United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, TUESDAY, JULY 14, 2009 No. 105

# Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our help in ages past and our hope for years to come, thank You for the demonstrated durability of our governmental institutions and for those who serve You faithfully by preserving our freedom. Bless our Senators as they strive to do Your will.

Lord, manifest Your presence and power in their daily work so that they will not become weary in doing good. Move them toward the deeper dedication and the higher purpose of providing hope for the marginalized in our world. Show them what they can do to bring about the moral and spiritual renewal of this Nation in order to hasten the coming day of justice and peace in our world. We pray in the Name of the King of Kings. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable ROLAND BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 14, 2009.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

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

## SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business, with Senators allowed to speak for up to 10 minutes each. The majority will control the first 30 minutes, the Republicans will control the final 30 minutes. Following morning business, the Senate will resume consideration of the Department of Defense authorization bill.

Pending is an amendment dealing with the airplane, the F–22. That amendment has been offered by Senators LEVIN and MCCAIN, the two managers of this bill. The President has indicated if the F–22 language stays in the bill, he will veto it.

A decision has to be made today as to how we are going to dispose of this amendment, either by passing it or by moving beyond it in some way. We will recess today from 12:30 until 2:15 to allow for the weekly policy lunches.

There will be no rollcall votes after 2 or 2:30 today.

## HEALTH CARE REFORM

Mr. REID. Mr. President, I think nearly every one of us has gone to the doctor and taken home advice to help us get better or to live healthier. Maybe at one point in our lives, we were told, for example, to exercise more. Maybe we were told to cut something out of our diet, lose some weight, add something to it, gain some weight, change your diet in some way.

Maybe we were prescribed medication for a short while or for a long while. People within the sound of my voice in this Senate Chamber all have been to doctors, and many are taking medicine now. It is not always easy to hear the advice doctors give or to follow the advice they give. It is never easy to change your lifestyle, even if you know you will be better in the long run.

But you also know the risk of not following your doctor's orders and the consequences of not taking your medicine. The costs of doing nothing are far greater. You know that if you do not do something this time, the news after your next checkup may even be worse; it will take even more drastic steps or more difficult changes to get healthy again.

Well, America has had its checkup, and the prognosis is not promising. Our health care system is sick. It is not healthy. Our doctor's orders are very clear: If we do not start taking better care of ourselves, it is only going to get worse. This is the message America has.

The costs of health care today are staggering. Families in every part of Nevada and in every State feel this every day. But the costs could get much higher. If we do not act, they will get worse, much worse, much higher.

If we do not act, they will get higher.

The average American family today pays twice as much for its health care then it did a decade ago. If we do not act, less than a decade from now those costs will double again. Families are not making more money, but they are paying more trying to get healthy and to stay healthy. If we do not act, less than a decade from now you will spend almost half your family's income on health care. No one can be expected to afford that. No one should have to afford that.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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After a while, the trillions of dollars millions of families spend start to add up. Our country spends on health care twice as much per person than any other developed nation on the planet. Health care costs consume almost 20 cents of every dollar we spend. That is of every dollar spent in America. If we do not act, in a generation it will consume more than one-third of every dollar.

You may be fortunate enough to afford health care this year, but if we do not act, you may not be able to say the same next year. If we do not act, your children will likely not be able to say the same when they grow up.

Last Thursday, I was in an event with Senator MURRAY, where she got notice from the State of Washington that 135,000 people who are beneficiaries of a health insurance plan in her State got a notice that the average rate of increase to the 135,000 recipients of health care in that plan will have an increase on an average of 17.5 percent.

Staggering. We have all read the charts and seen the numbers repeated by those who oppose fixing our broken health care system. There are charts and there are conversations all toward maintaining the status quo, keeping things the way they are. But it is as if they have not bothered to do the math on the costs of doing nothing.

Health care reform is economic reform. That is why we want to lower skyrocketing costs and bring stability and security back to health care. That is why we are committed to passing a plan that protects what works and fixes what does not. I am encouraged by the cooperation and commitment of several Republican Senators willing to work with us to get that done and to get it done before it is too late.

I appreciate the tireless work of our Finance and HELP Committees, Democrats and Republicans, as they write a prescription for America that will work. I had a call last night about 10 from CHRIS DODD, indicating the progress that has been made in the HELP Committee.

Republicans have offered hundreds of amendments—hundreds of amendments—and they are working their way through those. Those Republican amendments sometimes improve the legislation. For example, Senator DODD said he was very pleased they were able to work something out on biogenerics—that is a prescription physicians get—and there is some real activity out there as to how that is going to be treated.

An amendment offered by Senator HATCH was adopted by the committee. I appreciate the work of our Finance and HELP Committees as they write a prescription for America that will work.

I still aim to bring the bill to the floor this month, but it appears somewhat to ignore the doctor's orders. I wish I could say they do so at their own peril. Yet if a handful of Senators stand in the way of the change we so drastically need, urgently need, they will endanger not just them but all of us. They will endanger families of every background, businesses of every size, and our Nation's collective future.

We have already seen what happens when we do nothing. Over the past 8 years of inaction, the cost of health care rose to record levels, and the number of Americans who cannot afford insurance did the same. Senator PATTY MURRAY'S story is certainly relevant. For the 135,000 people in the State of Washington, a 17.5-percent increase, on average, of their policies, is what they have to pay.

For the millions of families who file for foreclosure because they cannot afford both their house and health care, not acting is not an option. For the millions of Americans who file for bankruptcy because their medical bills grow higher and higher and higher, not acting is not an option. For the millions of Americans who have skipped a doctor's visit or treatments they need to stay healthy or who never fill a prescription their doctor gives them because health care is simply too expensive, not acting is not an option.

Our health care system is not healthy. Americans' physical health and America's fiscal health are at stake, and not acting is not an option.

## RECOGNITION OF THE MINORITY LEADER

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

## HEALTH CARE WEEK VI, DAY II

Mr. MCCONNELL. Mr. President, as both parties work together on reforming health care, Americans have been clear about what they want to see in a result. Americans want health care that is more affordable and accessible, but they also want to preserve the choice and quality that our current system provides.

We also know what Americans do not want. They do not want a government plan that forces them off their current insurance; denies, delays, and rations care; or costs trillions of dollars, only to leave millions of Americans with worse health care than they currently have.

And Americans certainly do not want us to throw together some patchwork plan that nobody has had a chance to look at, and then rush it out the door the way the stimulus bill was, just so politicians in Washington can say they accomplished something.

Americans are increasingly concerned about some of the proposals coming out of Washington, and they are concerned about the cost, about who gets stuck with the bill.

And they are concerned for good reason.

All the cost estimates we have seen for Democrat reform proposals have been staggering, and most of them only hint at what the true cost of these changes might be.

Moreover, some estimates claim to cover a 10–year period but actually only cover a 6 year period.

We also know from hard experience with programs like Medicare and Medicaid that government-run health plans are likely to cost far more in the long run than original estimates suggest.

And we have seen that with the current administration initial estimates and assurances are not always on target. Earlier this year, the Administration predicted the stimulus bill would keep unemployment below 8 percent. It is now approaching 10 percent.

So Americans are increasingly concerned about cost. This is why the advocates of government-run health care are scrambling for a way to pay for it. But in their rush to find the money, they have come up with some terrible ideas, such as forcing small business owners and seniors to pick up the tab through higher taxes and cuts to Medicare.

Let me repeat that: the advocates for government-run health care now want small business owners and seniors to pay for their plan through higher taxes and cuts to Medicare. This is exactly the wrong approach. Raiding one insolvent government-run program to create another is not reform. It is using old ideas to solve a problem that calls for fresh thinking. Medicare should be strengthened for future generations, not used as a piggy bank to fund more government programs.

As for tax hikes on small business owners, this is the last thing we should be doing to the people who have created approximately two-thirds of America's jobs over the past decade at a time when the unemployment rate is approaching 10 percent. According to the President of the National Federation of Independent Business, some proposals currently being considered in Congress could kill more than 1.5 million jobs. And there is strong evidence that low-wage workers, minorities, and women would be hardest hit. In the middle of a recession, we should be looking for ways to create jobs, not destroy them. We should be looking for ways to help workers, not hurt them.

Americans want health care reform. But they do not want so-called reforms that could costs trillions of dollars, that could increase insurance premiums, or that could cause millions to end up with worse care than they now have. And they certainly do not want a slapped-together plan that's paid for on the backs of seniors and small business owners.

Instead, Americans want us to work together on proposals that are likely to garner strong bipartisan support. I have listed many of these proposals repeatedly over the past several weeks, such as reforming medical malpractice laws to get rid of junk lawsuits and bring down costs, and encouraging wellness and prevention programs such as those that help people quit smoking and overcome obesity, programs that have already been shown to cut costs.

These are some of the commonsense ideas Americans are looking for on health care reform.

Health care reform will not be easy. But it does not have to bury our children and grandchildren deeper in debt when so far this year we're already spending an average of $500 million a day in interest on the national debt. The proposal I have mentioned should be easy for everyone to agree on. They would lead to measurable results. And they would not force anyone to lose the care they have, see cuts to Medicare, or foist higher taxes on small businesses.

Americans are concerned about the cost of reform. We should work hard to assure them that we are too.

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

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

The legislative clerk proceeded to call the roll.

Mrs. SHAHEEN. I ask unanimous consent that the order for the quorum call be rescinded.

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from New Hampshire.

## SUICIDE PREVENTION

Mrs. SHAHEEN. Mr. President, I rise today to speak about an amendment that I have filed to the National Defense Authorization Act of 2010. This amendment is to ensure that comprehensive suicide prevention services will be offered to our National Guard and Reservists as part of the Yellow Ribbon Reintegration Program.

Sadly, too often we hear about the death of an armed services member from an unnecessary and preventable suicide. Suicide has become an increasingly severe problem across the Armed Forces. For the first time in history, the number of battlefield suicides in early 2009 was higher than the number of combat deaths. I am pleased that the Defense Authorization Act we are considering supports increased efforts to prevent suicide among active duty personnel. However, there is currently no requirement that all National Guard members and communities have access to a comprehensive suicide prevention program.

Even in the wake of suicides, Guard members are often called back to active duty and redeployed into dangerous and intense combat situations. Suicide devastates not only military families but also military communities and fellow soldiers. Currently, while active duty soldiers receive suicide prevention training programs, there are no established programs to train National Guardsmen and Reservists to prevent suicides when they return to their communities from deployment. And the families of Guardsmen and Reservists do not receive training under Yellow Ribbon to recognize the warning signs of suicide.

In Afghanistan and Iraq, we increasingly rely on our National Guard and Reservists. We see that first-hand in New Hampshire: Recently, more than 1,100 members of the 197th Fires Brigade, which includes units from Berlin, Franklin and Manchester, NH, received notice that they can expect to be deployed to the Middle East. Fortunately, when these soldiers return home from battle, they and their communities will have comprehensive suicide prevention training available to them. That is thanks to the initiative of New Hampshire's National Guard's pilot Program, the Connect Program, that has gone beyond the Yellow Ribbon Program.

To date, the Connect Program, which is administered by the National Alliance on Mental Illness in New Hampshire, has provided hundreds of officers, Chaplains and other Guardsmen with an interactive, community-based suicide prevention training. Through Connect, a Guard member who returns home from duty learns how to recognize the warning signs of suicidal behavior, how to respond to someone who shows those signs, and where to point that person to the services he or she needs.

But the program doesn't end with the Guard member. It also provides this training to the Guard member's community. The Guard member's commanding officers are trained to recognize suicidal tendencies in the soldiers who they command. Guard families, who often have no experience with mental illness and suicide, are also provided with that training. This is especially critical because, unlike active duty personnel, Guard members don't see their fellow soldiers every day when they come back from being deployed. Instead, they go back to their families and civilian communities, which simply aren't capable of recognizing the warning signs of suicidal behavior. The Connect Program fills a crucial gap because it uses interactive training to emphasize that mental health is a community responsibility.

The Connect Program also ensures that community members know how to cope with and respond to a suicide in the Guard community. People who know someone who has died by suicide are statistically at increased risk of taking their own life. The program helps communities reduce that risk and promote healing in response to a suicide, which is an essential element of any suicide prevention program. Thanks to their effective work in response to suicides, Connect has been designated as a National Best Practice Program in Suicide Prevention and its work with the National Guard was recently recognized as a model program by the Substance Abuse Mental Health Services Administration in the Department of Health and Human Services, HHS.

But not all State National Guards offer such comprehensive suicide prevention programs after deployment. In the Army National Guard alone, there have been 29 confirmed suicides this year among Army Guardsmen who were not on active duty. I rise today because we need to extend these critical services across the country before even more soldiers fall through the cracks.

The Yellow Ribbon Reintegration Program has been a tremendously important and successful effort to transition our Guard members back to civilian life. However, these Guard and Reservist suicides have made clear that Yellow Ribbon is simply incomplete without an established, nationally implemented program that trains Guard members, communities and families to recognize the warning signs of suicide after deployment and to cope with the loss of a loved one.

Fortunately for us in New Hampshire, our National Guard identified that need early and went above and beyond Yellow Ribbon, creating a pilot program to ensure that the New Hampshire Guard community has the tools they need to prevent suicides when soldiers return from battle. Studies of the Connect Program have shown that people who receive this training feel particularly well-prepared to not only recognize the warning signs of suicide, but also to respond to suicides in their communities.

But others across the country may not be so fortunate. That is why this amendment would require the Office for Reintegration Programs to establish a program to provide these members, their families, and their communities with training in suicide prevention and community healing in response to suicide. The principals of the program would be modeled on the nationally recognized pilot program that has worked so well in New Hampshire.

I am pleased that the amendment is supported by the National Guard Association of the United States. Please join us in making these critical services a standard part of our outreach to National Guard members, families, and communities across the country.

Mr. President, I ask unanimous consent that a copy of the amendment be printed in the RECORD at this point.

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

On page 161, after line 23, add the following:

**SEC. 557. EXPANSION OF SUICIDE PREVENTION AND COMMUNITY HEALING AND RESPONSE TRAINING UNDER THE YELLOW RIBBON REINTEGRATION PROGRAM.**

Section 582 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 10101 note) is amended—

(1) in subsection (h)—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (15) as paragraphs (3) through (14), respectively; and

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

''(i) SUICIDE PREVENTION AND COMMUNITY HEALING AND RESPONSE PROGRAM.—

''(1) ESTABLISHMENT.—As part of the Yellow Ribbon Reintegration Program, the Office for Reintegration Programs shall establish a program to provide National Guard and Reserve members, their families, and their communities with training in suicide prevention and community healing and response to suicide.

''(2) DESIGN.—In establishing the program under paragraph (1), the Office for Reintegration Programs shall consult with—

''(A) persons that have experience and expertise with combining military and civilian intervention strategies that reduce risk and promote healing after a suicide attempt or suicide death for National Guard and Reserve members; and

''(B) the adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

''(3) OPERATION.—

''(A) SUICIDE PREVENTION TRAINING.—The Office for Reintegration Programs shall provide National Guard and Reserve members with training in suicide prevention. Such training shall include—

''(i) describing the warning signs for suicide and teaching effective strategies for prevention and intervention;

''(ii) examining the influence of military culture on risk and protective factors for suicide; and

''(iii) engaging in interactive case scenarios and role plays to practice effective intervention strategies.

''(B) COMMUNITY HEALING AND RESPONSE TRAINING.—The Office for Reintegration Programs shall provide the families and communities of National Guard and Reserve members with training in responses to suicide that promote individual and community healing. Such training shall include—

''(i) enhancing collaboration among community members and local service providers to create an integrated, coordinated community response to suicide;

''(ii) communicating best practices for preventing suicide, including safe messaging, appropriate memorial services, and media guidelines;

''(iii) addressing the impact of suicide on the military and the larger community, and the increased risk that can result; and

''(iv) managing resources to assist key community and military service providers in helping the families, friends, and fellow soldiers of a suicide victim through the processes of grieving and healing.

''(C) COLLABORATION WITH CENTERS OF EXCELLENCE.—The Office for Reintegration Programs, in consultation with the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury, shall collect and analyze 'lessons learned' and suggestions from State National Guard and Reserve organizations with existing or developing suicide prevention and community response programs.''.

