businesses from tax increases. It also passed the Senate 4 months ago, and it has the support of the American people. The vast majority of Americans—Independents, Democrats, and even more than 40 percent of Republicans—supports this.

I wish I could share with you the details of the Republicans' answering proposal, but there hasn't been one. They haven't produced a single proposal.

We are not doing their homework for them. It is the Republicans' responsibility to respond with a counteroffer—not a hint dropped during, perhaps, an interview with the Washington Post, the New York Times or even the Wall Street Journal or a Sunday talk show but a real modified offer. President Obama has told Republicans and the world where he stands. The sooner the Republicans make a legitimate offer, the sooner we can all start working to find middle ground.

So let me remind my Republican colleagues that as we work toward a final agreement, millions of middle-class families are nervously watching and waiting. For 4 months Republicans have held them hostage to protect the richest 2 percent of taxpayers. Reasonable rank-and-file Republicans are urging their leadership to stop delaying Senate-passed legislation that would give millions of middle-class families making less than $250,000 the certainty that their taxes won't go up by about $2,200 on January 1.

It will be hard for Speaker BOEHNER to pass our bill—no, it wouldn't be hard at all; it would be so easy. Every Democrat in the House will vote for it—every Democrat in the House. To reach 218 votes, which is half plus 1 in the House, it takes only 26 reasonable Republicans willing to put the needs of the middle-class demands ahead of Grover Norquist. That is so simple.

So when my friend, the Speaker, says he can't pass it, that is simply without foundation or fact, and it is not true.

As my friend and colleague, the senior Senator from Missouri, CLAIRE MCCASKILL, said on a Sunday talk show yesterday, JOHN BOEHNER has a decision to make. This is what she said: ''He's got to decide, is his speakership more important or is the country more important.'' That is a pretty easy question to answer for everyone. It should be an easy question to answer for Speaker BOEHNER.

As we continue to hope for a balanced agreement that will safeguard the economy, I hope Speaker BOEHNER ends the suspense for millions of American families and does it soon.

## RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.

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

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 3254, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Kyl modified amendment No. 3123, to require briefings on dialogue between the United States and the Russian Federation on nuclear arms, missile defense, and long-range conventional strike systems.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank the majority leader while he is still here on the floor for the support he has given to Senator MCCAIN and myself and all of us who are working so hard to get a Defense authorization bill passed for the 52nd straight time, I believe. We haven't missed a year in 51, and I think this will be the 51st and 52nd.

I want to thank Senator MCCAIN and his staff and all of my staff for the extraordinarily hard work they have put in on the bill, both in committee and here on the floor. I thank all of my colleagues for the cooperation which has been shown to allow us to dispose of somewhere now in the area of 100 amendments.

There will be even more amendments that can be cleared this afternoon. We, I believe, have a package that is ready, or almost ready, of amendments. I believe that after that, this afternoon there could be a second package of amendments which has been cleared for action by the body.

We will be here this afternoon. I haven't had a chance to talk yet with Senator MCCAIN today, but I am sure it is his plan, as it is mine, to be here with our staffs this afternoon to work with colleagues to see if we can't clear additional amendments.

The cloture vote is scheduled. There has been more than adequate time. I want to thank the leader, again, for giving this time. We are now into our fourth day where we are able to address the issues on this bill.

I hope cloture will pass this afternoon when the vote is taken, and that early tomorrow, since I am hopeful there won't be a need for postcloture time, we can perhaps adopt even a third package of cleared amendments tomorrow morning at some point, and then move to final passage at some time as determined by the leader, of course.

I want to again urge colleagues who have amendments that we have been working on to keep working with our staffs so we can hopefully clear as many amendments as possible prior to cloture. I think that would be beneficial to all of us. We have worked together well as a body.

There have been a number of accommodations which have been made by many of our colleagues to each other and to us as managers which has made it possible for us to have a smooth passage at least until this point.

With that, again, I give thanks to my ranking member.

I yield the floor.

Mr. MCCAIN. I want to thank Senator LEVIN and also the majority leader for giving us this time. Also I am in agreement that the time has come for cloture to be invoked, unfortunately. The total time of debate for this bill up to now has been 27 hours of debate and 371 amendments have been filed. We have disposed of 94 amendments, some by voice vote, some by rollcall vote.

Of those amendments, many of them were offered by members of the committee, but a majority of them were offered by nonmembers of the Senate Armed Services Committee. So I think we have had a very inclusive and interesting debate and voting.

I tell my friend Senator LEVIN, I have just been informed that the Senator from Kentucky has objected, voiced an objection to taking up any further unanimous consent agreements or votes. That means that there will be many amendments which have been approved by both sides which will now not be allowed to be offered or acted upon. It also means that if cloture is invoked, and I anticipate that cloture will be invoked—I understand that will be the second vote we have today—a number of those amendments that are nongermane, which we have cleared and would have been passed, will now be put aside.

I will have a reading of a number of those amendments. There are 15 to 16 amendments that we would be ready shortly to approve. I am not exactly sure how many of them are nongermane in nature, which will fall when cloture is invoked.

All I can say to my friend the chairman is that, again, I find it disappointing that one Member of the Senate feels his particular agenda is so important that it affects the lives, the readiness, and the capabilities of the men and women who are serving in the military and our ability to defend this Nation. I think it is hard to answer to the men and women in the military with this kind of behavior, but I will leave that up to the Senator from Kentucky to do so.

In the meantime, I guess postcloture, we will continue with the legislation and try to get it completed. I have some guarded optimism that we may be able to do so.

Mr. Chairman, I again apologize for what seems to have happened. Much to my dismay, it lends some credence to the argument that maybe we ought not to do business the way we are doing here in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, let me tell my dear friend from Arizona that I am sorry to hear about that objection that apparently is going to be placed against the unanimous consent agreement to adopt amendments which had been cleared by both sides. But perhaps during the afternoon we could hear from the Senator from Kentucky. Perhaps he can come over and talk to us about what the problem is. But in the meantime, we are going to continue to try to line up cleared amendments in the chance he will relent from his position.

Sometimes with these packages, when they are put together and someone says they object at the last minute, that objection can be addressed in some way or another. So I hope our staffs will continue to try to find ways to clear amendments—subject, of course, to there being an objection. If there is an objection, then that, of course, given the fact that we are late in the day here now and having a cloture vote late this afternoon, would be able to thwart the will of the rest of the body.

But I hope the Senator from Kentucky can personally come over and let us know what the problem is. Perhaps my friend from Arizona knows what it is, but I don't. I would like to get involved in it.

I yield.

Mr. MCCAIN. In the meantime, I would ask my friend if he agrees that colleagues with amendments they would like to debate or wish to come and talk about them—we are certainly open to that.

Mr. LEVIN. The floor is open.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I will proceed under my leader time.

RECOGNITION OF THE MINORITY LEADER

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

RULES CHANGES

Mr. MCCONNELL. Mr. President, we have been discussing the plans of the Democratic majority to repudiate its clear commitment to respect the rights of the minority, which is a hallmark of the Senate, and instead to break the rules to change the rules. That is how my friend from Nevada repeatedly described it when Republicans were considering doing something similar several years ago. Of course, Republicans never did break the rules to change the rules, but Democrats are contemplating doing so in the name of ''efficiency.''

Last week I noted how my Democratic colleagues seek to minimize this major change in how the Senate governs itself by calling this heavyhanded power play ''tiny'' and a ''minor change'' and adjusting the Senate rules just ''a little bit.'' But this eleventh-hour rhetoric stands in stark contrast to what they have previously said and what they have systematically done.

My friend the majority leader told one of my new Members, in essence, that even if this new so-called ''tiny'' rules change removed all chance that this new Member would have any recourse to get an amendment to a bill, that new Member could simply ''vote against the bill.'' And my friend told Senator MCCAIN this fall that ''the amendment days are over'' in the Senate. That was the majority leader to Senator MCCAIN earlier this year.

But, of course, it is much more than what has been said that is at issue, it is what the Democratic leadership has systematically done to marginalize the voice of the minority. As I noted, it has used, to an unprecedented extent, Senate rule XIV. This rule allows the majority to bypass committees and write bills behind closed doors—doing so, of course, to deprive all of us, Republicans and Democrats, of the chance to have their committee work matter.

According to the Congressional Research Service, the majority has used this rule to bypass committees nearly 70 times. When Republicans were last in the majority under Senator Frist, we used that rule less than half as often—only 30 times. And when a bill that has bypassed committee goes straight to the floor, under the current majority there often isn't an opportunity to participate there either. Again, according to the Congressional Research Service, the current Democratic leadership has blocked Senators from both sides of the aisle from offering amendments on the floor 68 times—68 times. No amendments at all. This is 70 percent greater than the number of times the six prior majority leaders combined—combined—shut their colleagues out of the amendment process.

Now, the majority leader dismissed this unprecedented practice, saying it ''has no bearing on what is going on around here.'' Well, maybe it doesn't to him, but he is the only one who, under this unprecedented amendment blockage, is picking amendments. It is a little bit bigger deal to the other 99 of us who are shut out from representing our constituents by having our ability to offer any amendments on their behalf blocked.

By the way, that is not how the majority leader viewed this practice when he was in the minority. When Senator Frist, as majority leader, blocked his colleagues from offering amendments a relatively modest 15 times in 4 years—15 times in 4 years—my friend from Nevada said it was ''a bad way to run the Senate'' and a ''very bad practice'' and it ran ''against the basic nature of the Senate.'' That is when Senator Frist did it 15 times over 4 years. This majority leader has done it nearly 70 times in his tenure. What would be a fair way to describe that record?

But the current Democratic leadership hasn't been content to stop there in marginalizing the minority. They have prevented the minority from offering amendments in committee, they have prevented them from offering amendments on the floor before cloture, and then they changed Senate procedure with a heavyhanded majoritarian motion to stop the minority from offering motions after cloture was invoked. Since such motions to suspend the rules require 67 votes to be successful, I gather that having even to deal with such motions interfered with ''efficiency,'' as did allowing bills to be marked up in committee, as did allowing Senators of both parties to have amendments on the floor. So our Democratic colleagues have shut out the minority there too.

But even that is not enough. Now the same Democratic leadership wants to take away the right to extend a debate on motions to proceed to a measure. Throughout its history, the unique role of the Senate has been to protect the voice of the minority, expressed through the equal rights of all Senators to debate and amend legislation. This has stood in contrast with the House of Representatives, where a simple majority rules. So it should be startling—literally startling—to every Senator and to the people who elected us to represent them to look at the facts.

How does the Senate compare with the House of Representatives? This is something we have not discussed before in this debate. How does the Senate compare with the House of Representatives? At the same time the current Senate majority is finding every way it can to marginalize the minority, the majority in the House is moving in the opposite direction—in exactly the opposite direction.

The Wall Street Journal reported last year that the majority in the House was ''giving lawmakers more opportunity to amend bills on the floor'' and that ''even some Democrats acknowledged that the GOP leaders have done a better job than their predecessors.'' According to the article, last year the House held more votes on amendments on the floor than the two previous years combined when congressional Democrats were in the majority. How does that compare to the Senate? According to the Congressional Research Service, this year the majority in the House has given the minority in the House 214 occasions to affect legislation on the House floor through amendments and motions to commit or recommit. That is what they have done in the House this year. By contrast, the majority in the Senate has only allowed the minority in the Senate 67 occasions to affect legislation on the Senate floor in the same way.

So listen to this, Mr. President. This is astonishing. The minority in the House has had more than three times

the opportunity to express its views and to represent its constituents than the minority in the Senate. The minority in the House has had more than three times as many opportunities to record its views than the minority in the Senate. It appears that in terms of respect for minority rights and the constituents the minority represents, the House is becoming more like the Senate and, unfortunately, the Senate is becoming more like the House.

Now, it doesn't have to be this way in the Senate, of course. Senators LEVIN and MCCAIN are reminding those of us who have been here a while and showing those who haven't that it is possible for the Senate to actually legislate. We are in the process of doing that right now.

Despite the fact that the Senate has devoted much less floor time to the Defense authorization bill than is historically the practice and many fewer amendments than are historically the practice, the majority is allowing amendments to receive votes and the minority, for our part, is not insisting that we get to vote on every single amendment we want. We need to get back to conducting business that way again, and the majority leader and I need to discuss how to achieve that.

But what the Democratic majority must not do is change the Senate by using a bare majority to ram through a rules change as if this were the House. Such a rules change will not do them any good in the short term—the House is in the hands of the Republicans. But it will do the institution irreparable damage in the long term and will establish precedent in the Senate for breaking the rules to change the rules that our Democratic colleagues will have to endure when they are in the minority again, which will certainly happen.

We should work together, instead, to resolve our differences. As I said last week, that is what the Standing Rules of the Senate anticipate and that has been how changes to the Senate rules have occurred in our history.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for 20 minutes.

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

Mr. ALEXANDER. Will the Chair please let me know when 5 minutes remains?

The ACTING PRESIDENT pro tempore. Certainly. The Senator is recognized.

THE FILIBUSTER

Mr. ALEXANDER. Mr. President, I want to speak this afternoon about the Senate as an institution; about its majority leader, Senator REID, who is my friend; about various conversations we have been having in the Senate and discussions about what the majority leader has said about how the Senate should operate. I know the majority leader cares about this institution. I believe it. He has said it. He shows it. He has one of the most difficult jobs anybody could possibly have.

One time he told me: My job is to make everybody mad. In many ways it is, when you have a body of 100 that operates by unanimous consent and every one of us is equal. It is a very difficult job to be the minority leader, which the Republican leader is today. It is a more difficult job to be the majority leader.

I emphasize this because I know Senator REID cares about this institution, and I know Senator REID does not want to go down in history as the man who ended the Senate. But if he persists in doing what he says he will do—which is to break the rules of the Senate to change the filibuster rules—that will be his legacy. He will go down in history as the Senator who ended the Senate.

You might say: Senator ALEXANDER, that is a very serious charge to make about a majority leader whom you know and respect and who you just said cares about this institution. It is a serious charge to make. The only reason I would say it is because Senator REID said it himself.

Shortly after I came to the Senate, in 2005, we Republicans, including this Senator, were very upset about what we believed were unfair efforts by Democrats to keep President Bush from securing an up-or-down vote on his judicial nominees. We were in the majority, we Republicans. We had a Republican President of the United States. We believed that attacks on the President's nominees were extraordinarily unfair, and the other side was using the rules of the Senate to prevent an up-or-down vote. They were filibustering President Bush's nominees.

We could not change their minds, so a number of Senators persuaded Senator Frist, my colleague from Tennessee who was then the majority leader, that we should then change the filibuster rules in order to get an up-or-down vote on the judges. We knew our goal was right, so we were going to, if we had to, break the rules to change the rules.

As you might guess, the minority, the Democrats at the time, erupted in indignation. They said this has not been done in the 240 or 250 years of the Senate. They pointed out the differences between the Senate and the House of Representatives. Almost every distinguished Member of the Democratic side of the Senate—the majority leader; Senator BIDEN, now the Vice President of the United States; Senator Obama, now the President of the United States; Senator Clinton, now the Secretary of State of the United States—denounced this evil Republican plan to change the rules of the Senate, to in effect break the rules of the Senate—because the rule says we can only change the rules with 67 votes—in order to change the filibuster rule.

Here is what the majority leader said in his book, ''The Good Fight.''

> The storm had been gathering all year and word from conservative columnists and in conservative circles was that Senator Frist of Tennessee, who was the majority leader, had decided to pursue a rules change that would kill the filibuster for judicial nominations. And once you opened that Pandora's box it was just a matter of time before a Senate leader who couldn't get his way on something moved to eliminate the filibuster for regular business as well. And that, simply put, would be the end of the United States Senate.

That is Senator REID when he was the minority leader of the Senate.

Today another storm is gathering, and the shoes are reversed. The majority leader is the one who wants to invoke what he then called the nuclear option. That was the Democrats' name for what the Republicans were trying to do, and we are the ones who are saying: Please don't do that; stop and think about this; this is not what you want to do to the Senate.

People who are listening might say: Wait a minute. This filibuster business has gotten out of hand. What is wrong with having a majority vote in the Senate? Don't we learn in the first grade—at least we did in Maryville, TN—if we have an election for the class president everyone raises their hands and whoever gets the majority wins. That is the American way.

That is the American way except it is not the way of the Senate from the beginning of our country. We had a Frenchman who wandered through this country in the 1830s, a young man called de Tocqueville. He wrote a book called ''Democracy In America,'' which is still the finest exposition of our democracy that we have because it was an outsider's look at us. He saw two great dangers to the United States at the time. One was Russia. He was prescient about that. But the second was what he called the tyranny of the majority—that in a great, big, complicated country like this that somehow the majority, in its passions and suddenness and enthusiasm, would run over the minorities. Somehow he must have known we would be a nation filled with minorities; that we would be almost a minority nation, and somehow those minorities needed protection.

What has happened over all those years is that the Senate has stood, as Senator Byrd used to say, as the necessary fence that protected minorities in America from the tyranny of the majority. That is why we have a Senate, so if a freight train runs through the House it cannot run through here.

It has to slow down and stop and we have to think about it.

