Mr. REID. Mr. President, I hope we can too, but this is really quite remarkable. I am told that Members from this body went and talked to the Republican caucus yesterday saying: Send us your plan B, and the Democrats will take care of it and send you back something you will like better.

We can all see what has happened in the press. I like JOHN BOEHNER, but gee whiz, I mean, this is a pretty big political battering he is taking. What he should do is allow a vote in the House of Representatives on a bipartisan bill. It will pass. Democrats will vote for it. Some Republicans will vote for it. That is what we are supposed to do. But he is trying to pass everything with that majority he has that cannot agree on anything among themselves. Bring in the Democrats. That is what the country was set up for. Our Founding Fathers set it up that way. But he wants some other method where everything is done by the slim majority they have.

This is absolutely incredible. We believe the Speaker should be concerned. I am confident he is, but maybe he is more concerned, as some have said, about his election to be returned as Speaker. He should be more concerned about what is going to happen to the country. If he showed leadership and walked out there and said: This is the right thing for the country, we are all going to vote on this, Democrats will vote for it and enough Republicans will vote for it to pass something that will take us away from that fiscal cliff. But this brinkmanship and this silliness that is going on over there you would not do in an eighth grade government election.

Mr. MCCONNELL. Mr. President, I add that the time for finger-pointing is gradually running out. The American people know we have a President, they know we have a Senate, and they know we have a House. They are anxiously awaiting whether we are going to solve this problem before the end of the year.

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

## RESERVATION OF LEADER TIME

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

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report to accompany H.R. 4310, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4310) 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, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the RECORD of December 18, 2012.)

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be up to 1 hour of debate equally divided and controlled between the two leaders or their designees prior to a vote on adoption of the conference report.

The Senator from Michigan.

Mr. LEVIN. Mr. President, on behalf of the Senate Armed Services Committee, I am pleased to bring to the Senate, along with Senator MCCAIN, the conference report on H.R. 4310, the National Defense Authorization Act for Fiscal Year 2013. This conference report, which was signed by all 26 Senate conferees, all the members of the Senate Armed Services Committee, contains many provisions that are of critical importance to our troops. This will be the 51st consecutive year in which a national defense authorization act will be enacted into law.

I thank my dear friend Senator MCCAIN, our ranking minority member, for all that he did to bring us to this conclusion and for the years of great leadership on our committee. I have been lucky to have Senator MCCAIN as a partner. I know both of us are grateful to the chairman and the ranking member of the House Armed Services Committee, BUCK MCKEON and ADAM SMITH, for their hard work on reconciling the many differences between the House and Senate bill and for helping to produce a solid bill to support the men and women of our Armed Forces.

The conference report contains many important provisions that will improve the quality of life for our men and women in uniform. It will provide needed support and assistance to our troops who are deployed. It will make the investments we need to meet the challenges of the 21st century.

First and foremost, the bill authorizes a 1.7-percent across-the-board pay raise for all members of the uniformed services, consistent with the President's request.

The conference report contains strong additional sanctions on Iran. The Iran sanctions provisions will designate certain persons in Iran's energy, port, shipping, and shipbuilding sectors as entities of proliferation concern, subjecting many more transactions with such entities to sanctions. It will impose sanctions on persons selling or supplying or diverting to Iran a defined list of materials relevant to the aforementioned sectors, to certain Iranian specially designated nationals and blocked persons, or to be used in connection with certain Iranian military programs.

It is going to impose sanctions on any insurance or reinsurance provider or underwriter that knowingly provides underwriting service, insurance, or reinsurance for activities for which sanctions have been imposed to any person in the energy, shipping, or shipbuilding sector in Iran.

It will designate the Islamic Republic of Iran Broadcasting and its president as human rights abusers for their broadcasting of forced confessions and show trials, blocking their assets and preventing other entities from doing business with them and banning any travel to the United States.

The administration requested three modifications. In particular, one was additional time to implement the provision following enactment; the second was additional time between waiver renewals; and third was a modification of the exceptions clause from nondesignated Iranian ''financial institutions'' in the Senate-passed version to a broader term that would have incorporated nondesignated Iranian ''persons.'' That conference report provides two of the three modifications—the additional time requested. It does not make a change in terms of the exceptions clause.

The conference report contains a few provisions addressing detainee issues. These provisions extend existing limitations on the transfer or release of Gitmo detainees for another year. We did not adopt the permanent limitations in the House bill. We also provided new flexibility for dealing with detainees who cooperate with U.S. intelligence and law enforcement authorities pursuant to pretrial agreements.

The report establishes new congressional notification requirements for military detainees held on naval vessels and for third-country nationals who are released from military detention in Afghanistan, but the report does not place any conditions or limitations on such transfers.

The conference report does not include the Senate language regarding military detention inside the United States. The House conferees would simply not accept this provision. Instead, we included a provision that says and states the following:

Nothing in the Authorization for Use of Military Force, (Public Law 107–40; 50 U.S.C. 1541 note) or the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) shall be construed to deny the availability of the writ of habeas corpus or to deny any Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would be entitled to the availability of such writ or such rights in the absence of such laws.

The provision in the fiscal year 2012 act, which is referred to in the language I just read—it is already law—that section in the 2012 act is section 1021. That section said the following:

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

United States citizens, lawful resident aliens of the United States, or any other persons who are captured or arrested inside the United States. The language in this conference report reflects my view that Congress did not restrict or deny anyone's Constitutional rights in either the 2001 Authorization for Use of Military Force or the Fiscal Year 2012 National Defense Authorization Act. The Statement of Managers accompanying this conference report points out that ''constitutional rights may not be restricted or denied by statute.''

On the Alternative Fuel provision, the conference report does not include a provision of the House-passed bill that would have prohibited fiscal year 2013 funding for the production or purchase of alternative fuel if the cost of producing or purchasing the alternative fuel exceeds the cost of traditional fossil fuel.

The conference report does contain a provision that limits DOD's fiscal year 2013 Defense Production Act—DPA—funding for the construction of a biofuel refinery until—that is the key word—the DOD receives the promised contributions from the Departments of Energy and Agriculture for the same purpose. We do not limit Phase I of the DPA project, nor does the conference report limit the use of FY12 funds for biofuel refinery construction.

On ''cyber,'' the conference report requires the Secretary of Defense to create a process requiring defense contractors that use or possess classified or sensitive DOD information to report successful cyber penetrations of their networks or information systems. Additionally, if the Department is concerned about a particular event and feels the need to determine what DOD information may have been lost from such penetration, the provision would authorize DOD to conduct its own forensic analysis, upon request, and subject to limitations.

I know the Presiding Officer has a special interest in this area of cyber security. This provision in the Defense authorization bill represents a major breakthrough in the Nation's need to protect cyber—our information systems and cyber security.

There are a lot of other sensitive areas where we are threatened with cyber attacks, such as financial, police, transportation sectors, which obviously we could not touch; they are not within our jurisdiction. They need similar action.

The conference report provides that the Secretary of Defense will evaluate, by the end of 2013, at least three possible future missile defense interceptor deployment locations in the United States—at least two of which would be on the East Coast—and then to prepare an environmental impact statement for the locations evaluated. It would also require the Director of the Missile Defense Agency to prepare a contingency plan for deployment of an additional interceptor site in case the President decides to proceed with such a deployment. However, it does not mandate or authorize deployment of any missile defense site, and does not require the Defense Department to submit a deployment plan to Congress.

For Afghanistan, the conference report includes a sense of Congress in support of the President's plan for the transition of lead responsibility for security to the Afghan security forces in 2013 and the drawdown of most U.S. forces by no later than the end of 2014. Specifically, the sense of Congress provides in part that the President should seek to ''. . . take all possible steps to end such operations at the earliest possible date consistent with a safe and orderly draw down of United States troops in Afghanistan.''

The conference report also calls for an independent assessment of the size and structure requirements of the Afghan National Security Forces necessary for those forces to be able to ensure that their country will not again serve as a safe-haven for terrorists that threaten Afghanistan, the region, and the world.

On TRICARE, the conference report establishes modestly increased cost-sharing rates under the TRICARE pharmacy benefits program for fiscal year 2013 in statute, and in fiscal years 2014 through 2022, limits any annual increases in pharmacy copayments to increases in retiree cost of living adjustments. The Administration's proposal would have tripled beneficiary copayment rates over the next 10 years.

The conference report also requires the Secretary of Defense to conduct a 5-year pilot program to refill prescription maintenance medications for TRICARE for Life beneficiaries through TRICARE's national mail-order pharmacy program, resulting in savings to the government of $1.1 billion over the next decade.

Regarding Air Force force structure, the conferees adopted language establishing a commission, which would consist of eight members, four appointed by the President and four appointed by leadership of the Committees on Armed Services of the Senate and the House of Representatives. The Commission would be required to report to the Congress by February 1, 2014, in time to inform congressional action on the fiscal year 2015 budget request, on an Air Force force structure that would, among other things, meet the current and anticipated requirement of the combatant commanders while achieving an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each.

The conference report would provide that during fiscal year 2013, the Air Force would be required to maintain the alternative force structure proposed by the Air Force on November 2, 2012, after Congress clearly indicated it would reject the original plan. We modified the November plan to add an additional 32 fixed-wing, intra-theater airlift aircraft (C–27s and/or C–130s) beyond the number proposed by the Secretary. This addition will help us provide sufficient aircraft to meet the Army's fixed-wing, direct support/time sensitive airlift mission requirements.

