make concrete changes to protect American values and champion the rule of law. We need a bipartisan effort to guarantee that the United States remains the model for the rule of law to the world.

There is one additional provision that has been excluded from this conference report that is of concern to me and a number of Senators and Congressmen. Both the House and Senate approved in their defense authorization bills language to freeze Air National Guard and Air Force Reserve manpower and force structure in the wake of the Air Force's announced intention to disproportionately target the National Guard as it prepared for Budget Control Act cuts. I joined Senator GRAHAM, Representative HUNTER and Representative WALZ in leading a letter to the conferees signed by 87 members of Congress in support of continuing the freeze and preserving the National Commission on the Structure of the Air Force which was included in the Senate-passed Defense Authorization Act.

I was surprised to see that the conferees rewrote these provisions, instead adopting in this conference report an Air Force proposal that had been neither reviewed nor debated by either chamber. While the final conference report does preserve the National Commission on the Structure of the Air Force, I believe it does not go far enough to protect the fundamental needs and strength of our Air National Guard.

I will continue to work with others here in Congress who believe, as I do, that the Guard represents much of what is best about our country's military.

UNANIMOUS CONSENT AGREEMENT—H.R. 1

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader.

Mr. REID. Mr. President, I have a unanimous consent agreement. If everyone would be patient, we have two votes.

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with Senator MCCONNELL, the Senate proceed to the cloture vote with respect to the substitute amendment to H.R. 1; that if cloture is not invoked, the majority leader be recognized; that if cloture is invoked, Senator TOOMEY or designee be recognized for the purpose of raising a budget point of order against the pending substitute amendment; that if the point of order is raised, Senator LEAHY or designee be recognized to move to waive the budget point of order; that there be 10 minutes of debate prior to a vote in relation to the motion to waive; that no other budget points of order be in order to the substitute or the underlying bill; that not withstanding rule XXII, the following amendments be in order: Cardin No. 3393; Grassley No. 3348; Feinstein No. 3421, as modified; Harkin No. 3426; Landrieu No. 3415; Leahy No. 3403; McCain No. 3384, as modified; Bingaman No. 3344; Coburn No. 3368; Coburn No. 3369; Coburn No. 3370, as modified, with two divisions; Coburn No. 3371; Coburn No. 3382; Coburn No. 3383; Tester No. 3350; Paul No. 3376; Paul No. 3410; McCain No. 3355; Merkley No. 3367, as modified; Lee No. 3373, as modified; and Coats No. 3391; that no amendments be in order to any of these amendments prior to votes in relation to the amendments; that the amendments be subject to a 60-affirmative-vote threshold; that there be 30 minutes of debate equally divided in the usual form on each of the amendments, with the exception of the following: 20 minutes equally divided on each of the Coburn amendments or divisions and the Lee amendment; and 40 minutes equally divided on each of the Paul amendments; and 1 hour equally divided on the Coats amendment; that upon the use or yielding back of time, the Senate proceed to votes in relation to the amendments in the order listed; that there will be 2 minutes of debate equally divided between the votes; that all after the first vote be 10-minute votes; further, that upon disposition of the pending amendments listed, the Senate proceed to vote in relation to the pending substitute amendment, as amended, if amended; that upon disposition of the substitute, the cloture motion on the underlying bill be withdrawn, the bill be read a third time, and the Senate proceed to vote on passage of H.R. 1, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the majority leader indicated that when we have the point of order, I or my designee be recognized. I ask that the distinguished senior Senator from Maryland, the chair of the Appropriations Committee, be the designee.

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

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 3395 to H.R. 1, an act making appropriations for the Department of Defense and other departments and agencies of the Government for the fiscal year ending September 30, 2011.

Harry Reid, Patrick J. Leahy, Benjamin L. Cardin, Mark Begich, Joe Manchin III, Tom Harkin, Jeff Bingaman, Mary Landrieu, Christopher A. Coons, Amy Klobuchar, Bill Nelson, Debbie Stabenow, Jack Reed, Kirsten E. Gillibrand, Tom Udall, Bernard Sanders, Sheldon Whitehouse

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call will be waived.