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

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

The legislative clerk proceeded to call the roll.

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

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

## ORDER OF PROCEDURE

Mr. ALEXANDER. Mr. President, I assume the order is to begin the Republican 30 minutes of morning business. I would like to take the first 20 minutes and be informed when I have 1 minute left, and Senator GREGG will take the last 10 minutes. Then the Democratic time remaining will be reserved for the Democratic side when they want to use it.

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

Mr. ALEXANDER. Thank you, Mr. President.

## HEALTH CARE REFORM COST

Mr. ALEXANDER. Mr. President, the President has expressed several times his concern about our Nation's debt. We Republicans have a great concern about the amount of debt being stacked up in this country.

President Obama's proposals will, over the next 10 years, add three times as much to the national debt, almost, as was spent during World War II, according to the Washington Post. The President has had a summit on entitlement spending, which is the principal cause of the debt. He has said we need to pay for programs as we go. If we spend a dollar, we should save a dollar or tax a dollar. More recently he has said that health care legislation has to be paid for.

Well, Mr. President, we are rushing down a road to pass a bill without knowing what it costs. I just left the work we are doing in the HELP Committee. The Finance Committee is working hard. We had a bipartisan breakfast of nearly 20 Senators this morning discussing how we could have a bipartisan result in health care this year.

But we cannot do it unless we know how much it costs. It affects 16 percent of our entire national budget. We do not have a bill yet. The HELP Committee may have one by the end of the week, in which Republicans have had almost no input. The Finance Committee is trying to develop a bipartisan bill, but they are not going to begin writing a bill until next week. Then it will take several weeks to know what it costs. We need to know, not just so we do not add to the debt, but so we can understand what the various options are and how much they cost.

We are talking about Medicare cuts and spending Grandma's Medicare money on somebody else. How much does that cost? We are talking about taxes on employers. How much does that cost? We are talking about adding to the debt. By exactly how much? We are talking about a surtax on incomes. We are talking about extensive increases in State costs in Medicaid.

So we want a health care bill. But we want something Americans can afford, and after we are through fixing health care, we want to make sure they have a government they can afford. We agree with the President. We cannot responsibly pass a bill on this floor until we know what it costs.

So why the rush? Let's do it right. We are talking about one of the most important pieces of legislation ever, and we are talking about trillions of dollars.

## CLEAN ENERGY

Mr. ALEXANDER. Mr. President, I delivered an address yesterday at the National Press Club about the Republican plan for clean energy. We call it a low-cost clean energy plan. It begins with the idea of building 100 new nuclear power plants in the next 20 years; electrifying half our cars and trucks in the next 20 years; exploring for natural gas, which is low carbon, and oil offshore—if we are going to continue to use oil, it might as well be our own—and then, finally, doubling our research and development budget, as President Obama has proposed, so we can have ''mini Manhattan Projects'' in renewable energy to try to reduce renewable energy technologies' costs and make them more reliable so they can contribute to our energy needs.

I would like to make a few remarks today on our low-cost plan for clean, renewable energy and compare it with what is coming over from the House, which is a high-cost plan.

Our country is at a critical point. The recession is the most severe in decades. Unemployment is nearing 10 percent. We have too much national debt. A gathering storm threatens the technological edge that has given Americans—only about 5 percent of the world's people—a remarkable standard of living that comes from producing 25 percent of the world's wealth. We remember last year's high oil prices. We know we are relying too much on other countries for energy. There is the unfinished job of cleaning our air, and, for many, the global warming of our planet is an urgent concern.

It is against this backdrop that for the first time ever legislation dealing broadly with climate change and energy is coming out of the House. We are working on the same subjects in the Senate. The decisions we make will affect our well-being for years to come.

The House has chosen the high-cost solution to clean energy and climate change. Its economy-wide cap-and-trade and renewable energy mandate is

a job-killing, $100 billion-a-year national energy tax that will add a new utility bill to every American family budget.

Republican Senators offer a different approach, a low-cost plan for clean energy based upon four steps: 100 new nuclear plants in 20 years, electric cars for conservation, offshore exploration for natural gas and oil, and doubling energy research and development to make renewable energy cost competitive. The Republican plan will lower utility bills and create jobs and should put the United States within the goals of the Kyoto protocol on global warming by 2030. Our plan should not add to the Federal budget since ratepayers will pay for building the new nuclear plants. Federal loan financing for the first nuclear plants is designed not to cost the taxpayers money, and nuclear plants insure one another. Offshore exploration should produce revenues through royalties to pay for programs to encourage electric cars and trucks; and doubling energy research and development should cost about $8 billion more per year, which is consistent with the President's budget proposals for 2009 and 2010.

So in furtherance of that Republican plan, I have offered my own blueprint as one Senator about how to build 100 nuclear power plants in the next 20 years, and I am looking for support on the Republican side and on the Democratic side, in and out of Congress. For those who are watching and listening, I would like to have your comments and suggestions at www.alexander.senate.gov.

This is a good time to stop and ask: Just what are we trying to accomplish with energy and climate change legislation? What kind of America do we want to create during the next 20 years?

Well, first, we should want to see an America running on energy that is clean, cheap, reliable, and abundant. In order to produce nearly 25 percent of the world's wealth, we consume about 25 percent of the world's energy. We should want an America in which we create hundreds of thousands of green jobs, but not at the expense of destroying tens of millions of red, white, and blue jobs. In other words, it doesn't make any sense to put people to work in the renewable energy sector if we are throwing them out of work in manufacturing and high tech. That is what will happen if these new technologies raise the price of electricity and send manufacturing and other energy-intensive industries overseas, searching for cheap energy. We want clean, new, energy-efficient cars, but we want them built in Michigan and Ohio and Tennessee and not in Japan and Mexico.

We should want an America capable of producing enough of our own energy so we can't be held hostage by some other country.

We should want an America in which we are the unquestioned leader in cutting-edge, job-creating scientific research.

We should want an America producing less carbon. I don't think we ought to be throwing 29 billion tons of carbon dioxide into the environment every year, so that means less reliance on fossil fuels.

We want an America with cleaner air where smog and soot in Los Angeles and in the Great Smoky Mountains are a thing of the past and where our children are less likely to suffer asthma attacks brought on by breathing pollutants.

Finally, we should want an America in which we are not creating ''energy sprawl'' by occupying vast tracts of farmlands, deserts, and mountaintops with energy installations that ruin the scenic landscapes. The great American outdoors is a revered part of the American character. We have spent a century preserving it. There is no need to destroy the environment in the name of saving the environment.

None of these goals are met by the House-passed Waxman-Markey bill. What started out as an effort to address global warming by reducing carbon emissions has ended up as a contraption of taxes and mandates that will impose a huge and unnecessary burden on the economy. Renewable energies such as wind and solar and biomass are intriguing and promising as a supplement to America's energy requirements. Yet the Waxman-Markey bill proves once again that one of the government's biggest mistakes can be taking a good idea and expanding it until it doesn't work anymore.

Trying to expand these forms of renewable energy to the point where they become our prime source of energy has huge costs and obvious flaws. What is worse, it creates what some conservationists call ''the renewable energy sprawl,'' where we are asked to sacrifice the American landscape and overwhelm fragile ecosystems with thousands of massive energy machines in an effort to take care of our energy needs.

For example, one big solar power plant in the western desert where they line up mirrors to focus the Sun's rays and which spreads across more than 30 square miles—that is more than 5 miles on each side—produces just the same 1,000 megawatts you can get from a single coal or nuclear plant that sits on 1 square mile. And to generate the same 1,000 megawatts with wind, you need 270 square miles of 50-story turbines. Generating 20 percent of our Nation's electricity from wind would cover an area the size of West Virginia.

To those of us in the Southeast where the wind blows less than 20 percent of the time, they say ''use biomass,'' which is burning wood products, sort of a controlled bonfire. That is a good idea. It might reduce forest fires and conserve resources, but let's not expect too much. We would need a forest a lot larger than the Great Smoky Mountains National Park to feed a 1,000-megawatt biomass plant on a sustained basis. And think of all of the energy used and the carbon produced by the hundreds of trucks it will take every day to haul the stuff to that one plant.

Already we are beginning to see the problems. Boone Pickens, who said that wind turbines are ''too ugly,'' in his words, to put on his own ranch, last week postponed what was to be America's largest wind farm because of the difficulty of building transmission lines from West Texas to population centers. And the Sacramento Municipal Utility District pulled out of another huge project to bring wind energy in from the Sierra Nevada for the same reason. According to the Wall Street Journal, California officials are worried that the State's renewable mandates have created ''a high risk to the state economy . . . and that the state may be short on power by 2011 if problems continue to pile up.''

Add to that a point that many forget: Wind and solar energy is only available about a third of the time because today it can't be stored—you use it or you lose it. Solar's great advantage is that the Sun shines during peak usage hours, while the wind often blows at night when there is plenty of unused electricity. But with either, if you want to be sure your lights turn on or that your factory opens its doors when you go to work, you still need other power plants to back it up.

Is this really the picture of America we want to see 20 years from now? There is a much better option. We should take another long, hard look at nuclear power. It is already our best source for large amounts of cheap, reliable, clean energy. It provides only 20 percent of our Nation's electricity but 70 percent of our carbon-free, pollution-free electricity. It is already far and away our best defense against global warming. So why not build 100 new nuclear plants in the next 20 years? American utilities built 100 reactors between 1970 and 1990 with their own (ratepayers') money. Why can't we do that again? Other countries are already forging ahead of us. France gets 80 percent of its electricity from 50 reactors, and it has among the cheapest electricity rates and the lowest carbon emissions in Europe. Japan is building reactors from start to finish in 4 years. China is planning 60 new reactors. Russia is selling its nuclear technology all over the world. We are helping India get ready to build nuclear plants. President Obama has even said Iran has the right to use nuclear power for energy. Yet we haven't built a new nuclear plant in 30 years, and we invented the technology. Why don't we get back in the game?

There seem to be a couple of main things holding us back: first, a failure to appreciate just how different nuclear is from other technologies, how its tremendous energy density translates into a vanishingly small environmental footprint, and second, an exaggerated fear of nuclear technology.

Many have forgotten that nuclear power plants were the result of President Eisenhower's ''Atoms For Peace''

program. The idea was to take perhaps the greatest invention of the last century and use it to provide low-cost energy to reduce poverty around the world.

There is also a misconception that nuclear plants are uninsurable and can't exist without a big Federal subsidy. There is a Federal insurance program for nuclear plants called Price-Anderson, but it has never paid a dime of insurance. Today, the way it works is every one of the 104 nuclear plants in the country can be assessed $100 million in damages for an accident at another reactor. So that is another factor adding to safety consciousness.

Most reactors have revenue of $2 million a day, which pays for the $5 billion construction loans and still makes possible low rates for consumers. For example, when the Tennessee Valley Authority restarted its Brown's Ferry Unit 1 reactor 2 years ago, TVA thought it would take 10 years to pay off the $1.8 billion construction debt. It took 3 years. When oil prices were skyrocketing, Connecticut proposed putting a windfall profits tax on the state's two reactors because they were making so much money.

Nuclear power is the obvious first step to a policy of clean and low-cost energy. One hundred new plants in 20 years would double U.S. nuclear production, making it about 40 percent of all electricity production. Add 10 percent for Sun and wind and other renewable sources. Add another 10 percent for hydroelectric, maybe 5 percent for natural gas, and we begin to have a cheap, as well as a clean, energy policy.

Step two is to electrify half our cars and trucks. According to estimates by Brookings Institution scholars, there is so much unused electricity at night that we can also do this in 20 years without building one new power plant if we plug in vehicles while we sleep. This is the fastest way to reduce dependence on foreign oil, keep fuel prices low, and reduce the one-third of carbon that comes from gasoline engines.

Step three is to explore offshore for natural gas—it is low carbon—and oil—using less, but using our own.

The final step is to double funding for energy research and development and launch mini Manhattan Projects such as the one we had in World War II, this time to meet seven grand energy challenges: improving batteries for plug-in vehicles; making solar power cost-competitive with fossil fuels; making carbon capture a reality for coal-burning plants; safely recycling used nuclear fuel; making advanced biofuels—crops we don't eat—cost-competitive with gasoline; making more buildings green buildings; and providing energy from fusion.

We can't wait any longer to start building our future of clean, reliable, and affordable energy. The time has come for action. We must open our minds to the possibilities and potential of nuclear power. We have a clear choice between a high-cost clean energy plan coming from the House—one that is filled with taxes and mandates and a new utility bill for every American family, one that will drive jobs overseas searching for cheap energy—or we can enact our own cheap and clean energy policy and lower utility bills and keep jobs here and produce food here at a price that is low so Americans can afford to buy it.

This is the sensible way to go: nuclear power, electric cars, exploration offshore, and doubling research and development. This policy of cheap and clean energy will help family budgets and create jobs. It will also prove to be the fastest way to increase American energy independence, clean our air, and reduce global warming.

I hope those listening will let me know their thoughts about our blueprint for 100 nuclear power plants in the next 20 years. The way to do that is to visit www.alexander.senate.gov.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from New Hampshire.

## NATIONAL DEBT

Mr. GREGG. Madam President, yesterday was not a great day for our Nation. For the first time in our history, the deficit of this Nation passed $1 trillion—$1 trillion. That is a number I do not think anybody ever expected to see as a deficit for our country.

To try to put it in perspective, as a percentage of our GDP, that is about 13 percent. We have not had that size deficit since we were in World War II. The implications of that deficit are staggering for us as a nation but, more importantly, it represents a clear and present danger to our children and our children's children and to this Nation's fiscal solvency.

Remember, we are not through the fiscal year yet. It is estimated that this deficit will continue up for the rest of the year. It is estimated that $1.8 trillion will be the deficit we will be facing in 2010, and over $1 trillion the next year. These are numbers which are so huge they are incomprehensible—incomprehensible to myself and to most Americans. But they translate into a very significant problem, which is that we will be passing on to our children, as a result of all this debt, a nation which they cannot afford.

What is the cause of this debt? What is causing this massive expansion in deficits? Primarily it is spending. It is not that we are a nation that is undertaxed. It is that we are a nation that is simply spending too much.

My colleague on the other side of the aisle, the chairman of the Budget Committee, Mr. CONRAD, is fond of saying the debt is the threat. He is absolutely right because that is the threat to this Nation.

It is important to put in context, though, that this is not a momentary event. We are not running up these deficits just today. But as we look into the outyears under the Obama budget, the deficits go up astronomically for as far as the eye can see, leading to debt which is unsustainable.

Over the next 10 years, the average deficit of this Nation will be $1 trillion. Again, let's try to put that in context. That is about 4 to 5 percent of our gross national product every year.

If you were in Europe and you wanted to get into the European Union, which is a legitimate group of industrialized nations, they have rules for how fiscally solvent you must be as a nation. One of their rules says your deficit cannot exceed 3 percent of your gross national product. Yet under President Obama and his proposed budget, our deficit will average 4.5 percent to 5 percent of our gross national product for the next 10 years, over $1 trillion a year.

To what does this lead? It leads to massive expansion of debt, as this chart shows, a debt which will be 85 percent of our GDP. What does that mean, 85 percent of our GDP? The public debt of a nation is the debt held by other people, specifically Americans and other countries, primarily, in our case, China. They are the biggest holder of our debt. Historically, whether a country or individuals are willing to buy the debt of a nation depends on whether that nation is seen as being able to pay off that debt, that there is a reasonable likelihood of that, or whether the Nation has the strength to pay off that debt.

There are rules of thumb here too. Again, in order to get into the European Union, you have to have a ratio of less than 60 percent public debt to your nation's debt, to your nation's GNP, gross national product.

Yesterday, under this proposal, under this administration, as we are seeing in action as we passed the $1 trillion debt line yesterday, that public debt goes well past 65 percent very quickly within the next 2 years, and then it continues to head up to 80 percent. In other words, our public debt will be so high we would be considered so irresponsible as a nation fiscally that the European nations, which are industrialized countries, under their rules would not be able to allow us into the European Union. Not that we wish to seek entry, but clearly that is a standard at which we should look.

