yield the floor.

Mr. DURBIN. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. There is 23 minutes remaining for the majority, just under 16 minutes to the Republicans.

Mr. DURBIN. I yield to the Senator from California, Mrs. FEINSTEIN, for 7 minutes.

Mrs. FEINSTEIN. Mr. President, let me thank Senator LIEBERMAN for his authorship of and advocacy for repeal of don't ask, don't tell. I wish to use my time to speak about pieces of legislation.

Don't ask, don't tell has been with us now for 17 years. I just pulled a speech I made on the floor 17 years ago. The DREAM Act has been with us for 10 years. So neither of these are surprise bills. Both of these affect large numbers of people in major ways. For many, they are their life. For those who love the military, who see no life outside of the military, don't ask, don't tell is their life. The same for students, the DREAM Act becomes their life.

Let me begin with don't ask, don't tell. Seventeen years ago, Senator BOXER introduced an amendment. I spoke to that amendment. We lost by a vote of 33 to 63. Only one-third of the Senate voted to repeal don't ask, don't tell in what was a benign amendment, essentially a consent resolution, but it lost. It lost despite the testimony of legions of military.

The time has gone by, 17 long years. Many of us believe the policy is unconstitutional. We believe it does more harm than good. And 17 years later, I am only more certain that is the case. The criteria for serving in the U.S. Armed Forces should be courage, competence, and a willingness to serve. No one should be turned away because of who they are—not because of their race, their sex, or their sexual orientation. Since 1993, however, don't ask, don't tell has required gay and lesbian Americans to make a choice. You can serve the country you love, but only if you lie about who you are.

This has forced honorable American soldiers to conceal their true selves from their family, their friends, their fellow servicemembers, and their military superiors. It has deprived the U.S. military of talent and badly needed special skills.

Let me discuss one person. SGT Lacye Presley served two tours of duty in Iraq as an Army medic. The Army awarded her a Bronze Star for her heroic action in keeping several critically wounded civilians alive after a car bomb exploded in their midst. Another Army sergeant who worked with her around the same time said this about Sergeant Presley:

> I would serve with Sergeant Presley any day, no doubt about it. She's one of the best medics that I've ever seen in my 18 years of service.

Sergeant Presley was discharged after someone reported her sexual orientation to a senior commander. This is one for Sergeant Presley.

Let me discuss some other affected military personnel. Former PO2 Stephen Benjamin was an Arabic linguist for the Navy. He started his service in 2003, graduated in the top ten percent of his class from the Defense Language Institute, and spent 2 years translating for the Navy. In 2007, he was prepared to deploy to Iraq but was turned away and discharged because it was discovered that he was gay.

Army SGT Darren Manzella served two tours of duty providing medical services in Iraq. He earned three promotions over 6 years and was awarded the Combat Medical Bridge for leading over 100 patrols to treat the wounded and evacuate casualties. But after he confided in a supervisor about his sexuality, he was threatened with discharge, his sexuality was made public, and he was later discharged under don't ask, don't tell.

PVT Randy Miller of Stockton, CA, was a member of an elite Army paratroop division with a long family history of military service. He spent 2 years training in preparation for deployment and then served a tour of duty in Iraq beginning in the winter of 2005. But when he returned to the United States to be treated for a knee injury, someone reported that he was gay and he was discharged from the Army.

Finally, there is LTC Victor Fehrenbach, a 19-year veteran of the Air Force. He has flown 88 combat missions in Iraq, Afghanistan, Kosovo, and the former Yugoslavia. He received nine Air Medals and five Commendation Medals. When our country was attacked on September 11, 2001, he was hand-selected to fly patrols over Washington, DC, as part of the initial alert crew.

But Colonel Fehrenbach has been recommended for honorable discharge because his sexual orientation was made public in 2008.

These are only five stories. There are at least 13,500 more. All of these men and women volunteered to defend the country they love, only to be discharged because of who they happen to love.

Now I wish to speak about the DREAM Act. I thank those who have supported this, brought it forward—Senator HATCH, Senator DURBIN, as well as Senator LIEBERMAN and Senator COLLINS on repealing don't ask, don't tell. I have supported the DREAM Act since it was first introduced. Each year the support has grown.

Each year approximately 65,000 undocumented young people graduate from America's high schools. Most of these did not make a choice to come to the United States. Many were brought here by their parents, some at 6 months old, 6 years, 12 years—whatever it is. Many of these young people grew up in the United States. They have little or no memory or resources in the country from which they came. They are hard-working young people, dedicated to their education or serving in the Nation's military. They have stayed out of trouble. Some are valedictorians—I happen to know one—and honor roll students. Some are community leaders and have an unwavering commitment to serving the United States.

Mr. President, I would like to tell you about a few college students in California, who would benefit from the DREAM Act.

Ana was born in Mexico. She was brought to the United States when she was 7 years old. She says one of her earliest memories is her mother waking her up early in the morning to go to school in the United States. She quickly learned English and excelled in school. She didn't find out that she was undocumented until she was 13 years old and overheard someone talking about ''illegal aliens.'' When she asked her father what it meant, he told her that she should never ask about that word again. Like most kids, she didn't know what it meant to be undocumented.

Then, when she was ready to apply for college, her guidance counselor asked for her social security number. This is when the meaning of ''undocumented'' hit home. She graduated from high school with honors and is currently a sophomore at DeAnza College in California. She is active in her student government and is studying political science.

Ivan was brought to the United States when he was just 10 months old. His family settled in San Bernardino, CA, where Ivan excelled in school. He found out about his undocumented status in the 7th grade when he could not accept an award he earned at a science fair because he didn't have a Social Security number.

Ivan is a Presidential scholar who graduated within the top 1 percent of high school graduates in San Bernardino County. He is currently a senior at California State University and is a pre-med biology major. He hopes to become a doctor in the Army someday and says that it would be an honor to provide care to the brave men and women risking their lives for this country.

Blanca came to the United States in 1989, when she was 6 years old. Her family left Mexico after a devastating earthquake. Blanca's family settled in the San Francisco area, where she attended elementary school and graduated from high school. Although Blanca knew that she was undocumented, her family never spoke about it.

Despite being undocumented, Blanca was determined to get the best education she could. She attended Contra Costa Community College and the University of California Davis. She graduated from college in 2008 and hopes to become a lawyer someday so that she can work to prevent sex trafficking.

Justino was brought to the United States 10 years ago by his mother, along with his two siblings, to escape his abusive father. He attended school and graduated within the top 5 percent of his class. He attends Mount San Antonio College and is a student leader, actively engaged in community service in the Latino community.

Justino says that he has a strong love for his community and has been doing everything he can to improve it just like his role models, Martin Luther King, Jr., and Gandhi.

Because of their undocumented status, these young people are ineligible to serve in the military. They face tremendous obstacles to attending college. For many, English is actually their first language, and they are just like every other American student. Now reaching adulthood, these young people are left with a dead end. They can't use their educations to contribute to their communities. They can't serve the country they call home by volunteering for military service. In other words, they are dumbed down by their status. They are relegated to the shadows by their status. And along comes the DREAM Act. That provides an opportunity for these young people to prove themselves. It provides the incentive to prove themselves.