Once again, I want to thank Senator MCCAIN. As I said before, I have been honored, pleased, and lucky to have Senator MCCAIN as my partner in leading the Armed Services Committee. I know how indebted we both are to our staffs as well as to all of the members who work so well together on a bipartisan basis.

Our majority and minority staffs were led by Rick Debobes and Ann Sauer. They have done amazing work on this bill. They did a month's worth of work in weeks. They did a week's worth of work in days, and they did a day's worth of work in hours.

Mr. President, I ask unanimous consent that a full list of the majority and minority staff, who gave so much of themselves and their families, be printed in the RECORD.

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

Richard D. DeBobes, Staff Director; Ann E. Sauer, Minority Staff Director; Adam J. Barker, Professional Staff Member; June M. Borawski, Printing and Documents Clerk; Leah C. Brewer, Nominations and Hearings Clerk; Christian D. Brose, Professional Staff Member; Joseph M. Bryan, Professional Staff Member; Pablo E. Carrillo, Minority General Counsel; Jonathan D. Clark, Counsel; Christine E. Cowart, Chief Clerk; Lauren M. Davis, Minority Staff Assistant; Jonathan S. Epstein, Counsel; Gabriella E. Fahrer, Counsel; Richard W. Fieldhouse, Professional Staff Member; Lauren M. Gillis, Staff Assistant; Creighton Greene, Professional Staff Member; Ozge Guzelsu, Counsel; Gary J. Howard, Systems Administrator; Paul C. Hutton IV, Professional Staff Member; Jennifer R. Knowles, Staff Assistant; Michael J. Kuiken, Professional Staff Member; Kathleen A. Kulenkampff, Staff Assistant; Mary J. Kyle, Legislative Clerk; Gerald J. Leeling, Counsel.

Daniel A. Lerner, Professional Staff Member; Peter K. Levine, General Counsel; Gregory R. Lilly, Executive Assistant for the Minority; Elizabeth C. Lopez, Research Assistant; Jason W. Maroney, Counsel; Thomas K. McConnell, Professional Staff Member; Mariah K. McNamara, Staff Assistant; William G. P. Monahan, Counsel; Lucian L. Niemeyer, Professional Staff Member; Michael J. Noblet, Professional Staff Member; Bryan D. Parker, Minority Investigative Counsel; Cindy Pearson, Assistant Chief Clerk and Security Manager; Roy F. Phillips, Professional Staff Member; John L. Principato, Staff Assistant; John H. Quirk V, Professional Staff Member; Robie I. Samanta Roy, Professional Staff; Member Brian F. Sebold, Staff Assistant; Russell L. Shaffer, Counsel; Travis E. Smith, Special Assistant; William K. Sutey, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Mary Louise Wagner, Professional Staff Member; Barry C. Walker, Security Officer; Bradley S. Watson, Staff Assistant.

Mr. LEVIN. I would note that the committee's chief clerk Chris Cowert will be retiring at the end of this year after completing more than 41 years on the committee staff. She has been a

driving force behind the staff support of the annual Defense Authorization Act, and she will be sorely missed.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I note the presence of the Senator from Kentucky on the floor. I understand he seeks recognition for 10 minutes, and I ask that he be recognized at this time.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise in opposition to this bill because I believe it contains language that would allow American citizens to be detained without trial. The other side has argued that is not true, that they will be eligible for their constitutional rights if they get into an article III court or a constitutional court. But here is the rub: They have to be eligible. Who decides whether someone is eligible for the court? It is an arbitrary decision, and this is what this debate has been over. Don't let the wool be pulled over your eyes that everyone has protection and they will get a trial by jury if accused of a crime.

We had protection in this bill. We passed an amendment that specifically said: If you are an American citizen or here legally in the country, you will get a trial by jury. It was explicitly stated and it has been removed in the conference committee. It has been removed because they want the ability to hold American citizens without trial in our country. This is so fundamentally wrong and goes against everything we stand for as a country that it cannot go unnoticed and should be pointed out.

Proponents of indefinite detention without trial say that an accusation alone is sufficient, that these crimes are so heinous that trials are unnecessary. They will show us pictures of foreigners in foreign dress from foreign lands and say that is what this debate is about. It is untrue. This debate is about American citizens accused of crimes in the United States.

Make no mistake that the faces of terrorism include awful people who should be punished to the full extent of the law. The same portrait of evil could be drawn of domestic terrorists, domestic terror, and domestic violence. One could parade pictures of Charles Manson, Timothy McVeigh—the Oklahoma bomber—Jeffrey Dahmer, and people would cry out that they don't deserve a trial either. Most Americans understand at some level that when someone is accused of a crime in our country, they get a trial by a jury of their peers. No matter how heinous the crime is or how awful they are, we give them a trial. This bill takes away that right and says if someone thinks a person is dangerous, we will hold that person without a trial. It is an abomination. It should not stand. Most Americans understand that if someone is accused of a crime, it does not make them guilty of a crime. They will still get their day in court.

Some here may not care when they determine that they are going to detain Ahmed or Yousef or Ibrahim. Many innocent Americans are named Ahmed or Yousef or Ibrahim. Many Americans are named Saul or David or Isaac. Is our memory so short that we don't understand the danger of allowing detention without trial? Is our memory so short that we don't understand the havoc that bias and bigotry can do when unrestrained by the law? Trial by jury is our last defense against tyranny and our last defense against oppression. We have locked up Arabs, Jews, and the Japanese.

Do we not want to retain our right to trial by jury? Do we want to allow the whims of government to come forward and lock up whom they please without being tried? In our not-too-distant past Americans named Ozaki, Ichiro, or Yuki were indefinitely detained by the tens of thousands without trial or accusation. Will America only begin to regret our loss of trial by jury when the people have names such as Smith and Jones? Mark my words: This is about people named Smith and Jones or people named David, Saul, Isaac, Ahmed, Yousef, or Ibrahim. This is about all Americans and whether they will have due process and the protections of the law.

We are told these people are so evil and so dangerous that we cannot allow trials. Trial by jury is who we are. Trial by jury is that shining beacon on a hill that people around the world wish to emulate. It is why people came here. It is why we are exceptional as a people. It is not the color of our skin; it is our ideas, it is the right to trial by jury that is looked to as a beacon of hope for people around the world, and we are willing to discard it out of fear. It is a shame to scrap the very rights that make us exceptional as a people.

Proponents of indefinite detention will argue that we are a good people and we will never unjustly detain people. I don't dispute their intentions or impute bad motives to them, but what I will say is remember what Madison said. Madison said if a government were comprised of angels, we would not need the chains of the Constitution. We would not need to bind our representatives and restrain them from doing bad things to good people. If all men in government were angels, we would not need the rules. All men in the government are not angels now and never will be. There is always the danger that some day someone will be elected who will take the rights away from the Japanese, Jews, or Arabs. It happened once. We are told by these people who believe in indefinite detention that the battle is everywhere. If the battle is everywhere, our liberties are nowhere. If the battle is without end, when will they return our liberties? When will our rights be restored if the battle has no end and the battlefield is limitless and the war is endless? When will our rights be restored? It is not a temporary or limited suspension of our right to trial by jury but an unlimited, unbounded relinquishment of the right to trial by jury without length or duration.

We are told that limiting the right to trial by jury is justified under the law of war. Am I the only one uncomfortable applying the law of war to American citizens accused of crimes in the United States? Is the law of war a euphemism for martial law? What is the law of war except for something to go around the Constitution? It is an extraordinary circumstance that might happen in a battlefield somewhere else but should not happen in the United States. Every American accused of a crime, no matter how heinous, should get their day in court and a trial by a jury of their peers. These are not idle questions.

I believe the defense of the Bill of Rights trumps the concerns for speedy passage even of a bill which I generally support. Sixty-seven Senators voted just a few weeks ago to include a provision in this bill that says we have a right to a trial by jury. It was plucked out in secret in conference despite the wishes of two-thirds of the Senators in this body—Republican and Democrat—who were concerned about protecting the right to a jury trial.

Many Senators say: Well, we tried and we lost. They outmaneuvered us; they were sneakier than we were. I disagree that we give up. I think the time is now. I think we make a statement. The fight is today. The subject is too dear. If a majority today were to stand and say: The right to trial by jury is important enough to delay the Defense authorization bill for 2 weeks, I think it would be an important message to send.

So today I stand and urge a ''no'' vote on what I consider to be a travesty of justice.

Thank you.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Senator from Kentucky is flat out wrong. There is no such language in the bill which denies the right to trial by jury. I think those are the same kinds of charges against last year's bill. We are trying to keep up with the false charges that the Senator makes, so we put language in this year's bill which says nothing in last year's bill does or could be implied to do any such thing as the Senator from Kentucky is charging. We have language in this year's bill and nothing from last year's bill. That was the same charge he made against last year's bill, shall be construed to deny the availability of the writ of habeas corpus or deny any constitutional rights in a court ordained or established under article III of the Constitution to any person inside the United States.

Then he makes a totally outlandish charge that they were outmaneuvered and they were sneakier than we were. Where does that come from? What is the basis for that kind of a charge

against Senator MCCAIN and me? We have put language in this bill which makes it absolutely clear that nothing we have adopted here in this Senate does anything like what the Senator from Kentucky said—denying the people the right to jury trial.