That is why we have a tradition in the Senate of unlimited amendment and unlimited debate on any subject until 60 of us decide that is enough—which is what we are about to do with the Defense authorization bill. We have had, under the leadership of Senator MCCAIN and Senator LEVIN, the chairman—and I give Senator REID great credit for this as well—I think it is 90 amendments that have been dealt with. We will have a cloture vote tomorrow. It will probably pass. I will vote for it. That means it is time to end the debate, time to limit the discussion and come to a conclusion. That is the way the Senate is supposed to work.

Here is an image of the difference between the House and the Senate. Most of us know of the work of Robert Caro, who has written the book on Lyndon Johnson. When I first came to the Senate 10 years ago I read that first chapter in Caro's book, the chapter called ''The Desks Of The Senate.'' I imagine the Presiding Officer has had a chance to read that as well. I still say to new Senators or anybody else interested in this body, if they really want to understand the Senate, read Robert Caro's chapter ''The Desks Of The Senate.''

He talked about all these desks and how after an election—just as they will this time—they move two from over here to over there because Democrats won a couple of seats, and that is the way this works. This is the image of the Senate where everybody is equal, and it takes 60 to get a result. The idea is unlimited debate and consideration to protect the minority. It also reminds us that the people who are out of the majority right now may not be out tomorrow.

What is the image of the House? The image of the House is that all legislation goes to the House Rules Committee. I have been there. DAVID DREIER took me there. He is the chairman of the House Rules Committee. It is an ornate office. Every piece of legislation in the House has to go through the Rules Committee. Republicans have a narrow majority in the House of Representatives but, guess what, the composition of the Rules Committee is eight Republicans, four Democrats. What if the Democrats gained a one-vote majority in the House? Eight Democrats and four Republicans.

What would happen is any piece of legislation the majority wants to push would run through the House like a freight train. That is not what the U.S. Senate is about. That is why Senator Dodd, in his farewell address, said to those who have never been the minority in the Senate, please be careful before changing these filibuster rules.

In January, we will have 30 Democratic Members of the U.S. Senate who have never been in the minority. They have not had a chance to experience what some of us have had a chance to experience. While I have not been in the Senate all that long by Senate standards—I have been here 10 years—I have watched the Senate for a long time. I first came here in 1967 as a legislative aide to Howard Baker. Everett Dirksen was the Republican leader and Mike Mansfield was the Democratic leader. The Senate has never worked perfectly. Every majority and minority leader will say that.

In the 1960s it was Senator Williams from Delaware who would object and slow down things. In the 1970s it was Senator Allen from Alabama. He would tie up the Senate in complete knots. Because of the individual rights a Senator has, it was just one Senator. In the 1980s it was Senator Metzenbaum. He held up my own nomination to be U.S. Education Secretary for 3 or 4 months, and there was nothing I could do about it. I thought that was very unfair, but it was part of this process whereby a Senator can slow down things.

How do leaders respond to that? Well, in 2005 I was as angry as anyone about the Bush judges who were not getting an up-or-down vote, but I did not think it was right to break or change the rules of the U.S. Senate. I didn't want to turn the Senate into the House of Representatives.

I made two speeches on the floor and suggested what became, in effect, the Gang of 14. I didn't participate in the gang because my colleague Senator Frist was the Republican leader, and out of respect to him I didn't want to undermine him. Fourteen Senators, including Senator PRYOR and Senator MCCAIN on this side, got together and said we cannot let this happen. They met and worked and agreed they would not change the rules and would not filibuster. So when that happened, that meant there could not be a change of the rules by the Republicans and there could not be a filibuster by the Democrats if these 14 Senators agreed with one another. They then created a compromise solution which is where we are today.

There have been other ways that leaders have responded. During the Panama Canal debates in 1978 and 1979, I believe Senator Byrd and Senator Baker were the leaders. I believe Senator Byrd was the majority leader. The opponents of the Panama Canal—and this was a time when the Panama Canal was very unpopular with a lot of people. According to Senator Byrd, opponents centered their efforts of winning approval of killer amendments. We all know what those are. I believe one of the main reasons the majority leader does not like bills to come to the floor is because he thinks some of the amendments offered by the minority are going to be unpleasant for Democrats, or even Republicans, to vote for. Well, my feeling about that is: Why would you join the Grand Ole Opry if you don't want to sing? We come here to debate, amend, and vote.

Here is what Senator Byrd said: Opponents centered their efforts on winning approval of killer amendments. I made it clear that only the leadership amendments and certain clarifying reservations and understandings would be acceptable. Opponents attempted to circumvent this strategy by offering amendments that were phrased in such a way that Senators would find them difficult to turn down.

At first glance many of the amendments seemed innocuous and pro-American. Had they succeeded, however, they would have effectively killed the treaty—this is Senator Byrd. In all 145 amendments, 26 reservations, 18 understandings, 3 declarations—for a total of 192 changes—were proposed. 88 of these were voted on. In the final analysis, nothing passed that was not acceptable to the joint leadership.

In other words, the joint leadership sat up there, let everybody vote, let them ventilate, have their say, do their job, and then they defeated them. They either tabled their amendment or they beat them. That is what they were able to do. That is very different from way we are operating today, and that is the way I respectfully suggest we should operate.

In the 1980s—and I mentioned it was never perfect—during the Byrd-Baker era, basically the leaders would put a bill on the floor. If it was a bill like the one we are currently considering—the Defense authorization bill—and it had the support of the chairman and ranking minority member, they would simply open the bill for amendments. They might get 300 amendments. They would then ask for unanimous consent to close off amendments and, of course, they would get it because if anybody objected, they would tell them to throw their amendment in there and then they would start voting.

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. ALEXANDER. For example, during the Panama Canal debate, they would table a lot and vote a lot. They would stay up on Monday, Tuesday, Wednesday, and Thursday nights. Pretty soon Senators would be thinking about going home or seeing their grandchildren or maybe their amendment was not so important and their bill would either be passed or defeated, but everybody went home thinking: I have had a chance to be a U.S. Senator. I may be in the minority, I may be in the majority, but I have given voice to the feelings of the people of my State which is what I was elected to do.

So is the filibuster rule a problem? No, the filibuster rule is not the problem. The problem is if I come down to the floor with an amendment, the majority leader uses a procedural motion to cut me off and I don't get to vote on it. I don't get to talk about it and I don't get to vote on it.

To his great credit, he is not doing that with the Defense authorization bill. He did not do that with the postal reform bill. There have been a number of other bills this year that proved the Senate can work. There is even an

amendment by the Senator from Kentucky that Members of both sides did not want to vote on. It had to do with cutting off aid to three Middle Eastern countries. The administration did not want to vote, but we finally voted and what happened? We had a huge, great debate. Many Senators spoke their feelings, and in the end the vote was 81–10 and the amendment failed. It did not do any damage to anybody. In fact, it made the Senate look more like what it should be.

The filibuster is and has been democracy's greatest show: the right to talk your head off. We need to get back to the situation where we have committee bills like the Defense authorization bill where we bring them to the floor and the majority leader asks for amendments. Let us all put our amendments in and let us start voting. Let's get back to the time where the majority leader and the minority leader, or the committee chairman and the ranking member, have a product they are invested in and they work together to keep it intact. If they do that, they usually defeat Republican amendments or Democratic amendments, or occasionally an amendment will come along that has so much support that it seems like an improvement to the bill, and it is adopted.

My purpose today is not to make a hard job harder. I said at the beginning the majority leader has the toughest job in town and maybe one of the toughest in the country. My hope is that maybe if he has a few minutes tonight, he would go back home and reread his own book. He and I agreed at that time that that would be a bad result. And remember the words he said in 2005 about the value of the filibuster, the value of having a body that protected the minority rights and how damaging it would be to make the Senate like the House.

I hope the majority leader and the Republican leader could quietly meet and talk this through. Senator SCHUMER and I and many others spent a lot of time on this 2 years ago. It took 6 months and we thought we had an agreement, but somehow it broke down. There is no reason it should break down. We can operate the Senate under the rules we have. We can get bills through committee. We can get them to the floor. We can let anybody have an amendment and we can talk about it, vote on it, and pass it or defeat it. That is what we should be doing.

I know the majority leader cares about this institution. I know he cares about it deeply. He spent his life here devoted to it. I know he is responding to a variety of suggestions from Members of his caucus as to what is best to do. I think it is the responsibility of the leaders of both sides and people who have seen this body for a while to remind everyone, particularly those who have never been in the minority, that this is a body to protect the minority. Any of us can be in the minority at some time. I know he does not want to destroy the U.S. Senate, but in his words: If we change the filibuster rule, it would be the end of the United States Senate. I don't want that to happen. I don't want that to be the majority leader's legacy, and I don't believe he wants that. I, as one Senator, am willing to encourage the Republican leader and the majority leader to work together, solve this problem, and get our attention focused back on the big problem facing our country, which is how to get a budget agreement that gets our economy moving again.

Mr. President, I ask unanimous consent to put into the RECORD a few articles: a excerpt from the majority leader's book, an article from The Hill by Martin Paone—who used to work here and makes the points I have been making—an article by Richard Arenberg, who worked on Senate and House staffs for 30 or 40 years. We find that people who have worked in the Senate and leave it, whether they are Republicans or Democrats, seem to have the same view.

I wish also to put in Senator Byrd's statement which he made during his last appearance before the Senate Rules Committee before he died. I was there and he urged us not to break down this fence. His comments go hand in hand with those of Senator Chris Dodd's final address to the Senate on November 30, 2010. And finally, I include a copy of an address I gave at the Heritage Foundation on this subject 2 years ago.

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

THE NUCLEAR OPTION

Peaceable and productive are not two words I would use to describe Washington in 2005.

I just couldn't believe that Bill Frist was going to do this.

The storm had been gathering all year and word from conservative columnists and in conservative circles was that Senator Frist of Tennessee, who was the Majority Leader, bad decided to pursue a rules change that would kill the filibuster for judicial nominations. And once you opened that Pandora's box, it was just a matter of time before a Senate leader who couldn't get his way on something moved to eliminate the filibuster for regular business as well. And that, simply put, would be the end of the United States Senate.

It is the genius of the founders that they conceived the Senate as a solution to the small state/big state problem. And central to that solution was the protection of the rights of the minority. A filibuster is the minority's way of not allowing the majority to shut off debate, and without robust debate, the Senate is crippled. Such a move would transform the body into an institution that looked just like the House of Representatives, where everything passes with a simple majority. And it would tamper dangerously with the Senate's advise-and-consent function as enshrined in the Constitution. If even the most controversial nominee could simply be rubber-stamped by a simple majority, advise-and-consent would be gutted. Trent Lott of Mississippi knew what he was talking about when he coined a name for what they were doing: the nuclear option.

And that was their point. They knew—Lott knew—if they trifled with the basic framework of the Senate like that it would be nuclear. They knew that it would be a very radical thing to do, They knew that it would shut the Senate down. United States senators can be a self-regarding bunch sometimes, and I include myself in that description, but there will come a time when we will all be gone, and the institutions that we now serve will be run by men and women not yet living, and those institutions will either function well because we've taken care with them, or they will be in disarray and someone else's problem to solve. Well, because the Republicans couldn't get their way getting some radical judges confirmed to the federal bench, they were threatening to change the Senate so fundamentally that it would never be the same again. In a fit of partisan fury they were trying to blow up the Senate. Senate rules can only be changed by a two-thirds vote of the Senate, or sixty-seven senators. The Republicans were going to do it illegally with a simple majority, or fifty-one, Vice President Cheney was prepared to overrule the Senate parliamentarian. Future generations be damned.

Given that the filibuster is a perfectly reasonable tool to effect, compromise, we had been resorting to the filibuster on a few judges. And that's just the way it was. For 230 years, the U.S. Senate had been known as the world's greatest deliberative body—not always efficient, but ultimately effective.

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[From The Hill, May 14, 2012]

SENATE RULE CHANGES COME WITH RISK

(By Martin P. Paone)

It's an election year, and the Senate can't agree on how to keep the student loan interest rate from doubling on July 1 from 3.4 percent to 6.8. While both sides agree that it should be done, how to pay for it is the stumbling block. A party-line cloture vote failure has once again brought calls for changing the Senate's rules by majority vote at the beginning of the next Congress, bypassing the two-thirds cloture requirement if there's opposition.

The Senate's membership has changed considerably in the last decade, but the Senate rules, with the exception of some changes that were enacted in the Ethics in Government Act, have not undergone any major changes since the Senate went on TV in 1986. While the House has its Rules Committee, which allows the majority to exert its will and control the flow of legislation, the Senate has a tradition of protecting the rights of the minority and of unfettered debate. Its own website describes ''[t]he legislative process on the Senate floor [as] a balance between the rights guaranteed to Senators under the standing rules and the need for senators to forgo some of these rights in order to expedite business.''

The Senate has for centuries functioned by this compact of selectively forgoing one's rights, but now that compact, to some, seems to have broken down—hence the call to enact rules changes at the beginning of the next Congress by majority vote. These calls have come from Democrats, but they are quick to admit that it should apply regardless of who is in the majority at the time.

Such changes can certainly quicken the process and allow for the majority to pass legislation and confirm presidential nominees with little hindrance. While the initial rules reforms will probably be limited to restricting debate on a motion to proceed and other less dramatic changes, eventually such majority rules changes at the beginning of a Congress will result in a majority-controlled body similar to the House. Once the Pandora's Box of granting the majority the unfettered ability to change the rules every

two years has been opened, having seen how the current situation has escalated, tit for tat over the last 30 years, it is difficult to believe that strict majority rule would not be the ultimate result. Thereafter, a member of the minority in the Senate will be just as impotent as his or her House counterparts.

Filibusters and the forcing of a cloture vote have been repeatedly used to stop legislation and nominations and to waste time. This is why the number of successful cloture votes, many on noncontroversial nominations and on motions to proceed to bills, has gone up dramatically in recent years. By requiring the cloture vote and then voting for it, the minority has been able to waste considerable time and thus reduce the amount of time available to act on other items of the president's agenda.

The call for changing the Senate's rules by majority vote at the beginning of a Congress is not new; it was attempted without success in 1953 and 1957 and in 1959. When faced with such an effort, then-Majority Leader Lyndon Johnson negotiated a cloture change back down two-thirds of those present and voting, but as part of the compromise he had to add Paragraph 2 to Senate Rule V, which states ''The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

So is it time to ignore the existing rules and change them at the beginning of the next Congress by a majority vote? Perhaps it is time—so many other changes have occurred in our lives in the recent past, why shouldn't the Senate change the way it does business? However, should that occur, one must be prepared to live with the eventual outcome of a Senate where the majority rules and the rights of the minority have been severely curtailed.

While I can sympathize with those demanding such changes, it's the manner of their implementation that keeps reminding me of the exchange between Sir Thomas Moore and his son-in-law, William Roper, in the movie ''A Man For All Seasons'':

Roper: ''So, now you give the devil the benefit of law!''

Moore: ''Yes! What would you do? Cut a great road through the law to get after the devil?'' Roper: ''Yes, I'd cut down every law in England to do that!''

Moore: ''Oh? And when the last law was down, and the devil turned 'round on you, where would you hide, Roper, the laws all being flat? . . . Yes, I'd give the devil benefit of law, for my own safety's sake!''

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[From the Washington Post, Nov. 14, 2012]

FILIBUSTER REFORM: AVOID THE 'NUCLEAR OPTION'

(By Richard A. Arenberg)

Richard A. Arenberg, who worked on Senate and House staffs for 34 years, is co-author of ''Defending the Filibuster: The Soul of the Senate.'' He is an adjunct professor at Brown University, Northeastern University and Suffolk University.

Majority Leader Harry Reid, frustrated by abuse of the filibuster, has vowed to change the Senate's rule on the first day of the new Congress.

If he chooses to invoke the ''constitutional option''—the assertion that the Senate can, on the first day of a session, change its rules by a majority vote—he will be heading down a slippery slope that the current president of the Senate, Vice President Biden, once excoriated as an abuse of power by a majority party.

The argument over the constitutional option is more than 200 years old. The Senate has consistently held that it is a continuing body since at least two-thirds of its members are always in office. That's why it uses a rule book written in 1789 by the first Senate and does not adopt rules on the first day of a new Congress, as the House of Representatives does. To underscore the point, the Senate adopted in 1965 Rule V, which states, ''The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

Senate Rule XXII requires a two-thirds vote to end a filibuster against a rules change. This means that changing Senate rules must be a bipartisan matter. The danger is that the majority party will attempt to use the ''constitutional option'' and ignore the Senate's rules. Republicans threatened this in 2005 when Democrats were filibustering 10 of President George W. Bush's judicial nominations. Because Democrats vowed to respond by bringing the Senate to a near-halt, the tactic was widely referred to as the ''nuclear option.''

The ''constitutional option'' could be accomplished in January (or, really, any time) if the Senate's presiding officer decides to ignore the rules and the advice of the parliamentarian—which presiding officers usually rely upon—and declares that debate can be ended by majority vote. Republicans would appeal, but if 51 Democrats hold the line they can table the appeal, which would allow the ruling to stand as the new precedent of the Senate.

No one should be fooled. Once the majority can change the rules by majority vote, the Senate will soon be like the House, where the majority doesn't consult the minority but simply controls the process. Gone would be the Senate's historic protection of the minority's right to speak and amend. In the House, the majority tightly controls which bills will be considered; what amendments, if any, will be in order; how much time is allotted for debate; and when and under what rules votes occur. Often, no amendments are permitted.