If you look at it historically, our public debt—and what most economists agree is reasonable—has been between 30 and 40 percent of gross national product. That is a manageable public debt. But when you double that debt as a percent of GDP, you are putting us on a path, a spiraling path downward into fiscal insolvency and a nation which cannot sustain its own debt.

To try to address this in another way, President Obama's proposals for spending will more than double the debt in the next 5 years and triple it in the next 10 years. In fact, if you take

all the debt that has been run up in our Nation from the beginning when George Washington was President through George W. Bush's term in office, take all that debt, President Obama has proposed and is spending—this government is spending—at a rate that will double that debt in just 5 years. It is an inexcusable action to pass this much debt on to our children.

This chart, called the ''Wall of Debt,'' puts it in numerical terms. We can see how it goes up and up and up and up. By the end of this budget, the debt will have increased three times—three times from about $6 billion to $16 billion, about $5.5 to $16 trillion—excuse me, trillion dollars. It is hard to use the term ''trillion.''

This is intolerable.

How do we address this situation? We need to control spending, and we need, to the extent we raise taxes, use those taxes to reduce our debt, not expand the size of government. Yet what are the proposals we are seeing coming from this administration and Members on the other side of the aisle?

We have seen a House of Representatives proposal in the area of energy called the cap-and-trade bill, which should be more accurately described as the cap-and-tax bill because it creates a national sales tax of inordinate size. We have never seen anything of this size before. Every time you hit your light switch, you are going to end up paying a new tax under this bill for the purpose of addressing climate change and energy policy. Yet it does not really accomplish any of that.

The primary polluter in America today is the automobile. All that the new tax that is being put in place from the House bill does is increase the cost or increase the tax on gasoline. It does not reduce the mileage. It does not reduce the pollution. It just increases the tax.

As Senator ALEXANDER spoke prior to my speaking, in the area of energy production, electrical production, cap and trade simply becomes a windfall, a pure and simple corporate welfare program for a lot of large, major electrical producers. They get this asset, a certificate to sell, which we have seen generate huge amounts of income to them, in exchange for theoretically reducing the amount of emissions that go into the atmosphere.

If you wanted to address this issue, you don't do it with a massive new tax on American workers, which is then basically given back to the industry which uses it, which gets an advantage from it. Rather, you should use the ideas Senator ALEXANDER has talked about and we have been talking about on this side. Build 100 nuclear powerplants in the next 20 years, move the automobile fleet to at least half electrical by the year 2020 so that you have actually brought online nonpolluting electrical power and you have put in place automobiles which do not pollute also.

That is not the proposal. The proposal is this massive new tax, not used to reduce the debt or the deficit but basically used in many areas to expand the government with lots of new programs but also to underwrite a huge corporate welfare program.

Then the other proposal we have from the administration that is major public policy is the issue of health care. Again, proposals are about expanding dramatically the size of government. In fact, the bill being worked on in the HELP Committee, by its own scoring, is at least $1 trillion unfunded. That adds to the debt. That is going to go on top of this debt.

To the extent there are new taxes being talked about—and there are a lot of them, especially in the House of Representatives—those taxes are not being used to reduce the debt. They are being used to grow the size of government, to increase the government. As a result, the debt does not go down; the government's size goes up when we should be focusing on this debt issue.

It is unconscionable that we as one generation would be running up these types of deficits and passing this type of debt on to our children. There may be an excuse for it during a period of recession——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GREGG. Madam President, I ask for 1 additional minute.

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

Mr. GREGG. Madam President, there may be an excuse for it during a recession—and we are in a recession, a severe one—but there is no excuse for it as we move out of this recession, and we are moving out of this recession. There is no excuse for having deficits that are $1 trillion for the next 10 years. There is no excuse for running deficits of 4 to 5 percent of GDP for the next $1 trillion. There is absolutely no excuse for putting a debt on our children's backs that is 80 percent of the GDP of this country because what we are doing is passing on to our children a nation with fiscal policies that are unsustainable and which will basically give them less of a lifestyle than we received from our parents. No generation should do that to another generation. Yet there are no policy proposals coming forward from this administration which would turn this debt line down. None. Instead, their policy proposals increase the size of government and increase the tax burdens of Americans without reducing our debt by any significance. It is an unfortunate situation and a difficult situation and one which we better start addressing for the sake of this country and for our children's future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Madam President, the pending business, I understand, is the DOD authorization bill.

The PRESIDING OFFICER. The Senate is still in morning business, and the Democrats control the remaining time.

Mr. MCCAIN. And when does that time expire?

The PRESIDING OFFICER. There is 7 minutes remaining.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 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.

Pending:

Levin/McCain amendment No. 1469, to strike $1,750 million in procurement, Air Force funding for F–22A aircraft procurement, and to restore operation and maintenance, military personnel, and other funding in divisions A and B that was reduced in order to authorize such appropriation.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, the Levin-McCain amendment which is before the Senate would strike $1.75 billion in funding for the F–22 aircraft that is in the committee bill that was adopted on a very close vote, and we would also restore some very serious reductions that had to be adopted in order to pay for that increase.

I come to this debate as somebody who supported the F–22 program until the numbers were achieved that were needed by the Air Force. This debate is not about whether we are going to have the capability of the F–22, it is a debate about how many F–22 aircraft we should have and at what cost. And we are talking here about whether we should accept the recommendations of two Commanders in Chief, two Secretaries of Defense, two Chairmen of the Joint Chiefs of Staff, and the Joint Chiefs of Staff that 187 F–22s is what we need and all we can afford and all we should buy.

Madam President, yesterday we put in the RECORD two letters, one from the

President of the United States saying he would veto a bill—not consider a veto but actually veto a bill—that has more than 187 F–22s that are to be provided. We also put a letter from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in the RECORD yesterday going through all the reasons they strongly oppose any additional F–22s and oppose the committee language which costs $1.75 billion, taking it away from some very important programs.

Today, I wish to read briefly and then put in the RECORD a letter that came from the Secretary of the Air Force yesterday afternoon and from the Chief of Staff of the Air Force opposing the additional F–22s that are in the committee bill. This letter reads in part:

As we prepared the fiscal year 2010 funding submission, and mindful that the final lot of aircraft is scheduled for completion over the next year, we methodically reviewed this issue from multiple perspectives. These included: emerging joint war-fighting requirements; complementary F–22 and F–35 roles in the future security environment; potential advantages of continuing a warm F–22 production line as insurance against possible delays/ failures in the F–35 program; potential impacts to the Services and international partners if resources were realigned from the F–35 to the F–22; overall tactical aircraft force structure; and funding implications, given that extending F–22 production to 243 aircraft would create an unfunded requirement estimated at over $13 billion.

And then they summarized—this is the Air Force speaking; top civilian, top military leader in the U.S. Air Force—as follows:

We assessed the F–22 decision from all angles, taking into account competing strategic priorities and complementary programs and alternatives, all balanced within the context of available resources. We did not and do not recommend F–22s be included in the FY10 defense budget. This is a difficult decision but one with which we are comfortable. Most importantly, in this and other budget decisions, we believe it is important for Air Force leaders to make clear choices, balancing requirements across a range of Air Force contributions to joint capabilities.

Madam President, I ask unanimous consent to have printed in the RECORD the entire letter from the Secretary of the Air Force and the Chief of Staff of the Air Force at this time.

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

SECRETARY OF THE AIR FORCE,
*Washington, DC, July 13, 2009.*

Hon. CARL LEVIN,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: As the Senate considers the FY10 Defense Authorization Bill, we write to reiterate our personal and professional views concerning the future of the F–22 program, and why we recommended to the Secretary of Defense that the Air Force not pursue F–22 production beyond 187 aircraft.

The F–22 is the most capable fighter in our military inventory and, arguably, the world. Among its principal advantages are stealth and speed; and while optimized for air-to-air combat, it also has a ground attack capability. Requirements for the F–22 have changed significantly over the past 20 years, as DoD has continued to reassess potential threats, scenarios, and force structure—to include the number of major combat operations we might be challenged to conduct and their timing/phasing.

Broadly speaking. previous assessments have concluded that a progressively more sophisticated mix of aircraft, weapons, and networking capabilities will, over time and within practical limits, enable us to produce needed combat power with fewer platforms. As the overall requirements for fighter inventories have declined. including F–22s, the rising F–22 program costs also led to smaller buys. Together these trends, coupled with constrained resources, ultimately led to a DoD-imposed funding cap and a December 2004 approved program of 183 aircraft (later adjusted to 187).

As we prepared the Fiscal Year 10 funding submission, and mindful that the final lot of aircraft is scheduled for completion over the next year. we methodically reviewed this issue from multiple perspectives. These included: emerging joint warfighting requirements; complementary F–22 and F–35 roles in the future security environment; potential advantages of continuing a warm F–22 production line as insurance against possible delays/failures in the F–35 program; potential impacts to the Services and international partners if resources were realigned from the F–35 to the F–22; overall tactical aircraft force structure; and funding implications, given that extending F–22 production to 243 aircraft would create an unfunded requirement estimated at over $13 billion.

This review concluded with a holistic and balanced set of recommendations for our fighter force: 1) focus procurement on modern 5th generation aircraft rather than less capable F–15s and F–16s; 2) given that the F–35 will constitute the majority of the future fighter force, transition as quickly as is prudent to F–35 production; 3) complete F–22 procurement at 187 aircraft, while continuing plans for future F–22 upgrades; and 4) accelerate the retirements of the oldest 4th generation aircraft and modify the remaining aircraft with necessary upgrades in capability.

And finally, while it is tempting to focus only on whether the Air Force would benefit from additional F–22s, which we acknowledge some in the airpower community have advocated, this decision has increasingly become a zero-sum game. Within a fixed Air Force and DoD budget, however large or small, our challenge is to decide among many competing joint warfighting needs; to include intelligence, surveillance and reconnaissance; command and control; and related needs in the space and cyber domains. At the same time. we are working to repair years of institutional neglect of our nuclear forces, rebuild our acquisition workforce, and taking steps to improve Air Force capabilities for irregular warfare. Ultimately, buying more F–22s means doing less of something else and we did not recommend displacement of these other priorities to fund additional F–22s.

In summary, we assessed the F–22 decision from all angles, taking into account competing strategic priorities and complementary programs and alternatives, all balanced within the context of available resources. We did not and do not recommend F–22s be included in the FY10 defense budget. This is a difficult decision but one with which we are comfortable. Most importantly, in this and other budget decisions, we believe it is important for Air Force leaders to make clear choices, balancing requirements across orange of Air Force contributions to joint capabilities.

Make no mistake: air superiority is and remains an essential capability for joint warfighting today and in the future. The F–22 is a vital tool in the military toolbox and will remain in our inventory for decades to come.

NORTON A. SCHWARTZ,
*Chief of Staff.*
MICHAEL B. DONLEY,
*Secretary of the Air Force.*

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, at this point, I thank Chairman LEVIN for his important comments, especially about the letters from the Secretary of the Air Force and the Chief of Staff of the Air Force on this issue. Let me repeat that this debate is not about depriving, in my view, the U.S. Air Force of a much needed part of our arsenal to defend this Nation's national security; it is about whether we will continue to spend money on the F–22, of which we are already acquiring 187, and additionally adding the F–35, the Joint Strike Fighter, which is very badly needed by the other services as well. I believe the F–35, the Joint Strike Fighter, is a very important counterpart to the F–22. The F–22 has great capabilities in certain areas, and the Joint Strike Fighter does too. So this debate is not just about removing the funds for the F–22. What it is about is removing funds for the F–22 and moving forward with the Joint Strike Fighter to give the U.S. Air Force, Marine Corps, and Navy a balanced inventory that will maintain the Air Force, Navy, and Marine Corps as the most powerful projections of air power in the world for a long time to come.

So I emphasize, this is not so much about terminating a program as it is ending a much needed program and supplementing it with another. I think that sometimes this argument is portrayed simply in the area of the F–22 itself. It is not. I know the chairman and I and the majority of the committee want a balanced, powerful, capable Air Force, Marine Corps, and Navy throughout the 21st century.

There have been various points raised and arguments made during this debate. I would like to respond to several of those arguments that have been made so far and probably will be raised again during the rest of this debate.

The first argument addresses the fact that 187 F–22s will not meet operational demands at an acceptable level of risk.

In the view of some Air Force officials, including the Air Combat Command general, John Corley, for example, a total of 381 F–22s would be sufficient to meet operational demands at a low level of risk and a total of 243 to 250 would be sufficient to meet operational demands with a moderate level of risk. That is the view of some very credible individuals.

Our response to that is that in December 2004, the Department of Defense determined that 183 F–22s was sufficient to meet its military requirements. This is back in December of

2004. The Department conducted several analyses which affirmed that number based on a number of variables, including the lengths and types of wars the Department of Defense believes it will have to fight in the future and future capabilities of likely adversaries.

The President, the Secretary of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, the Air Force Chief of Staff, and the Secretary of the Air Force have all stated that 187 F–22s is sufficient to meet operational requirements, particularly when combined with other U.S. military assets, including cyber warfare, strike fighter aircraft, long-range standoff precision weapons to counter enemy aircraft and surface-to-air missile systems in the future from potential adversaries.

We need to look at this in the entirety of its inventory. That means cyber warfare, it means long-range standoff precision weapons, it means the dramatic increase in capability of unmanned aircraft. Look at the role unmanned aircraft have played in Iraq and Afghanistan. In all candor, look at the role the F–22 has not played in Iraq and Afghanistan. It has not been deployed to Iraq and Afghanistan; whereas, our unmanned aircraft, our Predators, have had an incredible effect in identifying, locating, and destroying the enemy. I think General Petraeus will attest to that in a very persuasive fashion.

In response to the argument that more F–22s are necessary to close a gap in fifth-generation fighters between the United States and China, on May 14, Secretary Gates noted, ''[W]hen you look at potential threats—for example, in 2020, the United States will have 2,700 TACAIR. China will have 1,700. But, of ours, 1,000 will be fifth-generation aircraft, including the F–22 and the F–35. And, in 2025, that gap gets even bigger. So, the notion that a gap or a United States lead over China alone of 1,700 fifth-generation aircraft in 2025 does not provide additional fifth-generation aircraft, including F–22s, to take on a secondary threat seems to be unrealistic.''

Secretary Gates summarized his position on the operational need issue on June 18, when he said that ''the U.S. military has to have the flexibility across the spectrum of conflict to handle the threats of the future'' and that ''this will mean a huge investment for the future, one that is endangered by continuing the F–22 Raptor program.'' He concluded, ''frankly, to be blunt about it, the notion that not buying 60 more F–22s imperils the national security of the United States, I find complete nonsense.''

As military deputy to the Assistant Secretary of the Air Force for Acquisition GEN Mark D. Shackleford said, ''the capability that we get out of the 187 F–22s we believe is more than sufficient for the type of threat that the Secretary of Defense is addressing in the future''. Whatever moderate risk may arise from ending the F–22 program, now is merely short term and, under the Air Force's Combat Air Force—CAF—restructure plan, necessary for the Air Force to transition the current fleet to a smaller, more capable fifth-generation fighter force for all the Services.

The next argument being made is buying more F–22s could help mitigate a projected fighter shortfall of up to 800 aircraft by 2024 that Air Force leaders identified in 2008 and a projected gap recently identified within the Air National Guard's fighter inventory. Such purchases could also hedge the United States against the risk of unexpected age-related problems developing in the Air Force's legacy force.

Our response to that is the fighter gap that the Air Force identified is questionable, given that it turns on various assumptions regarding threats and whether the United States will fight by itself or as part of a coalition. In any event, the Air Force has put in place a plan that will both mitigate any shortfall in fighter capability and bridge the current fleet to a smaller, more capable fifth-generation fighter force. An essential element of that plan—called the Combat Air Force—CAF—restructure plan—is to stop investing in the F–22 program after the current program of record of 187. That plan addresses possible shortfalls in fighter capability more cost-effectively than simply buying more F–22s. It does so by restructuring the Air Force's current fleet of fighters now and directing resulting savings to modifying newer or more reliable fighters in the legacy fleet, including, upgraded F–15s and F–16s, procuring less expensive aircraft, including the F–35 Joint Strike Fighter, and investing in joint enablers. Under the plan, those investments will help create a more capable fleet that can bridge the Air Force to a future fleet with a smaller, more capable force.