I totally reject his argument. He does not quote any language in this bill that does what he says this bill does. The Senator from Kentucky actually started his statement by saying this bill has language which will deny a trial by jury. What language and what page? It makes the allegation and sort of lets it sit there. Well, it is flat out wrong.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I want to congratulate the authors and managers of the bill in the House with coming up with a very good bill for our military which will have pay raises and trying to increase our defenses.

I don't mind saying that I think we are at war. I know the Presiding Officer believes that. How long does the war last? I don't know. I cannot tell anyone. Am I supposed to know that? Can we not fight it unless we know the date it ends? America, is it part of the battlefield? Tell me. Where do you think they want to hit us the most? What do you think al-Qaida would like to do more than anything else? They would like to come here and destroy the building I am speaking in. The only reason they cannot get here yet is because we are fighting them over there.

We are gathering good intelligence. We are taking the war home to them. Our intelligence agencies, our FBI, our military, our CIA are all over the world tracking these crazy people so they cannot get here. So to suggest that I cannot tell when the war ends, therefore we have to turn it into a crime, is dangerous and absurd.

Did they know when Germany, Berlin, or Tokyo was going to fall? What happened to the German saboteurs who landed in Long Island during World War II? They were captured by the FBI and turned over to the military. What happened to the American citizens who were helping the German saboteurs? They were held as enemy combatants.

To my good friend from Kentucky, I don't doubt his passion or sincerity; I doubt his judgment on these issues.

The Supreme Court has spoken three different times. Less than 6 or 7 years ago an American citizen was caught helping the Taliban in Afghanistan and they said we could hold one of our own as an enemy combatant until the hostilities cease, and that is a hard time to figure out.

Let's get this right. If an American citizen helping the Taliban in Afghanistan kills our soldiers, can be captured and held as an enemy combatant according to the Supreme Court, what kind of world would we live in if the al-Qaida collaborator American citizen attacked us here, trying to kill us in our own homeland, to say: That doesn't count. The American citizen is no longer at war because we are in America; we have to read them their rights and give them a lawyer and we can't hold them for military intelligence-gathering purposes.

My good friend doesn't understand that in fighting a war, the goal is to win the war; it is to defeat the enemy. In fighting a crime, the goal is designed to hold somebody accountable for an illegal wrong. I have been a military lawyer for 30 years. He may not understand the law of war, but I do and the Supreme Court does. The Supreme Court has said in World War II and in this war, if an American citizen collaborates with the enemy, they will be given due process under the law of war. A Federal judge will hear the claim: I am wrongly held. I am not part of al-Qaida or the Taliban. That is the only time one could be held as an enemy combatant. In helping al-Qaida or the Taliban, one has to be involved in a plot or an act. If a Federal judge agrees with the government that, yes, in fact, there is evidence to suggest an American citizen is helping the Taliban or al-Qaida, I think most Americans would say it is reasonable to hold that person to find out what they know about this attack and future attacks.

Can my colleagues imagine what would happen in this country if three people were running up the Capitol steps to blow up the Capitol and one of them survived who was an American citizen and we couldn't hold them and question them by asking: Where did you train? Is there any other attack planned? What do you know? Whom did you work with? That we would have to say, within hours or a day or two, here is your lawyer and you have a right to remain silent? Can we imagine what would have happened in World War II if the American citizens who helped the Nazis—if we turned that into a common crime.

The difference between me and the Senator from Kentucky is that I believe with all my heart and soul that the al-Qaida, Taliban groups are at war with us and are trying to come to our homeland. I know they are trying to find American citizens who would help them, and they will. There has never been a war in America where somebody within the American citizen community did not collaborate with the enemy. That is happening today. When that day comes and we capture that person, I want as an option the ability to hold them as an enemy combatant, as we did in other wars. They will get their day in court, but they will not be read their rights or given a lawyer on the spot because that would stop intelligence gathering.

To the managers of this bill, to the men and women of the House who sent it over here, thank God they chose a balance between due process and common sense.

All I will say is that the way we found bin Laden was not through torture. I am offended by that, as are Senator MCCAIN and Senator LEVIN. The way we tracked down bin Laden is we had people held at Gitmo for years under the law of war. We don't try them or let them go. When we capture somebody on the battlefield, we don't hold a trial; we hold the prisoner to try to gather intelligence and keep them off the battlefield. Through that process, over years, the Bush administration and the Obama administration put together the puzzle about bin Laden. It wasn't because of waterboarding; it was because this country had available to it the law of war detention that allows us to hold people and get to know them over time and make sure they could not go back to the fight and good questioning and good interrogation techniques led to finding bin Laden. What the Senator from Kentucky is saying is it would not be available to us as a nation if an American citizen were involved in attacking us on the homeland. What an absurd result, that if an American citizen joined al-Qaida to kill everybody in this room, for some unknown reason, we would turn that into a crime rather than an act of war.

If a person collaborates with al-Qaida or the Taliban, two things can happen to them: They can get killed or they can get captured. Most likely they will get a trial one day and nobody is restricting their trial rights. What Senator LEVIN said is true. There is nothing in here restricting the right of trial. What is in here is giving us the option to hold someone as an enemy combatant so we don't have to Mirandize them and turn an act of war into a crime.

I am afraid it will not be long before this is tested in reality. The enemy is afoot. They are trying to penetrate our homeland. They are seeking aid and comfort from Americans within our own country who are going to side with the enemy, unfortunately. When that day comes, I wish to make sure we have the ability in this war, as in every other war, to hold them and to gather intelligence—not to torture them but to make sure we are safe as a nation. Due process, yes. Under the law of war, it must be so. If we turn this war into a crime, we are going to regret it. If my colleagues don't believe we are at war, then I cannot disagree more. I cannot tell my colleagues when the war ends, but I will tell them how it ends. This is how it is going to end: We are going to win and they are going to lose because we can't afford to lose.

Between now and when that day comes, we are going to take the fight to them. If we find an American citizen helping the enemy overseas—this President ordered the killing by drone of al-Awlaki, an American citizen overseas—I believe it was Yemen—and the President said: I have ample evidence he is now assisting al-Qaida overseas to attack American targets and I am going to take him out. Well done, Mr. President. Well done, Mr. President.

If most of us agree we can kill an American citizen helping al-Qaida kill us overseas, we can't capture an American citizen helping al-Qaida here at home and hold him for questioning under the law of war, what an absurd result.

I not only am going to vote for this bill, I am going to celebrate the fact we have done nothing to stop the right to trial. As Senator LEVIN said, there is not one thing in this bill that restricts a person's right to a trial. What we do have in this bill is the recognition we are at war and we retain as an option that has not been used—there is no American citizen in detention—but there may be a need for that one day and we retain that right under this bill.

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

Mr. GRAHAM. Sure.

Mr. MCCAIN. Under the scenario as envisioned by the argument made by the Senator from Kentucky that if an American citizen is overseas, as al-Awlaki was in Yemen, and we took a drone and killed him, which was a decision made by the President of the United States——

Mr. GRAHAM. Good decision, Mr. President.

Mr. MCCAIN. But if al-Awlaki had been in the United States of America, a citizen engaged in the same activities that justified him being killed, then Mr. al-Awlaki would have been entitled to his Miranda rights, a trial by jury, habeas corpus, all that as if he were treated as an American citizen. I don't think many people would quite understand that distinction of geography.

Mr. GRAHAM. It makes no sense, I say to the Senator. He would be entitled to a habeas hearing if he were caught in the United States, but he would be held under the law of war because the allegation is not that he was committing a crime but that he was collaborating with the enemy.

So, yes, we could have a scenario, according to the view of the Senator from Kentucky, that we could kill somebody—an American citizen overseas helping the enemy kill our troops—but if they joined with al-Qaida here at home, all of a sudden we have to give them a lawyer and read them their rights and we can't hold them under the law of war detention to find out what they know about an impending attack. That makes absolutely no sense. The Supreme Court has rejected that kind of thinking.

I hope that day never comes, but I can tell my colleagues this: I don't know when the war is over, he is right about that, but I know this: As long as I am in the Senate, we are going to fight it and we are going to fight it as a war, not a crime.

Mr. MCCAIN. If the Senator will yield further, there is every indication in the Middle East and around the world that we see that al-Qaida is on the way back, far from being defeated.

I just wish to make an additional comment to my friend, Senator LEVIN, the chairman, whom I have had the honor of bringing these bills to the floor with and working together with for 25 years. I was tempted to leave it unresponded to, but a statement the Senator from Kentucky made: They were sneakier than we were—I have to say to the chairman, I don't think the chairman has ever conducted our committee and our deliberations and our work on the floor and in conference in any way as being sneaky. I categorically reject that kind of comment, and I don't think it is worthy of the performance the Senator from Michigan has provided to this committee.

Mr. LEVIN. I very much thank my dear friend from Arizona.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Presiding Officer. The only one thing I will add to this subject before we vote—the Senator from Arkansas seeks to speak and we will run out of time soon—is that a provision which is in our bill, which both the ranking member and myself voted for, which was stricken, one of the arguments against it was made by the ACLU. Our friend from Kentucky talks about something in this bill which denies the right to jury trial and the proof he gives for that is something that is not in the bill, which is—it violates logic, to begin with, but putting that aside—one of the arguments against keeping it in the bill was made by the American Civil Liberties Union and surely they believe people's rights to trial and jury trial should not be denied.