Since the Senate's presiding officer is likely to be the vice president, it is instructive to remember what Biden said about this ploy from the floor of the Senate in 2005:

''This nuclear option is ultimately an example of the arrogance of power. It is a fundamental power grab by the majority party . . . to eliminate one of the procedural mechanisms designed for the express purpose of guaranteeing individual rights and they also, as a consequence, would undermine the protections of the minority point of view. . . .

''[Q]uite frankly it's the ultimate act of unfairness to alter the unique responsibility of the United States Senate and to do so by breaking the very rules of the United States Senate. . . . But the Senate is not meant to be a place of pure majoritarianism. . . . At its core, . . . the filibuster is not about stopping a nominee or a bill. It's about compromise and moderation.''

He went on to call the constitutional option ''a lie about the rule.''

Reid said at the time, ''If there were ever an example of an abuse of power, this is it. The filibuster is the last check we have against the abuse of power in Washington.''

In 2005, crisis was averted by the bipartisan ''Gang of 14'' senators who forged a compromise. Perhaps it's time for a new gang. Five of the original 14 will be in the 113th Congress. They would no doubt be joined by others of both parties. A critical mass of senators who revere the institution can arrive at a bipartisan approach, reshaping the filibuster rule while retaining it as a protection for minority rights.

In recent days President Obama and the leaders of the House and Senate have called for bipartisan cooperation. Imposing rules changes by partisan fiat would be just the opposite and would destroy the fabric of the Senate. Now is a good time for a new gang of senators to rise above partisan bickering and negotiate changes based on what's best for the Senate and our democracy, not just what's best for the majority.

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STATEMENT OF SENATOR ROBERT C. BYRD (D–W.VA.), SENATE RULES AND ADMINISTRATION COMMITTEE, MAY 19, 2010

''THE FILIBUSTER AND ITS CONSEQUENCES''

On September 30, 1788, Pennsylvania became the first state to elect its United States senators, one of whom was William Maclay. In his 1789 journal Senator Maclay wrote, ''I gave my opinion in plain language that the confidence of the people was departing from us, owing to our unreasonable delays. The design of the Virginians and of the South Carolina gentlemen was to talk away the time, so that we could not get the bill passed.''

Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights. Senators have understood this since the Senate first convened.

In his notes of the Constitutional Convention on June 26, 1787, James Madison recorded that the ends to be served by the Senate were ''first, to protect the people against their rulers, secondly, to protect the people against the transient impressions into which they themselves might be led. . . They themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils.'' That ''fence'' was the United States Senate.

The right to filibuster anchors this necessary fence. But it is not a right intended to be abused.

During this 111th Congress in particular the minority has threatened to filibuster almost every matter proposed for Senate consideration. I find this tactic contrary to each Senator's duty to act in good faith.

I share the profound frustration of my constituents and colleagues as we confront this situation. The challenges before our nation are far too grave, and too numerous, for the Senate to be rendered impotent to address them, and yet be derided for inaction by those causing the delay.

There are many suggestions as to what we should do. I know what we must not do.

We must never, ever, tear down the only wall—the necessary fence—this nation has against the excesses of the Executive Branch and the resultant haste and tyranny of the majority.

The path to solving our problem lies in our thoroughly understanding it. Does the difficulty reside in the construct of our rules or in the ease of circumventing them?

A true filibuster is a fight, not a threat or a bluff. For most of the Senate's history, Senators motivated to extend debate had to hold the floor as long as they were physically able. The Senate was either persuaded by the strength of their arguments or unconvinced by either their commitment or their stamina. True filibusters were therefore less frequent, and more commonly discouraged, due to every Senator's understanding that such undertakings required grueling personal sacrifice, exhausting preparation, and a willingness to be criticized for disrupting the nation's business.

Now, unbelievably, just the whisper of opposition brings the ''world's greatest deliberative body'' to a grinding halt. Why?

Because this once highly respected institution has become overwhelmingly consumed by a fixation with money and media.

Gone are the days when Senators Richard Russell and Lyndon Johnson, and Speaker

Sam Rayburn gathered routinely for working weekends and couldn't wait to get back to their chambers on Monday morning.

Now every Senator spends hours every day, throughout the year and every year, raising funds for re-election and appearing before cameras and microphones. Now the Senate often works three-day weeks, with frequent and extended recess periods, so Senators can rush home to fundraisers scheduled months in advance.

Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the malady. Most recently, Senate Majority Leader Reid announced that the Senate would stay in session around-the-clock and take all procedural steps necessary to bring financial reform legislation before the Senate. As preparations were made and cots rolled out, a deal was struck within hours and the threat of filibuster was withdrawn.

I heartily commend the Majority Leader for this progress, and I strongly caution my colleagues as some propose to alter the rules to severely limit the ability of a minority to conduct a filibuster. I know what it is to be Majority Leader, and wake up on a Wednesday morning in November, and find yourself a Minority Leader.

I also know that current Senate Rules provide the means to break a filibuster. I employed them in 1977 to end the post-cloture filibuster of natural gas deregulation legislation. This was the roughest filibuster I have experienced during my fifty-plus years in the Senate, and it produced the most-bitter feelings. Yet some important new precedents were established in dealing with post-cloture obstruction. In 1987, I successfully used Rules 7 and 8 to make a non-debatable motion to proceed during the morning hour. No leader has attempted this technique since, but this procedure could be and should be used.

Over the years, I have proposed a variety of improvements to Senate Rules to achieve a more sensible balance allowing the majority to function while still protecting minority rights. For example, I have supported eliminating debate on the motion to proceed to a matter (except for changes to Senate rules), or limiting debate to a reasonable time on such motions, with Senators retaining the right to unlimited debate on the matter once before the Senate. I have authored several other proposals in the past, and I look forward to our committee work ahead as we carefully examine other suggested changes. The Committee must, however, jealously guard against efforts to change or reinterpret the Senate rules by a simple majority, circumventing Rule XXII where a two-thirds majority is required.

As I have said before, the Senate has been the last fortress of minority rights and freedom of speech in this Republic for more than two centuries. I pray that Senators will pause and reflect before ignoring that history and tradition in favor of the political priority of the moment.

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THE FILIBUSTER: ''DEMOCRACY'S FINEST SHOW . . . THE RIGHT TO TALK YOUR HEAD OFF''

(Address by Senator Lamar Alexander, Heritage Foundation, Jan. 4, 2011)

Voters who turned out in November are going to be pretty disappointed when they learn the first thing some Democrats want to do is cut off the right of the people they elected to make their voices heard on the floor of the U.S. Senate.

In the November elections, voters showed that they remember the passage of the health care law on Christmas Eve, 2009: midnight sessions, voting in the midst of a snow storm, back room deals, little time to read, amend or debate the bill, passage by a straight party line vote.

It was how it was done as much as what was done that angered the American people. Minority voices were silenced. Those who didn't like it were told, ''You can read it after you pass it.'' The majority's attitude was, ''We won the election. We'll write the bill. We don't need your votes.''

And of course the result was a law that a majority of voters consider to be an historic mistake and the beginning of an immediate effort to repeal and replace it.

Voters remembered all this in November, but only 6 weeks later Democratic senators seemed to have forgotten it. I say this because on December 18, every returning Democratic senator sent Senator Reid a letter asking him to ''take steps to bring [Republican] abuses of our rules to an end.''

When the United States Senate convenes tomorrow, some have threatened to try to change the rules so it would be easier to do with every piece of legislation what they did with the health care bill: ram it through on a partisan vote, with little debate, amendment, or committee consideration, and without listening to minority voices.

The brazenness of this proposed action is that Democrats are proposing to use the very tactics that in the past almost every Democratic leader has denounced, including President Obama and Vice President Biden, who has said that it is ''a naked power grab'' and destructive of the Senate as a protector of minority rights.

The Democratic proposal would allow the Senate to change its rules with only 51 votes, ending the historical practice of allowing any senator at any time to offer any amendment until sixty senators decide it is time to end debate.

As Investor's Business Daily wrote, ''The Senate Majority Leader has a plan to deal with Republican electoral success. When you lose the game, you simply change the rules. When you only have 53 votes, you lower the bar to 51.'' This is called election nullification.

Now there is no doubt the Senate has been reduced to a shadow of itself as the world's greatest deliberative body, a place which, as Sen. Arlen Specter said in his farewell address, has been distinctive because of ''the ability of any Senator to offer virtually any amendment at any time.''

But the demise of the Senate is not because Republicans seek to filibuster. The real obstructionists have been the Democratic majority which, for an unprecedented number of times, used their majority advantage to limit debate, not to allow amendments and to bypass the normal committee consideration of legislation.

To be specific, according to the Congressional Research Service:

1. the majority leader has used his power to cut off all amendments and debate 44 times—more than the last six majority leaders combined;

2. the majority leader has moved to shut down debate the same day measures are considered (same-day cloture) nearly three times more, on average, than the last six majority leaders;

3. the majority leader has set the record for bypassing the committee process, bringing a measure directly to the floor 43 times during the 110th and 111th Congresses.

Let's be clear what we mean when we say the word ''filibuster.'' Let's say the majority leader brings up the health care bill. I go down to the floor to offer an amendment and speak on it. The majority leader says ''no'' and cuts off my amendment. I object. He calls what I tried to do a filibuster. I call what he did cutting off my right to speak and amend which is what I was elected to do. So the problem is not a record number of filibusters; the problem is a record number of attempts to cut off amendments and debate so that minority voices across America cannot be heard on the floor of the Senate.

So the real ''party of no'' is the majority party that has been saying ''no'' to debate, and ''no'' to voting on amendments that minority members believe improve legislation and express the voices of the people they represent. In fact, the reason the majority leader can claim there have been so many filibusters is because he actually is counting as filibusters the number of times he filed cloture—or moved to cut off debate.

Instead of this power grab, as the new Congress begins, the goal should be to restore the Senate to its historic role where the voices of the people can be heard, rather than silenced, where their ideas can be offered as amendments, rather than suppressed, and where those amendments can be debated and voted upon rather than cut off.

To accomplish this, the Senate needs to change its behavior, not to change its rules. The majority and minority leaders have been in discussion on steps that might help accomplish this. I would like to discuss this afternoon why it is essential to our country that cooler heads prevail tomorrow when the Senate convenes.

One good example Democrats might follow is the one established by Republicans who gained control of both the Senate and House of Representatives in 1995. On the first day of the new Republican majority, Sen. Harkin proposed a rule change diluting the filibuster. Every single Republican senator voted against the change even though supporting it clearly would have provided at least a temporary advantage to the Republican agenda.

Here is why Republicans who were in the majority then, and Democrats who are in the majority today, should reject a similar rules change:

First, the proposal diminishes the rights of the minority. In his classic Democracy in America, Alexis de Tocqueville wrote that one of his two greatest fears for our young democracy was the ''tyranny of the majority,'' the possibility that a runaway majority might trample minority voices.

Second, diluting the right to debate and vote on amendments deprives the nation of a valuable forum for achieving consensus on difficult issues. The founders knew what they were doing when they created two very different houses in Congress. Senators have six-year terms, one-third elected every two years. The Senate operates largely by unanimous consent. There is the opportunity, unparalleled in any other legislative body in the world, to debate and amend until a consensus finally is reached. This procedure takes longer, but it usually produces a better result—and a result the country is more likely to accept. For example, after the Civil Rights Act of 1964 was enacted, by a bipartisan majority over a filibuster led by Sen. Russell of Georgia, Sen. Russell went home to Georgia and said that, though he had fought the legislation with everything he had, ''As long as it is there, it must be obeyed.'' Compare that to the instant repeal effort that was the result of jamming the health care law through in a partisan vote.

Third, such a brazen power grab by Democrats this year will surely guarantee a similar action by Republicans in two years if Republicans gain control of the Senate as many believe is likely to happen. We have seen this happen with Senate consideration of judges. Democrats began the practice of filibustering President Bush's judges even though they were well-qualified; now Democrats are unhappy because many Republicans regard that as a precedent and have threatened to do the same to President Obama's nominees. Those who want to create a freight train

running through the Senate today, as it does in the House, might think about whether they will want that freight train in two years if it is the Tea Party Express.

Finally, it is hard to see what partisan advantage Democrats gain from destroying the Senate as a forum for consensus and protection of minority rights since any legislation they jam through without bipartisan support will undoubtedly die in the Republican-controlled House during the next two years.

The reform the Senate needs is a change in its behavior, not a change in its rules. I have talked with many senators, on both sides of the aisle, and I believe most of us want the same thing: a Senate where most bills are considered by committee, come to the floor as a result of bipartisan cooperation, are debated and amended and then voted upon.

It was not so long ago that this was the standard operating procedure. I have seen the Senate off and on for more than forty years, from the days in 1967 when I came to the Senate as Sen. Howard Baker's legislative assistant. That was when each senator had only one legislative assistant. I came back to help Sen. Baker set up his leadership office in 1977 and watched the way that Sen. Baker and Sen. Byrd led the Senate from 1977 to 1985, when Democrats were in the majority for the first four years and Republicans were the second four years.

Then, most pieces of legislation that came to the floor had started in committee. Then that legislation was open for amendment. There might be 300 amendments filed and, after a while, the majority would ask for unanimous consent to cut off amendments. Then voting would begin. And voting would continue.

The leaders would work to persuade senators to limit their amendments but that didn't always work. So the leaders kept the Senate in session during the evening, during Fridays, and even into the weekend. Senators got their amendments considered and the legislation was fully vetted, debated and finally passed or voted down.

Sen. Byrd knew the rules. I recall that when Republicans won the majority in 1981, Sen. Baker went to see Sen. Byrd and said, ''Bob I know you know the rules better than I ever will. I'll make a deal with you. You don't surprise me and I won't surprise you.''

Sen. Byrd said, ''Let me think about it.''

And the next day Sen. Byrd said yes and the two leaders managed the Senate effectively together for eight years.

What would it take to restore today's Senate to the Senate of the Baker-Byrd era?

Well, we have the answer from the master of the Senate rules himself, Sen. Byrd, who in his last appearance before the Rules Committee on May 19, 2010 said: ''Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the malady [abuse of the filibuster ]. Most recently, Senate Majority Leader Reid announced that the Senate would stay in session around-the-clock and take all procedural steps necessary to bring financial reform legislation before the Senate. As preparations were made and cots rolled out, a deal was struck within hours and the threat of filibuster was withdrawn . . . I also know that current Senate Rules provide the means to break a filibuster.''

Sen. Byrd also went on to argue strenuously in that last speech that ''our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights. Senators,'' he said, ''have understood this since the Senate first convened.''

Sen. Byrd then went on: ''In his notes of the Constitutional Convention on June 26, 1787, James Madison recorded that the ends to be served by the Senate were 'first, to protect the people against their rulers, secondly, to protect the people against the transient impressions into which they themselves might be led. . . . They themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils. ''That fence,'' Sen. Byrd said in that last appearance, ''was the United States Senate. The right to filibuster anchors this necessary fence. But it is not a right intended to be abused.''

''There are many suggestions as to what we should do. I know what we must not do. We must never, ever, ever, ever tear down the only wall—the necessary fence—this nation has against the excess of the Executive Branch and the resultant haste and tyranny of the majority.''

What would it take to restore the years of Sens. Baker and Byrd, when most bills that came to the floor were first considered in committee, when more amendments were considered, debated and voted upon?

1. Recognize that there has to be bipartisan cooperation and consensus on important issues. The day of ''we won the election, we jam the bill through'' will have to be over. Sen. Baker would not bring a bill to the floor when Republicans were in the majority unless it had the support of the ranking Democratic committee member.

2. Recognize that senators are going to have to vote. This may sound ridiculous to say to an outsider, but every Senate insider knows that a major reason why the majority cuts off amendments and debate is because Democratic members don't want to vote on controversial issues. That's like volunteering to be on the Grand Ole Opry but then claiming you don't want to sing. We should say, if you don't want to vote, then don't run for the Senate.

3. Finally, according to Sen. Byrd, it will be the end of the three-day work week. The Senate convenes on most Mondays for a so-called bed-check vote at 5:30. The Senate during 2010 did not vote on one single Friday. It is not possible either for the minority to have the opportunity to offer, debate and vote on amendments or for the majority to forcefully confront a filibuster if every senator knows there will never be a vote on Friday.

There are some other steps that can be taken to help the Senate function better without impairing minority rights.

One bipartisan suggestion has been to end the practice of secret holds. It seems reasonable to expect a senator who intends to hold up a bill or a nomination to allow his colleagues and the world know who he or she is so that the merits of the hold can be evaluated and debated.

Second, there is a crying need to make it easier for any President to staff his government with key officials within a reasonable period of time. One reason for the current delay is the President's own fault, taking an inordinately long time to vet his nominees. Another is a shared responsibility: the maze of conflicting forms, FBI investigations, IRS audits, ethics requirements and financial disclosures required both by the Senate and the President of nominees. I spoke on the Senate floor on this, titling my speech ''Innocent until Nominated.'' The third obstacle is the excessive number of executive branch appointments requiring Senate confirmation. There have been bipartisan efforts to reduce these obstacles. With the support the majority and minority leaders, we might achieve some success.

Of course, even if all of these efforts succeed there still will be delayed nominations, bills that are killed before they come to the floor and amendments that never see the light of day. But this is nothing new. I can well remember when Sen. Metzenbaum of Ohio put a secret hold on my nomination when President George H.W. Bush appointed me education secretary. He held up my nomination for three months, never really saying why.