It would permit students to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, attend college, or enlist in the military for 2 years. So already they have to prove themselves. The legislation requires students to wait 10 years before becoming lawful permanent residents and undergo background and security checks and pay any back taxes. This is a multistep process. It is not a free pass.

Additionally, according to CBO, the DREAM Act would actually increase Federal revenues by $2.3 billion over the 10 years and increase net direct spending by $912 million between 2011 and 2012.

In addition, the Congressional Budget Office and the Joint Committee on Taxation indicate that enacting the bill would reduce deficits by about $2.2 billion over 10 years.

DREAM is a winner. Repealing Don't ask, don't tell is what we should do. I hope there are ''aye'' votes sufficient to pass both of these today.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Arizona.

Mr. KYL. Could I be advised after I have spoken for 5 minutes.

Mr. President, the DREAM Act is an attempt to cure a symptom of a problem. The symptom is that some children have been brought here illegally and they are suffering the consequences of being illegal aliens under American law. The problem is illegal immigration, which causes all manner of other bad results or problems. There are huge costs to society and any number of personal tragedies as a result of illegal immigration, the DREAM Act problems being only one subset.

Just a few days ago, another Border Patrol agent was killed in the State of Arizona, illustrating again another kind of personal tragedy from illegal immigration. Unfortunately, treating symptoms of the problem might make us feel better because we are doing something for a particular group of folks, but it can allow the underlying problem to metastisize. Unfortunately, that is what is happening at our border.

In some respects, the problems are getting worse, not better. Our citizens have a right to be safe and secure. Right now that situation, at least in my home State, does not pertain. So the first point I make is that we have to secure the border and stop illegal immigration. When we do, there will not be more problems for people associated with education that would be solved by the DREAM Act or other problems associated with illegal immigration. We will have excluded or we will have limited the nature of the problem to simply those who are here now and then, obviously, we can deal with that problem. That is the first point.

Second, this bill is brought to us with no hearings or markup in a committee. It is the sixth version of a DREAM Act. I worked with Senator DURBIN on another version of the DREAM Act in connection with the comprehensive immigration law. There are problems with this bill. Those problems need to be dealt with. But the bill comes before us under a condition in which there can be no amendments. There needs to be amendments.

In the remaining 3 minutes or so I have, let me simply identify 10 particular problems we need to deal with and can only be dealt with by getting together and working it out by having amendments, which we can't do in the short time we have.

The bill would immediately put an estimated 1 to 2 million illegal immigrants on a path to citizenship, a number which will only grow because there is neither a cap nor sunset in the legislation. These people would then have access to a variety of other Federal programs, Federal welfare programs, student loans, Federal work study programs, and the like.

Third, the entire time such individuals are in conditional status, they are not required to attend college or join the military. That is a common misperception. Only when such individuals seek to get lawful permanent resident status do they then have to proceed to complete the requirements for education or military.

Fourth, the education and military requirements can be waived altogether, including for criminal activity—in other words, people who have a serious criminal background.

Five, chain migration, which is something we dealt with in the legislation in 2009, would result from this legislation because once the citizenship is obtained, the individuals would have the right to legally petition for a green card for their family members. That means the numbers could easily triple from the 2 million plus estimated right now.

Sixth, the bill has no age limit for aliens in removal status. This is supposed to be for children, but there is no age limit for people who are in removal proceedings and simply file an application for status under the DREAM Act to stay their removal. That has to be fixed.

Seven, the bill forbids the Secretary of Homeland Security from removing any alien who has a pending application for conditional nonimmigrant status regardless of age or criminal status. In other words, it provides a safe haven for illegal immigrants, some of whom we would not want to allow to stay in the United States and should be subject to removal.

Eighth, the DREAM Act as written provides that applicants who are currently ineligible under current law for status of a green card could nevertheless be eligible under this act. The reason is because some of the grounds of waiver that exist in this act do not exist under current law, but they could be waived for DREAM Act aliens—things such as document fraud, alien absconders, and marriage fraud.

Nine, the act does not actually require that an illegal alien finish any type of degree other than a high school GPD. To receive green card status, the bill requires only that the alien complete 2 years at an institution of higher education. There is not a requirement that they ever receive a degree of any kind. The requirement is that they needn't receive a degree of any kind. This is important.

For those who want to go into the military, there is the requirement for 2 years of service in the uniformed services. When you enlist in the service today, you are enlisting for a commitment of 4 years.

Finally, removal, if it can be demonstrated as resulting in a hardship either to the applicant or to a spouse, the requirements for education can be waived altogether. So a sympathetic Secretary of Homeland Security could obviously create a situation in which there is essentially just a waiver for people to come into the United States.

For these reasons, I urge colleagues to vote against cloture on the DREAM Act.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DURBIN. Mr. President, I yield to three of my colleagues at this point before, I believe, Senator MCCAIN

speaks. I yield Senator BENNET 2 minutes, Senator GILLIBRAND for 2 minutes, and Senator SCHUMER for 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. BENNET. Mr. President, I rise today in strong support of the DREAM Act. I have a lot of sympathy for the arguments the Senator from Arizona has made about what is going on in Arizona, what is going on in the Rocky Mountain West, where I come from, which reminds me of the need we have in this country and in this Congress to finally face up to the facts and pass comprehensive immigration reform. But that is not what we are talking about today.

What we are talking about today is the DREAM Act, a narrow bill that deals with about 65,000 people a year who are here through no fault of their own and have no other country of their own but want to make a contribution to our country—as scholars, as taxpayers, as part of our military—the people who have worked hard, who have played by the rules and they want to do nothing other than make a contribution to the United States of America, much as my grandparents and my mother wanted to make when they came here as immigrants.

So I think on this Christmas Eve it would be more than appropriate for the Senate to join the House and do the right thing and pass the DREAM Act.

Mr. President, I yield the floor.

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

Mrs. GILLIBRAND. Mr. President, I rise in support of the two very important votes we are having today on the DREAM Act and the repeal of don't ask, don't tell.

The DREAM Act is a moral imperative. These are young people who have come to this country through no fault of their own, who want nothing but to achieve the American dream—either through education or through military service—but they want to be part of this community and be able to give back to this community.

In a country that was founded on immigrants, where the richness of our heritage and culture and the breath of our economy is due to our immigrants, we want to make sure every one of these young people can become American citizens.

With regard to don't ask, don't tell, I cannot think of a policy that greater undermines the integrity of our entire Armed Services and who we are as a Nation. This is a policy that is corrosive. We are saying to men and women who want nothing but to serve this country, to give their lives for this country: No, you cannot because of who you love. I cannot think of something more egregious, more undermining of our command structure and of our goodwill, and the entire fabric of the military lives of the men and women who serve.

Mr. President, I urge my colleagues to look at this as an urgent priority for national security. When we are talking about worrying about having two wars and terrorism at every front, we need to know all of our best and brightest—how many are not serving today because of this policy; how many will return to the military when this policy is removed. All I know is, since this policy has been in place, we have lost 13,000 personnel, more than 10 percent of our foreign language speakers, and more than 800 in mission-critical areas who cannot be easily replaced.

If you care about national security, if you care about our military readiness, then you will repeal this corrosive policy.

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

Mr. SCHUMER. Mr. President, today we vote on two very important issues in the great, long, and often difficult march that America has made toward equality.