So the allegations made by the Senator from Kentucky are wrong. There is absolutely no substantiation for them, including the one which was just referred to by Senator MCCAIN. But the statement he makes that there is language in this bill—here is the bill. Where is the Senator from Kentucky? What page of the bill is he referring to that contains the language he says denies people the right to trial? It is simply not there.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I will try to keep my remarks to about 5 minutes, although I would first like to thank Senators LEVIN and MCCAIN for their leadership on this legislation. They truly set the tone, and they have been good role models for the entire Senate on how legislation should be conducted. So I wish to thank both of them. I think many of my colleagues feel the very same way; that we appreciate how they have handled the national defense authorization bill. It has been a massive undertaking and sometimes, as we know, we have a lot of gridlock around here, but because of the way they have handled it, they have been able to get this bill to this point.

I am not going to object to this bill at all. At one point I thought about it because I am so upset—in fact, my staff has even said livid, and I have been livid—about how one item has been handled by the Air Force; that is, as we all know, about 10 months ago the Air Force came out with a proposed force restructure and that included taking an A–10 unit away from the Arkansas National Guard that is based in Fort Smith, AR.

Understandably, when something such as that happens, we have questions. So, 10 months ago, I started asking: Why are you doing this? Give me your analysis. Tell me how much money you are going to save. Are you aware you have Fort Chaffee right off the end of the runway—and I will talk about this in just a minute. Are you aware that this just went through BRAC, that they had F–16s there and now they have A–10s, and the BRAC commission has gone through this process and they said this is the best place; we can have A–10s right here in Fort Smith, AR.

So we basically got stonewalled. They wouldn't tell us any of their analysis. They wouldn't tell us how much it is costing or saving. They basically stonewalled not just my office but the whole Congress, as far as I know. I have talked to people all over this place on the Senate side and the House side. They never got any numbers. Finally, just in the last few weeks, in talking to members of the Air Force who have stars on their shoulders, they have told me there was no business analysis. There was no base-by-base analysis. Basically, what this boils down to is we need to make some cuts and more or less your number came up, and they go back to the one flying mission per State. We can talk about that more if we want to.

But the problem is we are in a budget environment where we are having downward pressure on military spending, and we know that. We are going to have to make military cuts not just this year but in the outyears. There is no doubt about it. The U.S. Air Force should always count the cost. They should always make a determination on how much these things cost and how much they save. They did not do that here.

They should also know we are going to have a smaller force in the future. So as we wean out some units—and it is going to happen; it is going to be painful; people are not going to like it—you should keep the best units you have, the strongest units you have. And the 188th at Fort Smith, AR, is the best unit in the system. I say that objectively because there are numbers to back that up. It is the cheapest to operate. Even though it went through the transition from F–16s to A–10s just a few years ago, they have already deployed twice. They have deployed twice. One reason they got extended in a deployment was because another A–10 unit was not ready.

What this does is it puts those pilots—those men and women in uniform, who just got back from Afghanistan—

they get off the plane, they are being hugged by their spouses and their children and their communities, and basically the Air Force is giving them a pink slip.

The ultimate slap in the face happened this week when the National Guard Bureau had the audacity to contact the 188th Flying Wing at Fort Smith and say: Hey, by the way, could you deploy one more time? There is another unit that is not ready. Can you deploy one more time? It is astonishing that the Air Force would do this.

We had a commission in there. The commission did not survive. I have talked about that with several of my colleagues who were on the conference. Even though this wing has had more nautical miles of military training than any other unit in the Air National Guard, even though it is closer in proximity to its flying range, its bombing range than any other unit—it is the best setup in all of North America to have the 188th where it is located at Fort Smith and at Fort Chaffee, which is basically the Army National Guard's national training center right there—they love to train with A–10s; we are talking about close air support vehicles here—I do not think the Air Force took that into consideration for 1 minute. I think they made an arbitrary decision here. I do not think it is in our national interests. I do not think it is in the interests of our national security. I am putting people on notice that this fight is not over. I understand about the down pressure. I get all that stuff. But this fight is not over. I am not going to object to this bill today. I am going to vote for its adoption.

Again, I want to thank the chairman and the ranking member for their great leadership.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Arkansas for his enormous contributions to the deliberations and work of our committee. I understand the frustration he feels, and we have promised, as Senator LEVIN and I have promised a number of Members on both sides of the Capitol, we will have extensive hearings on this whole issue of Guard-Air Force relationships and force structure for the 21st century. We appreciate his commitment to his outstanding members of the Guard.

Mr. President, I rise to support the fiscal year 2013 National Defense Authorization Act conference report. This will be the 51st consecutive year the Congress will pass legislation authorizing the budget of the Department of Defense and supporting our men and women in uniform.

I thank the members of the Armed Services Committee for their hard work, especially my colleague and friend, Senator CARL LEVIN. CARL and I have worked together for many years on this committee, the last 6 as chairman and ranking member. In that time, CARL has demonstrated a thoughtful approach to defense oversight and legislating. His genial disposition—which I believe complements my own temperament well—masks resolute support for a strong national defense and a tenacious will ensure that defense dollars are wisely spent. CARL, you are a trusted partner and a patriot.

This conference report is the product of 10 months of legislative effort, including 53 hearings on the full range of national security priorities. After marking up the President's defense budget request in May, the committee unanimously reported a bill to the Senate on June 4. Six months to the day later, the full Senate passed the bill 98 to 0. In a hopeful sign of the return of regular order to the Chamber, we passed the bill after 33 hours of debate and an open process that resulted in 397 amendments filed, of which 143 were included in the Senate-passed bill.

Our use of an open amendment process on the Senate floor demonstrated that when it comes to addressing national defense, the Senate can still work together in a bipartisan manner. However, before we engage in too much self-congratulation, we should ask ourselves why we are concluding the most important annual authorization bill 3 months after the fiscal year began, and why we have yet to enact a single appropriations bill for any Department or agency of government. The Congress has been caught in so many political impasses of late that we have effectively abrogated our responsibility to provide for the timely authorization and appropriation of Federal programs. The result is increased cost, decreased efficiency, and our willful enabling of dysfunction in government. We can and must do better.

The Defense authorization conference report before the Senate provides for the continued readiness of our Armed Forces and the well-being of servicemembers and their families. It authorizes pay and benefits, research and development, weapons procurement, and military construction projects, and contains provisions designed to improve acquisition and contracting. It also provides the resources, training, equipment, and authorities necessary for our military to continue supporting the Afghanistan National Security Forces as they assume increased responsibility throughout Afghanistan.

This conference report also contains tough sanctions aimed at curbing Iran's pursuit of a nuclear weapon. Iran continues its reckless ways in pursuit of a nuclear weapon. Just recently, the IAEA confirmed that Iran is expected to double the number of centrifuges at its underground enrichment site to 1,400. One provision in this report, originally sponsored by Senators KIRK and MENENDEZ, designates Iran's energy, shipping, and ship-building sectors as entities of proliferation concern, subjecting many transactions with these entities to sanction. It would impose sanctions on persons supplying to Iran certain listed materials relevant to these sectors, to certain Iranian Specially Designated Nationals and Blocked Persons, or to be used in connection with certain Iranian military programs. Finally, it would designate the Iranian state broadcasting company as a human rights abuser for airing forced confessions and show trials; preventing other entities from doing business with it; and banning any travel to the United States.

This conference report also contains a provision that authorizes an increase of up to 1,000 marines for the Marine Corps Embassy Security Group. The tragic events in Benghazi on September 11 demonstrate that the security environment facing our diplomatic corps is as dangerous as ever. This provision will provide for the end-strength and resources necessary to support an increase in Marine Corps security at locations identified by the Secretary of State to be at risk of terrorist attack. Such an increase was also recommended by the Accountability Review Board—the independent panel convened by Secretary Clinton to investigate the events surrounding the Benghazi attack.

The murder of innocents continues in Syria, with over 40,000 people murdered by the Assad regime. This conference report contains a provision that requires the Chairman of the Joint Chiefs of Staff to submit a comprehensive report identifying the limited military activities that could deny or degrade the ability of the Assad regime to use air power against civilians and opposition groups. This provision explicitly notes that it neither authorizes the use of military force nor serves as a declaration of war against Syria.

In the area of military personnel, the conference report provides a 1.7-percent pay raise for servicemembers, and over 30 types of incentives aimed at strengthening enlistment and retention programs. It reinforces Department of Defense programs to prevent sexual assault and will improve the care and management of wounded warriors and those transitioning to civilian life after military service.

The report also recognizes that, in an era of fiscal austerity, the Department of Defense must reduce costs wherever possible, including force structure by, for example, approving nearly all of the fiscal year 2013 increment of the President's proposed reduction of 123,900 military personnel over the next 5 years. But it also requires a similar reduction in civilian and contractor personnel over that same time period.

In addition, the report acknowledges a revised plan by the Air Force to reduce its force structure and retire or divest military aircraft in order to respond to defense budget cuts proposed by the administration. While my State of Arizona fared better than many States, the Air Force's plan includes a cost-saving proposal to convert the manning of an A–10 Warthog training

squadron based at Davis-Monthan Air Force Base in Tucson from the active component to the Reserve, resulting in a decrease of approximately 130 personnel assigned to the base. I support the need for the military services to find ways to reduce costs and realize that we all will have to bear the burden of the impact of reduced defense spending.