I asked Sen. Rudman of New Hampshire what I could do about Sen. Metzenbaum, and he said, ''Nothing.'' And then he told me how President Ford had appointed him to the Federal Communications Commission when he, Rudman, was Attorney General of New Hampshire. The Democratic senator from New Hampshire filibustered Rudman's appointment until Rudman finally asked the president to withdraw his name.

''Is that the end of the story?'' I asked Rudman.

''No,'' he said. ''I ran against the [so-and -so] and won, and that's how I got into the Senate.''

During his time here Sen. Metzenbaum would sit at a desk at the front of the Senate and hold up almost every bill going through until its sponsor obtained his approval. Sen. Allen of Alabama did the same before Metzenbaum. And Sen. John Williams of Delaware during the 1960's was on the floor regularly objecting to federal spending when I first came here forty years ago.

I have done my best to make the argument that the Senate and the country will be served best if cooler heads prevail and Democrats don't make their power grab tomorrow to make the Senate like the House, to permit them to do with any legislation what they did with the health care law. I have said that to do so will destroy minority rights, destroy the essential forum for consensus that the Senate now provides for difficult issues, and surely guarantee that Republicans will try to do the same to Democrats in two years. More than that, it is hard to see how Democrats can gain any partisan advantage from this destruction of the Senate and invitation for retribution since any bill they force through the Senate in a purely partisan way during the next two years will surely be stopped by the Republican-controlled House of Representatives.

But I am not the most persuasive voice against the wisdom of tomorrow's proposed action. Other voices are. And I have collected some of them, mostly Democratic leaders who wisely argued against changing the institution of the Senate in a way that would deprive minority voices in America of their right to be heard:

QUOTES FROM MEMBERS AND MR. SMITH GOES TO WASHINGTON

Senator Robert Byrd: We must never, ever, ever, ever, tear down the only wall, the necessary fence, that this nation has against the excesses of the Executive Branch.

Sen. Byrd: That's why we have a Senate, is to amend and debate freely.

CONGRESSIONAL RECORD, JANUARY 4, 1995, S40–41

The filibuster has become a target for rebuke in this efficiency-obsessed age in which we live. We have instant coffee, instant potatoes to mix, instant this and instant that. So everything must be done in an instant; must be done in a hurry. . . .

Anyhow, everything has to be done in a hurry. We have to bring efficiency to this Senate. That was not what the Framers had in mind.

Recently, much of the talk of abolishing filibusters was coming from the other body, but apparently the criticism has begun to seep in the Senate Chamber, as well.

The filibuster is one of the easier targets in this town. It does not take much imagination to decry long-winded speeches and to deplore delay by a small number of determined

zealots as getting in the way of the greater good.

It does, however, take more than a little thought to understand the true purpose of the tactic known as filibustering and to appreciate its historic importance in protecting the viewpoint of the minority.

In many ways, the filibuster is the single most important device ever employed to ensure that the Senate remains truly the unique protector of the rights of the people that it has been throughout our history.

BYRD DID VOICE SUPPORT FOR LIMITING DEBATE ON THE MOTION TO PROCEED THOUGH

So we have had unlimited debate in the Senate now for 200 years, and surely with 200 years of trial and testing, we should know by now it is something to be prized beyond measure.

And so it is not a matter of pride and prerogative and privilege and power with this Senator. It is a matter not only of protecting this institution, it is a matter of protecting the liberties of free men under our Constitution. And as long as I can stand on this floor and speak, I can protect the liberties of my people. If I abuse the power by threatening to filibuster on motions to proceed, take away that power of mine to abuse. Let us change the rule and allow a motion to proceed under a debate limitation of 2 hours, 1 hour, or whatever, except on motions to proceed to a rules change. I am for that.

Sen. Dodd: I'm totally opposed to the idea of changing the filibuster rules. I think that's foolish in my view.

Sen. Dodd: I can understand the temptation to change the rules that make the Senate so unique and simultaneously so terribly frustrating. But whether such temptation is motivated by a noble desire to speed up the legislative process or by pure political expediency, I believe such changes would be unwise.

Sen. Dodd: Therefore to my fellow Senators, who have never served a day in the minority, I urge you to pause in your enthusiasm to change Senate rules.

Sen. Reid: The Filibuster is far from A 'Procedural Gimmick.' It's part of the fabric of this institution that we call the Senate. For 200 years we've had the right to extend the debate. It's not procedural gimmick. Some in this chamber want to throw out 214 years of Senate history in the quest for absolute power. They want to do away with Mr. Smith, as depicted in that great movie, being able to come to Washington. They want to do away with the filibuster. They think they're wiser than our Founding Fathers, I doubt that's true.

SEN Reid: In a fit of partisan fury, they were trying to blow up the Senate. Senate rules can only be changed by a two-thirds vote of the Senate, or sixty-seven senators. The Republicans were going to do it illegally with a simple majority, or fifty-one. Vice President Cheney was prepared to overrule the Senate parliamentarian. Future generations be damned.

Sen. Reid: Given that the filibuster is a perfectly reasonable tool to effect compromise, we had been resorting to the filibuster on a few judges. And that's just the way it was. For 230 years, the U.S. Senate had been known as the world's greatest deliberative body—not always efficient, but ultimately effective.

Former Sen. Obama: Then if the Majority chooses to end the filibuster, if they choose to change the rules and put an end to Democratic debate, then the fighting and the bitterness and the gridlock will only get worse.

Former Sen. Clinton: You've got majority rule. Then you've got the Senate over here where people can slow things down where they can debate where they have something called the filibuster. You know it seems like it's a little less than efficient, well that's right, it is. And deliberately designed to be so.

Sen. Chuck Schumer: The checks and balances which have been at the core of this Republic are about to be evaporated. The checks and balances which say that if you get 51% of the vote, you don't get your way 100% of the time.

Sen. Gregg: You just can't have good governance if you don't have discussion and different ideas brought forward.

Sen. Roberts: The Senate is the only place in government where the rights of a numerical minority are so protected. A minority can be right, and minority views can certainly improve legislation.

FROM MR. SMITH GOES TO WASHINGTON

Jimmy Stewart: Wild horses aren't going to drag me off this floor until those people have heard everything I've got to say, even if it takes all winter.

Reporter: H.V. Kaltenborn speaking, half of official Washington is here to see democracy's finest show. The filibuster—the right to talk your head off.

Mr. ALEXANDER. Thank you, Mr. President. I yield the floor and suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. I ask consent to speak as in morning business.

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

U.S.-CUBA RELATIONS

Mr. DURBIN. Mr. President, I recently had an opportunity to visit Cuba for the first time. I have been frustrated for many years about the impasse between the United States and Cuba. I believed, and continue to believe, that the best way to change the Castro regime in Cuba is to open Cuba. As we learned in Eastern Europe, once those who have lived under a controlled economy and autocratic rule are exposed to the real world and the opportunities of that world, they start pushing for change.

I went to Cuba hoping that with the transitional leadership from Fidel Castro to his brother Raúl, there might be an opportunity to turn a new page. President Raúl Castro has taken a number of small but notable steps to opening his country's economy. He has also released a number of political prisoners, albeit forcing many of them to leave Cuba if they wish to be released.

Yet a genuine start to turning the page with the United States would also have to include the release of a detained U.S. citizen, Alan Gross, a man with whom the Presiding Officer and I have met. Today marks the third full year in prison in Cuba for Alan Gross. What was Alan Gross's crime? He provided Internet equipment to some of the Cuban population. That is right, Internet equipment.

The Presiding Officer may have read that in war-torn Syria under the ruthless dictator Bashar al Assad, the Internet was recently turned off for a few days but was restored. In fact, Internet access in Cuba is between 1 percent to 3 percent, making it among the lowest rates in the world. The Cubans have tried to exclude news from the outside world to those living on the island.

In 2011, the Cuban and Venezuelan Governments—two governments not known for political freedoms—launched a much ballyhooed project to lay an undersea fiber optic cable between the two countries to help improve Cuba's phone and Internet services.

The $70 million project was expected to be in operation for the entire Nation by the summer of 2011, but as of May 2012 reports indicate that use has been restricted to only Cuban and Venezuelan Government entities, and Internet access by the general public still remains slow and very expensive. It is no wonder that trying to use the Internet in Cuba can land a person in jail, but 15 years in jail for American Alan Gross?

I have come to this floor many times to plead for his freedom, and I will continue to do so. Gross's incarceration is a tragic reminder of the stale and tired policies from another era. It is difficult to imagine how relationships between the United States and Cuba can improve while Alan Gross continues to be held as a hostage to the contrived grievances of the Cuban Government.

Today, December 3, marks the third anniversary of Alan's detention—3 long, painful, and damaging years—3 years. However, that is only a small fraction of his 15-year sentence. Alan is a 63-year-old man from Maryland who simply wanted to give basic communication tools—just a shadow of what average Americans enjoy every day—to the Cuban people.

When he arrived in Cuba, he went through their customs with all of his equipment and handed over everything he brought in, which they dutifully inspected. They proceeded to allow him to leave with the equipment and then turned around and arrested him for being a spy trying to sneak something into the country. He fully disclosed everything he brought in. He didn't believe he was violating the law. It is a mere technicality that has him sitting in prison today.

Now he is fighting for his life, trying to sustain his emotional and physical health, and that is a growing concern. When I met with Alan Gross, he explained to me his daily routine. It is the only thing that keeps him sane. He gets up and marches around his room, pacing off the feet as he goes, trying to make sure he walks a certain distance

each day. They let him outside in the sunlight for a little while each day, and he tries to do exercises outside to maintain his physical condition.

Recently, they found a mass on his shoulders. The Cuban doctors diagnosed it as hematoma and said it would go away, but it hasn't. It is a source of growing concern. His family is worried that it may be worse than a hematoma—perhaps even a tumor—and Alan Gross repeatedly has asked for a doctor of his own to examine him, but Cuba has refused.

Facing outside pressure, Cuban doctors recently took another biopsy of the mass and made a big effort to publicly announce last week that their tests concluded it wasn't cancerous, but Alan and his doctor in the United States are not satisfied with the methods the Cubans used and don't trust the results.

Just last week, Judy Gross, Alan's wife, came to see me again. She has been in before. She talked about her worry and the worry of her family about her husband's condition. Who can blame them. Alan's daughter and mother are both battling cancer. He has reason to fear that he could have it too. Alan deserves a medical evaluation from a doctor he knows and believes in. Cuba should at least give him that. Furthermore, they should allow the examination to take place in the United States so he can visit his ailing mother and daughter.

I have pleaded with them to give him a chance to come home. One of the Cuban Five, a group of five Cubans who were arrested for espionage, was given that opportunity to return to Cuba so they could visit a sick brother. During my visit to Cuba, I had the privilege of meeting with Alan in person, and I thank the Cuban Government for that visit. I was moved by our conversation and impressed by the sincerity of Alan's affection for the Cuban people.

This is a picture that was taken during the course of my visit with Alan. Alan Gross is not a threat to the sovereignty of the Cuban Government as they claim. He is a good man with good intentions, an honest man who just wants to come home to his family. Instead, he is trapped in Cuba, now for 3 years, being used by a regime as a pawn in a standoff with the United States. Holding Alan Gross as a political hostage is the wrong way to solve any problem between our countries.

I am no fan of this Cuban regime. Its disregard for human rights and basic freedoms trouble me greatly. The recent suspicious death of Cuban democracy leader Owaldo Paya and continued harassment of blogger Yoani Sanchez are deeply troubling, but I believe in the Cuban people and in their right for economic and political expression. I am inspired by the passionate and courageous activists on the island—those who follow the example of Paya and Sanchez—and I am hopeful they will break through the repression and bring real change to that country.

Today Senators CARDIN and MORAN submitted a resolution calling for the immediate and unconditional release of Alan Gross. I support it and join them as a cosponsor, and I call on my colleagues to do the same.

Last week when I met with Alan's wife Judy, it almost broke my heart. She has fought tirelessly for her husband's release and her pain is palpable. As is Alan, she is frustrated, but she continues to fight for his freedom and works hard to ensure he is not forgotten.

Judy Gross, I assure you, Alan is not forgotten. I hope the Cuban Government takes note of the same. Alan Gross deserves to come home, and we will continue to fight for him until he does.

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

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

The bill clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

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

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

HONORING OUR ARMED FORCES

SERGEANT JOSEPH RICHARDSON

Mr. BOOZMAN. Mr. President, the men and women who wear our Nation's uniform are selfless heroes who embody the American spirit, courage, honor, and patriotism. We must always remember to honor those who risk their lives to protect our country because our troops have given the greatest sacrifice in defense of our freedoms.

Today I am here to pay my respects to Army SGT Joseph A. Richardson, an Arkansas soldier who sacrificed his life for his country while in support of Operation Enduring Freedom.

As a student at Booneville High School in Booneville, AR, Sergeant Richardson took an interest in the military. His guidance counselor told Arkansas media outlets that during his sophomore year he became interested in military service and was anxious to take the necessary entrance exams even before he could qualify. His counselor said, ''He felt like it was going to be an honor to serve his country.'' In 2008, he joined the Army.

His passion for his service to his country remained constant. Sergeant Richardson's family said he loved his job, he loved fighting for his country and our freedom. He liked it so much he recently reenlisted for 6 more years of service in the Army.

While Sergeant Richardson's desire to serve his country was well known, so was his enthusiasm for life. His family and friends describe Sergeant Richardson as a kind-hearted man who always put others first and made those around him laugh.

As a member of A Company, 1st Battalion, 28th Infantry Regiment, First Infantry Division, Fort Riley, Kansas, 23-year-old Sergeant Richardson gave his life for his country on November 16, 2012, while on patrol in Afghanistan.

SGT Joseph Richardson is a true American hero who paid the ultimate sacrifice. I ask my colleagues to keep his wife Ashley and the rest of his family and friends in their thoughts and prayers during this very difficult time. On behalf of a grateful nation, I humbly offer my sincerest gratitude for his patriotism and selfless service.

With that, I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

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

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

MEDICARE AND MEDICAID

Mr. GRASSLEY. Mr. President, today, America faces no greater threat to its growth and prosperity than our uncontrolled national debt. Currently, the country's debt exceeds $16 trillion. We are passing this amount of money on to our children and grandchildren to pay off. It is simply far too large a burden to be placing on them.

As we move forward, it is clear that we must discuss spending.

I know that President Obama is hyper-focused on increasing taxes as part of a deficit-reduction proposal. However, if we are serious about reducing our debt, we must talk about spending—not sometime next year, not only after we talk about taxes. We must talk about our spending Now.

We need to have a thoughtful conversation that focuses on where our Federal spending most calls for control and containment.

I would like to begin by drawing your attention to this chart I have in the Chamber.

This chart from the Congressional Budget Office details noninterest spending as a percentage of GDP.

We already know the significant role health care spending plays in our budget.

Over the next decade, the Federal Government will spend over $7 trillion on Medicare and $4.5 trillion on Medicaid. Together these two programs account for one-quarter of the entire Federal Government's spending throughout the next 10 years. But look closely at the even longer term projections of our spending.

According to the Congressional Budget Office, this middle graph—Social Security, as a percentage of GDP—will remain relatively stable over the next 25 years.

Noninterest spending, the bottom graph, as a percentage of GDP will also remain relatively stable over the same period.

Now, look at this top graph. Over the next 25 years, spending on health care entitlements will basically double as a percentage of GDP.

Unless we take a serious look at health care spending, we aren't genuinely acting to reduce our country's debt.

Twenty-five years is not a lot of time. We need to be talking about health care spending now—not sometime next year, not just once we have discussed taxes; now.

In Washington, we can get all wrapped up over semantic terms. Do we need Medicare and Medicaid reform? Should we call it restructuring, reorganization, improving and strengthening?

To me, the terms are irrelevant and the conclusion is undeniable. We must gain control of health care spending.

As we move forward in debt talks, I know a lot of attention will be devoted to taxes and revenue. Those conversations are important and should conclude with tax policy that fosters economic growth. But conversations about the health care entitlements should not be postponed or relegated to second-tier status, and they certainly should not be confined to cost reduction exercises that ignore the fundamental cost drivers.

I have read reports of the savings in Medicare and Medicaid that President Obama has proposed. In my mind, they do little more than take cash out of the system without making fundamental changes necessary to bend the growth curve. Let's take a look at a few of those in the President's 2013 budget.

There is increasing income-relating of Medicare premiums. That one takes more money from rich seniors. There is increasing copays for home health. That will increase costs for all seniors. There is getting bigger rebates from drug companies, even if it harms Part D. That one takes money from drug companies. There is cutting provider taxes in Medicaid. That one will take money from States at a time when the administration is encouraging them to expand Medicaid to cover childless adults. As an aside, I notice that the Washington Post had a banner editorial last Friday supporting a reduction in Medicaid provider taxes. I wish that the Post had been so helpful in 2006 when the Bush administration made a similar proposal.

There is also something called a ''blended rate'' for State reimbursement under Medicaid.

That breaks the promise to pay for 100 percent of the costs of those made eligible under Obamacare.

These proposals will certainly reduce the Federal outlay in Medicare and Medicaid. However, these proposals will not solve the larger problem of health care spending growth. Instead, we should also focus on where our spending really is.