In addition, in the years ahead, the Department of Defense needs to focus on improving its capabilities for irregular warfare operations, and the F–22 is not a key program for improving those capabilities. While the F–22 is an extraordinarily capable ''air superiority'' platform, its limited air-to-ground capability makes it less appropriate for supporting counterinsurgency operations—so much so that, as Secretary Gates has pointed out several times, ''the reality is we are fighting two wars, in Iraq and Afghanistan, and the F–22 has not performed a single mission in either theater.''

The next argument is the decision to end the F–22 program is purely budget driven.

Secretary Gates has indicated numerous times that his decision to end the program is not resource driven. He announced that decision on April 6, weeks before his plan was even submitted to the Office of Management and Budget for vetting. On April 30, Secretary Gates plainly stated, ''if my top-line were $50 billion higher, I would make the same decision [regarding the F–22 program].'' That having been said, given the current fiscal crisis, buying more F–22s would likely reduce funding for other more critically needed aircraft, such as the F–35, F/A–18E/F, and EA–18G, which unlike the F–22 are equipped with electronic warfare capability—the combatant commanders' number one priority. In that sense, continuing to purchase of F–22s could create operational risks for the United States military in the near term.

The next argument is buying more F–22s will ensure the Air National Guard gets modernized fighter aircraft sooner.

Our response is that under the Total Force policy, all the Services, including the Air National Guard, will receive Joint Strike Fighters at the appropriate time and at the appropriate rate to replace their aging F–15 and F–16 aircraft. The only requirement that the Air National Guard obtain Joint Strike Fighters ''sooner'' arises from the ''additional views'' of Senator CHAMBLISS in the report accompanying the fiscal year 2010 authorization bill.

In a letter to Senator CHAMBLISS, the head of the Air National Guard LTG Harry M. Wyatt III noted, ''I believe the current and future asymmetric threats to our nation, particularly from seaborne cruise missiles, requires a fighter platform'' such as the F–22. However, that threat is simply not present today. This is something that is being closely looked at now in the on-going QDR debate. When asked about the cruise missile threat during our committee hearing recently, Secretary Gates correctly noted that the most effective counter to these sorts of threats is an aircraft that doesn't have a pilot inside of it.

The next argument is that large-scale production of F–35 Joint Strike Fighters has only recently begun and has not yet increased to planned higher annual rates. Until production of the Joint Strike Fighter has been successfully demonstrated at those planned higher annual rates, it would be imprudent to shut down the F–22 production line, which is the only ''hot'' fifth-generation production line.

Our response is that given how relatively similar the development and manufacturing efforts supporting the Joint Strike Fighter are to those supporting the F–22, concerns about an overall compromise in the industrial base appear to be overstated. In addition, whatever moderate risk may arise from ending the F–22 program now is operationally acceptable: it is short-term in duration and, under the Air Force's Combat Air Force—CAF—restructure plan, necessary for the Air Force to transition the current fleet to a smaller, more capable fifth-generation fighter force for all the Services.

It is true that although ''full-rate production'' of the Joint Strike Fighter isn't anticipated until 2015, the program is making very meaningful

progress. But, maturation in the technical, software, production-processes, and testing aspects of the program are on track to plan and are in fact exceeding legacy standards—including those for the F–22. All 19 ''systems development and demonstration'' aircraft will roll out by the end of the year and major assembly on the 14 aircraft comprising the earlier ''low-rate initial production,'' L–RIP, lots have begun. I can assure the Members of this body that Senator LEVIN and I and our capable staffs will be keeping a very close eye on the Joint Strike Fighter production. It is vital that aircraft meet its cost estimates and meet its time schedules.

At this point, the first of those copies is expected to be delivered on time to Eglin Air Force Base in May 2010, and the first operationally capable versions of the fighter are expected to be delivered to the Marine Corps in 2012, the Air Force in 2013, and the Navy in 2015.

This is not to say we should take, as I said, our eyes off the program. We need to track continuous progress on the F–35 to ensure that development costs leading to production remain stable.

I am persuaded, as I hope the majority of this body will be, that on the issue of whether the F–22 program should continue, the President, the Secretary of Defense, the Chairman and Vice Chairman of the Joint Chiefs of Staff, the Air Force Chief of Staff and the Secretary of the Air Force are all correct: Ending the F–22 program now is vital to enabling the Department to bridge its current fighter capability to a more capable fifth-generation fighter force that is best equipped to both meet the needs of our deployed forces today and the emerging threats of tomorrow.

Finally, the chairman and I are not unaware that this will lead to the loss of jobs in certain States in certain production facilities around the country. We know this is very tough, particularly in times of high unemployment across the country. But I would like to make the argument, No. 1, that the F–35, the Joint Strike Fighter, once it gets into production, will also be a job creator.

But I would also point out that the purpose of building weapons is not to create jobs. The purpose is simply to defend this Nation's national security. We have an obligation to be careful stewards of all our taxpayers' dollars but, most importantly, those taxpayers' dollars that go to the defense of this Nation should be first and foremost what can best defend the Nation's national security in times when we are in two wars and facing future threats that are, indeed, formidable in the view of most.

We are not without sympathy for the parts of our country, including the State of Georgia, where there are a large number of jobs that are at risk. Our sympathy is with them, and we will do everything we can to provide job opportunities, including in the defense industries across this country. But we cannot argue that we should spend taxpayers' dollars for weapons systems simply to create or keep jobs. That is not the use of taxpayers' dollars. If we want to do that, then there are many other programs we should fully fund to help create jobs and small business opportunities across this Nation.

This issue, I hope, will continue to be debated today and that we could resolve it, hopefully, sometime tomorrow morning with a final vote.

I know, from previous experience, there are perhaps 100 or more amendments that await the consideration of this body on the Department of Defense authorization bill. This is, obviously, a very important issue. This issue, perhaps, is maybe even more important than the $1.75 billion we are talking about. This debate is about whether we are going to make the tough decisions to most wisely and most expeditiously defend this Nation and spend those dollars wisely.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, first let me thank Senator MCCAIN for his very comprehensive, thorough, and compelling argument relative to the F–22.

This last point about the number of amendments which we expect would be, if not offered, at least proposed and considered, we need those amendments to come to the floor.

We have a lot of work ahead of us. I know it is a statement of high ambition to suggest that we try to finish the bill this week. But I think we are obligated to use the time wisely. There are not going to be votes today. We attempted to schedule a vote prior to lunch today, but as an accommodation to some Senators, we did not do that. We then attempted to schedule a vote for tomorrow morning. That effort did not succeed last night. But as Senator MCCAIN said, we are trying to see if we can't schedule that today.

In the meantime, while we are awaiting some other speakers, apparently on this amendment, we would welcome those who are considering amendments; that they get those to us and our staffs so we can begin the arduous work of going through those amendments and determining which ones we might be able to accept, which ones we cannot, so that those who want to proceed, even if we cannot accept those amendments, can then indicate they wish to debate.

The floor is open now to debate. We await other speakers.

I yield the floor.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENNET. Madam President, I rise to speak in support of the Levin-McCain amendment to strike excessive funding in this bill for the F–22. I want to briefly outline why this amendment is in the best interests of our national defense and our fiscal future.

This amendment represents the best of leadership that our Nation has to offer. Senator MCCAIN and President Obama have put political parties aside and have acted to protect taxpayers at a time when our fiscal circumstances require us to make difficult choices. And Chairman LEVIN has supported their efforts. They are willing to make hard choices. Congress must follow their wise leadership.

The media has reported that our budget deficit now exceeds $1 trillion. We have provided middle class tax cuts, first-time homebuyer tax credits and invested resources in order to turn this economy around. But we have to reexamine our other spending choices and say no to excessive spending. The F–22 embodies spending to an excess, and it borrows from key operations and maintenance and personnel accounts to do so.

The Secretary of Defense, Chairman of the Joint Chiefs of Staff, and our Commander-in-Chief have said we do not need any more F–22s. In fact, they say that the costs of acquiring and maintaining these aircraft, which have ballooned far beyond the Pentagon's original estimates, are hindering our ability to make much-needed investments in other necessary programs.

It is not only the Obama administration. President Bush and Secretary Rumsfeld also agreed that this is an area where we can show restraint and help strained taxpayers. The Levin-McCain amendment is the right policy for the country—armed services leadership and Presidents from both parties agree.

We should be listening when the Air Force tells us that the 187 F–22s that we have are enough. Our President has shown the wisdom to listen to our uniformed leaders. Now only Congress stands in the way of saving taxpayers $1.75 billion.

The F–22 has never supported a single mission in Iraq or Afghanistan. It is time to reassert the actual military priorities of today. It is true that the F–22 supports jobs, sprinkled around our nation. But we need to focus on weapons programs that create jobs an also serve a modern military purpose. As the chairman and ranking member of the Senate Armed Services Committee have said, the F–35 represents the future of our fighter fleet. As we look to the future, I simply cannot lend my support to this effort to allow unnecessary expansion of a program at the expense of the American and Coloradan taxpayer.

There are far more useful ways to create and maintain jobs that actually enhance our military readiness. Phasing out expansion of the F–22 fleet will

allow needed funding to be reallocated to more important, pressing needs of our military. Let's pass a Defense authorization bill actually contains the requests that our military has made. Madam President, $1.75 billion for the F–22 has not been requested, and I agree with Chairman LEVIN, Senator MCCAIN, Presidents Obama and Bush.

I urge my colleagues to join in this effort to show fiscal restraint. Support the Levin-McCain amendment. The best way to defend our country is to listen to our military when it tells us to change the way we invest. Our fiscal health and our national security both depend on it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## RECESS

Mr. LEVIN. Madam President, I ask unanimous consent that the Senate stand in recess until 2:15.

There being no objection, the Senate, at 12:12 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—Continued

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent to proceed as in morning business to speak about the health care deliberations we are undertaking. I know we are under the Defense authorization bill. My remarks should not take that long.

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

Mr. ROBERTS. Mr. President, as I indicated, I rise today to talk about health care reform and the hard truths that have so far been not hidden but I do not think have been very much aware to many Americans.

I was inspired to come to the Senate floor today because we are holding hearings in the HELP Committee—and we are holding hearings in the Finance Committee—and a series of events in the Health, Education, Labor, and Pensions Committee made me recall the observations of a well-respected public opinion analyst, pollster Daniel Yankelovich, founder of the New York Times/Yankelovich Poll.

The HELP Committee has been struggling—well, we have been working hard; ''struggling'' probably is not the right word; and many thanks to the chairman, CHRIS DODD, our ranking member, MIKE ENZI, and the members of the HELP Committee—but we have been going through a multiweek markup that I think has been characterized by some very wishful thinking on the part of the majority members of that committee; namely, the hope or the wish that they can somehow not reveal the very real costs and tradeoffs raised by their health care reform bill. I think the American people ought to become more and more aware of this.

The bill the HELP Committee is marking up establishes all sorts of new government programs, all sorts of new government mandates and controls—all justified by the need to ''rein in health care costs'' and ''increase health insurance coverage.'' I know those are two very good and noble pursuits, which I support wholeheartedly. As a matter of fact, I think Republicans now have about six bills to do the same thing. They do not get much attention, but we have six bills.

But there is a big problem with this bill. It does neither of these things, in my opinion. It neither reduces costs, nor does it significantly increase coverage. In fact, it significantly increases costs for very little gain—''costs,'' c-o-s-t-s. Remember that word. But my colleagues on the HELP Committee continue to wish and to hope they can obscure this reality through a barrage, really, of speeches and rhetoric and what I call misleading figures.

It has been this behavior that has caused me to recall Mr. Yankelovich's observations on something called the evolution of opinion. I am going to use that as the basis of my remarks—the evolution of opinion. The article was in Fortune magazine, and it jogged my memory in this regard. But, in any event, I think it serves as an important illustration of the health care reform process so far. Mr. Yankelovich observed that the evolution of a person's opinion could be traced through a continuum of seven stages. That is a fancy way of saying there are steps you go through when you are trying to think something through.

First, we have had daunting awareness: the realization that our health care system was not working for every American and needed to be addressed. I think everybody understands that.

The second stage, greater urgency: the economy began to go south and people who used to rely on their employer for health insurance began losing their jobs.

Then there is the third stage: reaching for solutions. Our committee has held hearings and began to meet with stakeholders. The administration met with stakeholders. The stakeholders, I think, probably met in good faith. And it has only been recently they have discovered they may have signed on to something that is very illusory, to say the least.

Fourth, the stage where many on the HELP Committee and elsewhere have arrived at today: the wishful thinking stage, the well-intentioned, romantic, simplistic, perhaps naive moment where all one sees are the benefits, without considering the consequences—the law of unintended effects. For example: the totally misleading claim by the majority that the new data from the Congressional Budget Office revealed a much lower score for this bill, $597 billion—a lot of money—while still expanding health insurance coverage to 97 percent of Americans. This claim is the very definition of ''wishful thinking.'' But facts are stubborn things. The actual CBO numbers say this bill leaves 34 million people still uninsured. That is not 97 percent coverage. In order to gain anywhere near 97 percent coverage, we would have to significantly expand Medicaid—a very expensive proposition which, according to CBO, adds about $500 billion or more to the cost of this bill.

More wishful thinking: The $597 billion cost was further artificially lowered through several budget maneuvers, such as a multiyear phase-in and a long-term care insurance program that will increase costs significantly outside the 10-year budget window CBO is required to use. Here we are passing a long-term insurance bill that goes beyond 10 years that CBO cannot even score.

After taking these realities into account, a more accurate 10-year score of this bill is closer to $2 trillion. I said that right: not $1 trillion—$2 trillion.

This is when we should arrive at the fifth stage of opinion making: weighing the choices. Since the true cost of this bill is approximately $2 trillion, we must own up to the American public about the tradeoffs. We must finally understand that the tradeoffs threaten a health care system that polls tell us has a 77-percent satisfaction rate.

This is not to say we should not undertake any reforms, but we need to honestly discuss the costs and benefits of reform proposals. And the majority's proposal is high on cost and low on benefits.

The No. 1 tradeoff that Americans need to know is, higher taxes. Remember when the President promised: If you make under $250,000, you will not see your taxes increased, that you would actually see a tax cut. Well, like so many other pledges, those promises had an expiration date, and that date is rapidly approaching.

The bill raises $36 billion in the first 10 years in new taxes on individuals who do not purchase health insurance. That is a penalty. It raises another $52 billion in new taxes on employers who do not offer their employees health insurance.

As an aside, guess who suffers when the employer's taxes get raised? It certainly is not the employer. It is the employee who gets laid off or does not get a raise. It is the applicant who does not get hired. Even President Obama's own Budget Director admits this fact.

At least one economic survey estimates that an employer mandate to provide health insurance, such as the

one in the Kennedy-Dodd bill, would put 33 percent of uninsured workers at risk for being laid off—33 percent of uninsured workers. The study went on to say that ''workers who would lose their jobs are disproportionately likely to be high school dropouts, minority, and female.'' It is a job killer for the very people whom the bill ostensibly seeks to help.

These new taxes do not come close to paying for this bill, and the ideas that have been coming out of the Finance Committee, on which I am also privileged to serve, the House of Representatives—the so-called people's body—and the administration prove that these new taxes will be just the first of many.

One option: a new and higher income tax on taxpayers with earnings in the top income tax brackets—there is some press on that as of now—including small businesses—essentially a small business surtax—to pay for government-run health care. Keep in mind that this surtax is in addition to the higher income taxes the President is already calling for in his budget.

The President's budget proposal calls for raising the top two individual tax rates in 2011. Many small businesses file their tax returns as individual returns, and the National Federation of Independent Businesses, NFIB, estimates that 50 percent of the small business owners who employ 20 to 249 workers fall into the top two brackets. When these higher income taxes are combined with the proposed surtax to pay for the government-run health care, it means that a small business could see its tax bills go up by as much as 11 percent—11 percent—when this health care reform bill finally takes effect—an income tax rate increase of about 33 percent over what they pay today.

But it does not stop there. Under the proposal the House is expected to unveil, possibly today, they leave the door open for even more tax increases on small businesses. That proposal is expected to allow, in 2013, for the small business surtax to be raised by several additional percentage points if health care costs are higher than expected, which is likely.