Despite modest improvements in recent defense acquisitions, the Department has much work to do to improve its ability to identify and reduce waste. This conference report contains a number of provisions intended to improve oversight on defense contracting, including helping to detect and prevent human trafficking in government contracting. There are also provisions that would help ensure that the Department becomes fully auditable by 2017, as required under law, while improving procurement of the business systems it needs to become auditable. Other provisions help reform how the Federal Government conducts procurement during contingency operations and help ensure that certain whistleblowers who identify waste, fraud, and abuse are protected. The conference report also increases transparency into shipbuilding programs, including Ford Class aircraft carriers and Littoral Combat Ships.

Another important provision in this report addresses cybersecurity, by requiring consultation with Congress if a decision is made to establish U.S. Cyber Command as a unified command and that defense contractors notify the Department of Defense of any network intrusions.

Still another provision in the report requires that, following a decision by the President to reduce U.S. forces in Afghanistan, the Chairman of the Joint Chiefs of Staff submit to Congress his assessment of the risk of that force reduction to our mission and security interests.

This report also requires the Secretary of Defense to submit to Congress a report on the investment plan and resources needed to carry out the U.S. strategy in Asia. I remain uncertain that the Department's plan for the realignment of U.S. military forces in the Asia Pacific Region is adequately supported by budgets and resources in future years. The Center for Strategic and International Studies released a report in August 2012 that raised concerns about whether the plans and strategy proposed by the Department earlier this year are adequately supported by budgets and resources in future years.

Another provision helps protect the Navy's rich tradition of vessel naming. The name the Navy selects for a vessel should not be tarnished in any way by controversy. Unfortunately, controversy has surrounded some of the Navy's recent vessel-naming choices. This bill, therefore, sets forth appropriate and necessary standards, grounded in historical practice, to guide the Secretary of the Navy's decisions on future vessel naming, and requires that the Secretary seek the approval of the congressional defense committees before announcing or assigning a vessel's name.

A particularly important provision gives priority to the Forest Service and Coast Guard to acquire surplus Air Force aircraft, allowing the Forest Service to strengthen its fire suppression capability.

This conference report also directs the Secretary of Defense to designate assignment of military officers as instructors on the faculty of West Point, the Naval Academy or the Air Force Academy as the equivalent of a joint duty assignment to satisfy joint duty requirements.

Finally, this report extends for another year important prohibitions and restrictions on the transfer and release of military detainees from Guantanamo, and the construction or modification of facilities in the U.S. to house them. It also establishes congressional notification requirements for military detainees held on naval vessels and for the release of third-country nationals held in military detention in Afghanistan. In addition, it clearly affirms that nothing in last year's defense authorization bill or the 2001 Authorization for Use of Military Force restricts or denies a person's existing habeas corpus rights or any other constitutional right.

As we look forward to Christmas, I remind my fellow Members to remember the beneficiaries of this legislation—the men and women of our Armed Forces, who serve our Nation bravely and selflessly. Passing this conference report is the very least we can do for so many who are willing to give all they have to defend our Nation.

I urge my colleagues to vote in favor of the conference report of the Fiscal Year 2013 National Defense Authorization Act.

Finally, I would like to thank the ''small but mighty'' Senate Armed Services Committee Republican staff, who have worked tirelessly and effectively in support of me and our members. These loyal staff members, many of whom have served on the committee staff for many years, deserve our sincere appreciation for their dedication to national security. They are Adam Barker, Pablo Carrillo, Chris Brose, Lauren Davis, Church Hutton, Daniel Lerner, Greg Lilly, Elizabeth Lopez, Lucian Niemeyer, Bryan Parker, Ann Elise Sauer, and Diana Tabler.

Mr. President, again, with great reluctance, I thank our staff who have done such a wonderful job. They really have done great. As I say, I am very reluctant to admit it, but we could not have gotten here without their hard work on both sides of the aisle.

ALTERNATIVE FUELS

Mrs. MURRAY. Mr. President, I ask to be recognized for the purposes of a colloquy.

Mrs. MURRAY. Senator LEVIN and Senator HAGAN are here today to talk about the National Defense Authorization Act, which authorizes funds for our troops. This is an important piece of legislation and I have always supported making sure that our military has the equipment, resources and effective policies it needs to perform its missions.

Mr. President, during floor consideration of the defense authorization bill, the Senate took two important votes regarding alternative fuels, signifying that we stood with our military leaders. We eliminated two provisions that would have severely limited the Department of Defense's ability to invest in alternative fuels.

Both votes were bipartisan, and my friend and colleague Senator HAGAN sponsored one of those amendments. I commend Senator HAGAN's leadership and her hard work on this issue.

Mrs. HAGAN. I thank Senator MURRAY. I was proud to stand with my colleagues on both sides of the aisle to support efforts across the federal government that will help provide our military with the strategic advantages it needs to remain atop the world's powers.

A critical component to achieving this goal is to ensure that the Department of Defense is not solely dependent on one fuel source.

Mr. President, the Department of Defense is committed to addressing this critical national security risk, and is taking a joint approach to do so. In August 2011, the Secretaries of the Departments of Agriculture, Energy, and Navy signed a memorandum of understanding to invest $170 million each to spur the production of advanced aviation and marine biofuels under the Defense Production Act.

This joint MOU also requires substantial investment from the private sector, with at least a 1-to-1 match.

Our senior military leaders understand that programs such as this MOU are critical to national security. In July, the Secretary of the Navy, the Chief of Naval Operations, and the Marine Corps Commandant expressed their concern to Chairman LEVIN:

> ''The demand for fuel in theater means we depend on vulnerable supply lines, the protection of which puts lives at risk. Our potential adversaries both on land and at sea understand this critical vulnerability and seek to exploit it.''

Given the importance of this MOU to our national security, I was disappointed when an amendment was adopted by one vote during the Senate Armed Services Committee mark-up that would prevent the Navy from participating further in the MOU. When the bill was considered on the Senate floor, I, along with a group of my colleagues, offered an amendment to strike this provision.

Mr. President, I was pleased when my amendment passed in a bipartisan manner with 54 votes. I believe it sent an important message to conferees.

However, I was very disappointed to see that although the conference report does not prohibit further involvement in the MOU by DOD, it does restrict the Department's participation in construction of alternative fuel refineries until the other agencies contribute matching funds.

However, I have been assured by Chairman LEVIN that the conference committee intends for this restriction to only apply to fiscal year 2013 funds. It would not constrain fiscal year 2012 funds in any way. I ask Chairman LEVIN, is that correct?

Mr. LEVIN. Yes, that is correct. The language does not apply to fiscal year 2012 funds. We should all expect the agencies involved to adhere to the framework set forth in last year's memorandum of understanding.

Mrs. HAGAN. I thank Chairman LEVIN. I appreciate his continued support on this issue. Ensuring that our military leaders have the flexibility they need to invest in alternative fuels is important to our national security. I look forward to continuing to work with the Chairman on this important issue.

Mr. DURBIN. Mr. President, I appreciate the hard work of the chairman, Senator LEVIN, and the ranking member, Senator MCCAIN, on the fiscal year 2013 National Defense Authorization Act conference agreement this whole year.

They have crafted reasonable, responsible compromises in many areas of defense policy. I appreciate that the conferees were able to begin rebalancing our force even as we continue to wind down our presence in Afghanistan.

The men and women in uniform, as well as their families, appreciate that even in this tough fiscal environment the bill would authorize a 1.7 percent across-the-board pay raise.

I also want to acknowledge that Conferees retained my amendment implementing visa bans and asset freezes against those supporting the M23 rebels in Congo.

But there are also several deeply troubling provisions that I must point out. The first issue goes to fundamental questions about basic constitutional protections. Last year I voted against the Defense Authorization bill because the bill included several troubling provisions relating to the treatment and custody of detainees. These provisions make it harder for the government to fight terrorism and are inconsistent with America's commitment to our Constitution and fundamental human rights.

This legislation—for the first time in American history—requires the military to take custody of detainees in the United States.

FBI Director Robert Mueller strongly objected to this military custody requirement. In a letter to the Senate last year, Director Mueller said the bill would, quote, ''inhibit our ability to convince covered arrestees to cooperate immediately, and provide critical intelligence.''

Director Mueller concluded that this provision ''introduces a substantial element of uncertainty as to what procedures are to be followed in the course of a terrorism investigation in the United States.''

Last year's bill also included a provision that could be interpreted to authorize the indefinite detention—without charge or trial—of American citizens in the United States.

And the bill included restrictions that would make it virtually impossible to close the Guantanamo Bay detention center, which our most senior defense and intelligence officials have told us is a recruitment tool for Al Qaeda.

I was hopeful that this year the Defense Authorization bill would undo some of the damage done by last year's bill. Unfortunately, that is not the case.

I am troubled that the conference report does not include the Feinstein-Paul amendment, which passed the Senate by a strong bipartisan vote of 67–29.

This amendment would have prohibited the indefinite detention of American citizens and lawful permanent residents apprehended in the U.S. unless this detention is expressly authorized by Congress.

This amendment would have made it clear that last year's Defense Authorization bill—as well as the authorization to use military force that Congress passed after the 9/11 terrorist attacks—did not authorize indefinite detention of Americans in the United States.