I am fully aware that there is significant opposition from Democrats to Republican ideas like premium support for Medicare and block grants for Medicaid. I am not here promoting either of those ideas. But opposition to those ideas should not allow Democrats to walk away from the issue. We must address the growth of health care entitlements.

I believe our Medicare and Medicaid spending problems can be explained in three straightforward charts. This chart I have in the Chamber is the first one.

Here we look at the Federal Medicare and Federal and State Medicaid spending divided into three groups.

On the left is spending by the Federal Government for people who are eligible only for Medicare.

On the right is Federal and State spending for people only eligible for Medicaid.

In the middle is Federal and State spending for people eligible for both Medicare and Medicaid, also known as dual eligibles or duals.

This middle group, the duals, accounts for just over 10 percent of the entire Medicare and Medicaid population. However, there is more spending on duals than on the Medicare-only beneficiaries or the Medicaid-only beneficiaries.

When we talk about the need to find ways to control spending on duals, it is for good reason. We must find ways to realign the disparate incentives of the federally run Medicare Program and the State-run Medicaid Programs.

However, focusing on solutions exclusive to duals misses the fullness of the problem. For one, the duals are not a homogeneous population. While most people consider people on Medicare to be typically elderly, fully 38 percent of the duals are nonelderly. Also, while many of the duals are clearly high-cost, there are a large number of duals who utilize very few services.

So while improvements to the care model that we use for duals are necessary, they are far from sufficient in reducing the totality of the growth driving health care costs.

Consider this next chart, I have in the Chamber.

In this chart, we see the most expensive individuals in the Medicare program. This is a population who has two to three chronic conditions and functional impairments. Among the most expensive Medicare beneficiaries, more than half—57 percent—qualify only for Medicare.

Providing better coordinated care and reducing costs for high-cost beneficiaries is critical for the future of Medicare and Medicaid. I have strong reservations about splitting these two groups based solely on individuals' income.

Proposals that give the States greater control of acute care services for the 43 percent who are duals, essentially, divide two similarly situated, expensive individuals between one Federal model and 50 States models based solely on their income. That makes no sense to me. A Medicare-only beneficiary may exhaust income and assets and become dually eligible. The separation between the two populations is arbitrary and artificial.

Whatever we do to find a better model to coordinate care and reduce costs for high-cost beneficiaries, it needs to address all beneficiaries, not just duals.

To find rational solutions to our health care spending, we must first accurately target the populations who incur the most significant expenditures. This includes individuals who are not only the duals but also those Medicare-only seniors with multiple chronic conditions and functional impairments.

Finally I would like to draw attention to this chart I have in the Chamber.

This final chart details spending on long-term services and supports in 2010. Two years ago, a total of $208 billion—8 percent of all U.S. personal health care spending—was spent on long-term services and supports. Among this spending, Medicaid, the single largest payer of such services, picked up 62.2 percent of the cost, while the private market paid for just over a third of it.

With 80 million baby boomers entering retirement age, and 7 out of every 10 seniors needing long-term care at a certain point in their lives, the demand for those services will only increase and further drive health care spending if we don't take action. We must find ways to increase private spending and decrease public spending on long-term services and supports.

If we are going to argue that we are reducing the growth of health care costs, we must actually do it.

In closing, we have an opportunity before us. We can either make real changes to our health care entitlements that will impact the growth curve for years to come, or we can simply take cash out of the system and call it reform. We have to be willing to re-examine the effectiveness of our current overall Medicare and Medicaid structure. We should not be afraid to ask tough questions.

Should Medicare and Medicaid be structured in a way that provides benefits to individuals in the most efficient and effective way possible?

Are Medicare and Medicaid, in fact, structured in a way that guarantees we will spend Federal and State dollars inefficiently or ineffectively?

When you look at the spending on duals, the spending on high-cost beneficiaries and the spending on long-term supports and services, I believe the answer to both questions is yes.

Medicare and Medicaid proposals must address these three areas.

President Obama hasn't come to the table yet. I know there are people telling us we shouldn't talk about health care entitlements now. We don't have a choice. Look at the numbers. Look at

the spending. We only make the problem worse by putting it off. We can save Federal dollars by extracting more from beneficiaries, providers, and States, but that won't bend the long-term growth curve. We have to talk about solutions to actually lower the growth curve now.

We are $16 trillion in debt. One of every four dollars we will spend in this next decade will be on Medicare and Medicaid. We will see health care entitlements double as a percentage of GDP in the next 25 years. If we want Medicare and Medicaid to not only survive but also thrive for the next generation, we need to be willing to ask fundamental questions and seek solutions that can affect the growth curve.

I sincerely hope we are willing to look for solutions that can make a real difference.

Mr. President, I suggest the absence of a quorum

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

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

Ms. AYOTTE. Mr. President, as a member of the Senate Armed Services Committee—and I appreciate your leadership in that role as well on that committee—I would like to speak for a few minutes on the National Defense Authorization Act.

In the midst of an ongoing war, with our brave sons and daughters, husbands and wives fighting in Afghanistan, our country continues to face a very serious threat from radical Islamist terrorists and other challenges and threats throughout the world. With increased threats posed by rogue states such as Iran and North Korea, it is so important that we pass the Defense Authorization Act.

I would like to take a minute to thank Chairman LEVIN and Ranking Member MCCAIN for their leadership and for the hard work and dedication they have shown in bringing us together around this Defense authorization. In a place where we typically have seen many times that things have come down on party lines, I can tell you that the Senate Armed Services Committee is a welcome exception to the gridlock and partisanship in Washington, and both of them have brought us together. In fact, the Defense authorization bill passed out of the Senate Armed Services Committee unanimously. It reflects the committee's bipartisan commitment to making sure our troops and their families have what they need to ensure our Nation is protected.

As the ranking member of the readiness subcommittee, I have had the pleasure of working with Chairman MCCASKILL to ensure that our men and women in uniform have the resources they need to protect themselves and our country. At the same time, the readiness subcommittee has also worked very hard to achieve significant reforms that save taxpayer dollars without endangering our military readiness. I look forward to continuing to work with the chairman to seek additional efficiencies within the Department of Defense budget, while guarding against irresponsible cuts that would leave our troops and our Nation less prepared for future contingencies and increase the likelihood of conflict.

I also wish to recognize the work I have had the opportunity to do with my colleagues on both sides of the aisle that further supports our troops, our veterans, and their families. I am proud to have worked with my colleagues across the aisle to include several very important provisions in this year's Defense Authorization Act.

During the markup, Senator BEGICH, Senator MCCAIN, Senator SHAHEEN, Senator VITTER, and Senator UDALL joined me—three Republicans and three Democrats working together—to introduce and successfully incorporate an amendment to the Defense authorization that would save $400 million by cutting off funding to the over-cost and behind-schedule Medium Extended Air Defense System, or MEADS. This is a weapons program that the Pentagon has said it will never procure, it will never happen. Yet we continue to put taxpayer dollars into this weapons system. I know that in the President's comments about the bill, he has expressed concern about this—his administration has—but at a time when we are facing grave fiscal challenges in this country, we cannot afford to spend $400 million on a weapons system that will never come to be when there are so many other needs that need to be addressed.

In another bipartisan effort, more than a dozen of my colleagues joined Senator BEGICH and me in ensuring that veterans buried at the Clark Veterans Cemetery in the Philippines will have the dignified and final resting place they deserve. There is still more work we have to do on this issue.

What this comes down to is when the Air Force abandoned Clark Air Force Base in 1991 in the wake of a volcanic eruption, Clark Veterans Cemetery was abandoned and the tombstones and the remains of 8,300 U.S. servicemembers and their dependents were left buried in ash and overgrown weeds. That is completely unacceptable for those who have served our Nation, that we would not ensure that this cemetery would be kept in a way that is dignified and consistent with the respect they deserve, having served our Nation.

To prevent this from ever happening again, I am pleased that the Defense authorization includes my provision, which would require the Secretary of Defense to provide Congress a plan to ensure that an appropriate Federal or private agency assumes responsibility for the continued maintenance and oversight of cemeteries located on overseas military bases after they close.

What happened here is that we left, and there was nothing in place to ensure that we would take responsibility to make sure this cemetery was maintained with dignity and respect. This provision will make sure that if we are in that position again, this will not happen.

Additionally, Senator JACK REED and I worked together to include a provision aimed at enhancing the Department's research, treatment, education, and outreach initiatives focused on addressing the mental health needs of members of the National Guard and Reserve.

In addition to the provisions I have just mentioned which we have been able to put in this bill on a bipartisan basis, I would also like to talk about some additional amendments that have already been included in the Defense authorization. Here are some of the provisions or reporting requirements that are included within this bill:

First, requiring the Pentagon to complete a full statement of budget resources by 2014 to improve financial stewardship at the Pentagon.

This has been an issue we have been working on for too long. It is time that the Pentagon is able to undergo an audit, and this requirement that is contained within the Defense Authorization Act is consistent with what Secretary Panetta has said he is seeking to do, to make sure the Pentagon can complete a full statement of budget resources by 2014.

When we are at a time when we are $16 trillion in debt, the fact that we are not able to audit the Pentagon, aren't able to really take that information and make critical decisions on what we need versus what we would want to do and what we can afford to do, this is very important, that the Pentagon get to a position where it can be audited. This provision ensures that this critical step is in this bill, and I am hopeful it will get passed.

Additional provisions that will save millions of dollars in acquisitions by prohibiting the Department of Defense from using cost-type contracts for the production of major defense acquisition programs are in this bill.

We can't afford the years where we are paying much more for weapons systems than we can afford and it takes much longer to produce them. We can improve our acquisition systems, and by prohibiting the Department of Defense from using cost-type contracts for the production of major defense acquisition programs, this is a very important step.

There are also provisions in this bill to ensure that our nuclear deterrent remains strong as we modernize our nuclear arsenal.

Without a nuclear deterrent, if you look at what is happening around the world, with Iran trying to acquire the

capability of having a nuclear weapon, with North Korea having that capability, it is very important that we have that deterrent in our country and that it remains modern and able if, God forbid—we hope we will never have to use that, but it is a very strong deterrent to rogue actors around the world that are seeking this capability.

In addition, there are provisions that increase oversight of the Department of Defense's proposed reduction in the number of soldiers and marines and looks at the issue of minimizing involuntary separations.

This is one of the things we are facing right now. With the defense cuts, some of our men and women in uniform who have served multiple tours on our behalf are now in a position where they may receive a pink slip. We owe it to them to make sure we minimize the situation where they come home, they are given a pink slip, and then they are put in a situation where they are looking for a job. We need to make sure we do this in a way that they can assimilate into the civilian society without being left unemployed, given the sacrifices they have made for our country.

There are other provisions I would like to highlight briefly. There is a provision to ensure that military amputees have access to top-quality prostheses and prosthetic sockets. Whether servicemembers who require prosthesis choose to leave the military or continue to serve, they deserve the best, top-quality prostheses and prosthetic sockets, and included in this mark is a provision that will ensure there are standards to make certain they receive the best. They deserve it.

In addition, there is a provision that will require that the Navy let us know what our current military capabilities require in terms of the number of ships and submarines that are in our fleet. The Chief of Naval Operations testified last year the Navy needs 313 ships and submarines to meet its strategic requirements. Right now we only have 285. If sequestration goes forward, we are going to have dramatically less. Right now, we can only meet 61 percent of attack submarine requirements set by our combatant commanders. The administration has said we are going to shift to the Asia Pacific region given the rise in investments China is making in its navy, so I am simply asking that the Navy tell us what they need to make sure our country is protected.

We have conflicting information, and it is important that we have a strong and robust Navy to make sure America is protected from the threats we face around the world.

In conclusion, I want to just thank Chairman LEVIN and Ranking Member MCCAIN for all their hard work and leadership on the Armed Services Committee. This is a bill of which we can be proud. I am pleased that last week the Senate adopted my amendment to ban terrorists who are being held at Guantanamo Bay from being transferred to U.S. soil. I know that is something the American people feel strongly about.

I know the bill, overall, will continue to have debate on a number of amendments, but it is a bill that is very important to our servicemembers—the men and women in uniform who serve us—and their families. They deserve the very best. They deserve to know we will pass this bill to make sure they have the equipment and the support they need given the sacrifices they have made for our country.

Again, I thank Chairman LEVIN and Ranking Member MCCAIN for all their hard work.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 2954, 2978, 3015, 3022, 3024, 3028, 3042, AS MODIFIED, 3054, AS MODIFIED, 3066, 3091, AS MODIFIED, 3160, 3164, 3176, AS MODIFIED, 3188, 3208, 3218, 3227, 3268, 3289, AND 3119

Mr. LEVIN. Mr. President, I now call up a list of 20 amendments which have been cleared by myself and Senator MCCAIN: Begich amendment No. 2954; Inhofe amendment No. 2978; Blumenthal amendment No. 3015; Cardin amendment No. 3022; Cardin amendment No. 3024; Tester amendment No. 3028; Collins amendment No. 3042, as modified by the changes at the desk; McCain amendment No. 3054, as modified by the changes at the desk; Toomey amendment No. 3066; McCain amendment No. 3091, as modified by the changes at the desk; Brown of Massachusetts amendment No. 3160; Levin amendment No. 3164; Rubio amendment No. 3176, as modified by the changes at the desk; Warner amendment No. 3188; Bingaman amendment No. 3208; Snowe amendment No. 3218; Conrad amendment No. 3227; Hatch amendment No. 3268; Coons amendment No. 3289; and Paul amendment No. 3119.

Mr. MCCAIN. The amendments have been cleared by our side.

The PRESIDING OFFICER. Is there further debate on the amendments en bloc?

If not, the question is on agreeing to the amendments?

The amendments were agreed to, as follows:

AMENDMENT NO. 2954

(Purpose: To authorize space-available travel on Department of Defense aircraft of certain unremarried spouses of members and former members of the Armed Forces)

On page 187, between lines 15 and 16, insert the following:

''(4) The unremarried spouses of members of the armed forces who were killed on active duty or otherwise died in the line of duty, and the unremarried spouses of former members of the armed forces who died of a combat-related illness or injury, who hold a valid Uniformed Services Identification and Privilege Card.

AMENDMENT NO. 2978

(Purpose: To require the Secretary of the Air Force to submit to Congress a plan to increase the number of contractors eligible to be awarded contracts under the Air Force's Network-Centric Solution-2 (NETCENTS-2) indefinite-delivery, indefinite-quantity (IDIQ) contract)

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

**SEC. 888. PLAN TO INCREASE NUMBER OF CONTRACTORS ELIGIBLE FOR CONTRACTS UNDER AIR FORCE NETCENTS-2 CONTRACT.**

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan to increase the number of contractors eligible to be awarded contracts under the Air Force's Network-Centric Solutions-2 (NETCENTS-2) indefinite-delivery, indefinite-quantity (IDIQ) contract.

(b) CONTENT.—The plan required under subsection (a) shall include the following elements:

(1) A recommendation and rationale for a maximum number of contractors to be eligible for contract awards under NETCENTS-2 to foster competition and reduce overall costs associated with hardware and operation and maintenance of Air Networks.

(2) The methodology used to periodically review existing eligible NETCENTS-2 contractors and contracts.

(3) A timeline to increase the current number of eligible contractors under NETCENTS-2 and dates of future ''on-ramps'' under NETCENTS-2 to assess current eligible contractors and add additional eligible contractors.

AMENDENT NO. 3015

(Purpose: To extend the stolen goods offense to cover all veterans' memorials)

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

**SEC. 1084. PROTECTION OF VETERANS' MEMORIALS.**

(a) TRANSPORTATION OF STOLEN MEMORIALS.—Section 2314 of title 18, United States Code, is amended by adding at the end the following:

''In the case of an offense under the first paragraph of this section, if the goods, wares, or merchandise consist of or include a veterans' memorial, the requirement of that paragraph that the goods, wares, or merchandise have a value of $5,000 or more does not apply. In this paragraph, the term 'veterans' memorial' means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran's grave, or any monument that signifies an event of national military historical significance.''.

(b) SALE OR RECEIPT OF STOLEN MEMORIALS.—Section 2315 of such title is amended by adding at the end the following:

''In the case of an offense under the first paragraph of this section, if the goods, wares, or merchandise consist of or include a veterans' memorial, the requirement of that paragraph that the goods, wares, or merchandise have a value of $5,000 or more does not apply. In this paragraph, the term 'veterans' memorial' means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran's grave, or any monument that signifies an event of national military historical significance.''.

AMENDMENT NO. 3022

(Purpose: To express the sense of the Senate concerning the conflict-induced Afghan refugee situation)

On page 405, line 4, strike ''Section'' and insert the following:

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate is deeply concerned with the dramatic rise in conflict-induced displacement in Afghanistan and the corresponding increase in humanitarian need, especially as winter approaches;

(2) there have been several reports of children freezing to death in various refugee settlements in Afghanistan during the winter of 2011-12;

(3) the Bureau of Population, Refugees, and Migration of the Department of State and the Special Representative for Afghanistan and Pakistan should jointly develop a comprehensive strategy to address the displacement and human suffering referred to in paragraphs (1) and (2), which shall include—

(A) an assessment of the capacity of the Government of Afghanistan—

(i) to prevent, mitigate, and respond to forced displacement; and

(ii) to provide durable solutions for internally displaced Afghans and Afghan refugees; and

(B) a coherent plan to strengthen the capacity of the Government of Afghanistan to address the causes and consequences of displacement within Afghanistan.