These higher income taxes would be a devastating hit on our Nation's small businesses—the same small businesses that create roughly 70 percent of the jobs in this country and are the backbone of our economy. We should not be raising taxes on these job creators if we want our economy to rebound and grow and expand.

Small businesses in Kansas tell me they feel they are already stretched to the limit, and they worry that to pay the additional taxes called for in the President's budget, not to mention an additional small business surtax to pay for a government-run health care program, they will have to cut back elsewhere—''cut back,'' meaning layoffs; cutbacks, meaning really it is the worst thing you could do for the economic catalyst of our country, the small business community. Make no mistake, these will be difficult choices. They will have to reduce the wages and benefits of current employees. They will have to pass their costs on to their customers. They will have to lay off workers or not hire new employees. None of these are good options for workers, small businesses, or our economy.

But higher taxes are just one of the ways the majority wants to pay for this massive expansion of government. The other method? The other method will be cuts to Medicare. You heard me right: Medicare, cuts to Medicare, cuts to the reimbursements to providers to our senior citizens, cuts we have been trying to prevent, where we have added money in almost every session we have been in.

There would be $150 billion from the hospitals. The hospitals have agreed to this with their national organizations but funny thing: The hospitals from Kansas came back to me and said: Not on your life. For a person who has worked hard to prevent cuts in that market basket of provider reimbursements to keep our rural health care delivery system whole, it comes to me as a great surprise that their national organizations would sit down and say: OK, we are going to give up $150 billion, only to learn a couple days or weeks later that some in the House say: That is not enough. So they didn't have a deal—and another few hundred billion from the physicians. I haven't heard any agreement on that from the physicians.

Tens of billions from home health care agencies and radiology and home oxygen and PhRMA. Let's don't forget PhRMA, who agreed to a certain amount of cuts—I think it was $80 billion—but now they have learned that figure isn't firm. So whoever else gets strong-armed or weak-kneed into making a deal with this administration, you better be careful.

Again, when doctors and hospitals and pharmacists and home health agencies get their reimbursements slashed by Medicare or Medicaid, who pays the price? It is not the provider, at least not at first. It is the people with private insurance who pay a hidden tax to make up the difference—some $88.8 billion per year, according to a recent Milliman study. Once the provider runs out of private payers to shift this cost deficiency onto, who pays? It is the patients who lose access to a doctor or a hospital or a pharmacist or a home health agency.

In addition to cutting Medicare payments, this bill will dump, by some estimates, well over a million new people onto a government-run health care plan which will never pay providers enough to cover their costs, despite any rhetoric otherwise. As this number grows and the private market shrinks, the decrease in the number of doctors and hospitals and other providers will be inevitable. We see that already. We already have rationing. We already have shortages. We already have doctors and providers who say: I am sorry, I am not reimbursed to the extent I can stay in business and offer you Medicare. So rationing is not a scare word, it is something that is happening now. It will simply not be possible for them to keep their doors open on the margins that the government will pay them. And that is when rationing of health care will become a way of life in this country.

Oh, I can see it now. It will either be by age or by test or by the comparative effectiveness research golden ring that CMS—that is another acronym—an outfit that works for the Department of Health and Human Services. These are the bean counters who look in this way at health care and don't look at the real effects, and I see what can happen.

These are the tradeoffs the American people need to know about in this bill. Yep, $2 trillion in new spending, higher taxes, job-killing employer mandates, and rationed health care. And for what? To overhaul a system with which 77 percent of Americans are satisfied.

I offered several amendments in the HELP markup just this morning, attempting to force the committee to face stage 5—remember my Fortune magazine and my stages of evolution of thought—to truly weigh the choices, that is the next stage. My amendments would have prevented Federal health subsidies from being funded through higher taxes on employers, higher taxes on individuals and families or through cuts to Medicare. All three were defeated in a party-line vote. I wasn't alone in trying to get the committee to weigh the choices in this bill. Senator ALEXANDER spoke very credibly as a former State governor about the fiscal catastrophe that expanding Medicaid eligibility will cause for the States. Again, he was defeated by a party-line vote.

How can we ignore the very real consequences of raising taxes on individuals and employers in a recession—some say the worst recession since in the 1930s? How can we deny that further cutting Medicare will increase costs for everyone else and possibly eliminate access to health care for our seniors? How can we turn a blind eye to all the States that are already facing a financial meltdown and force them to take on billions of dollars of new Medicaid obligations?

Some are still stuck in stage 4, still hanging on to their wishful thinking.

Well, I am ready to move on to stage 6, and probably everybody else is as well here on the floor. It is called taking a stand. I hope we can all take a stand to preserve the system that works well for the vast majority of Americans and to consider a more cost-conscious, realistic, and patient-friendly approach to greater health care reform.

By far the most important stage for us is—yes, the final stage—stage 7:

making a responsible judgment. The policies in this bill are very expensive, and the American people need to know that someway, somehow they will have to pay for them. So we must thoroughly examine the cost and the tradeoffs in health care reform. We cannot simply engage in wishful thinking. The American people expect us to make responsible judgments. There is simply too much at stake.

I understand the leadership of this body is in a dash, a rush to finish the hearings in the HELP Committee to produce a bill, as well as to force the Finance Committee to come up with a markup of a bill to pay for all this. I don't know how you pay for $2 trillion while the Finance Committee is talking about $350 billion and those are very controversial. I have a suggestion. I think we ought to put a big banner right up here where the President is not, right over there. I don't think the President would mind very much, and it could just say, ''Do No Harm.'' Then maybe we could put something underneath that and say: ''Slow Down'' or maybe in the language of my State ''Whoa.'' And then put that in the back of the HELP Committee, put in the back of the Finance Committee, and let's do the job right.

Mr. WICKER. Will the Senator yield?

Mr. ROBERTS. I am delighted to yield.

Mr. WICKER. I thank the Senator from Kansas for his remarks. I think it is interesting and perhaps symbolic that his cell phone was ringing off the wall or off of his belt when he was beginning to make his remarks. I think perhaps that is symbolic of what we are beginning to hear in the Senate as well as in the House of Representatives from the public. It is not just from the rightwing; it is from Main Street media. It is from the Washington Post last Friday. It is from liberal commentators such as Michael Kensley last Friday who say: Let's slow down on this.

I think what the American people might be saying is that they have gone through this hierarchy of decision-making and that this is not the kind of health care they were promised last year. We were told health care would save money for Americans. Now we are hearing it is going to cost $1 trillion to $2 trillion, perhaps even $3 trillion. We were told that if Americans were satisfied with their insurance, they would be able to keep it. Now we are told they would be moved into a public plan. We didn't hear about cuts to Medicare when this was being debated last year in the Presidential campaign, and we certainly didn't hear about higher taxes on middle-income Americans.

So I was glad to help the Senator from Kansas avoid taking those phone calls while he was speaking.

Mr. ROBERTS. If my distinguished colleague—well, I will take back my time and yield back for any comments he may want to make. The person on the other end of the phone call, was he for the health care bill or was he against it?

Mr. WICKER. Well, I would not have presumed to answer the Senator's phone call. I simply put it back in the cloakroom. But I am hoping it is symbolic of the American people—

Mr. ROBERTS. Whether for or against, I hope the Senator from Mississippi would have explained that we both have some real concerns, and we hope we can get real health care reform.

Mr. WICKER. I thank the Senator.

Mr. ROBERTS. I also thank the Senator.

Let me just give one quick example of what I am talking about with regard to Medicare. The President of the Kansas Pharmacists Association is from a very small town out West. We conduct a lot of listening tours, and we go into the pharmacy. The pharmacists, we ought to give them a GS–15 salary because they are the people who deal with Medicare Part D. That is the prescription drug program we give to seniors; it is very popular.

Let's say a lady named Mildred came in to see her pharmacist there and Mildred talked to Tom, the pharmacist, and said: What is this doughnut hole? And Tom says: Well, that is where you have to pay a bigger copayment. And she says: Well, can't I get a new kind of program or something else that will help me out here? He said: Yes, there are 47 new programs you can choose from. Mildred, the one that you want is right here. She says: Good. Then I am not going to get hurt with the cost of the prescriptions I need. He says: But I can't offer it to you? Why? Because I only get reimbursed 71 percent.

That is about the national average. How on Earth can we expect every pharmacist all around the country to administer—and they are the ones doing the administering; it isn't the Area Agency on Aging or the 1–800–Medicare. So he had to tell her that the program in Medicare Part D that would cover the doughnut hole, he didn't get reimbursed enough and couldn't offer it. Well, he helped her out. All pharmacists try to do that. That is where we are.

Or if Mildred goes to the doctor and the doctor says: I am sorry, I can't take any more Medicare patients—that is happening. It is real. This bill exacerbates that—exacerbates it. That is why I am so upset and why I came to the floor today.

I will go back to the HELP Committee in good faith to work with my colleagues and we will try to make it bipartisan. I know on Thursday we are supposed to have a markup in the Finance Committee—marching orders from the leadership around here, right in the middle of a Defense authorization bill. We don't need marching orders. We need to slow down. We need to slow down and get this right.

Thank you, Mr. President. I yield back the remainder of my time.

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

Mr. KAUFMAN. Mr. President, I wish to thank the members of the Armed Services Committee for their tireless work on this bill. I thank Chairman LEVIN and Senator MCCAIN for their amendment to strike $1.75 billion in unnecessary funding for the F–22 aircraft.

I strongly support those provisions of the Defense authorization bill which aim to support critical defense spending priorities such as providing fair compensation and health care to members of the Armed Forces and their families, enhancing the capability of our troops to conduct successful counterinsurgency operations in Iraq and Afghanistan, improving our ability to counter nontraditional and asymmetric threats and terminating troubled and wasteful military spending programs in favor of those which are deemed more efficient and effective.

Also, I strongly support the recommendation of Secretary Gates that we must rebalance the Defense budget in order to institutionalize and enhance our capabilities to fight current wars as well as likely future threats. As events in Iraq and Afghanistan have demonstrated, the military challenges currently before us are unlike conventional wars of the past. I am pleased this bill provides the resources necessary to protect our troops in counterinsurgency missions by providing additional funding for Mine Resistant Ambush Protected Vehicles or MRAPs; U.S. Special Operations Command, or SOCOM, and the Joint Improvised Explosive Device Defeat Organization, as well as supporting the vital train and equip mission for Afghan security forces. This training is an essential prerequisite for achieving stability and security in Afghanistan and succeeding in our ongoing counterinsurgency mission.

These and other provisions of the bill aim to institutionalize many of the administration's recommendations regarding future Defense priorities based on the conclusion of military officials—including Secretary Gates, Admiral Mullen, and General Petraeus—that irregular warfare is not just a short-term challenge; rather, it is a long-term reality that requires realignment of both military strategy and spending. As Secretary Gates has said, this rebalancing need not come at the expense of conventional weapon programs, which are deeply embedded in the Department of Defense, in its bureaucracy, in the defense industry, and in the Congress. At the same time, we must move away from funding Cold War-era weapons programs with an eye toward the future and accept that threat requirements have changed. This requires difficult decisions, sacrifice, and change, such as ending the F–22 production line which the White House and the Department of Defense

have concluded will save valuable resources that could be more usefully employed.

As President Obama explained yesterday in a letter to the Senate, this determination was not made casually. It was the result of several analyses conducted by the Department of Defense regarding future U.S. military needs and an estimate of likely future capabilities of our adversaries.

The F–22 has never flown over Iraq or Afghanistan because it is not the most efficient or effective aircraft to meet the current needs of the military. Its readiness has been questioned, it has proven too costly, and continued production will come at the expense of more critical defense priorities. I say critical defense priorities. But this debate is really not about the future of the F–22. This is just the first test as to whether we are ready to end unnecessary spending and rebalance the defense budget to better reflect the reality of counterinsurgency missions.

Today I voice my support for the Levin-McCain amendment which terminates procurement of additional F–22 fighter aircraft when the current contract ends at 187 jets.

In December 2004, the Department of Defense concluded that 183 F–22s were sufficient to meet our military needs, especially given the future role of the F–35 Joint Strike Fighter, which is a half generation newer aircraft and more capable in a number of areas, including electronic warfare and combating enemy air defenses.

Ending the F–22 production line at 187 meets the needs of our military and allows us to purchase equipment deemed more efficient and effective. According to Secretary Gates and Admiral Mullen:

> If the Air Force is forced to buy additional F–22s beyond what has been requested, it will come at the expense of other . . . priorities—and require deferring capabilities in the areas we believe are much more critical for our national defense.

Some of my colleagues have argued that ending the procurement of F–22s will have a significant impact in terms of jobs. Of course, I share the concern of keeping jobs and am focused, first and foremost, on preserving jobs and job creation. At the same time, however, I believe job losses incurred in the F–22 line will be offset by an increased F–35 production. Moreover, I agree with my colleague, Senator MCCAIN, that ''in these difficult economic times, we cannot afford business as usual. We cannot afford to continue to purchase weapons systems that are not absolutely vital . . . '' to our national security interests.

I urge my colleagues to join me in supporting the Levin-McCain amendment which reaffirms America's commitments to our troops by ending wasteful spending and enhancing military readiness. This reflects the sound and bipartisan judgment of two U.S. Presidents, two Secretaries of Defense, three Joint Chiefs of Staff, as well as the current Secretary and Chief of Staff of the Air Force. I hope we can pass a Defense authorization bill that supports the sound judgment of our military leaders and President and avoid wasteful spending of precious national resources.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

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

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

ENSLAVED AFRICAN AMERICANS

Mrs. LINCOLN. Mr. President, I rise today to thank the Senate for adopting my resolution that authorizes a marker to be placed in the new Capitol Visitor Center. The marker recognizes the role of African Americans in the building of this great U.S. Capitol Building.

I also thank Susan and my legislative director, Jim Stowers, who have been tireless in their work and certainly have done an incredible job in bringing forth this resolution, along with many others we have been working on to try and recognize the tremendous work and labor that was put into building this magnificent symbol of our freedom and particularly that which was done by the slave labor in this country when the Capitol was built. Those two individuals have done a remarkable job in working on this resolution. I am very grateful to them and all of the work they have put into it.

I also thank Congressman JOHN LEWIS for his unbelievable leadership in moving this resolution through the House and for his leadership of the Slave Labor Task Force. I had the privilege of serving with Congressman LEWIS in the House, and upon my election to the Senate, we worked together on a number of issues, including funding for the Little Rock Central High Visitor Center and the Slave Labor Task Force. It has been an honor to work with him on these very important issues. He is a tremendous gentleman to work with on all issues, but I have had the particular pleasure of being able to work with him on these two. It has been a great learning experience for me and certainly an honor.

The crowning feature of our Nation's Capitol is the majestic statue that stands atop its dome. It was designed by an American, Thomas Crawford, to represent ''Freedom triumphant in War and Peace.'' It has become known simply as the Statue of Freedom to those of us who come in and out of the Capitol on a daily basis.

Thomas Crawford cast the five-piece plaster model of his statue at his studio in Rome, Italy. Before it was shipped to the United States to be cast, Crawford passed away. Once it arrived in Washington, DC, problems soon arose. A workman who assembled the plaster model for all to see, just as it is downstairs, soon got into a pay dispute, and when it came time to disassemble it and move it to a mill in Maryland where it would be cast in bronze, he refused to reveal how it had been taken apart. Work on the statue stalled until a man named Philip Reid solved the mystery.

Mr. Reid was an enslaved African American who worked for the owner of the foundry selected to cast the bronze statue. Mr. Reid figured out how to disassemble the plaster model by attaching an iron hook to the statue's head, and he gently lifted the top section until a hairline crack appeared. The crack indicated where the joint was located. Then he repeated that operation until all five sections were visible.

If you go down to the Capitol Visitor Center, you can see this huge plaster cast and you can see how large it is, how cumbersome it is, and how difficult it would be to work with even in today's age with the tools and all of the mechanics we have. Yet this gentleman on his own figured it out with very little other than just a hook to be able to pull up and figure out where he would find that path of least resistance.

