

# **EXHIBIT 1**

see it, when they hear it, they're going to see it's repealed. Why are you now asking me my opinion? It's done. It's a done deal.

So while we may understand that by law that it will follow through this process, in reality, it will be set tonight. And that's why we should have had more than 10 minutes, 5 minutes on our side, to discuss this. All we were given was 5 minutes. And that's why we've had to take time.

We could have spent time talking about all of the wonderful things in this bill, and yet we've had to talk because this thing is going to have more impact on our military and on our country.

You smile, Mr. Leader. And if you really feel that, then why don't we just follow the process?

And I'll be happy to yield.

Mr. HOYER. I smile only because that rhetoric was the same rhetoric that was used in 1946.

Mr. MCKEON. Well, I'm sorry. I have not read that. And I'm not quoting from that same rhetoric. And as Colin Powell said, it is not the same.

In fact, this is Mr. Powell's quote: "Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument."

Mr. Powell's comment.

Mr. HOYER. I didn't quote Mr. Powell. I referred to him.

Mr. MCKEON. I reserve the balance of my time.

Mr. SKELTON. Madam Chairwoman, I yield 1 minute to my colleague, the gentleman from Illinois (Mr. FOSTER).

Mr. FOSTER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of an amendment to optimize the technological posture of our Armed Forces, but I am also the son of a civil rights lawyer who wrote a lot of the enforcement language behind the Civil Rights Act of 1964. And I am proud to serve with our majority leader and the representative of the Pennsylvania Eighth district.

I rise in support of an amendment which would direct the Secretary of Defense to commission an independent study assessing the optimal balance of manned versus unmanned aircraft, as well as whether our military is capable of defending against an enemy force consisting of unmanned aerial vehicles. I believe it's the duty of Congress to ask hard questions and to take the long view of matters on national security.

In Afghanistan and Iraq, we've already seen how UAV technology has revolutionized warfare and how rapidly we can launch an attack half a world away without risking a single American life. Between 2002 and 2008, the number of unmanned aircraft used by the Department of Defense increased from 167 to over 6,000. This year for the first time in history, the Air Force

trained more UAV pilots than traditional fighter pilots.

This amendment will help us optimize the balance between manned and unmanned aircraft, and I urge its support.

Mr. MCKEON. I yield 30 seconds to the Army colonel in the Reserve, Mr. BUYER from Indiana.

Mr. BUYER. I want to thank IKE SKELTON for, years ago, his thoughtful considerations to make this policy the law. And we should not be changing this policy. It is very clear that homosexuality is incompatible with military service. The purpose of the military: We kill and break things. We inculcate young men and women with values, and those values are extremely important.

Now there are some that are trying to make this argument somehow that tolerance requires a moral equivalency. It does not when it comes to homosexuality. If in fact military is the inculcation of values, to say that we're going to say that sodomy now should be repealed from the Uniform Code of Military Justice is wrong.

The Acting CHAIR. Without objection, the gentlewoman from California controls the time.

There was no objection.

The Acting CHAIR. The gentlewoman has 1 minute remaining.

Mrs. DAVIS of California. Madam Chair, I yield that time to the gentleman from Illinois (Mr. FOSTER).

Mr. FOSTER. Thank you for yielding an additional minute.

As I was explaining that this year for the first time in history, the Air Force trained more UAV pilots than traditional fighter pilots. However, our fleet of unmanned aircraft has expanded, and we have also maintained and continued to build a large force of conventional manned aircraft.

This study will help Congress better understand the optimal most cost-effective balance between the two for a range of operations. It will also help us determine the feasibility and desirability of a more rapid transition to unmanned aircraft for these operations.

This study will also force the Department of Defense and Congress to confront the fact that the United States is not the only Nation capable of building and deploying these very effective, very lethal technologies. If the future of warfare lies in unmanned technology, will our military be prepared to defend the United States and its allies against attacks by enemies who possess large numbers of unmanned aircraft?