(b) EXTENSION OF AUTHORITY.—Section

AMENDMENT NO. 3024

(Purpose: To include the Coast Guard in the requirements for the achievement of diversity in the Armed Forces)

On page 124, between lines 6 and 7, insert the following:

(f) APPLICABILITY TO COAST GUARD.—The Secretary of Homeland Security shall apply the provisions of this section (other than subsection (d)) to the Coast Guard when it is not operating as a service in the Navy in order to achieve diversity in the Coast Guard in the same manner, under the same schedule, and subject to the same conditions as diversity is achieved in the other Armed Forces under this section. The Secretary shall submit to the congressional defense committees the reports required by subsection (e) with respect to the implementation of the provisions of this section regarding the Coast Guard when it is not operating as a service in the Navy.

AMENDMENT NO. 3028

(Purpose: To authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes)

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

**SEC. 1084. TRANSPORTATION OF INDIVIDUALS TO AND FROM FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 111 the following new section:

**"§ 111A. Transportation of individuals to and from Department facilities**

''(a) TRANSPORTATION BY SECRETARY.—The Secretary may transport any person to or from a Department facility or other place in connection with vocational rehabilitation, counseling required by the Secretary pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care.''.

(b) CONFORMING AMENDMENT.—Subsection (h) of section 111 of such title is—

(1) transferred to section 111A of such title, as added by subsection (a);

(2) redesignated as subsection (b);

(3) inserted after subsection (a) of such section; and

(4) amended by inserting ''TRANSPORTATION BY THIRD-PARTIES.—'' before ''The Secretary''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 111 the following new item:

''111A. Transportation of individuals to and from Department facilities.''.

AMENDMENT NO. 3042, AS MODIFIED

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

**SEC. 1536. REPORT ON INSIDER ATTACKS IN AFGHANISTAN AND THEIR EFFECT ON THE UNITED STATES TRANSITION STRATEGY FOR AFGHANISTAN.**

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Commander of North Atlantic Treaty Organization/International Security Assistance Force forces in Afghanistan, submit to Congress a report on the attacks and associated threats by Afghanistan National Security Forces personnel, Afghanistan National Security Forces impersonators, and private security contractors against United States, Afghanistan, and coalition military and civilian personnel (''insider attacks'') in Afghanistan, and the effect of these attacks on the overall transition strategy in Afghanistan.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the nature and proximate causes of the attacks described in subsection (a), including the following:

(A) An estimate of the number of such attacks on United States, Afghanistan, and coalition military personnel since January 1, 2007.

(B) An estimate of the number of United States, Afghanistan, and coalition personnel killed or wounded in such attacks.

(C) The circumstances or conditions that may have influenced such attacks.

(D) An assessment of the threat posed by infiltration, and a best assessment of the extent of infiltration by insurgents into the Afghanistan National Security Forces.

(E) A description of trends in the prevalence of such attacks, including where such attacks occur, the political and ethnic affiliation of attackers, and the targets of attackers.

(2) A description of the restrictions and other actions taken by the United States and North Atlantic Treaty Organization/International Security Assistance Force forces to protect military and civilian personnel from future insider attacks, including measures in predeployment training.

(3) A description of the actions taken by the Government of Afghanistan to prevent and respond to insider attacks, including improved vetting practices.

(4) A description of the insider threat-related factors that will influence the size and scope of the post-2014 training mission for the Afghanistan National Security Forces.

(5) An assessment of the impact of the insider attacks in Afghanistan in 2012 on the overall transition strategy in Afghanistan and its prospects for success, including an assessment how such insider attacks impact—

(A) partner operations between North Atlantic Treaty Organization/International Security Assistance Force forces and Afghanistan National Security Forces;

(B) training programs for the Afghanistan National Security Forces, including proposed training plans to be executed during the post-2014 training mission for the Afghanistan National Security Forces;

(C) United States Special Forces training of the Afghan Local Police and its integration into the Afghanistan National Security Forces; and

(D) the willingness of North Atlantic Treaty Organization/International Security Assistance Force allies to maintain forces in Afghanistan or commit to the post-2014 training mission for the Afghanistan National Security Forces.

(6) An assessment of the impact that a reduction in training and partnering would have on the independent capabilities of the Afghanistan National Security Forces, and whether the training of the Afghanistan National Security Forces should remain a key component of the United States and North Atlantic Treaty Organization strategy in Afghanistan.

(c) UNCLASSIFIED EXECUTIVE SUMMARY.—The report submitted under subsection (b) shall include an executive summary of the contents of the report in unclassified form.

AMENDMENT NO. 3054, AS MODIFIED

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1024. NOTICE TO CONGRESS FOR THE REVIEW OF PROPOSALS TO NAME NAVAL VESSELS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Navy traces its ancestry to October 13, 1775, when an Act of the Continental Congress authorized the first vessel of a navy for the United Colonies. Vessels of the Continental Navy were named for early patriots and military heroes, Federal institutions, colonial cities, and positive character traits representative of naval and military virtues.

(2) An Act of Congress on March 3, 1819, made the Secretary of the Navy responsible for assigning names to vessels of the Navy. Traditional sources for vessel names customarily encompassed such categories as geographic locations in the United States; historic sites, battles, and ships; naval and military heroes and leaders; and noted individuals who made distinguished contributions to United States national security.

(3) These customs and traditions provide appropriate and necessary standards for the naming of vessels of the Navy.

(b) NOTICE TO CONGRESS.—Section 7292 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Secretary of the Navy may not announce or implement any proposal to name a vessel of the Navy until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such proposal.

''(2) Each report under this subsection shall describe the justification for the proposal covered by such report in accordance with the standards referred to in section 1024(a) of the National Defense Authorization Act for Fiscal Year 2013.''.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall go into effect on the date that is 30 days after the date of the enactment of this Act.

AMENDMENT NO. 3066

(Purpose: To require an independent study and report on simulated tactical flight training in a sustained gravity environment)

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

**SEC. 1064. REPORT ON SIMULATED TACTICAL FLIGHT TRAINING IN A SUSTAINED GRAVITY ENVIRONMENT.**

(a) INDEPENDENT STUDY REQUIRED.—The Secretary of Defense shall provide for the conduct by an appropriate federally funded research and development center (FFRDC) of a study on the effectiveness of simulated tactical flight training in a sustained gravity environment.

(b) ELEMENTS.—The study conducted pursuant to subsection (a) shall include the following:

(1) An assessment of the effectiveness of high fidelity simulated tactical flight training in a sustained gravity environment generally, and, in particular, the effectiveness of such training in preparing pilots to withstand and tolerate the high-gravity forces associated with the operation of high-performance combat aircraft (commonly referred to as ''G readiness'' and ''G tolerance'').

(2) An assessment of the cost savings to be achieved through the use of simulated tactical flight training in a sustained gravity environment, including cost savings associated with operation and maintenance and life cycle savings associated with aircraft and airframe usage.

(3) An assessment of the safety benefits to be achieved through the use of simulated tactical flight training in a sustained gravity environment.

(4) An identification and assessment of other benefits to be achieved through the use of simulated tactical flight training in a sustained gravity environment, including benefits relating to physiological research and benefits relating to reductions in carbon emissions.

(5) An evaluation and comparison of tactical flight simulators that could be used for simulated tactical flight training in a sustained gravity environment.

(6) Such other matters relating to the use of simulated tactical flight training in a sustained gravity environment as the Secretary shall specify for purposes of the study.

(c) REPORT.—In providing for study pursuant to subsection (a), the Secretary shall require the federally funded research and development center conducting the study to submit to the Secretary a report on the results of the study, including the matters specified in subsection (b), by not later than 18 months after the date of the enactment of this Act.

(d) TRANSMITTAL TO CONGRESS.—Not later than 90 days after the submittal to the Secretary of the report required by subsection (c), the Secretary shall transmit the report to the congressional defense committees, together with any comments of the Secretary in light of the report and such recommendations for legislative or administrative action as the Secretary considers appropriate regarding the use of simulated tactical flight training in a sustained gravity environment in light of the report.

AMENDMENT NO. 3091, AS MODIFIED

(Purpose: To authorize additional amounts for new programs identified and requested by the Department of Defense as unforeseen, urgent, and high priority requirements, and to provide an offset)

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

**SEC. 132. SPIDERNET/SPECTRAL WARRIOR HARDWARE.**

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, NAVY.—The amount authorized to be appropriated for fiscal year 2013 by section 101 is hereby increased by $2,000,000, with the amount of the increase to be available for amounts authorized to be appropriated by that section and available for other procurement, Navy, Satellite Communications, line 085, Satellite Communications Systems, as specified in the funding table in section 4101.

(b) AVAILABILITY OF AMOUNT.—To the extent provided in appropriations Acts, the amount authorized and made available by subsection (a) may be obligated and expended for a new program to procure SPIDERNet/Spectral Warrior Hardware and installation in order to provide a cloud network for Spectral Warrior terminals in support of requirements of the commanders of the combatant commands.

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

**SEC. 154. AC–130 AIRCRAFT ELECTRO-OPTICAL AND INFRARED SENSORS.**

(a) ADDITIONAL AMOUNT FOR PROCUREMENT, DEFENSE-WIDE.—The amount authorized to be appropriated for fiscal year 2013 by section 101 is hereby increased by $6,000,000, with the amount of the increase to be available for amounts authorized to be appropriated by that section and available for procurement, Defense-wide, other procurement programs, line 079, Combat mission requirements, as specified in the funding table in section 4101.

(b) AVAILABILITY OF AMOUNT.—To the extent provided in appropriations Acts, the amount authorized and made available by subsection (a) may be obligated and expended for a new program to procure color electro-optical and infrared imaging sensors for AC–130 aircraft used by the United States Special Operations Command in ongoing contingency operations.

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

**SEC. 216. RELOCATION OF C–BAND RADAR FROM ANTIGUA TO H.E. HOLT STATION IN WESTERN AUSTRALIA TO ENHANCE SPACE SITUATIONAL AWARENESS CAPABILITIES.**

To the extent provided in appropriations Acts, of the amounts authorized to be appropriated for fiscal year 2013 by section 201 and available for research, development, test, and evaluation for Space Situation Awareness Systems (PE 0604425F) for System Development and Demonstration as specified in the funding table in section 4201, $3,000,000 may be obligated and expended for a new program for the relocation and research and development activities to enhance Space Situational Awareness capabilities through—

(1) the repurposing of the C–Band Radar at Antigua;

(2) the relocation of that radar to the H.E. Holt Station in Western Australia;

(3) upgrades of the hardware and software of that radar to meet Space Situational Awareness mission needs;

(4) operational testing of that radar; and

(5) transfer of jurisdiction of that radar to the Air Force Space Command for operations and sustainment by September 30, 2016.

**SEC. 217. DETAILED DIGITAL RADIO FREQUENCY MODULATION COUNTERMEASURES STUDIES AND SIMULATIONS.**

(a) ADDITIONAL AMOUNT FOR RDT&E, ARMY.—The amount authorized to be appropriated for fiscal year 2013 by section 201 is hereby increased by $38,000,000, with the amount of the increase to be available for amounts authorized to be appropriated by that section and available for research, development, test, and evaluation, Army, for system development and demonstration (PE 0605457A) Army Integrated Air and Missile Defense (AIAMD), as specified in the funding table in section 4201.

(b) AVAILABILITY OF AMOUNT.—To the extent provided in appropriations Acts, the amount authorized and made available by subsection (a) may be obligated and expended for a new program to conduct detailed digital radio frequency modulation (DRFM) countermeasures studies and simulations to develop algorithms to address this threat change in support of the accelerated fielding of a new capability in Patriot, Sentinel, and Integrated Air and Missile Defense (IAMD) for the requirements of the commanders of the combatant commands.

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

**SEC. 1005. TRANSFER OF CERTAIN FISCAL YEAR 2012 AND 2013 FUNDS.**

(a) TRANSFER AUTHORIZED.—To the extent provided in appropriations Acts, the Secretary of Defense may transfer from fiscal year 2012 and 2013 procurement or research, development, test, and evaluation accounts an aggregate of $46,000,000 to be available for the additional authorizations in sections 132, 154, and 217.

(b) COVERED FUNDS.—In subsection (a), the term ''fiscal year 2012 and 2013 procurement or research, development, test, and evaluation accounts'' means—

(1) amounts authorized to be appropriated for fiscal year 2012 by sections 101 and 201 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) and available as specified in the funding tables in sections 4101 and 4201 of that Act for Army tactical bridging, BLIN–133, $12.5 million; Army C–RAM, BLIN–90, 158 million; Army non-system training devices, BLIN–182, $9.8 million; Defense wide 12/14 VSSOCOM C–150 modifications, $4.0 million; Defense wide 12/14 combat mission requirements, $4.2 million.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to change the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) CONSTRUCTION OF AUTHORITY.—The transfer authority in this section is in addition to any other transfer authority provided in this Act.

AMENDMENT NO. 3160

(Purpose: To improve the authorities relating to rates of basic allowance for housing for National Guard members on full-time National Guard duty)

On page 176, line 8, insert before the period the following: '', unless the transition results in a permanent change of station and shipment of household goods''.

AMENDMENT NO. 3164

(Purpose: To authorize the transfer of defense articles and the provision of defense services to the military and security forces of Afghanistan and certain other countries)

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

**SEC. 1221. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF AFGHANISTAN AND CERTAIN OTHER COUNTRIES.**

(a) NONEXCESS ARTICLES AND RELATED SERVICES.—The Secretary of Defense may, with the concurrence of the Secretary of State, transfer nonexcess defense articles from the stocks of the Department of Defense, without reimbursement from the government of the recipient country, and provide defense services in connection with the transfer of such defense articles, as follows:

(1) To the military and security forces of Afghanistan to support the efforts of those forces to restore and maintain peace and security in that country.

(2) To the military and security forces of Yemen to support the efforts of those forces to conduct counterterrorism operations and counter al Qaeda in the Arabian Peninsula.

(3) To the military and security forces of Somalia and other countries in the East Africa region to support the efforts of those forces to conduct counterterrorism and postconflict stability operations in Somalia.

(b) LIMITATIONS.—

(1) VALUE.—The aggregate replacement value of all defense articles transferred and defense services provided in connection with such defense articles under subsection (a) in any fiscal year may not exceed $250,000,000.

(2) SOURCE OF TRANSFERRED ARTICLES.—The authority under subsection (a) may only be used for defense articles that—

(A) were present in Afghanistan as of the date of the enactment of this Act;

(B) immediately before transfer were in use to support operations in Afghanistan; and

(C) are no longer required by United States forces in Afghanistan.

(c) APPLICABLE LAW.—Any defense articles transferred or defense services provided under the authority of subsection (a) shall be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) REPORT REQUIRED BEFORE EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not exercise the authority under subsection (a) until 15 days after the Secretary submits to the appropriate committees of Congress a report on the equipment and other property of the Department of Defense in Afghanistan.

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

(A) A description of the process for inventorying equipment and property, including defense articles, in Afghanistan owned by the Department of Defense, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(B) An estimate of the types and quantities of equipment and property of the Department of Defense, including defense articles, anticipated to be withdrawn from Afghanistan in connection with the drawdown of United States military forces from Afghanistan between the date of the enactment of this Act and December 31, 2014, including equipment and property owned by the Department and under the control of contractors in Afghanistan.

(e) NOTICE ON EXERCISE OF AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the Secretary of Defense, with the concurrence of the Secretary of State, submits to the appropriate committees of Congress notice of the proposed transfer of defense articles and provision of defense services.

(2) ELEMENTS.—A notice under paragraph (1) shall include the following:

(A) A description of the amount and types of defense articles to be transferred and defense services to be provided.

(B) A statement describing the current value of the defense articles to be transferred and the estimated replacement value of such articles.

(C) An identification of the element of the military or security force that is the proposed recipient of the defense articles to be transferred and defense service to be provided.

(D) An identification of the military department from which the defense articles to be transferred are to be drawn.

(E) An assessment of the impact, if any, of the transfer of defense articles on the readiness of units from which the defense articles are to be transferred, and the plan, if any, for mitigating such impact or reimbursing the military department of such units for such defense articles.

(F) An assessment of the ability of the recipient government to sustain the costs associated with receiving, possessing, and using the defense articles to be transferred.

(G) A determination and certification by the Secretary of Defense that—

(i) the proposed transfer of the defense articles to be transferred and the provision of defense services to be provided in connection with such transfer is in the national interest of the United States;

(ii) for the transfer of defense articles under the authority in subsection (a)(1), such defense articles are required by the military and security forces of Afghanistan to build their capacity to restore and maintain peace and security in that country;

(iii) for the transfer of defense articles and provision of defense services under the authority in subsection (a)(2), the transfer of such defense articles and provision of such defense services will contribute significantly to building key capacities of the military and security forces of Yemen required to conduct counterterrorism operations and counter al Qaeda in the Arabian Peninsula; and

(iv) for the transfer of defense articles and provision of defense services under the authority in subsection (a)(3), the transfer of such defense articles and provision of such defense services will contribute significantly to building key capabilities of the military and security forces of the recipient country to conduct counterterrorism and postconflict stability operations in Somalia.