We know about Philip Reid today because Fisk Mills, the son of the foundry owner, told the story to a historian who recorded it in 1869. It describes Philip Reid as an ''expert and an admirable workman'' and ''highly esteemed by all who know him.''

Philip Reid's story is probably the best known among the enslaved African Americans who worked so diligently on our Nation's Capitol. Unfortunately, there are many others who worked in obscurity.

When the Capitol was first being built in the late 1700s and early 1800s, enslaved African Americans worked in all facets of its construction. They worked in carpentry, masonry, carting, rafting, roofing, plastering, glazing, painting, and sawing. These slaves were rented from their owners by the Federal Government for about $60 a year.

For nearly 200 years, the stories of these slave laborers were mostly unknown to the visitors of this great building, our Capitol. Then in 1999, old pay stubs were discovered that showed slaves were directly involved in the construction of the U.S. Capitol.

To recognize these contributions, I sponsored a resolution in July of 2000 to establish a special task force to make recommendations to honor the slave laborers who worked on the construction of this great Capitol.

The bicameral, bipartisan Slave Labor Task Force brought together historians and interested officials to work on this issue. In 2007, the task force presented the congressional leadership with our recommendations.

This resolution fulfills one of those recommendations, the resolution we passed in the Senate. It authorizes a marker to be placed in Emancipation Hall to serve as a formal public recognition of the critical role that

enslaved African Americans played in the construction of the Capitol.

Much of the original Capitol no longer stands, due to the fires of war and renovations to create more space for the ever-growing body. In fact, some of the stones that were removed when the Capitol was renovated have been stored in Rock Creek Park. It is our hope that those very stones that were quarried years and years ago by the slaves will be used to make the CVC marker we hope to place in the CVC.

I also would like to take a moment to remember one of the members of the Slave Labor Task Force, Curtis Sykes, who was a native of Little Rock, AR, and an original member of Arkansas's Black Advisory Committee.

I asked Mr. Sykes if he would come and serve on this committee. I selected him because he was, first and foremost, an educator. During his time on the task force, he was focused on the need to ensure that as many citizens as possible be made aware of the contribution of enslaved African Americans in the building of this great U.S. Capitol.

Unfortunately, Mr. Sykes passed away before our work was completed. Nevertheless, he made important and lasting contributions to our work. I know he is looking down with a great sense of pride for what we have been able to accomplish.

The heart of this effort and the mission of the Capitol Visitor Center is education. It was at the root of what Mr. Sykes stood for, and it certainly has been at the root of what our task force has been professing and wanting more than anything to create for the visitors who come through our Nation's Capitol. That is why there is no more appropriate place for this marker to recognize those who built the Capitol than our new Capitol Visitor Center, an education model in itself.

The plaster model of the Statue of Freedom, the same one that was separated by Philip Reid, now stands tall in Emancipation Hall of the CVC for all visitors to see. Visitors look at the model each and every day and can compare it to the actual statue standing atop the Capitol dome. I want to make sure every visitor who comes to the CVC, our Capitol Visitor Center, knows how that statue got up there and that they know the story of Philip Reid and the other enslaved African Americans who played such a critical part in the building of this Capitol—our symbol of freedom in this Nation.

In closing, I thank Chairman SCHUMER and Ranking Member BENNETT of the Rules Committee for their help and guidance on this resolution. I also certainly cannot finish my remarks without offering my tremendous thanks to my colleague and friend, Senator CHAMBLISS from Georgia, who, along with Senator SCHUMER, was an original cosponsor of this resolution.

Senator CHAMBLISS has done a tremendous job. He is a delight to work with, and I am not only grateful for the hard work he has put in on this issue but other issues we have worked on, but without a doubt for his friendship in working on so many issues.

Mr. President, I thank my colleagues for again adopting this resolution in the Senate. We look forward to being able to add many other of those recommendations of the task force as we move forward and as our Capitol Visitor Center continues to grow.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today to concur with my good friend from Arkansas with respect to H. Con. Res. 135, which acknowledges the role slave labor played in constructing the U.S. Capitol and thank her for her leadership on this issue. Once again, she and I had an opportunity to work on an issue that is important to America and to Americans.

Senator LINCOLN has been a true champion for the common man, as well as for all Americans, on any number of issues. It has been a great pleasure to work with her on any number of issues over the years. I do thank her for her great leadership on this resolution.

The story of the very building in which we are standing is a story of freedom. It is a story of how people from every corner of the globe arrived to have a chance to steer their own lives, shape their own destinies, and toil at tasks of their own choosing, not those dictated by birth or caste.

Sadly, however, that shot at freedom was not given to everyone. For those who were brought here against their will and forced to toil for someone else's gain, freedom was a vague concept—for others but not for them. Slavery will forever remain a shameful tarnish on the shining city that is America. Unbeknownst to most Americans, slave labor helped build our Nation's Capitol. It is one of the saddest ironies of our history that the very foundation of this building in which we have debated the most fundamental questions of liberty was laid by those in shackles. They labored in the heat, cold, and dust of quarries in Virginia and Maryland to cut the stone upon which rests this temple of liberty.

We know very little about these workers and artisans, and of the few records that were kept at the time, only several first names survived, next to those of their owners and sums paid for the grueling labor. From 1793 to 1826, up to 800 slaves at one time painted, roofed, sawed, glazed, and perfected this building which represents a freedom most of them were never to know. They laid the foundation still visible at the Capitol's east front. They carved the marble columns that witnessed so many of the deliberations on the future of our Nation in the old Senate Chamber. They erected and polished the tall marble columns that lend Statuary Hall such elegance and grace.

As the Civil War ripped this Nation asunder over the very issues of human liberty, a slave artisan named Philip Reid cast the statue that crowns this very building, aptly named ''Freedom.'' I am pleased to join with my colleague from Arkansas and my House colleague from my home State of Georgia, Congressman JOHN LEWIS, in the submission of S. Con. Res. 135, which directs the Architect of the Capitol to place a marker in Emancipation Hall of the Capitol Visitor Center acknowledging the role these slave laborers played in the construction of this building and to accurately reflect its history. I would especially like to thank Congressman LEWIS for his work in heading the Slave Laborer's Task Force, which recommended that such a marker be designated and erected.

This marker is a small way of showing our gratitude to these Americans, but it is a necessary and proper one.

AMENDMENT NO. 1469

Mr. President, I now wish to move to another issue. It is the issue of the McCain-Levin amendment that is before us on the Defense authorization bill. In the Defense authorization mark, we filed an amendment seeking to add seven F–22s for additional procurement by the Air Force. And as a part of that amendment, we provided all the offsets necessary within the budget to purchase those seven aircraft. That amendment passed in the full committee and now is a permanent part of the mark. The amendment by Senators McCain and Levin seeks to strip those seven airplanes out of that mark and to deny—to basically shut down—the production line for the F–22.

First, with respect to this debate, let me put it in context and draw from a statement by a Washington expert in this area who is known for being bipartisan and level-headed, and that is John Hamre, President and CEO of CSIS, and a former Pentagon Assistant Secretary under the Clinton administration. In an April newsletter, Mr. Hamre stated as follows:

> All of the systems proposed for termination by Secretary Gates in his budget have valid missions and real requirements. None of them is a wasteful program. This is a case of priorities. Secretary Gates has decided that these programs don't enjoy the priority of other programs in a constrained budget, but Congress can and should legitimately question spending priorities. Every individual has a unique calculus for prudent risk. Secretary Gates has rendered his judgment. Not only is it appropriate but necessary for Congress to pass final judgment on this question.

Mr. Hamre goes on to say:

> I admire Secretary Gates, but it is the duty and obligation of Members of Congress to question his recommendations. These recommendations merit serious and dispassionate debate, not sloganeering. Secretary Gates has made a series of recommendations. Only the Congress can decide what to do for the Nation.

Congress is the branch of government most directly connected to the American people. We have a crucial role in the budget process, which we should not shy away from. Some will say this

is a debate about jobs and pork-barrel spending, unnecessary spending and powerful defense contractors. Hopefully, Mr. Hamre's statements have at least partially dispelled what is truly a myth in this respect.

Clearly, jobs are at stake—lots of jobs—and good-paying jobs at that. About 95,000 jobs are going to be lost if the McCain-Levin amendment passes—95,000 good-paying jobs across America. Several thousand of those jobs are in my home State.

But this is not a debate about jobs. This is a debate about the security of the United States of America, and I am going to talk in greater detail about that in a minute.

Since the Korean War, our military has been able to maintain what we call air dominance and air superiority. And what that means is that our Air Force has been able to control the skies, to rid the skies of any enemy aircraft. We have been able to control the skies by having the capability of taking out any surface-to-air missile that might seek to shoot down one of our planes in any conflict with an adversary. Since the Korean War, the United States of America has not lost a foot soldier to tactical enemy aircraft because of our ability to maintain air dominance and air superiority. Well, if we do not have the F–22, our ability to maintain air dominance and air superiority is in jeopardy.

Over the years, we have been in conflicts in different parts of the world with different adversaries, and there will be additional conflicts down the road at some point in time. We hope not, but we know one thing, and that is if we have an inventory—the capability of taking away the enemy's ability to come after us—then it puts our enemy in a difficult position from the standpoint of ever wanting to engage us.

Let me respond now to some comments that Senator MCCAIN made yesterday, and which he and others have made often, about the power of the military industrial complex. Our industrial complex is powerful, but it is not all powerful. If there were not serious national security interests at stake here, we wouldn't be having this debate.

Also, there is absolutely nothing unique about the role of outside interests in the case of the F–22. Anyone involved in the current debate we are having in this body over health care, and even this week's hearings regarding Sotomayor, knows that outside interests, including industry, are intimately involved in trying to influence the process in regard to those issues. It is simply part of the process in a democracy, and there is absolutely nothing unique to it in relation to the F–22. We wouldn't be here if there were not serious national security issues at stake that are worth debating.

However, most importantly, this debate is about what kind of military we need today and what kind of military these young people who are sitting before us today are going to need in the future. It is about the balance between needing to maintain both the ability to win current wars and guard against future challenges. The United States is a global power, with global commitments and responsibilities that exceed Iraq and Afghanistan. We are also a nation that has fought and won wars through the use of technology and not just a total reliance on manpower.

Lastly, we are a nation for whom the basic war-planning assumption for the last 50 years has been that we will control the skies—air dominance and air superiority. If that assumption goes away, so does one tenet of American military strategy and the planning assumptions attached to maintaining air dominance.

A criticism of the F–22s in the bill is that it is funding something DOD does not want. Defense budgets, as enacted into law, always—and I emphasize always—contain measures, be they weapons systems or other programs, that DOD does and does not want. As John Hamre said, it is the job of Congress to assess what DOD requests and to render judgment thereon. If we do not do that, we have given up our oversight role with which the constitution entrusts us. Congress is the branch of government most connected to the American people. It has an important role to play, and we should not shirk that role and be afraid to challenge DOD's priority, when necessary, and when we know they are wrong. This is a debate about military priorities and what kind of military we need. We cannot and should not assume that future challenges will be like today. In predicting where the next threat will come from, the United States of America and our tacticians have a perfect record: We have been wrong every single time.

Jobs are at stake, and a variety of different interests are at stake but, most importantly, what is at stake is our national security and our ability to execute our global responsibilities. That is what is at stake and that is what I am going to focus on in my remarks today.

I would also like to rebut one point critics make about the F–22 not flying in missions in Iraq and Afghanistan. Senator MCCAIN and Secretary Gates have made this point often and over and over again. But there are numerous and very expensive weapon systems in this budget that we are going to be voting on in the next couple weeks that have not, and hopefully will not, be needed in Iraq and Afghanistan—the Trident missiles, the ballistic missile system, the DDG 1000. There is a long list of items that are not going to be used in Iraq and Afghanistan that are very expensive and that are contained within this authorization bill. That does not mean these systems are not needed. It is merely that they are intended to address a different threat. To argue against the need for a system because it is not being used in the current conflict is shortsighted and betrays a very short-term perspective on our national security.

Frankly, if the Pentagon had wanted to use the F–22 in the current conflicts, they could have been used. I don't know whether a conscious decision was made otherwise, but the conflict in Afghanistan is not over, and we are going to be in that area of the world for a long time to come. I suspect that before it is over, we will have F–22s flying in the region.

Let me just add that these numerous projects that DOD did not request—and there are several DOD projects which DOD did not request—have drawn little or no attention. For example, $560 million for unrequested FA–18s, $1.2 billion for unrequested MRAPs, and significant funds to support a pay raise above what was recommended by the President. We spent a lot more money on these items than what DOD requested. So to come up here and say: Well, DOD didn't request any F–22s and, therefore, we are to salute and go marching on is something we have never done, we did not do in this bill, and we should not have done in this bill.

Let me also address the veto threat regarding the F–22 funding. A veto is a serious step and one that should only be taken when the welfare of our troops or national security is at stake. After doing extensive research of Defense bills as far back as data is available, I have been unable to find one single example where a veto has been threatened or issued in relation to funding that correctly supports an unmet military requirement, as funding for the F–22s in this bill does. It is regrettable the administration needs to issue a veto threat for funding intended to meet a real national security requirement that has been consistently confirmed by our uniform military leaders.

Specifically, in his letter to Senators LEVIN and MCCAIN, President Obama states as follows:

> The Department conducted several analyses which support this position to terminate F–22 production at 187.

I am not sure who was advising the President on this, but that statement is simply not true. Of the countless studies—and I emphasize study after study after study—that DOD has done, only one recommended 187 F–22s, and that study was based on one major contingency operation that has not even been factored into our national security strategy.

There are numerous other studies—again, numerous other studies—including one commissioned by the DOD itself in 2007, which support buying a minimum of 250 F–22s, not 187.

I would also like to offer a few comments on the letter from Secretary Gates and Admiral Mullen. Like General Cartwright did at last week's hearing, Secretary Gates and Admiral Mullen talk about the importance of UAVs in obviating the need for F–22s. That means taking pilots out of the air

when it comes to destroying critical adversarial weapon systems that are on the ground or in the air trying to take out our men and women.

What they don't note is that of the UAVs we are procuring in this budget—and I am a big fan of UAVs; we need them in certain scenarios, but of the UAVs we will be procuring in this budget, that we will be procuring in additional budgets, virtually none of them will have any stealth capability, and they will be useless in a situation that requires penetrating denied airspace.

In other words, if we need to fly a UAV into a country—and there are a number of countries in the world today that have the Russian-made SU–30 surface-to-air missiles—those UAVs get shot down every single time. The F–22 is the only weapon system in our inventory that has the capability of penetrating that airspace and firing not one shot, not two shots, but three shots and getting out of that enemy territory before the enemy ever knows the F–22 is in the theater. There is nothing in our inventory or on the drawing board that has that kind of capability—certainly not the UAVs.

As they did in hearings before the Armed Services Committee, Secretary Gates and Admiral Mullen also do not address the issue of surface-to-air missiles and that the F–22 is more capable against those systems.

Lastly, their letter notes the decision to terminate the F–22 program at 187 has been consistent across administrations. Again, let me just say it was Secretary Gates himself, as the Secretary of Defense at the end of the Bush administration, who decided to procure additional F–22s. We just procured those four F–22s in the supplemental we passed a month ago, or 6 weeks ago—that is additional F–22s beyond the program of record—to keep the option for additional F–22 procurement open for the next administration. So that has not been a decision of previous administrations. It is this administration that is making the decision to terminate the best tactical airplane ever conceived in the history of the world.

In relation to the letter sent yesterday from Secretary Gates and Admiral Mullen, I would like to quote from a letter I received from Rebecca Grant, a military expert who is at the Mitchell Institute for Air Power Studies. Here is what she says:

> In the letter of July 13, from Admiral Mullen and Secretary Gates, the characterization of F–35 as a half generation newer aircraft than F–22 and more capable in a number of areas such as electronic warfare and combating enemy air defenses is incorrect and misleading. Air Force Secretary Donley and General Schwartz have repeatedly stated, ''The F–22 is unquestionably the most capable fighter in our military inventory.'' And citing a Washington Post article of April 13, 2009:
>
> The F–22 was designed with twice the fighting speed and altitude of the F–35, to preserve U.S. advantages in the air even if adversaries can test our countermeasures or reach parity with us. If electronic jamming fails, the speed, altitude and maneuverability advantages of the F–22 remain. The F–35 was designed to operate after F–22s have secured the airspace, and does not have the inherent altitude and speed advantages to survive every time against peers with electronic countermeasures. America has no unmanned system programs in production today that can cope with modern air defenses such as those possessed by Iran. The Navy UCASS demonstrator program may produce such a system in several years for carrier-based operations only. However, together, China and Russia have 12 open production lines for fighters and fighter bombers. Only 5 F–35s are flying today. The F–35 has completed less than half its testing. Developmental tests will not be complete until 2013. It is impossible to assess the full capabilities of the F–35 until operational test is complete in 2014.