It's my hope that this study will help Congress prioritize and plan for this future and adopt the most cost-effective mix of manned and unmanned aircraft. I urge my colleagues to support this amendment, and I thank Chairman SKELTON for his hard work in bringing this amendment to the floor.

Mr. MCKEON. I yield the balance of my time to the gentleman from Texas (Mr. GOHMERT).

The Acting CHAIR. The gentleman is recognized for 30 seconds.

Mr. GOHMERT. I was shocked to hear the majority leader bring up the Americans with Disability Act. It was a wonderful thing that this Congress did in making all areas accessible to those with disability. But to bring it up in this debate next brings the question, will this majority not stop meddling with the military, and next we expect an extension of the ADA so that the military will next be required to put those who are disabled on the front lines to defend the Nation?

It's time to stop meddling. Let the military do the job for which they were assigned and for which they volunteered. Put the military in charge.

The Acting CHAIR. The question is on the amendments en bloc offered by the gentleman from Missouri (Mr. SKELTON).

The amendments en bloc were agreed to.

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AMENDMENT NO. 79 OFFERED BY MR. PATRICK J. MURPHY OF PENNSYLVANIA

The Acting CHAIR. It is now in order to consider amendment No. 79 printed in House Report 111-498.

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 79 offered by Mr. PATRICK J. MURPHY of Pennsylvania:

At the end of subtitle D of title V, add the following new section:

SEC. 5. DEPARTMENT OF DEFENSE POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

(a) COMPREHENSIVE REVIEW ON THE IMPLEMENTATION OF A REPEAL OF 10 U.S.C. § 654.—

(1) IN GENERAL.—On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. § 654 (section 654 of title 10, United States Code).

(2) OBJECTIVES AND SCOPE OF REVIEW.—The Terms of Reference accompanying the Secretary's memorandum established the following objectives and scope of the ordered review:

(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

(B) Determine leadership, guidance, and training on standards of conduct and new policies.

(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.

(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice.

(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. § 654 and proposals that may be introduced in the Congress during the period of the review.

(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. § 654.

(b) EFFECTIVE DATE.—The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

(c) NO IMMEDIATE EFFECT ON CURRENT POLICY.—Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

(d) BENEFITS.—Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of "marriage" and "spouse" and referred to as the "Defense of Marriage Act").

(e) NO PRIVATE CAUSE OF ACTION.—Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

(f) TREATMENT OF 1993 POLICY.—

(1) TITLE 10.—Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended—

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

(2) CONFORMING AMENDMENT.—Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

The Acting CHAIR. Pursuant to House Resolution 1404, the gentleman from Pennsylvania (Mr. PATRICK J. MURPHY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Chair, I yield myself such time as I may consume.

Madam Chair, when I served in Baghdad, my team did not care whether a fellow soldier was straight or gay. We cared if they could fire their M-4 assault rifle or run a convoy down Ambush Alley; could they do their job so that everybody in our unit would come home safely.

With our military fighting two wars, why on Earth would we tell over 13,500 able-bodied Americans that their serv-

ices are not needed? This policy hurts our national security, and it has cost the American taxpayers over \$1.3 billion already on this unjust policy.

Our troops deserve a Congress that puts their safety and our collective national security over rigid partisan interests and a close-minded ideology.

I urge my colleagues to support this amendment and support the brave men and women willing to take a bullet for our families.

I reserve the balance of my time.

Mr. McKEON. Madam Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. McKEON. Madam Chair, I yield 1 minute to the distinguished chairman of the Armed Services Committee. But before doing that, I ask unanimous consent that the time for debate on amendment No. 79 offered by the gentleman from Pennsylvania (Mr. PATRICK J. MURPHY) be extended by 30 minutes, evenly divided between opponent and proponent.

The Acting CHAIR. Is there objection to the request of the gentleman from California?