(f) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the first transfer of defense articles and provision of defense services under the authority in subsection (a), and at the end of each calendar quarter, if any, thereafter through March 31, 2015, in which the authority in subsection (a) is exercised, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the implementation of the authority in subsection (a). Each report shall include the replacement value of the defense articles transferred pursuant to subsection (a), both in the aggregate and by military department, and defense services provided to recipient countries, during the 90-day period ending on the date of such report.

(2) INCLUSION IN OTHER REPORT.—A report required under paragraph (1) may be included in the report required under section 9204 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2410) or any follow on report to such other report.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

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

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(2) DEFENSE ARTICLES.—The term ''defense articles'' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) DEFENSE SERVICES.—The term ''defense services'' has the meaning given the term in section 644(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(f)).

(4) MILITARY AND SECURITY FORCES.—The term ''military and security forces'' means national armies, national air forces, national navies, national guard forces, police forces, and border security forces, but does not include nongovernmental or irregular forces (such as private militias).

(5) EAST AFRICA REGION.—The term ''East Africa region'' means Burundi, Djibouti, Ethiopia, Kenya, Somalia, and Uganda.

(h) EXPIRATION.—The authority provided in subsection (a) may not be exercised after December 31, 2014.

(i) EXCESS DEFENSE ARTICLES.—

(1) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by section 516 of the Foreign Assistance Act of 1961.

(2) EXEMPTIONS.—(A) During fiscal years 2013 and 2014, the value of excess defense articles transferred from the stocks of the Department of Defense in Afghanistan to Afghanistan, Yemen, Somalia, or other countries in the East Africa region pursuant to section 516 of the Foreign Assistance Act of 1961 shall not be counted against the limitation on the aggregate value of excess defense articles transferred contained in subsection (g) of such section.

(B) During fiscal years 2013 and 2014, any excess defense articles specified in subparagraph (A) shall not be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 contained in subsections (b)(1)(B) and (e) of such section.

(3) CONSTRUCTION EQUIPMENT.—Notwithstanding section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)) and section 2562 of title 10, United States Code, construction equipment from the stocks of the Department of Defense in Afghanistan may be transferred as excess defense articles under section 516 of the Foreign Assistance Act of 1961 and subject to the provisions of this subsection.

AMENDMENT NO. 3176, AS MODIFIED

At the end of title XXVII, add the following:

**SEC. 2705. REPORT ON REORGANIZATION OF AIR FORCE MATERIEL COMMAND ORGANIZATIONS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the reorganization of Air Force Materiel Command organizations.

(b) CONTENT.—The report required under subsection (a) shall include the following elements:

(1) An assessment of the efficiencies and effectiveness associated with the reorganization of Air Force Materiel Command organizations.

(2) An assessment of the organizational construct to determine how institutional synergies that were previously available in a collocated center can be replicated in the new Air Force Materiel Command Center reorganization, including an assessment of the following Air Force Materiel Command capabilities:

(A) Science and Technology, Acquisition.

(B) Developmental Test and Evaluation.

(3) An assessment of synergistic efficiencies associated with capabilities of collocated organizations of other commands, including an assessment of the impact of the Air Force Materiel Command's reorganization on other commands' responsibilities for—

(A) Operational Test and Evaluation; and

(B) Follow-on Operational Test and Evaluation.

(4) An assessment of how the Air Force reorganization of Air Force Materiel Command is in adherence with section 2687 of title 10, United States Code.

(5) An analysis of the extent to which the proposed changes in the Air Force management structure were coordinated with the Office of the Secretary of Defense and the Director, Test Resource Management Center and the degree to which their concerns, if any, were addressed in the approach selected by the Air Force.

AMENDMENT NO. 3188

(Purpose: To express the sense of Congress on the Joint Warfighting Analysis Center)

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

**SEC. 1048. SENSE OF CONGRESS ON THE JOINT WARFIGHTING ANALYSIS CENTER.**

It is the sense of Congress that the Joint Warfighting Analysis Center (JWAC) should have adequate resources to meet the continuing requirements of the combatant commands.

AMENDMENT NO. 3208

(Purpose: To promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes.)

(The amendment is printed in the RECORD of Thursday, November 29, 2012, under ''Text of Amendments.'')

AMENDMENT NO. 3218

(Purpose: To remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns)

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

**SEC. 847. CONTRACTING WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY WOMEN.**

(a) PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.—Section 8(m)(2) of the Small Business Act (15 U.S.C. 637(m)(2)) is amended—

(1) in subparagraph (A), by striking ''who are economically disadvantaged'';

(2) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(3) by striking subparagraph (D); and

(4) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(b) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify industries, as defined under the North American Industry Classification System, underrepresented by small business concerns owned and controlled by women.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

AMENDMENT NO. 3227

(Purpose: To require the Director of the American Folklife Center at the Library of Congress to carry out a national public awareness and participation campaign for the Veterans' History Project of the American Folklife Center)

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

**SEC. 1084. NATIONAL PUBLIC AWARENESS AND PARTICIPATION CAMPAIGN FOR VETERANS' HISTORY PROJECT OF AMERICAN FOLKLIFE CENTER.**

(a) IN GENERAL.—The Director of the American Folklife Center at the Library of Congress shall carry out a national public awareness and participation campaign for the program required by section 3(a) of the Veterans' Oral History Project Act (20 U.S.C. 2142(a)). Such campaign shall provide for the following:

(1) Encouraging the people of the United States, veterans organizations, community groups, and national organizations to participate in such program.

(2) Ensuring greater awareness and participation throughout the United States in such program.

(3) Providing meaningful opportunities for learning about the experiences of veterans.

(4) Complementing the efforts supporting the readjustment and successful reintegration of veterans into civilian life after service in the Armed Forces.

(b) COORDINATION AND COOPERATION.—To the degree practicable, the Director shall, in carrying out the campaign required by subsection (a), coordinate and cooperate with veterans service organizations.

(c) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term ''veterans service organization'' means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

AMENDMENT NO. 3268

(Purpose: To modify the age and retirement treatment under the Federal Employees Retirement System for certain retirees of the Armed Forces)

At the end of title XI, add the following:

**SEC. 1104. FEDERAL EMPLOYEES RETIREMENT SYSTEM AGE AND RETIREMENT TREATMENT FOR CERTAIN RETIREES OF THE ARMED FORCES.**

(a) INCREASE IN MAXIMUM AGE LIMIT FOR POSITIONS SUBJECT TO FERS.—

(1) LAW ENFORCEMENT OFFICERS.—Section 3307(e) of title 5, United States Code, is amended—

(A) in paragraph (1), by inserting ''or (3)'' after ''paragraph (2)''; and

(B) by adding at the end the following:

''(3) The maximum age limit for an original appointment to a position as a law enforcement officer (as defined in section 8401(17)) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department of Veterans Affairs instead of such retired or retainer pay.''.

(2) OTHER POSITIONS.—The maximum age limit for an original appointment to a position as a member of the Capitol Police or Supreme Court Police, nuclear materials courier (as defined under section 8401(33) of such title), or customs and border protection officer (as defined in section 8401(36) of such title) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department of Veterans Affairs instead of such retired or retainer pay.

(b) ELIGIBILITY FOR ANNUITY.—Section 8412(d) of such title is amended—

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

(2) in paragraph (2), by adding ''or'' at the end; and

(3) by inserting after paragraph (2) the following:

''(3) after becoming 57 years of age and completing 10 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, nuclear materials courier, customs or border protection officer, or any combination of such service totaling 10 years, if such employee—

''(A) is originally appointed to a position as a law enforcement officer, member of the Capitol Police or Supreme Court Police, nuclear materials courier, or customs and border protection officer on or after the effective date of this paragraph under section 1104(e) of the National Defense Authorization Act for Fiscal Year 2013, and

''(B) on the date that original appointment met the requirements of section 3307(e)(2) of this title or section 1104(a)(2) of the National Defense Authorization Act for Fiscal Year 2013,''.

(c) MANDATORY SEPARATION.—Section 8425 of such title is amended—

(1) in subsection (b)(1), in the first sentence, by inserting '', except that a law enforcement officer, nuclear materials courier, or customs and border protection officer eligible for retirement under section 8412(d)(3) shall be separated from the service on the last day of the month in which that employee becomes 57 years of age'' before the period;

(2) in subsection (c), in the first sentence, by inserting '', except that a member of the Capitol Police eligible for retirement under section 8412(d)(3) shall be separated from the service on the last day of the month in which that employee becomes 57 years of age'' before the period; and

(3) in subsection (d), in the first sentence, by inserting '', except that a member of the Supreme Court Police eligible for retirement under section 8412(d)(3) shall be separated from the service on the last day of the month in which that employee becomes 57 years of age'' before the period.

(d) COMPUTATION OF BASIC ANNUITY.—Section 8415(e) of such title is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''The annuity of an employee'' and inserting ''(1) Except as provided in paragraph (2), the annuity of an employee''; and

(3) by adding at the end the following:

''(2)(A) The annuity of an employee retiring under subsection (d) or (e) of section 8412 or under subsection (a), (b), or (c) of section 8425 who is an employee described in subparagraph (B) is—

''(i) 1 7/10 percent of that individual's average pay multiplied by so much of such individual's civilian service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, nuclear materials courier, customs and border protection officer, or air traffic controller that, in the aggregate, does not exceed 20 years; plus

''(ii) 1 percent of that individual's average pay multiplied by the remainder of such individual's total service.

''(B) An employee described in this subparagraph is an employee who—

''(i) is originally appointed to a position as a law enforcement officer, member of the Capitol Police or Supreme Court Police, nuclear materials courier, or customs and border protection officer on or after the effective date of this paragraph under section 1104(e) of the National Defense Authorization Act for Fiscal Year 2013; and

''(ii) on the date that original appointment met the requirements of section 3307(e)(2) of this title or section 1104(a)(2) of the National Defense Authorization Act for Fiscal Year 2013.''.

(e) EFFECTIVE DATE.—This section (including the amendments made by this section) shall take effect 60 days after the date of enactment of this Act and shall apply to appointments made on or after that effective date.

AMENDMENT NO. 3289

(Purpose: To make technical amendments relating to the termination of the Armed Forces Institute of Pathology under defense base closure and realignment)

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

**SEC. 1084. TECHNICAL AMENDMENTS RELATING TO THE TERMINATION OF THE ARMED FORCES INSTITUTE OF PATHOLOGY UNDER DEFENSE BASE CLOSURE AND REALIGNMENT.**

Section 177 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking ''those professional societies'' and all that follows through ''the Armed Forces Institute of Pathology'' and inserting ''the professional societies and organizations that support the activities of the American Registry of Pathology''; and

(ii) by striking the second sentence; and

(B) in paragraph (3), by striking ''with the concurrence of the Director of the Armed Forces Institute of Pathology'';

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively; and

(C) in paragraph (2), as redesignated by subparagraph (B)—

(i) by striking ''accept gifts and grants from and''; and

(ii) by inserting ''and accept gifts and grants from such entities'' before the semicolon; and

(3) in subsection (d), by striking ''to the Director'' and all that follows through ''it deems desirable,'' and inserting ''annually to its Board and supporting organizations referred to in subsection (a)(2)''.

AMENDMENT NO. 3119

(Purpose: To provide for the more accurate and complete enumeration of members of the Armed Forces in any tabulation of total population by the Secretary of Commerce)

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

**SEC. 1084. IMPROVED ENUMERATION OF MEMBERS OF THE ARMED FORCES IN ANY TABULATION OF TOTAL POPULATION BY SECRETARY OF COMMERCE.**

(a) IN GENERAL.—Section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) Effective beginning with the 2020 decennial census of population, in taking any tabulation of total population by States, the Secretary shall take appropriate measures to ensure, to the maximum extent practicable, that all members of the Armed Forces deployed abroad on the date of taking such tabulation are—

''(1) fully and accurately counted; and

''(2) properly attributed to the State in which their residence at their permanent duty station or homeport is located on such date.''.

(b) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to affect the residency status of any member of the Armed Forces under any provision of law other than title 13, United States Code.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3124, AS FURTHER MODIFIED

Mr. LEVIN. Mr. President, I ask unanimous consent that notwithstanding the adoption of the Blumenthal amendment No. 3124, as modified, the amendment be modified further with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as further modified, is as follows:

AMENDMENT NO. 3124, AS FURTHER MODIFIED

At the end of title VIII, add the following:

**Subtitle F—Ending Trafficking in Government Contracting**

**SEC. 891. SHORT TITLE.**

This subtitle may be cited as the ''End Trafficking in Government Contracting Act of 2012''.

**SEC. 892. DEFINITIONS.**

In this subtitle:

(1) COMMERCIAL SEX ACT.—The term ''commercial sex act'' has the meaning given the term in section 22.1702 of the Federal Acquisition Regulation (or any similar successor regulation) .

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 133 of title 41, United States Code.

(3) SUBCONTRACTOR.—The term ''subcontractor'' means a recipient of a contract at any tier under a grant, contract, or cooperative agreement.

(4) SUBGRANTEE.—The term ''subgrantee'' means a recipient of a grant at any tier under a grant or cooperative agreement.

(5) UNITED STATES.—The term ''United States'' has the meaning provided in section 103(12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(12)).

**SEC. 893. CONTRACTING REQUIREMENTS.**

(a) IN GENERAL.—Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) is amended by striking ''if the grantee or any subgrantee,'' and all that follows through the period at the end and inserting the following: ''or take any of the other remedial actions authorized under section 895(c) of the End Trafficking in Government Contracting Act of 2012, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in—

''(i) severe forms of trafficking in persons;

''(ii) the procurement of a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect;

''(iii) the use of forced labor in the performance of the grant, contract, or cooperative agreement, or

''(iv) acts that directly support or advance trafficking in persons, including the following acts:

''(I) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.

''(II) Failing to pay return transportation costs to an employee upon the end of employment, unless—

''(aa) exempted from the duty to repatriate by the Federal department or agency providing or entering into the grant, contract, or cooperative agreement; or

''(bb) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.

''(III) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.

''(IV) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.

''(V) Providing or arranging housing that fails to meet the host country housing and safety standards.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

**SEC. 894. COMPLIANCE PLAN AND CERTIFICATION REQUIREMENT.**

(a) REQUIREMENT.—The head of an executive agency may not provide or enter into a grant, contract, or cooperative agreement if the estimated value of the services required to be performed under the grant, contract, or cooperative agreement outside the United States exceeds $500,000, unless a duly designated representative of the recipient of such grant, contract, or cooperative agreement certifies to the contracting or grant officer prior to receiving an award and on an annual basis thereafter, after having conducted due diligence, that—

(1) the recipient has implemented a plan to prevent the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 3, and is in compliance with that plan;

(2) the recipient has implemented procedures to prevent any activities described in such section 106(g) and to monitor, detect, and terminate any subcontractor, subgrantee, or employee of the recipient engaging in any activities described in such section; and

(3) to the best of the representative's knowledge, neither the recipient, nor any subcontractor or subgrantee of the recipient or any agent of the recipient or of such a subcontractor or subgrantee, is engaged in any of the activities described in such section.

(b) LIMITATION.—Any plan or procedures implemented pursuant to subsection (a) shall be appropriate to the size and complexity of the grant, contract, or cooperative agreement and to the nature and scope of its activities, including the number of non-United States citizens expected to be employed.

(c) DISCLOSURE.—The recipient shall provide a copy of the plan to the contracting or grant officer upon request, and as appropriate, shall post the useful and relevant contents of the plan or related materials on its website and at the workplace.

(d) GUIDANCE.—The President, in consultation with the Secretary of State, the Attorney General, the Secretary of Defense, the Secretary of Labor, the Secretary of Homeland Security, the Administrator for the United States Agency for International Development, and the heads of such other executive agencies as the President deems appropriate, shall establish minimum requirements for contractor plans and procedures to be implemented pursuant to this section.

(e) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The requirements under subsection (a) and (c) shall apply to grants, contracts, and cooperative agreements entered into on or after the date that is 90 days after the Federal Acquisition Regulation is amended pursuant to subsection (e).

**SEC. 895. MONITORING AND INVESTIGATION OF TRAFFICKING IN PERSONS.**

(a) REFERRAL AND INVESTIGATION.—

(1) REFERRAL.—If the contracting or grant officer of an executive agency for a grant, contract, or cooperative agreement receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of

such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, including a report from a contracting officer representative, an auditor, an alleged victim or victim's representative, or any other credible source, the contracting or grant officer shall promptly refer the matter to the agency's Office of Inspector General for investigation. The contracting officer may also direct the contractor to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan implemented pursuant to section 894.

(2) INVESTIGATION.—Where appropriate, an Inspector General who receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, pursuant to a referral under paragraph (1) or otherwise, shall promptly initiate an investigation of the matter. In the event that an Inspector General does not initiate an investigation, the Inspector General shall provide an explanation for the decision not to investigate.

(3) CRIMINAL INVESTIGATION.—If the matter is referred to the Department of Justice for criminal prosecution, the Inspector General may suspend any investigation under this subsection pending the outcome of the criminal prosecution. If the criminal investigation results in an indictment of the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, the Inspector General shall notify the head of the executive agency that awarded the contract, grant, or cooperative agreement of the indictment. If the criminal investigation results in a decision not to prosecute, the Inspector General shall resume any investigation that was suspended pursuant to this paragraph.