That is one of the greatnesses of this country, that we inexorably move to equality. Sometimes it is painful. Sometimes it is difficult. Sometimes we take two steps forward and one step back. But as the great scholar de Tocqueville wrote, when he visited America in the 1830s: The thing that separates America from all the other countries of the world is equality always prevails.

We are dealing with equality on two scores today, in two areas. One is in the military. One of the great things about our military, No. 1, is they defend us and risk their lives for our freedom. But the second is, it has always been an integrating, positive force in America. Any policy that says you cannot serve even though you want to be an American, you are an American, is wrong; bad for our military service and bad for the country.

Second, we speak of the DREAM Act. Inevitably, from the time the first settlers came to New York, the English began to displace the Dutch, and the Dutch were upset. But what does America do? We reach out to newcomers and say: Become Americans and contribute to the American dream and work hard.

There are always people who have reasons to say no. They always fail. They may not fail this morning, but they will fail because the drive for equality is a great American drive. It is part of the American dream, and on both these issues we will prevail.

I yield the floor.

Mr. MCCAIN. Mr. President, over the last 3 years, I have spent a lot of time traveling around the State of Arizona and meeting with my constituents. Many of these trips took me to the southern part of my State where I sat down with ranchers, farmers, small business owners, local officials, and law enforcement officers in the border region and discussed the issues that were important to them and their neighbors. Everywhere I went people told me of their fear and concern over the lack of security along Arizona's border with Mexico.

Due to the drug war in Mexico, the situation along the southern border has proven to be a very serious and real threat to the people living in the region. The violence that continues to plague our southern neighbor by well-armed, well-financed, and very determined drug cartels poses a threat to our national security. Despite the increased efforts of President Calderon to stamp out these bloodthirsty and vicious drug cartels, violence has increased dramatically, claiming over 31,000 lives in Mexico since 2006. The murderers carrying out these crimes are as violent and dangerous as any in the world.

Two weeks ago, the Mexican military arrested a 14-year-old U.S. citizen who has been working as a hit man for the Cartel of the South Pacific. This child assassin came to the attention of the public after YouTube videos surfaced of him decapitating kidnapping victims. When questioned by Mexican authorities, he is quoted as saying, ''When we don't find the rivals, we kill innocent people, maybe a construction worker or a taxi driver.'' Truly disturbing behavior.

This week there was another tragic murder on the U.S. side of the border that took the life of Border Patrol Agent Brian Terry. Our thoughts and prayers go out to his family and his fellow Border Patrol agents. Agent Terry was killed outside of Rio Rico, AZ, during a shootout with a Mexican ''rip-crew'' that was attempting to rip off a rival drug gang. These incidents are becoming all too common and are a byproduct of the lack of resources and personnel along our border.

Incidents like these are why the residents of southern Arizona tell me that they feel that they live in a lawless, forgotten region of the country where they live in constant fear in their own homes. They are begging for our help. It is time—in fact, the time is long overdue—for the Federal Government to fulfill its responsibility to secure our international borders and ensure the safety and well-being of the families and citizens living within those borders.

All of that being said, I still believe that the overwhelming majority of men and women trying to enter our country illegally are looking for nothing more than the opportunity to improve their lives and the lives of their families. Fixing our immigration system, with reforms like the DREAM Act and the implementation of a workable and labor-market-driven guest worker program would benefit our Nation's economy and our society. Such reform would also provide immigrants desperate to come to the United States to look for work a safe alternative to illegal human smugglers or ''coyotes'' that have cost so many people their lives and dignity. According to the U.S. Border Patrol, 253 people died attempting to cross the Arizona border between September 2009 and October 2010.

With respect to the DREAM Act, I have great sympathy for the students

who would benefit from passage of this legislation. I have met personally with many of the students advocating for the bill, and many of their stories are heart-wrenching. Through no fault of their own, they are now caught in legal limbo that leaves them unable to obtain employment in the United States and unequipped to return to the country of their birth, often a place foreign and completely unknown to them. I truly sympathize with the plight of these men and women.

But I also feel for the men and women of Arizona who live along an unsecure border and have been promised for decades that the Federal Government will do its job and stop the illegal migration and drug trafficking that run through their towns, neighborhoods, and backyards.

I pity the farmers in my State who are unable to harvest their crops because they cannot navigate the burdens of the H–2A agriculture guest worker program. Most of all, however, I sympathize with the families who live in constant fear in their homes and neighborhoods, especially those who have been victimized by criminal elements crossing the border illegally. Consequently, I cannot in good faith put the priorities of these students, as tragic as their situation is, ahead of my constituents and the American people are who are demanding that the Federal Government fulfill its constitutional duty to secure our borders. Once we fulfill this commitment, we can then address the other issues surrounding and plaguing our broken immigration system.

On a practical note, I also believe that any casual, impartial observer will recognize that our inability to secure the border has made immigration reform politically unattainable as the American public insists we stop the flow of illegal entries before considering any changes to our immigration policies. In 1986, we passed what was truly an amnesty and we failed to secure our borders either before or after that bill's passage. Consequently, we now have an estimated 12 to 20 million people living in our country illegally, and the American people have said ''enough is enough.'' They are telling us to ''secure our borders first.''

We have already made steps in the right direction. In fact, we have shown our ability to work in a bipartisan fashion to secure the border during this Congress. Most recently, in August, the Senate unanimously passed legislation to deploy $600 million in personnel and new assets to the southwest border. We must continue this important work together.

While it is true that there are more assets and resources at the border now than ever before, we need a complete and comprehensive plan that incorporates the ideas of the State and local law enforcement, elected officials, and the border Governors. In the coming months, I will begin a deliberative and comprehensive process of discovering what is truly needed to secure our borders and give the Governors of our Southern States the peace of mind and assurance they need to certify that their borders are secure.

These elected officials are on the front line and know best what assets, personnel, and technology are needed. Once the border State Governors certify their State border has been secured and the Federal Government can demonstrate such to the American people—only then should we and can we begin working on comprehensive immigration reform.

I look forward to working with my colleagues in a bipartisan matter to address all of these issues that are important to the American people and the people of Arizona.

Mr. LEAHY. Mr. President, while partisan rancor seems to have seized the Senate on so many issues this year, on at least one count, I am encouraged and hopeful. There may yet be sufficient bipartisan agreement to repeal the discriminatory don't ask, don't tell policy before this Congress ends. I commend those Senators who have pledged to support the repeal, and I renew my own commitment to this worthy effort. It is well past time to put an end to this discriminatory and harmful policy.

Today, in the U.S. Senate, the stage is being set for one of the major civil rights victories of our lifetimes. Years from now, I hope that historians will have good cause to remember this day as a day when the two parties overcame superficial differences to advance the pursuit of equal rights for all Americans. After much effort, and just as much study and discussion, the Senate finally will proceed to an up-or-down vote on repealing this counterproductive policy.

For those who still harbor concerns that enacting this repeal would somehow harm readiness, one simple fact is the clearest answer: Gay and lesbian Americans already serve honorably in the U.S. Armed Forces and have always done so. There is no doubt that they have served in the military since the earliest days of the Republic. The only reason they could do so then, and now—even under today's discriminatory policy—is because they display the same conduct and professionalism that we expect from all of our men and women in uniform. They are no different than anyone else, and they should be treated no differently.