This is a commonsense amendment that is consistent with our Constitution and fundamental human rights. Indeed, the Fifth Amendment of the Constitution provides simply that ''no person shall be deprived of life, liberty, or property without due process of law.''

But the conference report struck the Feinstein-Paul amendment. Instead, the conference report includes a provision stating that the use of force authorization and last year's Defense Authorization bill should not be construed to deny the right to challenge their detention in court—the legal term is habeas corpus—to individuals detained in the U.S. who would otherwise have this right.

This provision is essentially meaningless. The Supreme Court has already held that anyone in the custody of our government has the right to habeas corpus.

This provision would not prohibit long-term detention of American citizens without trial. Without the Feinstein-Paul amendment, it remains unclear whether indefinite detention is permitted.

I also continue to oppose provisions in the conference report that limit the administration's ability to close the Guantanamo Bay detention facility.

Like last year's Defense Authorization bill, this legislation provides that no detainee held at Guantanamo Bay can be transferred to the United States, even for the purpose of holding him for the rest of his life in a federal super-maximum security facility.

And like last year's bill, this legislation provides that the government may not construct or modify any facility in the United States for the purpose of holding a Guantanamo Bay detainee.

The Obama administration has threatened to veto the conference report because of these provisions. Here is what the administration says: ''Since these restrictions have been on the books, they have limited the Executive's ability to manage military operations in an ongoing armed conflict, harmed the country's diplomatic relations with allies and counterterrorism partners, and provided no benefit whatsoever to our national security.''

I agree. I continue to believe that closing Guantanamo is an important national security priority for our Nation.

And I am joined by many national security and military leaders, who say that closing Guantanamo will make us safer. Among them: General Colin Powell, the former Chairman of the Joint Chiefs of Staff and Secretary of State; Former Republican Secretaries of State James Baker, Henry Kissinger, and Condoleezza Rice; Former Defense Secretary Robert Gates; Admiral Mike Mullen, former Chairman of the Joint Chiefs of Staff; and dozens of other retired admirals and generals.

Retired Admiral Don Guter was the Navy Judge Advocate General at the Pentagon on 9/11. Listen to what he said just a few weeks ago: ''I want justice. But Guantanamo has not provided that justice and has not made us safer. . . . Guantanamo remains a recruiting tool for terrorists and will remain so until that prison is shuttered.''

I also received a letter from dozens of human rights and religious organizations pointing out that many people around the world view Guantanamo as a symbol of America's retreat from our traditional role as a human-rights champion.

These detainee provisions are not just bad human rights and national security policy. They are completely unnecessary. Look at the track record. Since 9/11, our counterterrorism professionals have prevented another terrorist attack in the United States.

And more than 400 terrorists have successfully been prosecuted and convicted in federal court and are now being safely held in federal prisons. A few of the terrorists who have been convicted in federal court and are serving long prison sentences: Umar Faruk Abulmutallab, the Underwear Bomber; Ramzi Yousef, the mastermind of the 1993 WTC bombing; Omar Abdel Rahman, the so-called Blind Sheikh; 20th 9/11 hijacker Zacarias Moussaoui; and Richard Reid, the Shoe Bomber.

Unfortunately, the provisions in this conference report limit the flexibility

of the administration to respond to terrorism in the most effective way. And they do so in a way that calls into question our commitment to our Constitution and human rights.

I am also concerned with the message this conference report sends to the millions of Americans who feel strongly that our gun laws need to be reformed after the mass murder in Newtown, CT.

Over the last few years, Congress has considered and passed a steady stream of legislation that has weakened the gun laws on the books.

For example, Congress passed a law to end the Reagan-era ban on loaded guns in National Parks; passed a law to require Amtrak to allow guns to be transported on their trains even though Amtrak determined after 9/11 that this was too risky; and passed a number of appropriations riders that made it harder for law enforcement agencies to enforce gun laws. I opposed these efforts, but they became law.

Things need to be different now. The growing toll of daily shootings in communities across the nation and the murder of twenty children at Sandy Hook Elementary School have caused Americans to say enough with the constant efforts to roll back gun laws.

It's time for a new conversation on how to best protect America's children from gun violence. That conversation is now underway with the Vice President's task force.

Unfortunately, this conference report contains a provision that yet again weakens gun laws currently on the books. It grants Federal concealed carry privileges to thousands of individuals even though the laws of my State and other States may not permit these individuals to carry concealed weapons.

While this provision was added before the Newtown tragedy, and while there may be legitimate reasons behind it, I am troubled that this is the first gun-related legislation that Congress will pass after the Newtown shooting.

I would much prefer that Congress's first response to Newtown be a more balanced approach that reflects the recommendations of the Vice President's task force. Congress should not continue voting to weaken gun laws while the Vice President's task force is doing its work.

There is another issue in this conference agreement that is very troubling, and that concerns the Navy's energy requirements for the future. The Department of Defense is an enormous consumer of energy, especially fuel for the Navy's global fleet. Every time the price of a barrel of oil increases by $1, the Navy's total fuel costs increase by $31 million.

For our men and women in uniform, energy policy is about security and budgets. That's why Secretary of the Navy Ray Mabus is focused on shifting Navy's energy consumption to fifty percent renewable fuels by 2020.

But the Defense Department's goal is compromised with this conference report.

We voted here in the Senate, on an amendment I was proud to co-sponsor, to ensure that the military has all the tools it needs to invest in technologies that will reduce fuel costs and enhance strategic capabilities.

I was glad to see that the conference committee preserved the Navy's full ability to buy biofuels in the future. But then the conferees adopted provisions that undermine that goal.

One provision will effectively end a joint project between the Department of Defense, the Department of Energy, and the Department of Agriculture to build a refinery for biofuels.

It is unfortunate that this language was included in the conference report because this provision was not originally included in the House- or Senate-passed versions of the bill.

In fact, Senator HAGAN sponsored an amendment, which I co-sponsored, that specifically removed a similar provision from the bill. Senator HAGAN's amendment was adopted on the Senate floor by a vote of 54 to 41.

And as the House-passed defense bill also supported the joint project, it was surprising to see that the conference committee added a new provision to severely limit the biofuels partnership.

This new provision is in direct opposition to the bills supported by a majority of Members in both chambers and I am disappointed to see that the conference committee went against the wishes of the Senate and included it.

Finally, I must also mention the bill's impact on my home state of Illinois on a particular issue. I appreciate Chairman LEVIN and Ranking Member MCCAIN working with the Illinois and Iowa delegation on a bipartisan basis to require an Army plan to sustain Rock Island Arsenal, and all the other aspects of our nation's organic industrial base. Prior Army planning had not included long-term workload plans to sustain the arsenals. I look forward to working with the Committee and the Army as this is implemented next year.

This development notwithstanding, I am concerned about a provision in the bill retained in conference that could require arbitrary cuts to the civilian workforce not supported by the Department's strategy. I co-sponsored Senator CARDIN's amendment to repeal this provision, which unfortunately did not pass on the Senate floor. The House version contained no similar provision and conferees kept much of the original language. I will continue to work with the Defense Department and the Committee to ensure that the flexibility in this provision is used to ensure strategy-driven planning for the civilian workforce.

As I stated up front, the conference report makes a number of critical, responsible decisions that provide our men and women in uniform with the resources and policy authorities they need to provide for our common defense.

Nonetheless, its fundamental weaknesses in detainee policy and other areas mean that I am regretfully unable to support passage of the conference report.

Mr. LEAHY. On November 28, 2012, the Senate overwhelmingly passed my legislation, the Dale Long Public Safety Officers Benefits Improvement Act of 2012 as an amendment to the bill the Senate will likely pass today, the National Defense Authorization Act for Fiscal Year 2013.

At that time, by a margin of 85 to 11, the Senate sent a strong message of support to the men and women across America who serve their fellow citizens as public safety officers. The Senate made clear that this important policy, in place since 1976, is worthy of our continued attention and our efforts to make it better for those it is intended to benefit. I thank the 85 Senators who voted in favor of my amendment on November 28, and for standing with first responders across the United States.

As the Senate gives its consideration to final approval of the National Defense Authorization Act, I want to take a few moments to discuss what my amendment contains, and the intent behind the various provisions within it. Before I do, however, in light of the terrible tragedy in Newtown, CT that occurred on December 14, let me take a moment to recognize the first responders of Newtown and all who answered the call on that terrible day. In the midst of such incredible sadness, let us recognize the men and women who answered that call, who put the well-being of schoolchildren, teachers, and staff ahead of their own safety and entered that school to face the unknown and do whatever they could to help. And let us recognize those who stood bravely to render medical aid and give comfort to others amidst unspeakable violence and sorrow.

In recent days, a quote by the late children's educator and minister Fred Rogers has been shared widely among Americans searching for some light within the darkness of what occurred in Newtown. In the quotation, he recalls how in the face of something frightening, his mother used to tell him, ''Look for the helpers. You will always find people who are helping''. He said then that he was comforted ''by realizing that there are still so many helpers—so many caring people in the world.'' His words exemplify our nation's first responders. I know that this tragedy affects them just as deeply as it affects all of us and in some ways that are difficult for us to fully understand. But the dedication and bravery of these men and women is something that I want to acknowledge and commend. It is their determination and the actions of first responders across the country every day that serve as the foundation and inspiration for the Federal policy we strengthen for them today.