Mr. PATRICK J. MURPHY of Pennsylvania. I object.

The Acting CHAIR. Objection is heard.

Mr. McKEON. Madam Chair, in that case, I yield 1 minute to the distinguished chairman of the committee, Mr. SKELTON.

Mr. SKELTON. Madam Chairman, the bill before us is an excellent piece of legislation; it's one of the best that our committee has written. It's strong on our attempt to quell terrorism, it takes care of the troops, and it looks after their families.

On this issue before us, inquiry was made of Secretary Gates and Joint Chiefs of Staff Chairman Admiral Michael Mullen. A letter dated April 30 states: "Therefore, I strongly oppose any legislation that seeks to change this policy prior to the completion of this vital assessment process. Further, I hope Congress will not do so as it would send a very damaging message to our men and women in uniform that, in essence, their views, concerns, and perspectives do not matter on an issue with such direct impact and consequence for them and their families." I oppose the amendment.

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Chair, I yield 30 seconds to my fellow Blue Dog and strong leader on this issue, Mr. MATHESON of Utah.

Mr. MATHESON. Madam Chair, anyone who is willing to put on this country's uniform and put his or her life on the line to protect our freedoms deserves our respect and should not be subject to discrimination. Repealing this flawed policy is an important way for us to show that respect. I urge my colleagues to support this amendment.

PARLIAMENTARY INQUIRIES

Mr. WAMP. Madam Chairman, parliamentary inquiry.

The Acting CHAIR. The gentleman will state his inquiry.

Mr. WAMP. Could the Chair tell me if it might be in order for the time to be extended on this very, very important matter before the House at least equal to the time that might be taken by the Speaker of the House?

The Acting CHAIR. Only by unanimous consent, which was just unsuccessful.

Mr. WAMP. May I ask unanimous consent, then, that the time be extended equally so that the time that the Speaker may claim to speak on her side of this issue might be allotted to the minority?

The Acting CHAIR. Can the gentleman state a specific amount of time?

Mr. WAMP. I wish we could; we don't know. I just think 5 minutes per side is not sufficient on a matter this important before the House.

The Acting CHAIR. The gentleman will restate his unanimous consent request.

Mr. WAMP. I ask unanimous consent that the time on this amendment be extended by 15 minutes per side.

The Acting CHAIR. Is there objection to the request of the gentleman from Tennessee?

Mr. PATRICK J. MURPHY of Pennsylvania. I object.

The Acting CHAIR. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Madam Chair, I have a parliamentary inquiry.

The Acting CHAIR. The gentleman will state his inquiry.

Mr. FRANK of Massachusetts. Do the records of the House contain the length of time of the speech made by the minority leader on the health care bill under a 1-minute recognition?

The Acting CHAIR. The Chair cannot serve as historian.

PARLIAMENTARY INQUIRY

Mr. HUNTER. Madam Chair, parliamentary inquiry.

The Acting CHAIR. The gentleman from California will state his parliamentary inquiry.

Mr. HUNTER. Is it proper for the gentleman who this amendment belongs to to object to debate on his own amendment?

The Acting CHAIR. Any Member may object.

Mr. HUNTER. Even to their own, which they should want to discuss, Madam Chair?

The Acting CHAIR. Any Member may object.

The gentleman from California is recognized.

Mr. McKEON. Madam Chairwoman, may I yield 5 seconds to the sponsor of the amendment to say why you don't want it discussed fully?

The Acting CHAIR. The gentleman may yield.

Mr. McKEON. The gentleman doesn't wish to respond?

The Acting CHAIR. The gentleman from California is recognized.

**Amendment 79 printed in House Report 111-498**

**SEC. 5\_\_\_. DEPARTMENT OF DEFENSE POLICY CONCERNING  
HOMOSEXUALITY IN THE ARMED FORCES.**

(a) *Comprehensive Review on the Implementation of a Repeal of 10 U.S.C.*

654.--

(1) **IN GENERAL.**--On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654 (section 654 of title 10, United States Code).