Ending this policy will also bring to an end years of forced, discriminatory and corrosive secrecy. Giving these troops the right to serve openly, allowing them to be honest about who they are, will not cause disciplined service members to suddenly become distracted on the battlefield. It is pandering to suggest that they would be.

This is not only my view. The Chairman of the Joint Chiefs, Admiral Mullen, has said time and again that this is the right thing to do and that it will not harm our military readiness.

Every member of our armed services should be judged solely on his or her contribution to the mission. Repealing don't ask, don't tell will ensure that we stay true to the principles upon which our great Nation was founded. We ask our troops to protect freedom around the globe. It is time to protect their basic freedoms and equal rights here at home.

Throughout our history, the Senate has shown its ability to reflect and illuminate the Nation's deepest ideals and the Nation's conscience. It is my hope that the Senate will rise to this occasion by breaking through the partisan din to proceed to a debate and vote on repealing this discriminatory and counterproductive policy.

Mr. COONS. Mr. President, I rise to voice my strong support for this legislation which I am proud to co-sponsor and which effectively repeals don't ask, don't tell.

Today, we are at a historic crossroads. Our choice is to continue a policy that conflicts with our founding principles of freedom and liberty for all, or to open the doors of the military to all Americans courageous enough to serve.

Don't ask, don't tell is discrimination, plain and simple. Any American prepared to die for their country should be afforded the respect and admiration they deserve. Brave men and women in uniform are willing to fight for our freedom every day, and it is our responsibility as Senators as Americans first to fight for theirs.

President Truman had the vision and leadership to racially integrate the military at a time when he faced even stronger opposition from political and military leaders than we face today. We should act today in that tradition.

I have met with many courageous members of the military some of whom also happened to be gay or lesbian and listened to congressional testimony on this issue. I share the view of our military leaders that the most pressing question is not whether to repeal don't ask, don't tell, but rather, how to implement a repeal. This is why I am pleased the bill before us today leaves this issue in the hands of military leaders, who are granted the time needed to certify adequate preparation for a repeal reflecting the best interests of our troops.

Under the legislation, a repeal of don't ask, don't tell would be enacted 60 days after the President, Secretary of Defense, and Chairman of the Joint Chiefs certify they have done three things. First, that they have considered the Pentagon working group report on the impact of a repeal. Second, that the Department of Defense has readied the necessary regulations for implementation. Third, that the manner of implementation is consistent with the standards of military readiness, effectiveness, unit cohesion, and recruiting and retention.

This legislation does not stipulate a timeline for this process, but provides

a congressional mandate that the policy must be changed once measures are in place to mitigate any negative impact of a repeal. This includes training, education, and additional steps to ensure a smooth transition to implementing a repeal.

The issue of implementation was one concern shared by all the service chiefs who testified before the Senate Armed Services Committee on December 3, and I am pleased it is adequately addressed in this bill. Another concern shared by all service chiefs was the view that they would prefer that Congress legislate a repeal rather than leave it to the courts. They shared a concern that a court order would compel military leaders to implement a repeal without the time and flexibility required.

As the recent Department of Defense report demonstrated, 70 percent of our troops believe a repeal of don't ask, don't tell will have little impact on military readiness or unit cohesion. Sixty-nine percent believe they have served with someone who is gay or lesbian, and of that group, 92 percent responded that serving with someone who is gay or lesbian had little impact on their unit.

These report findings demonstrate a basic truth that we can deny no longer. Gay Americans have chosen to proudly serve their country, and the current don't ask, don't tell policy forces them to lie about who they are or face discharge. In fact, we have discharged nearly 14,000 brave servicemembers since the law was implemented in 1993, simply because their sexual orientation was disclosed. Those discharged include high-decorated combat veterans, national security experts, and badly needed military linguists when our nation is engaged overseas in two wars. These are losses we can ill afford.

Sexual orientation is not a choice but discrimination is. Homosexuals in the military today face the double burden of risking their lives for their country while being force to lie about who they are or face discharge. Today, I am pleased to join my colleagues in ending this burden once and for all and repealing don't ask, don't tell.

I wish to voice my strong and unequivocal support for this bill which effectively ends the seventeen year policy of treating homosexuals as inherently unqualified for military service. It is time we join the majority of our allies in allowing those already serving in our military to do so free from discrimination, with integrity and honor.

Mr. DURBIN. Mr. President, over the past few months, we have heard a variety of justifications for why now is not the time to repeal don't ask, don't tell.

Opponents of repeal have said that we should wait for our military leaders to call for change. Well, in the past year, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff—the two highest-ranking military leaders in America—have told us now is the time for Congress to act.

We have been told that we should wait for the results of the Pentagon study on the effects of ending don't ask, don't tell and recommendations for implementing its repeal. We now have the results of that study. It concludes that the risks associated with overturning don't ask, don't tell are low, with thorough preparation. The repeal bill before us provides for just such preparation.

A survey included in the Pentagon study shows that a substantial majority of servicemembers—about 70 percent—predict little to no negative effects from allowing gay men and lesbians to openly in our military.

Rather than listen to our top military leaders and rank and file servicemembers, opponents of repeal now want to move the goal posts. After months of exhaustive study and debate, they now say they want a survey that asks different questions and to hear from different leaders.

They say the 103-question survey, 95 forums, and 140 focus groups included in the Pentagon study were not sufficient to gauge the affects of repeal.

Enough with the stalling and blocking.

The days of don't ask, don't tell are numbered. This discriminatory policy, which is harmful to our Nation's principles and or national defense, will end. The only question is whether Congress will act and give military leaders the time they seek to make an orderly transition, or continue to delay and risk that the federal courts will demand a more abrupt change.

Congress or the courts. That is the choice.

Secretary Gates warned us as much at the release of the Pentagon study. He said:

> Now that we have completed this review, I strongly urge the Senate to pass this legislation and send it to the president for signature before the end of this year. I believe this is a matter of some urgency because, as we have seen in the past year, the federal courts are increasingly becoming involved in this issue.

He continued:

> Just a few weeks ago, one lower court ruling forced the department into an abrupt series of changes that were no doubt confusing and distracting to men and women in the ranks. It is only a matter of time before the federal courts are drawn once more into the fray, with the very real possibility that this change would be imposed immediately by judicial fiat—by far the most disruptive and damaging scenario I can imagine, and one of the most hazardous to military morale, readiness and battlefield performance.

Just this week, another legal challenge was filed in federal court by three former servicemembers discharged under don't ask, don't tell.

Their stories illustrate once again the arbitrary and unjust the nature of the current policy, and the harm it causes.

The plaintiffs are Air Force veterans Michael Almy and Anthony Loverde, and Navy veteran Jason Knight. Let me tell you about these brave men.

MAJ Michael Almy is the son of a West Point graduate and served 13 years in the Air Force.

Major Almy deployed to the Middle East several times in the late 1990s, helping to enforce the no-fly zones in Iraq. He deployed again in 2002 and 2004 to support the invasion of Iraq and its aftermath.

Near the end of his 2004 deployment, Major Almy was named the Field Grade Officer of the Year. It was also during this deployment that a member of his unit found e-mails Major Almy sent to another man and the discharge process started.

Major Almy's superiors and subordinates provided glowing character references during the discharge.

This is what one subordinate said—Major Almy:

> one of the most respected leaders in the squadron thanks to his no nonsense approach to mission accomplishment.