(b) REPORT AND DETERMINATION.—

(1) REPORT.—Upon completion of an investigation under subsection (a), the Inspector General shall submit a report on the investigation, including conclusions about whether the recipient of a grant, contract, or cooperative agreement; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, to the head of the executive agency that awarded the contract, grant, or cooperative agreement.

(2) DETERMINATION.—Upon receipt of an Inspector General's report pursuant to paragraph (1), the head of the executive agency shall make a written determination whether the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893.

(c) REMEDIAL ACTIONS.—

(1) IN GENERAL.—If the head of an executive agency determines pursuant to subsection (b)(2) that the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893, or is notified of an indictment for an offense under subsection (a)(3), the head of agency shall consider taking one or more of the following remedial actions:

(A) Requiring the recipient to remove an employee from the performance of work under the grant, contract, or cooperative agreement.

(B) Requiring the recipient to terminate a subcontract or subgrant.

(C) Suspending payments under the grant, contract, or cooperative agreement until such time as the recipient of the grant, contract, or cooperative agreement has taken appropriate remedial action.

(D) Withholding award fees, consistent with the award fee plan, for the performance period in which the agency determined the contractor or subcontractor engaged in any of the activities described in such section 106(g).

(E) Declining to exercise available options under the contract.

(F) Terminating the contract for default or cause, in accordance with the termination clause for the contract.

(G) Referring the matter to the agency suspension and debarment official.

(2) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as limiting the scope of applicable remedies available to the Federal Government.

(3) MITIGATING FACTOR.—Where applicable, the head of an executive agency may consider whether the contractor or grantee had a plan in place under section 894, and was in compliance with that plan at the time of the violation, as a mitigating factor in determining which remedies, if any, should apply.

(4) AGGRAVATING FACTOR.—Where applicable, the head of an executive agency may consider the failure of a contractor or grantee to abate an alleged violation or enforce the requirements of a compliance plan when directed by a contracting officer pursuant to subsection (a)(1) as an aggravating factor in determining which remedies, if any, should apply.

(d) INCLUSION OF REPORT CONCLUSIONS IN FAPIIS.—

(1) IN GENERAL.—The head of an executive agency shall ensure that any written determination under subsection (b) is included in the Federal Awardee Performance and Integrity Information System (FAPIIS).

(2) AMENDMENT TO TITLE 41, UNITED STATES CODE.—Section 2313(c)(1)(E) of title 41, United States Code, is amended to read as follows:

''(E) In an administrative proceeding—

''(i) a final determination of contractor fault by the Secretary of Defense pursuant to section 823(d) of the National Defense Authorization Act for Fiscal Year 2010 (10 U.S.C. 2302 note; Public Law 111–84); or

''(ii) a final determination, pursuant to section 895(b)(2) of the End Trafficking in Government Contracting Act of 2012, that the contractor, a subcontractor, or an agent of the contractor or subcontractor engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)).''.

**SEC. 896. NOTIFICATION TO INSPECTORS GENERAL AND COOPERATION WITH GOVERNMENT.**

(a) IN GENERAL.—The head of an executive agency making or awarding a grant, contract, or cooperative agreement shall require that the recipient of the grant, contract, or cooperative agreement—

(1) immediately inform the Inspector General of the executive agency of any information it receives from any source that alleges credible information that the recipient; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, has engaged in conduct described in section 106(g) of the Trafficking in Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 3 of this Act; and

(2) fully cooperate with any Federal agencies responsible for audits, investigations, or corrective actions relating to trafficking in persons.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

**SEC. 897. EXPANSION OF FRAUD IN FOREIGN LABOR CONTRACTING TO INCLUDE ATTEMPTED FRAUD AND WORK OUTSIDE THE UNITED STATES.**

(a) IN GENERAL.—Section 1351 of title 18, United States Code, is amended—

(1) by striking ''Whoever knowingly and with the intent to defraud recruits, solicits or hires a person outside the United States'' and inserting ''(a) WORK INSIDE THE UNITED STATES.—Whoever knowingly and with the intent to defraud recruits, solicits, or hires a person outside the United States, or attempts to do so,''; and

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

''(b) WORK OUTSIDE THE UNITED STATES.—Whoever knowingly and with intent to defraud recruits, solicits, or hires a person outside the United States, or attempts to do so, for purposes of employment performed on a United States Government contract performed outside the United States, or on a United States military installation or mission outside the United States or other property or premises outside the United States owned or controlled by the United States Government, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment, shall be fined under this title or imprisoned for not more than 5 years, or both.''.

(b) SPECIAL RULE FOR ALIEN VICTIMS.—No alien may be admitted to the United States pursuant to subparagraph (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as a result of the alien being a victim of a crime described in subsection (b) of section 1351 of title 18, United States Code, as added by subsection (a).

**SEC. 898. IMPROVING DEPARTMENT OF DEFENSE ACCOUNTABILITY FOR REPORTING TRAFFICKING IN PERSONS CLAIMS AND VIOLATIONS.**

Section 105(d)(7)(H) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)(H)) is amended—

(1) in clause (ii), by striking ''and'' at the end;

(2) by redesignating clause (iii) as clause (iv);

(3) by inserting after clause (ii) the following new clause:

''(iii) all known trafficking in persons cases reported to the Under Secretary of Defense for Personnel and Readiness;'';

(4) in clause (iv), as redesignated by paragraph (2), by inserting ''and'' at the end after the semicolon; and

(5) by adding at the end the following new clause:

''(v) all trafficking in persons activities of contractors reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics;''.

**SEC. 899. RULES OF CONSTRUCTION.**

(a) LIABILITY.—Excluding section 897, nothing in this subtitle shall be construed to supersede, enlarge, or diminish the common law or statutory liabilities of any grantee, subgrantee, contractor, subcontractor, or other party covered by section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 893.

(b) AUTHORITY OF DEPARTMENT OF JUSTICE.—Nothing in this subtitle shall be construed as diminishing or otherwise modifying the authority of the Attorney General to investigate activities covered by this subtitle.

(c) PROSPECTIVE EFFECT.—Nothing in this subtitle, or the amendments made by this subtitle, shall be construed to apply to a contract or grant entered into or renewed before the date of the enactment of this subtitle.

Mr. LEVIN. Mr. President, we are making some very important progress. We are hopeful there may be another package of cleared amendments even before the vote on cloture later this afternoon. If not, we will nonetheless be offering that list of cleared amendments postcloture.

Mr. MCCAIN. Mr. President, the previous hold objection has been lifted, which has allowed us now to continue with this process. We lost 3 hours or so due to that, but we are still pleased to be able to make this progress. We will be having further cleared amendments, and hopefully we will have the end in sight after the cloture vote around 5:30.

I thank my friend from Michigan.

Mr. LEVIN. I join in Senator MCCAIN's thanks to our staff, which he invariably remembers, because they are critically important. They are helping us to clear additional amendments, and the progress is real. I think we are right at just about 100 amendments now that have been either adopted by rollcall vote, voice vote or by cleared unanimous consent.

So I thank all our colleagues for working so closely with us and for their cooperation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to talk about the Casey-Hutchison amendment which was added to the bill before us last week. I did not speak before the amendment was agreed to, but I think it is important to highlight it, particularly in light of things that happened just last week in Afghanistan.

The amendment that was agreed to is an amendment that would focus on women and girls in Afghanistan and their plight. Sadly, the day before Senator CASEY and I filed our amendment—with many wonderful cosponsors from the Senate—to help address the plight of women and girls, a tragedy was reported in the newspaper. A 14-year-old girl from a village in Afghanistan was beheaded by two men. The justification for beheading this child—who was going to fetch water—was that she, with the support of her family, had declined to marry one of the men.

Gasitina was a student—a brave act in itself for a girl in Afghanistan—and she was butchered while fetching water because she would not, at the age of 14, marry one of the men.

In October, another young woman's throat was slashed because she refused to work as a prostitute. Honestly, some of the women who are forced into prostitution are killed because of what they do.

In September, three young women, two of them sisters, were attacked by six men because they were television actors and the six fundamentalists believed their dress was immodest. The sisters barely survived, but their friend bled to death from horrific stab wounds outside a mosque.

This is life in a situation that has improved for women since the fall of the Taliban rule. Clearly, there are still entrenched cultural and societal ills that will take much more work to cure. Despite the strides that have been made, Afghanistan is still ranked as the most dangerous country for women in the world. Afghanistan falls behind the Democratic Republic of Congo, Pakistan, and Somalia.

Women and girls are constantly under attack, particularly if they try to go to school in some areas where there are still police who do not believe girls should be able to do so. If they teach others, there is a price to pay, and if they want to participate or speak out, there is another price to pay.

Women are frequently incarcerated for moral crimes—such as leaving home. It is estimated that half the country's imprisoned women and girls are incarcerated for such offenses.

The life of many women in Afghanistan is, of course, incomprehensible to us. Here are a few statistics: An estimated 70 to 80 percent of marriages are forced; 87 percent of women face at least one form of physical, sexual or psychological violence or forced marriages in their lifetimes; women in Afghanistan have a 1 in 11 chance of dying in child birth and roughly 87 percent of women are illiterate.

The Afghan Women and Girls Security Promotion Act—which Senator CASEY and I cosponsored, along with many others in this body—will help improve the lives of these women and make Afghanistan a safer place, where our goal and their goal would be that they could freely participate in public life, get an education, raise their families without fear of retaliation for fully realizing their full potential and making their own life choices.

Here is what the bill does. It requires the Department of Defense to produce a three-part plan to support the security of women and girls during and after the transition process. It is monitoring and responding to changes in women's security during and after the transition. If it appears there is a deterioration in women's security, the bill would require the DOD and our partners that will remain there to take concrete action to support the women in these situations.

It also will improve their opportunities and treatment by the Afghan National Security Forces personnel, and it would increase the recruitment and retention of women in the Afghan National Security Forces.

Last week, I read in the Washington Post about a 17-year-old Afghan girl who had dreamed of becoming a doctor. If she had been in America, we would have been speaking about her now as an example of success. Instead, I am speaking of a child so desperate to escape an arranged marriage that she had been promised to since she was 9 years old she jumped off the roof of her house. Killing herself was the outlet she could see. She survived this suicide attempt, though she is now paralyzed. While her story is tragic in every way, there is a glimmer of hope because, in fact, her family has backed her, now petitioned to annul her engagement. Her family stood with her after she took such a bold step. Even that would never have happened under Taliban rule.

We know change will be slow, but if it is encouraged and if progress is protected it can come.

I wish to say Secretary of State Hillary Clinton, when she was a Senator, and myself, were the honorary cochairs of Vital Voices, which is an organization that looked for the women in Third World countries who are so mistreated yet still looked for things to celebrate in those countries. We have honored the women who have stood up in those countries and achieved great success, either in economics or in humane treatment for women in those countries. I think we have begun to raise the awareness in many areas.

Our former First Lady Laura Bush, also reading of this amendment that was adopted last week, reached out to say what a great thing we are doing. I know Secretary of State Clinton also will be supportive of keeping this amendment in conference.

I am very pleased we have been able to have the agreement of the managers who are on the floor to unanimously accept the Casey-Hutchison amendment. I am going to implore them or twist their arms to assure that this amendment stays in conference so there will be clear support and that the women and girls of Afghanistan will know they do not have to do such drastic things as try to kill themselves or be in harm's way such that a rejected suitor would actually murder his 14-year-old intended because she said she would not marry him. This is a human rights issue if there ever was one.

I am very proud to cosponsor the amendment with Senator CASEY, Senator MIKULSKI, Senator FEINSTEIN, Senator GILLIBRAND, Senator MURKOWSKI, Senator SNOWE, Senator LAUTENBERG, Senator CARDIN, Senator BOXER and Senator FRANKEN. We must keep this as one of the things we wish to achieve

for the Afghan people as we exit militarily. We must keep the transition force to assure that all the lives of our brave military that have been lost in Afghanistan will not have been in vain.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent a vote on or in relation to the Kyl-Kerry amendment No. 3123, as modified, which has been cleared by both managers, will occur at a time to be determined by the managers in consultation with the leaders following the vote on cloture on the bill.

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

AMENDMENTS NOS. 3291, 3282, 3292, 3165 EN BLOC

Mr. LEVIN. Mr. President I call up amendments en bloc: Pryor No. 3291, Collins No. 3282, Reed No. 3292, and Reed No. 3165.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments are pending en bloc.

Mr. LEVIN. I know of no further debate on the amendments.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3291

(Purpose: To require, as a condition on the receipt by a State of certain funds for veterans employment and training, that the State ensures that training received by a veteran while on active duty is taken into consideration in granting certain State certifications or licenses)

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

**SEC. 1084. STATE CONSIDERATION OF MILITARY TRAINING IN GRANTING CERTAIN STATE CERTIFICATIONS AND LICENSES AS A CONDITION ON THE RECEIPT OF FUNDS FOR VETERANS EMPLOYMENT AND TRAINING.**

(a) IN GENERAL.—Section 4102A(c) of title 38, United States Code, is amended by adding at the end the following:

''(9)(A) As a condition of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for any program year, the Secretary may require the State—

''(i) to demonstrate that when the State approves or denies a certification or license described in subparagraph (B) for a veteran the State takes into consideration any training received or experience gained by the veteran while serving on active duty in the Armed Forces; and

''(ii) to disclose to the Secretary in writing the following:

''(I) Criteria applicants must satisfy to receive a certification or license described in subparagraph (B) by the State.

''(II) A description of the standard practices of the State for evaluating training received by veterans while serving on active duty in the Armed Forces and evaluating the documented work experience of such veterans during such service for purposes of approving or denying a certification or license described in subparagraph (B).

''(III) Identification of areas in which training and experience described in subclause (II) fails to meet criteria described in subclause (I).''

''(B) A certification or license described in this subparagraph is any of the following:

''(i) A license to be a State tested nursing assistant or a certified nursing assistant.

''(ii) A commercial driver's license.

''(iii) An emergency medical technician license EMT–B or EMT–I.

''(iv) An emergency medical technician–paramedic license.

''(C) The Secretary shall share the information the Secretary receives under subparagraph (A)(ii) with the Secretary of Defense to help the Secretary of Defense improve training for military occupational specialties so that individuals who receive such training are able to receive a certification or license described in subparagraph (B) from a State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to a program year beginning on or after the date of the enactment of this Act.

AMENDMENT NO. 3282

(Purpose: To provide for a prescription drug take-back program for members of the Armed Forces and their dependents)

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

**SEC. 735. PRESCRIPTION DRUG TAKE-BACK PROGRAM FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.**

(a) PROGRAM REQUIRED.—The Secretary of Defense and the Attorney General shall jointly carry out a program (commonly referred to as a ''prescription drug take-back program'') under which members of the Armed Forces and dependents of members of the Armed Forces may deliver controlled substances to such facilities as may be jointly determined by the Secretary of Defense and the Attorney General to be disposed of in accordance with section 302(g) of the Controlled Substances Act (21 U.S.C. 822(g)).

(b) PROGRAM ELEMENTS.—The program required by subsection (a) shall provide for the following:

(1) The delivery of controlled substances under the program to such members of the Armed Forces, medical professionals, and other employees of the Department of Defense, and to such other acceptance mechanisms, as the Secretary and the Attorney General jointly specify for purposes of the program.

(2) Appropriate guidelines and procedures to prevent the diversion, misuse, theft, or loss of controlled substances delivered under the program.

AMENDMENT NO. 3292

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

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

**SEC. 655. ENFORCEMENT OF PROTECTIONS ON CONSUMER CREDIT FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.**

Section 987(f) of title 10, United States Code, as amended by section 653 of this Act, is further amended by adding at the end the following new paragraph:

''(6) ENFORCEMENT.—The provisions of this section (other than paragraph (1) of this subsection) shall be enforced by the agencies specified in section 108 of the Truth in Lending Act (15 U.S.C. 1607) in the manner set forth in that section or as set forth under any other applicable authorities available to such agencies by law.''.

AMENDMENT NO. 3165

(Purpose: To establish a pilot program to authorize the Secretary of Housing and Urban Development to make grants to nonprofit organizations to rehabilitate and modify homes of disabled and low-income veterans)

(The text of the amendment is printed in the RECORD of Wednesday, November 28, 2012, under ''Text of Amendments.'')

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3292

Senator REED's amendment, amendment No. 3292, to the National Defense Authorization Act, seeks to further address the problem of predatory lenders taking advantage of members of our Armed Forces. Predatory lending practices are a serious problem for members of the Armed Services throughout the country, and I know it has impacted Vermonters serving in our Nation's military.

This amendment further strengthens the Military Lending Act by extending enforcement authority to certain Federal Agencies. Senator REED's amendment seeks to expand the universe of parties who can bring enforcement actions against predatory lenders, and therefore provide additional protections to the members of our Armed Services. Allowing additional Federal Agencies to bring enforcement actions helps ensure that fewer instances of predatory lending in the Armed Services community go unprosecuted. It is important to me, as it is to Senator REED, that members of our Armed Services be free from harmful and deceptive lending practices.

I am glad Senator REED reached out to me on this amendment regarding the expansion of enforcement authority, and I thank him for his leadership on this issue.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## EXECUTIVE SESSION

## NOMINATION OF PAUL WILLIAM GRIMM TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Paul William