Let me just add right here, in the history of the United States of America, when it comes to tactical aircraft, we have never ever purchased a tactical air fighter while it was still in test and development stage. We always allow that to be completed because we know there are going to be deficiencies.

Going back to the letter from Ms. Grant:

> The United States Air Force will not have a robust F–35 force structure for another 10 years. In addition, the Pentagon removed funding for the F–35 to reach the rate of 110 per year as desired by the Air Force. Departing Air Force Secretary for Acquisition Sue Payton recently warned of potential cost growth in F–35, upon her departure. Cost growth, or a Nunn-McCurdy breach, could slow down the rate at which the United States Air Force takes delivery of the F–35. The letter misrepresents the position of former Chairman of the Joint Chiefs of Staff General Richard Myers.

I ask unanimous consent to have that letter printed in the RECORD.

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

From Rebecca Grant, Director, Mitchell Institute for Airpower Studies, Air Force Association.

In the letter of July 13 from Admiral Mullen and Secretary Gates, the characterization of F–35 as a ''half generation newer aircraft than F–22 and more capable in a number of areas such as electronic warfare and combating enemy air defenses'' is incorrect and misleading.

Air Force Secretary Donley and General Schwartz have repeatedly stated: ''The F–22 is, unquestionably, the most capable fighter in our military inventory.'' (Washington Post, April 13, 2009.)

The F–22 was designed with twice the fighting speed and altitude of F–35 to preserve US advantages in the air even if adversaries contest our electronic countermeasures or reach parity with us.

For example, the Russian-made Gardenia series jammer fits the Su–27 or MiG–29 aircraft and detects radar signal threats and defeats them by processing and returning the same signals with jamming modulation. This jammer has been exported to nations such as Israel which may have modified and improved the jammer. It is made by the Kaluga Scientific Institute of Radio Technology which has other advanced jammers in the works.

New digital technologies enable advanced SAMs to switch rapidly between different frequencies for jamming which greatly complicates our electronic countermeasures. The advanced SAMs are therefore much more difficult to defeat than the analog SA–6s and SA–2s designed in the 1960s.

If electronic jamming fails, the speed, altitude and maneuverability advantages of F–22 remain. The F–35 was designed to operate after F–22s secured the airspace and does not have the inherent altitude and speed advantages to survive every time against peers with electronic countermeasures.

America has no unmanned systems programs in production today that can cope with modern air defenses such as those possessed by Iran. (The Navy UCAS demonstrator program may produce such a system in several years for carrier-based operations only.) However, together China and Russia have 12 open production lines for fighters and fighter-bombers.

Only five F–35s are flying today. The F–35 has completed less than half its testing. Developmental test will not be complete until 2013. It is impossible to assess the full capabilities of F–35 until operational test is complete in 2014.

The USAF will not have a robust F–35 force structure for another ten years. In addition, the Pentagon removed funding for the F–35 to reach the rate of 110 per year as desired by the Air Force.

Departing Air Force Assistant Secretary for Acquisition Sue Payton recently warned of potential cost growth in F–35 upon her departure. Cost growth or a Nunn-McCurdy breach could slow down the rate at which the USAF takes delivery of F–35.

The letter misrepresents the position of former Chairman of the Joint Chiefs of Staff General Richard Myers.

Mr. CHAMBLISS. As I mentioned earlier, we see this debate and vote about the need to maintain the ability to win current wars and to guard against future challenges. While respecting Secretary Gates and his desire to emphasize winning current conflicts, we feel his stance with respect to the F–22 does not adequately account for other kinds of threats.

Specifically, I find DOD's assumption that F–22s will only be required in one major contingency or theater to be totally unrealistic. This is the assumption the 187 number is based on. Given the ability and proliferation of advanced surface-to-air missiles which require stealth to counter, and numerous hostile nations' desire for these SAMs, the likelihood of an adversary outside east Asia requiring these systems in the near to midterm is increasingly likely.

In fact, in the press recently there have been reports about a potential adversary seeking to buy the S–30s from Russia. The F–22 is the only weapon system America has that is capable of penetrating the S–30. There is a follow-on, more sophisticated surface-to-air missile being produced by the Russians today. That missile, again, will proliferate around the world at some point in time, and the only weapon system in the inventory of the United States that has capability of penetrating airspace where those weapons exist is the F–22.

The administration's current plan for F–22 basing would result in no F–22s being stationed in Europe or being

available to address a crisis situation requiring penetrating denied airspace in the Middle East.

At the press conference announcing his budget recommendations on April 6, 2009, Secretary Gates said there was no military requirement—I emphasize that, ''military requirement''—beyond 187 F–22s, and the Air Force agreed.

On this specific issue, either Secretary Gates misspoke or he was given incorrect information. In any case, this statement has been repeatedly contradicted by his Air Force leadership.

The Chief of Staff of the Air Force, General Schwartz, in February of 2009, said he suggested he would request some additional 60 F–22s and present analysis supporting that number to the Secretary of Defense during formulation of the fiscal year 2010 budget. He commented that this request was driven by analysis as opposed to some other formulation and spoke of 243 as being a moderate-risk number of F–22s.

On April 16, 2009, after Secretary Gates's budget announcement, while speaking at a National Aeronautics Association event, General Schwartz stated, regarding the F–22: ''243 is the military requirement.'' He commented that 243 would have been a moderate-risk inventory.

On May 19, 2009, before the House Armed Services Committee, General Schwartz testified 243 is the right number of F–22s. Before the Senate Armed Services Committee on April 21 of this year, General Schwartz said he gauged the risk of a fleet of 187 F–22s as ''moderate to high.''

Mr. President, 187 F–22s puts America in a ''moderate to high'' risk category, according to the Chief of Staff of the United States Air Force.

There have been other generals who have made statements with respect to the F–22. I commend these gentlemen because they are, frankly, putting their military future at risk. I know they probably received some harsh phone calls from the leadership. But I know this too. They have also received a lot of calls from majors and captains and lieutenants and Air Force academy students today, as well as Army foot soldiers, just like I have. I know they have gotten those phone calls because I have gotten those phone calls thanking me for being willing to stand up and say: Mr. Secretary, you are wrong about this, and we need more F–22s.

Air Combat Command holds the need for 381 F–22s to provide air superiority to our combatant commanders and protect against potential adversaries.

General Corley, who is the Commander of Air Combat Command, stated that a fleet of 187 F–22s puts execution of our national military strategy at high risk in the near to midterm. Air Combat Command analysis shows a moderate risk force can be obtained with an F–22 fleet of approximately 250 aircraft.

The F–22 underpins our ability to dissuade and defer. Simply put, 243 gives us the required global coverage with 180 combat-coded jets versus 115 to 126 combat-coded jets that we are going to get if we terminate this program with 187 F–22s being purchased.

Mr. President, 180 combat deployed F–22s allows us to quickly win major contingencies with a moderate risk. Lower numbers of F–22s would sacrifice global coverage during a major contingency, encouraging adversaries to take advantage of a diminished ability to ensure air sovereignty. Out of dozens of studies conducted by DOD regarding the F–22, every study except one recommended procuring at least 243 F–22s.

The one study that did not was conducted by the DOD staff without any Air Force input and was based on the assumption that F–22s would only be required in one scenario, which, as stated earlier, is an unrealistic assumption.

General Schwartz and Secretary of the Air Force Donley have spoken often on this issue in the last several months, including an op-ed they put in the paper on April 13. I understand there is another letter coming from them. I look forward to reading it, although I am not sure it can say anything new.

In order to better understand his position, I, along with six other Senators, sent General Schwartz a letter on May 4 of this year. Let me quote from his letter. General Schwartz stated:

> We have been consistent in defining a long-term requirement of 381 F–22s as the low-risk fleet, and 243 as the moderate-risk for both warfighting capability and fleet sustainment. The F–22 program of record represents the minimum number for current force planning at higher risk. While 60 more F–22s are desirable, they are simply unaffordable.

I think these comments from General Schwartz confirm what we all already know, that the decision to limit production to 187 is budget driven, pure and simple, and 187 is a high-risk fleet and does not meet the full military requirement.

I would simply like to ask my colleagues: Why should the United States of America accept a moderate to high-risk situation in our ability to carry out the mission of the United States Air Force in the first place?

Substituting F–22s with other aircraft will not serve the Nation's interest. Some have suggested filling the remaining F–22 requirements with other aircraft such as the F–35, the Joint Strike Fighter. I am a big fan of the Joint Strike Fighter. It is going to be a great airplane. But as Ms. Grant stated, we have five flying today that are being tested. We are simply a long way away from the F–35 reaching a full production rate and having the capability for which it was designed. That mission that the F–35 is being designed for is entirely different from the mission of the F–22.

The Joint Strike Fighter is designed for multirole strike missions and not optimized for the air dominance mission of the F–22. All the force structure studies have determined that a complementary mix of F–22 and F–35s is the best way to balance risk, cost, and capability. The F–22 is the only proven fifth-generation fighter in production.

The Air National Guard is charged with providing homeland air defense for the United States and is primarily responsible for executing the air sovereignty alert mission. In addition to the over 1,600 Air National Guard men and women who carry out this mission on a daily basis, the Air National Guard relies on legacy F–15 and F–16 fighter aircraft.

The projected retirements of these legacy aircraft—and we have in this budget that we are going to retire 250 F–15 and F–16s. I have no reason to think we will not retire at least another 250 next year, and this trend is going to continue.

Those retirements leave the Guard short of the required number of aircraft to execute this mission. GAO has commented:

> Unless the Air Force modifies its current fielding schedules or extends the service lives of the F–15s and F–16s, it will lack viable aircraft to conduct ASA operations at some of the current ASA sites after fiscal year 2015.

The F–15 has been a great airplane. The F–16 has been a great airplane. It has served us so well over the 30 to almost 40 years we have been flying those airplanes. In my home State at Robins Air Force Base, we have an Air Force Depot, a maintenance depot for aircraft. Last year, an F–15 literally fell out of the sky. It crashed.

Those airplanes were immediately sent to Robins Air Force Base. A number of those airplanes were sent to Robins Air Force Base to be checked out. They figured out what the problem was. We have now fixed the problem. But that is the kind of aircraft we are putting our brave men and women who are flying for the U.S. Air Force in today, and we are talking about extending the life of those airplanes for a period of time to meet the mission of the National Guard.

No plan has been developed to fill the shortfall through either modernized legacy aircraft or new aircraft procurement if we stop the production of F–22s at 187. Some 80 percent of the F–16s will be gone in 8 years.

According to LTG Harry Wyatt, the Director of the Air National Guard, the nature of the current and future asymmetric threats to our Nation requires a fighter platform with the requisite speed and detection to address them. The F–22's unique capability in this arena enables it to handle a full spectrum of threats that the Air National Guard's current legacy systems are not capable of addressing. Basing F–22 and eventually F–35s at Air National Guard locations throughout the United States, while making them available to rotationally support worldwide contingency operations, is the most responsible approach to satisfying all our Nation's needs.

So the F–22 is not just needed to counter international threats, but as

we look at a map of the United States and we look at our various Air National Guard locations around the country, we need the F–22, according to the Air National Guard, to supplement the support that is going to be required for the mission of the Air National Guard.

Let me, for 1 minute, talk about another issue that is a part of this overall long-term mission of the F–22, and that is foreign military sales. The F–22 is such a technologically advanced weapons system that a decision was made several years ago that we were not going to share this technology with other countries, as we have done with the F–16 and the F–15, and heretofore basically all our aircraft.

That was probably the right decision, to a point. But today, with respect to the F–35, we are sharing technology on that airplane, which is based upon the technology of the F–22, with the Brits, who are our primary partner with respect to the development and the production of the F–35.

So we have made a decision we are going to share the stealthy technology primarily that is available on the F–22 and the F–35 with the Brits. The F–22 and the F–35 contain a lot of other technologically advanced assets. But we now have the opportunity to develop and produce a somewhat toned-down version of the F–22 to other countries. For the last several years, we have had interest expressed in a very serious way from other countries. One of those countries has been to see me, about 3 weeks ago, and said they are dead serious about looking it purchasing the F–22 as soon as the foreign sales version can be made available.

I happen to know there are other countries that have talked to the contractor as well as the Department of Defense about the potential, down the road, for the purchase of that airplane. Obviously, the contractor cannot get involved in it, but the Department of Defense has consistently said: We have made a decision to this point that we are not going to share that technology with other countries.

Well, we live in an entirely different global world today than we did 10 years or 20 years ago. So it is time we started thinking about the potential for foreign sales of the F–22. Japan has been a very trusted and reliable ally. They need the best aircraft available to defend themselves over the long haul. Because they are an ally of ours in the part of the world in which they exist and because that part of the world has the potential for the development of future adversaries, it is critically important that we continue—and I emphasize that because we have sold them tactical aircraft in previous years—it is important that we continue to share the latest, most technologically advanced weapons systems with friends and allies such as the Japanese.

Let me read you a statement from former Chairman of the Joint Chiefs of Staff GEN Richard Myers regarding the need for an exportable version of the F–22. General Myers stated:

> Japan's F–15J force, once top of the line, is now outclassed by the new generation of Chinese fighters such as the SU–30MKK. Moreover, China's air defenses, which include variants of Russian-made long-range SA–10s and SA–20s, which is the S–300 family missiles, can only be penetrated by the fast, high-flying stealthy Raptor or the F–22. Japan's defense ministry has studied the problem closely and has produced a very impressive tactical rationale for buying the F–22 if its sale is approved by the United States Congress.

Only under the umbrella of air superiority that the Raptor provides can U.S. military endeavors succeed.

Let me quote from another well-recognized individual, retired GEN Barry McCaffrey, on the need for adequate numbers of F–22s. This statement is about a year and a half old, but it is applicable today.

> There is no single greater priority for the coming 10 years for the U.S. Air Force than funding, deploying, and maintaining 350 F–22 Raptor aircraft to ensure air-to-air total dominance of battlefield airspace in future contested areas.
>
> The F–22 provides a national strategic stealth technology to conduct—long-range (Cruises at high supersonic speed without afterburner) penetration (at altitudes greater than 15 kilometers)—undetected into any nation's airspace at Mach 2-plus high speed—and then destroy key targets (aircraft or missiles on the ground, radar, command and control, nuclear stockpiled weapons, key leadership targets, etc)—and then egress with minimal threat from any possible air-to-air or air defense system. It cannot be defeated in air combat by any known current or estimated future enemy aircraft.

That is coming from a ground soldier, somebody who depends on that F–22 and, heretofore on the F–15, to maintain air dominance and air superiority so the ground troops under his command can have the assurance in knowing that they can move freely without the threat of enemy aircraft.

Without more than 187 aircraft, we are not going to be able to guarantee the foot soldier on the ground that capability. The F–22 Raptor is in production and is operationally deployed around the world. Continued F–22 acquisition is low risk, as the aircraft has successfully completed its development program and passed a stringent set of real-world tests. By all measures, the F–22 is now a model program and continues to establish industry benchmarks for an aircraft production program.

The F–22 program is on budget. The contractor team is currently delivering 20 F–22s per year under a 3-year multiyear program that was approved by Congress 3 years ago. The multiyear contact is firm, fixed price, meaning that the U.S. Government is buying a proven capability with no risk of cost growth. It is ahead of schedule. In 2008, every F–22 delivery was ahead of contract schedule.

This ahead-of-schedule performance continues into 2009. Since early 2006, every F–22 has been delivered on or ahead of contract schedule. The contractor is producing a high-quality aircraft. In military aircraft production, the highest standard for quality is zero defect. A zero-defect aircraft is evaluated by the customer to be perfect in all respects. In 2008, nearly one-half of the F–22 deliveries were evaluated to be zero defect—an exceptionally high level of aircraft quality.