He added:

> I can say without any reservation that Major Almy was the best supervisor I have ever had . . . It would be an absolute travesty to lose such an outstanding officer and superior leader.

Even while his discharge was pending, Major Almy's wing commander recommended his promotion to lieutenant colonel—ahead of his peers.

None of this was enough to save Major Almy's career. Despite his exemplary record, he was discharged for being gay.

The second plaintiff, SSG Anthony Loverde, is also a highly decorated veteran of Operation Iraqi Freedom. He had the difficult and job of a C–130 loadmaster.

During his deployment in 2007, Loverde found that he could no longer pretend to be someone he was not. Upon returning home, he sent his supervisor an email saying he would like to continue to serve, but he could not do so if it also meant continuing to conceal his sexual orientation. That letter started his discharge.

One month after his discharge, Sergeant Loverde received the Air Medal for ''superior ability in the presence of perilous conditions.''

But that is not the end of Sergeant Loverde's story.

Shortly after his discharge, he went to work for a defense contractor and headed back to Iraq, this time as an openly gay man. As a defense contractor, he shared quarters with servicemembers—without incident.

In a letter last year to the Washington Post, Sergeant Loverde wrote:

> At the same time I was being discharged, my younger brother, who served a 15-month tour in Iraq during 2004–05 with the Army infantry, was stop-lossed to be sent back for another tour of duty. He had a new wife and a young son; he had fulfilled his initial commitment and wanted to leave the Army to continue his career as a civilian. But our country's needs were too great—he was told he had to keep fighting.

Why, in such a time, would we discharge decorated servicemembers who want to serve our Nation?

The third member in this latest court challenge is PO2 Jason Knight.

Petty Officer Knight enlisted in the Navy in April 2001 and served 5 years. He spent the first 3 of those years as a member of the elite Navy Ceremonial Guard at Arlington National Cemetery. He participated in more than 1,500 military funerals.

In 2004, Petty Officer Knight realized he was gay. He ended his marriage and informed his commander.

He was discharged in April 2005, but because of an error in the paperwork, he remained eligible for recall.

Sure enough, Petty Officer Knight was recalled in 2006, and deployed to Kuwait. During that deployment, he served as an openly gay man and received high praise from those with whom he served.

In 2007, responding to a statement by GEN Peter Pace, then-Chairman of the Joint Chiefs of Staff, that he viewed homosexuality as immoral, Jason Knight wrote a letter to the editor of Stars and Stripes.

In his letter, Petty Officer Knight wrote:

> I spent four years in the Navy, buried fallen servicemembers as part of the Ceremonial Guard, served as a Hebrew Linguist in Navy Intelligence, and received awards for exemplary service. However, because I was gay, the Navy discharged me and recouped my $13,000 sign-on bonus. Nine months later, the Navy recalled me to active duty. Did I accept despite everything that happened? Of course I did, and I would do it again. Because I love the Navy and I love my country. And despite [General] Pace's opinion, my shipmates support me.

For writing those words, Jason Knight was discharged for a second time under don't ask, don't tell.

The men and women discharged under don't ask, don't tell are not asking to be treated as a special class. Just the opposite—they are asking to be treated like everyone else.

Some defenders of the status quo claim that things are working fine under don't ask, don't tell. How in the world can anyone say that after hearing these stories?

At a time when our Nation is fighting two wars, honorable men and women with proven records of outstanding service are being forced out of our military, they are having their careers destroyed, solely because they are gay. It is time for Congress to act and give our military leaders the time they need to bring this flawed policy to a responsible end.

We know that some branches and some members of our armed services are more skeptical than others of the ability of America's military to adapt to a repeal of don't ask, don't tell.

Lack of complete agreement is no reason to delay.

We have been here before. In 1948, when President Harry Truman signed Executive Order 9981 calling for an end to segregation in the armed forces, he also created a military advisory committee and charged them with examining military rules, procedures, and practices that interfered with equitable treatment of military personnel. It was called the President's Committee on Equality of Treatment and Opportunities in Armed Forces, but it became better known as the Fahy Committee, after its chairman.

In March of 1949, the three Service Secretaries testified before the Fahy Committee. The Secretaries of the Air Force and Navy testified in support of President Truman's executive order. But Secretary of the Army Kenneth Royall argued in favor of maintaining the status quo, saying that the Army was ''not an instrument of social evolution.''

As it turned out, Secretary Royall was wrong. The U.S. military—and the Army in particular—helped lead the way in creating the vibrant, integrated society we know today.

America has the best trained, most professional military in the history of the world. I am confident that our military can and will meet the challenges of ending discrimination based on sexual orientation, just as they helped lead the way in ending legalized racial discrimination in the past.

Former Senator Edward Brooke served in this body for 12 years in the 1960s and 1970s. He was the first African-American elected to the U.S. Senate since Reconstruction.

He remembers well the injustice of serving in a segregated Army. He recently wrote an impassioned plea for ending don't ask, don't tell. It appeared in the Boston Globe. I quoted from it when I spoke on this topic a few days ago. I want to do so again, because what he says bears repeating.

Senator Brooke wrote that don't ask, don't tell ''shows disrespect both for the individuals it targets and for the values our military was created to defend.''

He wrote:

> Regardless of its target, prejudice is always the same. It finds novel expressions and capitalizes on new fears. But prejudice is never new and never right. One thing binds all prejudices together: irrational fear. Decades ago, black servicemembers were the objects of this fear. Many thought that integrating black and white soldiers would harm the military and society. Today, we see that segregation itself was the threat to our values.

He went on to say:

> We know that laws that elevate one class of people over another run counter to America's ideals. Yet due to ''don't ask, don't tell,'' the very people who sacrifice the most to defend our values are subject to such a law. We owe them far more.

One month before President Truman's Executive Order, a Gallup poll showed that only one in four American adults supported ending racial segregation in our military.

Today, 75 percent of Americans say that gay men and lesbians should be allowed to serve openly.

A majority of our servicemembers and our top military leaders say it is time to end the discrimination against gay men and lesbians.

The time for change has come. The only question is whether we will act responsibly and give our military leaders the time they are seeking to make this transition. Or will we continue to delay and let the courts set the timetable?

America is ready to end don't ask, don't tell. Now it is our turn to take the next step forward and end a policy that offends our national principles and harms our national security.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McCAIN. Mr. President, how much time is remaining on both sides?

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 10 minutes. The Senator from Illinois has 10 minutes 30 seconds.

Mr. McCAIN. Well, Mr. President, I would ask, is it true the parliamentary situation as it exists right now is that we will be voting on cloture on both what is known as don't ask, don't tell and the DREAM Act?

The ACTING PRESIDENT pro tempore. The Senator is correct. There will be cloture votes on both of those House messages.

Mr. McCAIN. Meanwhile, on the Executive Calendar, we have the START treaty?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. McCAIN. And there are no amendments that are in order on either the DREAM Act or don't ask, don't tell, no amendments are in order?

The ACTING PRESIDENT pro tempore. My understanding is there is no place for an amendment on either measure at this time.

Mr. McCAIN. So here we are, about 6 weeks after an election that repudiated the agenda of the other side, and we are jamming, or trying to jam, major issues through the Senate of the United States because they know they cannot get it done beginning next January 5. They cannot do it next January 5. The American people have spoken, and they are acting in direct repudiation of the message of the American people. That is why they are jamming this through.