The question is, Is it the sense of the Senate that debate on substitute amendment No. 3395, offered by the Senator from Nevada, Mr. REID, to H.R. 1, an act making appropriations for the Department of Defense and other departments and agencies of the government for the fiscal year ending September 30, 2011, and for other purposes, shall be brought to a close?

Mr. REID. Mr. President, I ask unanimous consent that this vote and the next vote be 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Massachusetts (Mr. BROWN), the Senator from North Carolina (Mr. BURR), the Senator from Oklahoma (Mr. COBURN), the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

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

The yeas and nays resulted—yeas 91, nays 1, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—91

Akaka	Graham	Nelson (NE)
Alexander	Grassley	Nelson (FL)
Ayotte	Hagan	Paul
Barrasso	Harkin	Portman
Baucus	Hatch	Pryor
Begich	Heller	Reed
Bennet	Hoeven	Reid
Bingaman	Hutchison	Risch
Blumenthal	Isakson	Roberts
Blunt	Johanns	Rockefeller
Boozman	Johnson (SD)	Rubio
Boxer	Johnson (WI)	Sanders
Brown (OH)	Kerry	Schumer
Cantwell	Klobuchar	Sessions
Cardin	Kohl	Shaheen
Carper	Landrieu	Shelby
Casey	Lautenberg	Snowe
Chambliss	Leahy	Stabenow
Coats	Lee	Tester
Cochran	Levin	Thune
Collins	Lieberman	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	McCain	Vitter
Cornyn	McCaskill	Warner
Crapo	McConnell	Webb
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Feinstein	Mikulski	Wyden
Franken	Murkowski	
Gillibrand	Murray	

NAYS—1

Kyl

NOT VOTING—7

Brown (MA)	DeMint	Moran
Burr	Inhofe	
Coburn	Kirk	

The PRESIDING OFFICER. On this vote, the yeas are 91, and the nays are

1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we have a lot more work to do. This will be the last vote of the day, the one coming up.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1) making appropriations for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes.

Pending:

Reid amendment No. 3395, in the nature of a substitute.

Reid amendment No. 3396 (to amendment No. 3395), to change the enactment date.

Reid amendment No. 3397 (to amendment No. 3396), of a perfecting nature.

Reid amendment No. 3398 (to the language proposed to be stricken by amendment No. 3395), to change the enactment date.

Reid amendment No. 3399 (to amendment No. 3398), of a perfecting nature.

Reid motion to commit the bill to the Committee on Appropriations, with instructions, Reid amendment No. 3400, to change the enactment date.

Reid amendment No. 3401 (to (the instructions) amendment No. 3400), of a perfecting nature.

Reid amendment No. 3402 (to amendment No. 3401), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I rise to raise a point of order against a very small segment of this bill, and I wish to yield myself some time to discuss that at this time.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the critical sections of that act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Under the previous order, there will be 10 minutes of debate equally divided prior to a vote on the motion to waive.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I understand the Senator from Pennsylvania wishes to speak. I just need to essentially object to his point of order. I do this because although I know he is indeed well intentioned—Mr. President, the Senate is not in order. This is an important precedent that could be set, and I would like Members not to talk.

The PRESIDING OFFICER. If Members would please take their conversations out of the Chamber if they wish to talk. If not, could they be quiet.

Ms. MIKULSKI. I want them to more than be quiet. We are talking about a precedent in the Senate, so I would like, please, if Senators could take their conversations either in the back or off the floor.

The PRESIDING OFFICER. Yes. OK. If Senators could be quiet and listen, and if you must talk, could you do it off the floor.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, the reason I am so insistent is, No. 1, the decorum of the Senate; and No. 2, this is a dangerous precedent. If this point of order is sustained, it will mean $3.4 billion of urgent disaster relief in this supplemental has to be offset in future appropriations bills. This will mean real consequences this year.