The centerpiece of my amendment to the National Defense Authorization Act is a measure to fill a gap in the

Public Safety Officers Benefits, PSOB, law, which was exposed following the tragic death of a decorated emergency medical technician who served the community of Bennington, VT. Dale Long was killed in the line of duty in a traffic accident while responding to an emergency call. When his surviving family members looked in to filing a claim with the PSOB office at the Justice Department, they learned that a technicality made it impossible for the PSOB office to review Dale Long's claim.

Under the PSOB law, in order for an emergency medical technician serving the public to be covered, he or she must be part of a public agency, as defined in the law. In Vermont, and elsewhere in the United States, particularly in rural areas, there are ambulance companies that do not have a formalized relationship with a state or municipal government, and therefore are not considered a public agency under the law. This technicality meant that Dale Long, and others like him across the country who serve their communities as part of a private, nonprofit rescue company, subject to the same risks and stresses, did not have the security of coverage under the PSOB program. Dale Long's tragedy exposed this gap, and I introduced legislation to fix it.

Mr. LONG worked for the Bennington Rescue Squad, a private, non-profit entity serving Bennington, VT. The Bennington Rescue Squad has been serving the people of Bennington, VT since 1963, and provides paramedic 911 services to that community. It is an integral part of the public safety infrastructure of Bennington, Vermont. Similarly situated men and women who serve others as a part of private, non-profit rescue squads should be placed in the same position that all other EMTs, firefighters, and police officers are relative to the PSOB program. Today, after nearly three years of work in Congress, and through the tireless advocacy of so many in the public safety community like the American Ambulance Association, the Fraternal Order of Police, the International Association of Firefighters, and many others, I expect that this measure will be enacted. This is their law.

The other provisions in this legislation were developed around the provision I drafted to support Dale Long's survivors and all who may find themselves in similar circumstances. In cooperation with House Judiciary Chairman LAMAR SMITH, I assembled a host of other measures to make the PSOB program more equitable, and more efficient for the families of our fallen first responders and those first responders who have been permanently disabled in the line of duty.

Before describing those measures, and the intent behind them, it is important to consider the overarching intent behind the original enactment of the PSOB law. In 1976, Congress enacted the Public Safety Officers Benefits Act in order to accomplish several policy goals. First, Congress sought to provide uniformity to a disparate system for first responder benefits across the country and to ensure that irrespective of the benefits provided in a state, all first responders, regardless of where they lived, would benefit from meaningful assistance. In doing so, Congress also intended to ensure that the Federal PSOB benefit was to be provided in addition to any other death or disability benefits that may be provided by a state. This policy was affirmed by the Supreme Court in the 1986 case of Rose v. Arkansas State Police. There, in affirming Congress' intent to protect the Federal benefit from reduction by the provision of a state benefit, the Court identified that Congress wished to address the inadequacy of death benefits paid to first responders in some states.

At the time of the original law's enactment, Congress also believed and intended that a uniform Federal benefit, irrespective of and immune from reduction by any state benefit, would encourage recruitment and retention of qualified public safety officers. The United States Court of Federal Claims, in upholding the award of a PSOB benefit that had been wrongly denied, wrote in Demutiis v. United States: ''Recognizing the extraordinary risks incurred by officers in serving the public, Congress provided for these death benefits not only as a matter of equity, but also to promote the recruitment and retention of safety officers as part of the national fight against crime.'' This incentive, central to congressional policy, is only meaningful and effective when the process for providing these benefits is efficient and free from unnecessary delay or dispute.

Congress sought with the law to recognize the very real risks that public safety officers face on a daily basis—whether fighting a fire, apprehending a criminal, or providing lifesaving medical assistance during an emergency situation.

The House Judiciary Committee, in its report at the time of PSOB's original enactment, noted that there was a moral component to this program as well. Then, the House Judiciary Committee characterized the original Act as Congress' ''recognition of society's moral obligation to compensate the families of those individuals who daily risk their lives to preserve peace and to protect our lives and property.'' I agreed then, and I believe now as strongly as ever that supporting our first responders is the right thing to do.

The passage of this amendment to the National Defense Authorization Act for Fiscal Year 2013 will add efficiencies to claims processing and expand benefits available under the program, and will further and reaffirm Congress' original intent.

This legislation, which the House of Representatives has approved, and which the Senate now considers, makes several important changes to the broader PSOB law, including the Hometown Heroes law, which I was proud to author in 2003. I will take a moment now to discuss those provisions.

The hometown heroes law makes first responders who have died as the result of a heart attack or stroke in the line of duty, or within a discrete time period following the period while the first responder was on duty, eligible for a death or disability benefit under the PSOB law. The amendment we consider strengthens this law. It does so by adding to the list of qualifying health incidents ''vascular rupture,'' thus broadening coverage under the hometown heroes law. Under current law, in order to be eligible for a benefit, an officer must have suffered a heart attack or stroke. There are, unfortunately, cases on hold within the PSOB office that are not being processed due to the presence of a vascular rupture, which is nevertheless a health event consistent with the type of stressful activity associated with the work that first responders do every day.

The hometown heroes statute recognizes those situations where an officer engages in ''nonroutine, stressful or strenuous physical'' activity. This definition and its implementing regulations have been the source of concern for many in the first responder community. ''Nonroutine, stressful or strenuous'' activity is defined in the law to exclude ''actions of a clerical, administrative, or nonmanual nature.'' Thus the law contains a very limited universe of activities that are expressly excluded from the hometown heroes definition or what type of activity is covered. As author of the hometown heroes law, it was my intent to make sure that those first responders, who suffer a catastrophic health event while on duty or shortly following a period of duty, were covered. No one should doubt the stresses encountered every day by our first responders. If we know one thing about the work that our first responders do, it is that it is unpredictable and is very difficult to characterize as routine. Congress intended that the language delineating the type of activity that would give rise to hometown heroes claim be construed broadly and the addition of ''vascular rupture'' to the list of qualifying health events underscores that intent.

In 2007, the Senate Judiciary Committee held a hearing to examine the Department of Justice implementation of the hometown heroes law. This hearing followed many calls from the first responder community to provide oversight on its implementation. I believe this hearing helped to move the needed regulations along, and served to remind relevant officials that this undertaking and policy was important to the legislative branch. It served to reaffirm that at bottom Congress was seeking

with this law to benefit first responders and that ambiguities should be resolved in favor of the claimant consistent with the overarching congressional policy.

Congress did not intend for lawyers at the Department of Justice to argue with claimants over the meaning of ''nonroutine, stressful or strenuous physical'' activity. Anyone who has served as a public safety officer knows that there is nothing ''routine'' about the work. From responding to an emergency scene to render assistance, performing a traffic stop that can go very wrong in an instant, maintaining custody of inmates, or engaging in a training or fitness exercise, ''nonroutine, stressful or strenuous physical'' activities are expressed clearly in the statute, and Congress understood, and intended, that the vast majority of line-of-duty work in which first responders engage is ''nonroutine, stressful or strenuous physical'' activity. As the statute makes abundantly clear, with its limited exceptions, activities that would be considered routine, and not stressful or strenuous physical activity, consist generally of clerical or administrative activities. Indeed, given the Hometown Heroes statutory presumption, which directs PSOB fact finders to presume that a heart attack, stroke, or vascular rupture is an injury sustained in the line of duty for purposes of a PSOB benefit, Congress made the judgment and intends for such claims to be weighted heavily in favor of providing the benefit.

Under the law, the presumption in favor of the benefit may only be overcome when PSOB fact finders are presented with evidence that factors other than duty-related activities led to a stroke, heart attack, or vascular rupture. The legislation we consider today refines the existing statutory standard to emphasize that the ''mere presence'' of cardiovascular risk factors in a fallen first responder is not enough to overcome this presumption. That is, simply because a public safety officer who suffers a heart attack, stroke, or vascular rupture may have had present risk factors or other indicators of the presence of cardiovascular disease, that is not enough to overcome the strong presumption in favor of eligibility. Nothing in this legislation or the refinement to the Hometown Heroes law should be construed as a departure from this presumption. Indeed, the intent of this provision is to clarify that the burden to overcome the presumption is a heavy one. As Congress recognized in 2003 with the enactment of the hometown heroes law and its statutory presumption, serving as a first responder presents physical and psychological challenges unlike any other occupation in civil society.

In order to expedite claims processing for first responders and to reduce administrative costs within the PSOB office, the legislation we consider contains a measure to include a ''medical or claims examiner'' within the definition of hearing examiner. If enacted, this measure, one resource for the fact finder, is to be used carefully and limited to those instances where the fact finder determines that a ''medical [or claims] examiner'' within a medical specialty or subspecialty may provide in-person examinations or record reviews to gain greater insight regarding a claim. In turn, that examiner will submit a report to the fact finder for consideration. Nothing in this measure, or the House Report's analysis of the companion bill H.R.4018, should be construed to remove the discretion of the fact finder. The fact finder must weigh the totality of the evidence, including reports of independent treating physicians whose experience and expertise regarding an officer's medical history and current condition are invaluable for a greater understanding of the case.

The legislation further amends the PSOB statute to clarify and restate existing practice and procedure that PSOB payments shall be made ''only upon determination by the Bureau that the facts legally warrant payments.'' Without question the Bureau has the duty to responsibly administer the PSOB program according to the law and regulations. Concurrent with this duty is the Bureau's responsibility to survivors: the Bureau must use its best and appropriate efforts to ensure that, where the facts warrant payment, claimants shall receive the benefit.