My friends, there is a lot of talk about compromise. There is a lot of talk about working together. You think what this ''bizarro'' world that the majority leader has been carrying us in, of cloture votes on this, votes on various issues that are on the political agenda of the other side—to somehow think that beginning next January 5 we will all love one another and kumbaya? I do not think so. I do not think so.

Unfortunately, the majority is using the lameduck session to push an agenda, when the fact is lameduck sessions are supposed to be to finish up the work of Congress so the new Congress can act on the issues of the day.

The American people have spoken in what the President of the United States described as a ''shellacking.'' Everything we are doing is completely ignoring that message. Maybe it will require another election.

So, for example, I filed two amendments I believe are relevant to this bill, important to this major change. Those will not be in order.

I have always and consistently stated that I would listen to and fully consider the advice of our military and our military leadership. On December 3, the Committee on Armed Services heard from the Chiefs of our four military services—the Chiefs of our four military services.

General Amos said:

Based on what I know about the very tough fight in Afghanistan, the almost singular focus of our combat forces as they train up and deploy into theater, the necessary tightly woven culture of those combat forces that we are asking so much of at this time, and, finally, the direct feedback from the survey, my recommendation is that we should not implement repeal at this time.

Then he talks about:

Mistakes and inattention or distractions cost Marines' lives.

Cost marines' lives.

[M]arines came back—

After serving in combat—

and they said, ''Look, anything that's going to break or potentially break that focus and cause any kind of distraction may have an effect on cohesion.'' I don't want to permit that opportunity to happen. And I'll tell you why. If you go up to Bethesda . . . Marines are up there with no legs, none. We've got Marines at Walter Reed with no limbs.

General Casey said:

I believe that the implementation of the repeal of Don't Ask, Don't Tell in the near term will, one, add another level of stress to an already stretched force; two, be more difficult in our combat arms units; and, three, be more difficult for the Army than the report suggests.

General Schwartz basically said the same thing.

I have heard from thousands—thousands—of Active-Duty and retired military personnel. I have heard from them, and they are saying: Senator MCCAIN, it isn't broke, and don't fix it.

So all of this talk about how it is a civil rights issue and equality, the fact is, the military has the highest recruiting and highest retention than at any other time in its history. So I understand the other side's argument as to their social, political agenda. But to somehow allege that it has harmed our military is not justified by the facts.

I hope everybody recognizes this debate is not about the broader social issues that are being discussed in our society, but what is in the best interest of our national security and our military during the time of war.

Now, I am aware this vote will probably pass today in a lameduck session, and there will be high-fives all over the liberal bastions of America. We will see the talk shows tomorrow—a bunch of people talking about how great it is. Most of them never have served in the military or maybe even not even known someone in the military.

And, you know, we will repeal it; all over America there will be gold stars put up in windows in the rural towns and communities all over America that do not partake in the elite schools that bar military recruiters from campus, that do not partake in the salons of Georgetown and the other liberal bastions around the country. But there will be additional sacrifice. I hear that from master sergeants. I hear that from junior officers. I hear that from leaders.

So I am confident that with this repeal our military—the best in the world—will salute and do the best they can to carry out the orders of the Commander in Chief. That is the nature—that is the nature—of our military, and I could not be more proud of them in the performance that they have given us in Iraq and Afghanistan, and before that other conflicts. They will do what is asked of them.

But do not think it will not be at great cost. I will never forget being, just a few weeks ago, at Kandahar. An Army sergeant major, with five tours in Iraq and Afghanistan, in a forward operating base, said: Senator MCCAIN, we live together. We sleep together. We eat together. Unit cohesion is what makes us succeed.

So I hope when we pass this legislation we will understand we are doing great damage, and we could possibly and probably—as the Commandant of the Marine Corps said; and I have been told by literally thousands of members of the military—harm the battle effectiveness which is so vital to the survival of our young men and women in the military.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time is remaining on this side?

The ACTING PRESIDENT pro tempore. There remains 10½ minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today in support of the DREAM Act and in support of the repeal of don't ask, don't tell. I will focus my remarks on the DREAM Act, but I want to make it clear to my colleagues, you will not get many chances in the Senate in the course of your career to face clear votes on the issue of justice. This morning, you will have two—not one but two.

The question is whether the Senate will go on record as a Nation prepared to stop discrimination based on sexual orientation. It is a monumental question, a question of great moment, and a question we should face squarely.

There will be a vote, as well, on whether the Senate will stand by thousands of children in America who live in the shadows and dream of greatness. They are children who have been raised in this country. They stand in the classrooms and pledge allegiance to our flag. They sing our Star Spangled Banner, our national anthem. They believe in their heart of hearts this is home. This is the only country they have ever known. All they are asking for is a chance to serve this Nation. That is what the DREAM Act is all about.

Last night, Senator BOB MENENDEZ, who has been my great ally on this, and I stayed late to speak on the Senate floor. I left and went upstairs, and there were many of these young people who were here in support of the DREAM Act, who came by my office and we spent a few minutes together. Some of them have ridden on buses for 28 hours from Austin, TX, to be here, to sit in this gallery, and to pray that 100 Senators will consider the issue of justice and stand up for them.

Some have come to the floor today and criticized this as a political stunt. I wish to tell my friends, I hope you understand my sincerity on this issue. I have been working on this issue for 10 years. These people have been waiting for more than 10 years. To say we are pushing and rushing a vote—for them, it can't come too soon because their lives hang in the balance.

I would just say this is not a procedural vote. It is not a political stunt. We are voting on a bill that has already passed the U.S. House of Representatives. If it passes on the floor of the Senate, it will become the law of the land with the President's signature.

I thank those who have brought us to this moment: the President, who was a cosponsor of the DREAM Act when he served in the Senate; Secretary of Interior Ken Salazar, who is on the floor today, as a former Member of the Senate. What a great ally you have been, Ken, throughout this entire debate; Secretary of Education Arne Duncan; Secretary of Homeland Security, Janet Napolitano; and especially my friend, Senator RICHARD LUGAR of Indiana. What an extraordinarily courageous man he has been to join me in cosponsoring this measure, which is controversial in some places.

What will this bill do? Let me make clear some of the things that have been said on the floor which are not accurate. First, when this bill is signed into law, the only people eligible to take advantage are those who have been in the United States for 5 years. Anybody who comes after 2005 cannot be eligible, and those who are eligible have 1 year to apply and to pay the $500 fee and then they have 5 years under the bill to do one of two things: to serve in our U.S. military and risk their lives for America or to finish at least 2 years of college.

What are the odds they are going to do those things? I will tell my colleagues. Today, about half the Hispanic youth in America don't finish high school. Only 1 out of 20 enters college in this status. So the odds are against them. But that isn't the end of it. There is a long list of things they must do in order to qualify for the DREAM Act, including background checks on their moral character and criminal records. If they have been convicted of a felony, they are ineligible; if they have been convicted of more than two misdemeanors, ineligible.

There have been things said on the floor by the Senator from Alabama and others that the Secretary of Homeland Security can waive this requirement. That is not true. It is not true.