Now, in a $1 trillion budget and the way we talk about money $3.4 billion might not seem like a lot, but it does mean a lot in disaster assistance, and it does mean a lot to the Appropriations Committee. This is a $3.4 billion unspecified cut that will go to domestic programs for fiscal year 2013.

I wish to remind my colleagues we are in a 6-month CR now, so this means right in the middle of a CR, until March, we have to take out an additional $3.4 billion. This will have a terrible impact on domestic programs, and it is a dangerous precedent. We have never offset disaster assistance, and I urge the adoption of my position.

I yield to the Senator from New York whose community is suffering, and he has done an able job in helping to manage this bill.

Mr. SCHUMER. Mr. President, first, I wish to thank my colleague from Pennsylvania. He didn't try to knock out the whole thing and we appreciate that. Having said that, I urge any of my colleagues in disaster areas to think very carefully before they vote for this. This will be the first time ever when a disaster is declared that we have offset money for it. That will mean that disaster money will be much less readily available in the future. The precedent is an awful one. It is something that goes against 100 years of Democrats, Republicans—north, east, south, and west—voting to, when one area has trouble, send the money, without spending months and months and months fighting about whether to cut this or cut that or raise these taxes or do this or that to offset.

I would say we had this fight when Irene came about, and 19 of our colleagues came to the wisdom that it was a bad idea to offset it, and we didn't.

So I urge and plead with my colleagues, on this quick notice to reverse 100 years of decisionmaking and start invoking offsets for disaster, which this is—it is mitigation. We have always done mitigation. It means that instead of rebuilding in the floodplain, we build in a different place nearby. It means instead of putting all of these machines that are flooded in the basement, we put them on the third floor. It means if there is a beach that is not protected, we build a berm. That is mitigation. It is all related to protecting from a disaster and not making the same mistake of building in a floodplain or not protecting in a subway or whatever.

We have always done it. We have never offset mitigation, and it has been in every disaster relief. So I plead with my colleagues to think twice.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I have a different plea for my colleagues; that is, to sustain this budget point of order, acknowledging that it does not cut one dime of spending from this supplemental. If my budget point of order is sustained, every single dime, if it were eventually passed—every dime that is allocated for future mitigation would, in fact, be spent for future mitigation.

The question before us is, when we are running trillion-dollar deficits, must we add another $60 billion on top of that deficit?

So what I have done is I have looked at this bill, and there are many parts that are not directly in aid of any of the victims of Sandy.

Look, my State was hit by that storm, not nearly as bad as New York and New Jersey and Connecticut and some others. But there are real victims of this storm, there are genuine needs, and we need to fund those needs. I am in favor of making sure we do fund the needs that we have. But we have a category of spending that is going for construction for years to come to mitigate against dangers of future storms in future years and future decades. That might be very wise, that might be very appropriate spending, but it is not an emergency.

This is not sandbags around someone's house who is in danger of a storm. That kind of infrastructure spending is the kind of spending we do routinely, but we plan for it and we budget it. If it is, indeed, the priority that many people—probably, including myself—believe it is, then it ought to be weighed in competition with the other pressing needs, and we ought to plan for it and budget for it. That is all I am asking.

So this budget point of order does not cut one dime of spending from this bill. It simply says the $3.4 billion that is identified for the construction of future mitigation projects would count toward the discretionary spending caps we have in place. Unfortunately, our deficit would grow if all else stays the same, but at least not by that $3.4 billion. That part would eventually have to be offset with some modest restraint on discretionary spending at some point.

But I would stress that there is not a dime that will be cut from this bill by virtue of this point of order, and it would establish that going forward, hopefully, when we are doing long-term construction projects for future mitigation, we would consider them in the context of the infrastructure spending that they are.

So for that reason, Mr. President, pursuant to section 314(e)(1) of the Congressional Budget Act of 1974, I raise a