(2) **OBJECTIVES AND SCOPE OF REVIEW.**--The Terms of Reference accompanying the Secretary's memorandum established the following objectives and scope of the ordered review:

(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

(B) Determine leadership, guidance, and training on standards of conduct and new policies.

(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.

(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice.

(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. 654 and proposals that may be introduced in the Congress during the period of the review.

(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

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(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. 654.

(b) *Effective Date.*--The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

(c) *No Immediate Effect on Current Policy.*--Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

(d) *Benefits.*--Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of "marriage" and "spouse" and referred to as the "Defense of Marriage Act").

(e) *No Private Cause of Action.*--Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

(f) *Treatment of 1993 Policy.*--

(1) **TITLE 10.**--Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended--

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

(2) **CONFORMING AMENDMENT.**--Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for

Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

# **EXHIBIT 2**

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**S.3454.PCS**

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**S.3454**

**National Defense Authorization Act for Fiscal Year 2011 (Placed on Calendar Senate - PCS)**

**SEC. 591. DEPARTMENT OF DEFENSE POLICY CONCERNING  
HOMOSEXUALITY IN THE ARMED FORCES.**

(a) Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654-

(1) IN GENERAL- On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654 (section 654 of title 10, United States Code).

(2) OBJECTIVES AND SCOPE OF REVIEW- The Terms of Reference accompanying the Secretary's memorandum established the following objectives and scope of the ordered review:

(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

(B) Determine leadership, guidance, and training on standards of conduct and new policies.

(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.

(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice.

(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. 654 and proposals that may be introduced in the Congress during the period of the review.



(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. 654.

(b) Effective Date- The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

(c) No Immediate Effect on Current Policy- Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

(d) Benefits- Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of 'marriage' and 'spouse' and referred to as the 'Defense of Marriage Act').

(e) No Private Cause of Action- Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

(f) Treatment of 1993 Policy-

(1) TITLE 10- Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended--

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

(2) CONFORMING AMENDMENT- Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

## **SEC. 592. RECRUITMENT AND ENLISTMENT OF CHARTER SCHOOL GRADUATES IN THE ARMED FORCES.**

(a) Policy on Recruitment and Enlistment-

(1) POLICY REQUIRED- Not later than June 1, 2011, the Secretary of Defense shall prescribe a policy on the recruitment and enlistment in the Armed Forces of graduates of charter schools.

(2) UNIFORMITY ACROSS THE ARMED FORCES- The policy required by paragraph (1) shall apply uniformly across the Armed Forces.

(b) Elements- The policy required by subsection (a) shall include the following:

(1) Means for identifying individuals who are graduates of charter schools as high school graduates for purposes of recruitment and enlistment in the Armed Forces.

(2) Criteria for the designation of a charter school as a so-called 'Tier 1 school', which designation shall ensure that charter schools that provide an education equal to or better than the education provided by a secondary school are treated as the equivalent of high schools for all purposes of recruitment and enlistment in the Armed Forces.

(3) A communication plan to ensure that the policy is understood by recruiting officials of all the Armed Forces, including field recruiters at the lowest level of command.

(4) A formal procedure, including an appeal process, for States, local educational agencies, charter school associations, and individual charter schools to request and obtain designation as so-called 'Tier 1' schools under Department of Defense regulations.

## **SEC. 593. UPDATED TERMINOLOGY FOR THE ARMY MEDICAL SERVICE CORPS.**

Section 3068(a)(5) of title 10, United States Code, is amended--

(1) in subparagraph (A), by striking 'Pharmacy, Supply, and Administration' and inserting 'Administrative Health Services';

(2) in subparagraph (C), by striking 'Sanitary Engineering' and inserting 'Preventive Medicine Sciences'; and

(3) in subparagraph (D), by striking 'Optometry' and inserting 'Clinical Health Sciences'.