I ask unanimous consent to have printed in the RECORD a statement by the Department of Homeland Security which makes it eminently clear she has no power, no directive to have any power under the DREAM Act to waive any of these requirements which bar those with criminal records, who violate the law or have a history of terrorism or threat to national security.

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

DEPARTMENT OF HOMELAND SECURITY
DREAM ACT

MISLEADING CLAIM: The DREAM Act is not limited to children.

FACT: The DREAM Act limits applications to persons who were children when they arrived in the United States (under 16) and are under age 30 on the date of enactment.

MISLEADING CLAIM: The DREAM Act will be funded on the backs of hardworking, law-abiding Americans.

FACT: The DREAM Act is fully paid for by applicants without cost to the Federal Government. It allows for collection of fees to recover ''the full costs of providing adjudication and processing services,'' and requires a total of $2,525 in surcharges paid by applicants during the process designed to ensure that the DREAM Act does not increase direct federal spending. Not only will the DREAM Act cost the government nothing, but it will actually reduce the deficit over the next ten years. Moreover, as conditional nonimmigrants, these individuals are barred from a broad range of federal public benefits as well as federal tax credits to purchase health insurance in the exchange created by the health care reform bill.

MISLEADING CLAIM: The DREAM Act provides safe harbor for any alien, including criminals, from being removed or deported if they simply submit an application.

FACT: Only individuals who can show that they are prima facie eligible for cancellation of removal and conditional nonimmigrant status are prohibited from being removed. A prima facie showing of eligibility is not a modest or low standard of legal proof and cannot be satisfied by the alien's signature. In immigration law it is a much more stringent determination.

Prima facie eligibility determinations are required under the existing provisions governing Temporary Protected Status. USCIS must make a determination that an applicant is prima facie eligible for TPS under section 244(a)(4) of the INA and implementing regulations at 8 C.F.R. 244.5. USCIS checks the applicant's nationality and verifies identity through biometrics checks. The agency also runs fingerprint checks through the FBI and conducts certain background checks in relevant systems to determine whether there is available derogatory criminal or security information that would call into question the applicant's eligibility for TPS, and thus may require further review. If this initial identity check of the applicant and the background and security checks raise no immediate concerns about TPS eligibility, the applicant will be considered ''prima facie'' eligible for TPS and provided certain ''temporary treatment benefits,'' such as an employment and travel authorization.

DREAM Act applicants would be required to undergo a similar process to establish prima facie eligibility.

MISLEADING CLAIM: Certain inadmissible aliens, including those from high-risk regions, will be eligible for amnesty under the DREAM act.

FACT: The DREAM Act is not an amnesty. No one will automatically receive a green card. Rather, the DREAM Act requires a decade-long process for a narrowly tailored group of young persons who were brought to the U.S. years ago as children to resolve their immigration status, thereby allowing America to derive the full benefits of their talents. The editorial board of the Wall Street Journal opined on November 27: ''[W]hat is to be gained by holding otherwise law-abiding young people, who had no say in coming to this country, responsible for the illegal actions of others?''

MISLEADING CLAIM: Certain criminal aliens—including drunk drivers—will be eligible for amnesty under the DREAM act.

FACT: Any criminal who applies for the DREAM Act will only hasten their deportation. Anyone who has committed a deportable crime and applies for the DREAM Act will have their application denied and will be placed in removal proceedings. In addition, the DREAM Act creates a new criminal offense punishable by imprisonment of 5 years for anyone who commits fraud on a DREAM Act application. Moreover, all applicants must establish that they are persons of good moral character, which is a much higher standard than that required of other immigrants becoming permanent residents.

MISLEADING CLAIM: Conservative estimates suggest that at least 1.3 million illegal aliens will be eligible for the DREAM act amnesty. In reality, we have no ide how many illegal aliens will apply.

FACT: The non-partisan Congressional Budget Office (CBO) estimates, under the DREAM Act, that 700,000 persons would be able to gain conditional non-immigrant status at the end of the 10–year conditional residency period.

The CBO and the Joint Committee on Taxation (JCT) estimates that the bill will reduce deficits by approximately $2.2 billion over the next ten years. But that figure alone underestimates the enormous benefits to taxpayers because the CBO and JCT do not take into account the increased income that DREAM Act participants will earn due to their legal status and educational attainment. It is estimated that the average DREAM Act participant will make $1 million over his or her lifetime simply by obtaining legal status, which will bring hundreds of thousands of additional dollars per individual for federal, state, and local treasuries.

America must increase the proportion of persons who graduate from high school and college in order to remain competitive in the global economy. The students who benefit from the DREAM Act will have opportunities to attend college and graduate school not otherwise available to them.

MISLEADING CLAIM: The DREAM Act does not require that an illegal alien finish any type of degree (vocational, two-year, or bachelor's degree) as a condition of amnesty.

FACT: In order to be eligible for the DREAM Act, a person must already have completed a GED or have earned a high school diploma. In order to satisfy the requirements of the DREAM Act, an applicant must acquire a degree from an institution of higher education in the United States or complete at least two years in good standing, or serve in the Armed Forces for at least 2 years without receiving a dishonorable or other than honorable discharge.

MISLEADING CLAIM: Despite their current illegal status, DREAM Act aliens will be given all the rights that legal immigrants receive—including the legal right to sponsor their parents and extended family members for immigration.

FACT: DREAM Act individuals will not be able to sponsor family members for permanent residency for more than a decade. For the first 10 years of their conditional status, DREAM participants would have absolutely no ability to sponsor any family members, not even spouses or minor children. Only after they have earned permanent residency—at the end of that 10-year period—would they be able to sponsor their immediate family members, spouses and children. The spouses and children would have to go to the end of the family preference line, like everyone else, a line that can take many years. Only when an eligible DREAM Act individual earns citizenship—after at least 13 years in conditional and permanent resident status—would they be able to begin the process of sponsoring their parents or siblings. But even then, spouses, children, parents, and siblings who entered the U.S. illegally would have to leave the country for at least 10 years before they could reenter legally. DREAM Act participants would NEVER be able to sponsor extended family members, such as grandparents and cousins.

MISLEADING CLAIM: The DREAM Act allows the Secretary to waive all grounds of inadmissibility for illegal aliens, including criminals and terrorists.

FACT: The DREAM Act expressly limits the Secretary's authority to waive grounds of inadmissibility and deportability. Under this bill, the Secretary may only waive health related grounds; public charge; status-related immigration violations; or violation of previous immigration status. The Secretary cannot waive other grounds of inadmissibility or deportability, including criminal and national security related grounds.

Under the structure of the INA, an alien, when being removed from the country, is either subject to grounds of inadmissibility (found at INA section 212) if they have never been legally admitted to the country, or subject to grounds of deportability (found at INA section 237) if the alien was previously lawfully admitted to the country. At the time of adjustment of status or seeking an immigration benefit (such as status under the DREAM Act), an alien is deemed to be an applicant for admission and subject to the grounds of inadmissibility at INA section 212 and would be subject to the waiver authority for section 212 grounds. The Secretary would not have authority to apply a waiver of a ground of deportability (under section 237) when applying for admission (when subject to section 212 grounds).