This means nothing more than that it is the PSOB office, the Bureau of Justice Assistance, as the entity responsible for administering PSOB claims, which is charged to make determinations on claims. This does not approve or compel PSOB fact finders to abdicate to legal counsel their responsibilities to decide claims. The claims process itself in most instances should be sufficient for PSOB fact finders to make the determination required, on the facts presented, under the law. This provision is not an invitation in any way, absent evidence of fraud, to subject claims to unnecessary, protracted legal or medical review. Nor should this provision be construed to alter the well-established standard of review applicable to the claims process, that where the facts of a case ''more likely than not'' warrant payment of a claim, the benefit should be approved. This is a crucial aspect of the administration of the PSOB benefit. And I would take a moment to respectfully disagree with language contained in the House Judiciary Committee's report on the legislation we pass today. Language in the House Report to accompany H.R.4018, which appears to require the Department of Justice '' to objectively test or verify each material factual assertion made and obtain relevant information beyond what claimants may provide'' in order to discharge its legal duty, is inconsistent with the intent of the PSOB law. I would note my strong disagreement with this language, which fails to appreciate Congress' original intent in enacting this law and should therefore be rejected.

When Congress enacted this law in 1976, it did not intend then, and does not today, that this benefit program be an adversarial proceeding for the families of fallen public safety officers or those public safety officers who have suffered a career-ending disability in the line of duty. While the PSOB program has been amended many times over the years to expand coverage to survivors and the public safety community, in too many ways the program has become administratively more complex and cumbersome for families to receive the benefits due them. The hearing record for the Senate Judiciary Committee's examination of this program on October 4, 2007 is replete with testimony concerning the frustrations and unnecessary challenges too many surviving families have faced. Should it be enacted, the legislation we consider today and this statement reaffirm the original purpose of the PSOB law which, in its simplicity and true to Congress' intent, clearly directed that in any case in which the Bureau of Justice Assistance determines that a public safety officer has died of a personal injury in the line of duty, the Bureau shall pay a benefit.

Federal officials, who administer the PSOB program, like all Federal officials involved with providing financial assistance, are under both an ethical and a legal duty to administer PSOB benefits in a manner consistent with the controlling law and regulations. Nothing in this legislation subjects Federal or contract employees determining PSOB claims to any greater liability or penalties than are currently applicable to other government employees. As Chairman of the Senate Judiciary Committee, with oversight responsibilities over the Department of Justice, I have confidence that the men and women of the Justice Department who administer PSOB claims execute their responsibilities with the highest level of integrity, and will continue to do so in the future with the discretion that the law provides. Justice Department officials should be confident that the good work that they do relative to this program, even where the process of review may question their judgment or conclusions, is subject to a law that gives them the freedom to exercise their discretion fairly and impartially. The operative standard for claims evaluation under the PSOB law is one of ''more likely than not'', and this standard by its terms allows ample room for PSOB fact finders to exercise broad discretion. Indeed, it is worth recognizing that the courts have reversed the denial of PSOB benefits on at least eight occasions. I am aware of no instance, however, where the approval of a PSOB benefit was overturned or determined to have been in error.

Let me conclude with a few general points about this important program. Congress enacted this law in 1976 because it recognized then, as we do now,

that the welfare of America's public safety officers, and their families, is worthy of our support. Congress has acted over the last 36 years on several occasions to expand the law. The PSOB program was designed with that overarching principle in mind, and the Department of Justice, in administering the program, must make every effort to ensure that the families of fallen officers and those disabled are provided with the benefit to which they are entitled under the law in an efficient manner.

As the Department of Justice moves forward to implement the improvements that Congress considers today, I look forward to working with officials within the Department's Office of Justice Programs as they carry out their work. And I look forward to seeing these measures put into practice swiftly and with the best interests in mind of the men and woman across the country who serve all of us every day.

## AIR FORCE STRUCTURE

Mr. CASEY. Mr. President, I rise to discuss the National Defense Authorization bill and how it will impact the structure of the Air Force moving forward.

Of particular concern to me and my constituents is the Pittsburgh Air Reserve Station, home of the 911th Airlift Wing located outside Pittsburgh. In its FY13 request, the Air Force proposed the retirement of the installation's C–130 fleet and, by connection, the closure of 911th. I have worked closely with the Pennsylvania delegation to fight against this proposed closure and I would in particular like to thank Senator TOOMEY and Congressmen MURPHY, DOYLE and CRITZ for all of their work on this critical issue.

We all fought so hard against this proposed closure because we believe that the Air Force proposal did not reflect a thorough analysis of the merits of the 911th Airlift Wing, nor its associated cost savings. In its FY13 Force Structure proposal, the Air Force did not provide any analysis on how the closure of the 911th would impact the local community. The lack of transparency associated with the Air Force's initial proposal and infrastructure changes around the country is extremely troubling. This is why I supported the freeze and the establishment of the National Commission on the Structure of the Air Force as mandated by the FY13 NDAA reported out of the Senate Armed Services Committee.

The 911th is a very efficient and cost effective unit installation that is truly part of the proudly patriotic community in the Pittsburgh area. Its aircraft maintenance program has resulted in an increase of aircraft availability days while saving the Pentagon more than $42 million over the last five years. Additionally, the Pentagon pays only $20,000 to lease more than 100 acres for the Wing, which is a small sum when compared to the parallel costs at other bases and installations. Finally and perhaps most importantly, an incredibly skilled and experienced workforce is employed at the 911th installation, a significant and irreplaceable resource for the Air Force. It would be a terrible waste of taxpayer dollars if this installation were to close at this critical time.

I am disappointed in the conferees for removing language that we voted on here in the Senate which would have frozen any infrastructure changes within the Air Force in FY13. I think that this decision was misguided and wrong.

But I understand that the bill also requires the Air Force to maintain an additional combination of 32 C–130s and C–27s. I strongly believe that the 911th is a prime candidate for a new mission that is commensurate with the decades long experience of its workforce and support from the community. On its merits and in the interests of the taxpayer, a sustainable mission should be instituted at the 911th. I think we are in a very strong position to make that case and I look forward to working closely with the Air Force to protect this critical installation.

It is in our National interests that our best citizens are able to continue serving their country. In Pittsburgh, some of these citizens have served our country proudly for generations. We should do all we can to support this tradition of service because it makes economic sense and is in our best national security interests.

Mrs. FEINSTEIN. Mr. President, I rise to address the conference report for the National Defense Authorization Act for Fiscal Year 2013 which we will vote on later today.

I will vote yes on this bill as I did on last year's bill even though nothing in it effectively addresses indefinite military detention, which 67 Members of this body are now on record opposing.

My colleagues will recall that I introduced, with a large bipartisan group of cosponsors, an amendment that provided that U.S. citizens and lawful permanent residents who are apprehended on U.S. soil cannot be detained indefinitely, without charge or trial. The Senate passed this amendment by an overwhelming bipartisan vote, 67 to 29. I am saddened and disappointed that this detention amendment was dropped in conference. I don't understand why we could not ensure that, at the very least, American citizens and green card holders cannot be held indefinitely without charge or trial. As I have said over the past few days, to me this is a no-brainer and is a real missed opportunity.

The main reason I support this bill is because it authorizes $640.7 billion for fiscal year 2013 for the Department of Defense.

This funding ensures our troops deployed around the world—especially those in Afghanistan—have the equipment, resources, and training they need to defend this Nation. For example, the Defense bill fully funds the President's budget request of $5.7 billion to build the capacity of the Afghan National Security Forces so those forces can take over for U.S. forces and take the security lead throughout Afghanistan by 2014.

The Defense authorization bill will also provide the resources necessary to support our defense strategies and allow our military to modernize equipment worn out after 11 years of war in the difficult battlefield environments of Afghanistan and Iraq.

Such resources include investments in our Global Hawk unmanned aircraft, which provide critical intelligence, surveillance and reconnaissance information. These aircraft have also provided crucial support for disaster response efforts, including for rescue workers in the wake of the earthquake, tsunami, and nuclear disaster in Japan.

To increase diplomatic security around the world and so that we learn from the mistakes that took the lives of four Americans in Benghazi, this bill requires the Secretary of Defense to develop a plan to increase—by up to 1,000—the number of marines in the Marine Corps security guard program to be able to deploy them to troubled facilities to protect our personnel abroad.

As I mentioned, the Senate overwhelmingly passed, on a 67 to 29 vote, the amendment to ban the indefinite detention of U.S. persons—citizens and green card holders—without charge or trial.

The amendment would have updated the Non-Detention Act of 1971, which clearly states:

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

The amendment would have built on the Non-Detention Act of 1971 so that it applies to not just U.S. citizens but also to green card holders. It would have provided that no military authorization allows indefinite detention of U.S. citizens and green card holders apprehended inside the United States.

The detention amendment stated:

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

Unfortunately, as soon as the amendment passed, the language was misrepresented by critics on the left as well as proponents of indefinite military detention on the right, particularly after a handful of Senators who previously opposed this effort switched their vote at the last minute.

Make no mistake, the amendment is not a Trojan horse designed to surreptitiously authorize indefinite detention in the United States. The text of the amendment is clear, and the legal experts I consulted on the amendment agree.