If an individual was previously admitted to the country (i.e.— a visa overstay), when placed in removal proceedings, the individual would be subject to grounds of deportability at INA section 237 and waiver authority at that time would have to be pursuant to INA section 237. A waiver of INA section 237(a)(1) would not waive other section 237 grounds, which include separate criminal and security grounds. INA section 237(a)(1) does not waive these other grounds of deportability. In other words, the individual would still be subject to the concurrent criminal, security, or other applicable grounds of deportability.

MISLEADING CLAIM: The DREAM Act allows applicants to immediately become permanent residents.

FACT: The DREAM Act does not allow individuals to become permanent residents immediately. In fact, they must wait many years before receiving green cards. Under section 8 of the DREAM Act, only persons who have been granted conditional nonimmigrant status for at least nine years are

eligible to apply become permanent residents. Section 8(c) allows persons to apply for adjustment to permanent residence one year before the 10 year period of conditional nonimmigrant status expires so U.S. Citizenship and Immigration Service has plenty of opportunity to carefully review applications to determine that only those who meet the stringent requirements of the Act are approved.

MISLEADING CLAIM: The DREAM Act allows individuals to remain in nonimmigrant status indefinitely.

FACT: Conditional nonimmigrant status is not indefinite. It can only be granted for two 5 year periods according to section 7(a) and 7(d) of the bill. At the end of the second 5 year period, individuals can apply for adjustment to permanent residence status. There are no extensions of conditional nonimmigrant status for individuals who do not apply to become permanent residents at the end of the second 5 year extension. Let's be clear: Individuals who do not apply for adjustment by the end of the second 5 year period will no longer have legal status in the U.S.

Immigration law generally requires an individual to file an application to obtain legal status. The DREAM Act requires three such filings: the first is for the initial 5 year grant of conditional nonimmigrant status; the second is for another 5 year extension of conditional nonimmigrant status, and the last is for adjustment of status to permanent residence, starting no earlier than 9 years after the initial grant of conditional nonimmigrant status.

MISLEADING CLAIM: The DREAM Act does not require that an illegal alien complete military service as a condition for amnesty, and there is already a legal process in place for illegal aliens to obtain U.S. citizenship through military service.

FACT: The DREAM Act has been strongly embraced by the military as an important element in furthering our nation's readiness. The DREAM Act is part of the Department of Defense's 2010–2012 Strategic Plan to assist the military in its recruiting efforts. The DREAM Act streamlines and simplifies the process by which aliens who wish to serve in the Armed Forces may gain permanent status in the United States.

MISLEADING CLAIM: Current illegal aliens will get Federal student loans, Federal work study programs, and other forms of Federal financial aid.

FACT: DREAM applicants are expressly prohibited from obtaining Pell grants, Federal supplemental educational opportunity grants and other federal grants. DREAM Act beneficiaries would, like all students, be required to pay back any loans they have incurred.

Mr. DURBIN. Let me also say I join my colleague from Alabama in sadness over the loss of a life of a border guard. It is a terrible thing. These men and women are serving our country, and it is a tragedy. But can we blame these young people sitting in the galleries and across America for that, to question the border security? I am for border security.

In July, Senator SCHUMER came to the floor with Senator MCCAIN and added $600 million more to border security without any objection from either side of the aisle. Oh, I suppose if we were playing this game of negotiating, we could have stood and said: No; no more money for border security until we get the DREAM Act. We didn't do it because we are as dedicated to border security as anyone, and we want to make sure people have the opportunity to vote for border security and to also vote for the DREAM Act.

Let me ask, at this point, how much time is remaining.

The ACTING PRESIDENT pro tempore. There is 5 minutes.

Mr. DURBIN. Five minutes. Thank you.

I wish to say a few things about the people who are involved in this. They are faceless and nameless until we bring them to the floor. This is Benita Veliz. Benita Veliz has an amazing story which I wish to share with my colleagues. Benita was brought to the United States by her parents in 1993, when she was 8 years old. She graduated valedictorian of her class, received a full scholarship to St. Mary's University in Texas, majoring in biology and sociology. Her honors thesis was on the DREAM Act. She sent me a copy of it.

What she has asked for, basically, she says in these words: I was called to a Cinco de Mayo community celebration and asked to sing the national anthems of the United States and Mexico. I couldn't do it. I only knew the words for the American national anthem. I am an American. I want to live my dream. Benita Veliz.

Meet this young man, another who would benefit from the DREAM Act. His name is Minchul Suk. This is an amazing story as well. Brought to the United States from South Korea at the age of 9, graduated from high school with a 4.2 GPA, graduated from UCLA with a degree in microbiology, immunology, and molecular genetics. With the help of the community, they raised enough money for him to finish dental school. He has taken his boards, but he cannot become a dentist in America because he is undocumented. Do we need more dentists in America? Yes, we do, and we need a man of his quality to serve our Nation.

I want you to meet this young man too. His name is David Cho. David is a man you might have seen on television. It is kind of an amazing story. David was brought to the United States at the age of 9, graduated with a 3.9 GPA in high school. He is now a senior at UCLA and the leader of the marching band. He wants to serve in the U.S. Air Force. I say to my friends who stand on the floor and protest their true belief that the military means so much to us as Americans, why would you deny these young people a chance to serve in the military? That is all I am asking.

The last story I wish to tell is about a young man from New York: Cesar Vargas. He has an amazing story. He was brought to this country at a very young age and when 9/11 occurred, he was so mad at those who attacked America he went down to the Marine Corps and said: I want to sign up, and they said: You can't; you are undocumented. So he continued on and is attending the New York University Law School now. He speaks five languages. He has had offers from the biggest law firms, for a lot of money. He turned them down. His dream, under the DREAM Act, is to enlist in the Marine Corps and serve in the Judge Advocate General Corps.

These are the faces of the DREAM Act, and the people who stand before us and try to characterize this as something else don't acknowledge the obvious. These are young men and women who can make America a better place.

I understand this is a difficult vote. It is a difficult vote for many. As a matter of fact, I am not asking for just a vote for the DREAM Act today. From some of my colleagues I am asking for much more. I am asking for what is, in effect, an act of political courage. Many of my colleagues have told me they are lying awake at night tossing and turning over this vote because you know how hard it is going to be politically; that some people will try to use it against you. But I would say, if you can summon the courage to vote for the DREAM Act today, you will join ranks with Senators before you who have come to the floor of this Senate and made history with their courage; who stood and said the cause of justice is worth the political risk. I am prepared to stand, they said, and vote for civil rights for African Americans, civil rights for women, civil rights for the disabled in America. I am prepared to go back home and face whatever comes.

Most of them have survived quite well because of their genuineness, their conviction and their strength and the fact that their courage is recognized and respected, even if someone disagrees with part of their vote. That is what we face today. We face the same challenge today. I hope my colleagues on both sides of the aisle will summon the courage to vote for justice. We don't get many chances. When it comes to justice for these young people of the DREAM Act or justice for those of different sexual orientation to serve in the military, this is our moment in history to show our courage.

I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, we will soon be voting on two consequential and contentious matters, the DREAM Act and repeal of the legislation concerning the Defense Department's don't ask, don't tell policy. As our ranking member on one of the two committees of jurisdiction recently made clear, the Democratic majority in the Senate is again depriving the American people of the right to have their concerns addressed through debate on amendments by depriving the minority of its right to offer amendments.

When Democrats were in the minority, my good friend, the majority leader, said: This is a ''very bad practice,''