Still to this day, no one can say for sure, with any analysis to back them up, that 187 F–22s is enough. The F–22 should be viewed in the collective as a tool in the toolbox.

Detractors argue that the F–22 is single-purpose. Throughout history, we have been effective in adapting the tools we have to the needs we have. All one has to do is to look at what we are doing today with the B–52. That airplane is 50 years old—older than that; it may be 60 years old. There was a point in time when we thought we would retire all of the B–52s. It is a bomber. What are we doing with the B–52 today? Today, the B–52 is flying close air support for our troops in Afghanistan. The SSBNs are being used by our special operations men and women, and they are doing a very effective job.

A general once said that the most tragic error a general can make is to assume, without much reflection, that wars of the future will look much like wars of the past. If we are going to pass a budget and develop a weapons system inventory that is based upon the wars of the past, then we are headed in the wrong direction. The war we are fighting today is entirely different from any conflict in which we have ever been engaged. We have been wrong every single time when it comes to predicting the next adversary we will have.

Senator MCCAIN mentioned the July 10 Washington Post article on the performance and maintainability of the F–22. Let me say that we know nothing appears on the front page of the Washington Post by accident, particularly the week before an important vote. I guess I ought to be flattered by the attention. But for the record, the same reporter who wrote that article on the day of an important hearing in relation to the F–22 multiyear contract in 2006 is the same author of the July 10 article.

The article in question bore absolutely no relation to the issues at stake. Nevertheless, it led to a new study on the savings that would be achieved through a multiyear contract, a study which was conducted at government expense. Despite the article's obvious attempts to obscure the facts and issues in the situation, that new study, done pursuant to request of this body, concluded that the multiyear contract would save twice as much as the previous study.

Just briefly in relation to the Washington Post article, by close of business the day the article was published, the Air Force had already issued a rebuttal. It concluded that of the 23 claims in the article, only 4 were true,

4 were misleading, 10 were false, and 5 required greater explanation and context beyond what the Post article reported.

I ask unanimous consent that a copy of the Air Force statement in rebuttal to the article in the Washington Post be printed in the RECORD.

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

10 July 2009

**RESPONSE TO F-22 WASHINGTON POST ARTICLE BY JEFF SMITH**

<table>
<tr><td>CLAIM</td><td>...30 hours of maintenance for every hour in the skies... (Para 1)</td></tr>
<tr><td>AF RESPONSE</td><td>True based on the DOT&E Report from 2007 at 34 hours.</td></tr>
<tr><td>CLAIM</td><td>...hourly cost of flying to more than $44,000... (Para 1)</td></tr>
<tr><td>AF RESPONSE</td><td>The total variable cost per flying hour includes: aircraft part repairs (depot level repairs [DRLs]), replenishment spares, consumables, engine parts and aviation fuel. The F-22 FY08 total variable cost per flying hour (17,711 total hours flown) was $19K and the F-15 FY08 total variable cost per flying hour (122,762 total hours flown) was $17K.<br><br>Costs included in the variable cost per flying hour are a subset of total operational cost per flying hour. For the F-22, contractor support is included in both the variable cost per flying hour and the operational cost per flying hour. Contractor costs which meet the definition of a variable cost are included in the $19,750 Variable CPFH, along with appropriate government costs. Other contractor support costs are added in, along with appropriate government costs, to obtain the total $49,808 Operational CPFH.<br><br>F-22 vs. F-15<br>2008 Cost Comparison Breakdown
<table>
<tr><td></td><td>Costs Variable w/ Flying Hours</td><td>Costs Variable w/ # of a/c</td><td>Fixed Costs</td></tr>
<tr><td>F-22</td><td>$19,750 CPFH*</td><td>$2.5M cost per a/c</td><td>$276M total</td></tr>
<tr><td>F-15</td><td>$17,465 CPFH*</td><td>$2.4M cost per a/c</td><td>$318M total</td></tr>
<tr><td>Major Activities: (by category)</td><td>Repairs (DLRs)<br>Spares<br>Consumables<br>Fuel</td><td>Depot Maintenance<br>Base Operations</td><td>Engineering<br>Tech Data<br>Program Mgmt<br>Indirect Costs</td></tr>
</table>
Cost comparison includes all O&S costs (both CLS and organic)<br>Once costs are bucketed into categories, F-22 and F-15 costs are similar<br>Note: * Costs variable with flying hours are preliminary estimates.</td></tr>
<tr><td>CLAIM</td><td>...radar-absorbing metallic skin is the principal cause of its maintenance troubles, with unexpected shortcomings --... (Para 2)</td></tr>
<tr><td>AF RESPONSE</td><td>True.</td></tr>
</table>

| | |
|---|---|
| **CLAIM** | ...such as vulnerability to rain and other abrasion... (Para 2) |
| **AF RESPONSE** | Not true. Rain is not the cause of skin issues. |
| **CLAIM** | ... aircraft fleets become easier and less costly to repair as they mature, key maintenance trends for the F-22 have been negative in recent years, and on average from October last year to this May...(Para 3) |
| **AF RESPONSE** | Not true. Have been improving. |
| **CLAIM** | ...just 55 percent of the deployed F-22 fleet has been available to fulfill missions guarding U.S. airspace, the Defense Department acknowledged this week. The F-22 has never been,...(Para 3) |
| **AF RESPONSE** | Fleet average 64.5 and Operational Fleet (LAFB, EAFB, HAFB) 61.5. The mission capable rate has improved from 62% to 68% percent from 2004 to 2009. |
| **CLAIM** | ... only 1.7 hours .... (Para 5) |
| **AF RESPONSE** | True based on the FOT&E Report. The F-22 program does not measure mean time between critical failure. However, Mean Time Between Maintenance (MTBM) has dramatically matured from 0.97 in 2004 to 3.22 as demonstrated by Lot 6 aircraft performance. |
| **CLAIM** | ...$350 million apiece.... (Para 5) |
| **AF RESPONSE** | $350 million then-year cost is true for the programs average unit cost (PAUC) for 184 aircraft, which includes all RDT&E and procurement costs. The fly away cost of the F-22 is $142.6M each for Lot 9 aircraft. |
| **CLAIM** | ...Structural problems that turned up in subsequent testing forced retrofits to the frame ...(Para 19) |
| **AF RESPONSE** | Misleading. The F-22 had a series of structural models that were tested throughout its development in a building block manner. Lockheed Martin completed static and fatigue testing in 2005 on two early production representative airframes. The results of those tests required upgrades to the airframe in a few highly stressed locations. Follow up component level testing was completed and structural redesigns were verified and implemented into the production line. For aircraft that were delivered prior to design change implementation, structural retrofit repairs are being implemented by a funded program called the F-22 Structural Retrofit Program. |
| **CLAIM** | ... changes in the fuel flow...(Para 19)... |
| **AF RESPONSE** | False. The F-22 fuel system has NOT required redesign. The F-22 program has improved the reliability of individual fuel system components as part of our reliability and maintainability improvement program. |

| | |
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| **CLAIM** | ...forced the frequent retesting of millions of lines of code,...(Para 19) |
| **AF RESPONSE** | False. Diagnostic software is designed to automatically detect and isolate system faults. Currently it detects system faults 64% of the time and isolates the fault 92% of the time. This is up from 42% and 63% respectively in 2006. The F-22 program continues to incorporate diagnostic improvements as part of our reliability and maintainability improvement program.<br><br>We do not see anything inherent in the way the software is written that makes it hard to change. The avionics systems, air vehicle systems and engine systems and their operating software require highly qualified personnel to implement changes and require an increased amount of system-level integration testing. Very strict coding and documentation standards are used in the design and development of the F-22 software. Adherence to these standards is what positions the code to allow for future changes. |
| **CLAIM** | ... Skin problems ...(Para 20) |
| **AF RESPONSE** | The issues noted from the FOT&E 2 Report are: 1 abrasion, 1 canopy, 3 missing filler, 4 roll up, 12 tip breaks and ~150 tip/edge damages. |
| **CLAIM** | ...Over the four-year period, the F-22's average maintenance time per hour of flight grew from 20 hours to 34, ...(Para 21) |
| **AF RESPONSE** | Misleading, the two numbers cited are from FOT&E 1 and FOT&E 2 averages respectively. The F-22 program does not measure mean time between critical failure. However, Mean Time Between Maintenance (MTBM) has dramatically matured from 0.97 in 2004 to 3.22 as demonstrated by Lot 6 aircraft performance. |
| **CLAIM** | ...The Air Force says the F-22 cost $44,259 per flying hour in 2008; the Office of the Secretary of Defense said the figure was $49,808. The F-15, the F-22's predecessor, has a fleet average cost of $30,818. ...(Para 22) |
| **AF RESPONSE** | The total variable cost per flying hour includes: aircraft part repairs (DLRs), replenishment spares, consumables, engine parts and aviation fuel. The F-22 FY08 total variable cost per flying hour (17,711 total hours flown) was $19K and the F-15 FY08 total variable cost per flying hour (122,762 total hours flown) was $17K.<br><br>Costs included in the variable cost per flying hour are a subset of total operational cost per flying hour. For the F-22, contractor support is included in both the variable cost per flying hour and the operational cost per flying hour. Contractor costs which meet the definition of a variable cost are included in the $19,750 Variable CPFH, along with appropriate government costs. Other contractor support costs are added in, along with appropriate government costs, to obtain the total $49,808 Operational CPFH.<br><br>**F-22 vs. F-15**<br>**2008 Cost Comparison Breakdown** |

| | Costs Variable w/ Flying Hours | Costs Variable w/ # of a/c | Fixed Costs |
|---|---|---|---|
| F-22 | $19,750 CPFH* | $2.5M cost per a/c | $276M total |
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| Major Activities: (by category) | Repairs (DLRs)<br>Spares<br>Consumables<br>Fuel | Depot Maintenance<br>Base Operations | Engineering<br>Tech Data<br>Program Mgmt<br>Indirect Costs |

Cost comparison includes all O&S costs (both CLS and organic)
Once costs are bucketed into categories, F-22 and F-15 costs are similar
**Note: * Costs variable with flying hours are preliminary estimates.**

| | |
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| **CLAIM** | ... of "catastrophic loss of the aircraft."...(Para 28) |
| **AF RESPONSE** | False. The Air Force has determined that there is no need for costly repairs, now or in the future. Boeing reported to USAF that for a limited number of F-22 titanium fuselage boom structures fabricated up to that time period, the titanium material used did not meet stringent F-22 specifications. It had different fatigue mechanical properties than what was certified for production. After extensive review of the titanium by Program experts it was determined that the as-fabricated fuselage boom structural assemblies did not require costly production repairs or scrapping of these high-cost fuselage boom assemblies. However, additional structural inspections had to be imposed on these particular parts to satisfy airworthiness certification requirements per the F-22 Aircraft Structural Integrity Process. These inspections are now in place and conducted in a routine manner per F-22 maintenance instructions. |
| **CLAIM** | ...through increased inspections over the life of the fleet, with expenses to be mostly paid by the Air Force....(Para 28) |
| **AF RESPONSE** | False. Fair and reasonable consideration was provided by the contractor to the AF for additional inspection burden. |
| **CLAIM** | ...It delaminates, "loses its strength and finish"....(Para 31) |
| **AF RESPONSE** | False. Each F-22 canopy costs $120k. Canopies do not lose strength over time and are removed due to optical degradation NOT safety of flight. The F-22 canopy coating life requirement is 800 hrs. Canopy coatings are unique to the F-22 system. The requirement was achieved and demonstrated in laboratory tests in Engineering and Manufacturing Development. During early operation usage the program discovered previously unknown impacts due to environmental effects that reduced coating durability. Presently, canopy coatings last an average of 331 flight hours. The program |

| | |
|---|---|
| | has incorporated several coating improvements. Coating life continues to improve. |
| **CLAIM** | ...$120,000 refurbishments at 331 hours of flying time, on average, instead of the stipulated 800 hours...(Para 32) |
| **AF RESPONSE** | Misleading. Each F-22 canopy costs $120k. Canopies do not lose strength over time and are removed due to optical degradation NOT safety of flight. The F-22 canopy coating life requirement is 800 hrs. Canopy coatings are unique to the F-22 System. The requirement was achieved and demonstrated in laboratory tests in Engineering and Manufacturing Development. During early operation usage the program discovered previously unknown impacts due to environmental effects that reduced coating durability. Presently, canopy coatings last an average of 331 flight hours. The program has incorporated several coating improvements. Coating life continues to improve. |
| **CLAIM** | ... it fully met two of 22 key requirements...(Para 33) |
| **AF RESPONSE** | There are only 11 key performance parameters. |
| **CLAIM** | ... After four years of rigorous testing and operations, "the trends are not good...(Para 35) |
| **AF RESPONSE** | False. The mission capable rate has improved from 62% to 68% percent from 2004 to 2009.<br><br>The F-22 program does not measure maintenance time per repair. Direct Maintenance Man-Hours per Flying Hour (DMMH/FH) has improved from 18.10 DMMH/FH in 2008 to 10.48 DMMH/FH in 2009. |
| **CLAIM** | ....It will, among other things, give F-22 pilots the ability to communicate with other types of warplanes; it currently is the only such warplane to lack that capability.... (Para 38) |
| **AF RESPONSE** | Provides the F-22 to transfer digital data to other ( Multi-function Advanced Data Link) MADL equipped aircraft. |
| **CLAIM** | ... One of the last four planes Gates supported buying is meant to replace an F-22 that crashed during a test flight north of Los Angeles on March 25, during his review of the program...(Para 40) |
| **AF RESPONSE** | Misleading. All 4 Lot 10 aircraft will be combat coded. |
| **CLAIM** | Paragraph 40-41 |
| **AF RESPONSE** | Cannot comment on this information because the report has not been released yet. |

Mr. CHAMBLISS. The Washington Post article is unique in some ways. I guess it may be SOP for articles that are somewhat vicious and where they contain as many errors as the Air Force has pointed out with the facts supporting the errors that were made; that is, the July 10 Washington Post article was based upon unnamed sources. It was based upon a couple of folks who said they were fired either by the contractor or by the Air Force. We take that for what it is worth.

One of the complaints cited in that article was the fact that there are problems with the skin on the F–22. Let me back up a minute and talk about the sophistication of this airplane. There is a problem with the skin. That has been a problem. What we have to remember is that we have never had an airplane that could fly with the capability that this airplane has, that could fly completely undetected, completely through any radar system of the most sophisticated nature of any potential adversary in the world. The reason this airplane can do that is because it is made of substance and material that is unique and different to this airplane, including the skin on the airplane. Are we going to have problems with something that is that unique and has never been used before on any tactical air fighter? You bet we are.

The position of the folks who are in support of this amendment is that we ought to stop production of the F–22 and buy the F–35 at a faster rate. Even if we do that, if we have F–35s flying tomorrow, they are going to have exactly the same maintenance issues as the F–22. The F–22 is the model upon which the Joint Strike Fighter is based. So let's don't kid ourselves. We are not taking an airplane that costs X and substituting it with an airplane that costs half or three-quarters of X. That is not going to be the case. Mistakes have been made—surely—but it is the first time we have ever had a weapons system like the F–22 manufactured by anybody in the world. From the mistakes we have learned. We are going to have a better F–35. But that F–35 is going to have the same skin problem. It is going to have the same weight problem the F–22 had, the F–15 had, the F–16 had, and probably every airplane we have ever developed. It is going to have the same maintenance issues we are having with the F–22 today.

Although the article was wrong in one major area with respect to maintenance, the article says the maintenance of the airplane was having a success rate of 55 percent. That is wrong. As the Air Force points out, between 2004 and today, the successful maintenance rate on those airplanes has gone from 64 to 69 percent.

The future of TACAIR for the United States likely does reside in the F–35 and not with the F–22. Even if we keep buying F–22s, it will never match the number of F–35s we will eventually buy. Everyone hopes, as I do, that the F–35 succeeds. But as the chair and the ranking member of the Armed Services Committee themselves have stated, there is a good deal of risk in the F–35 program, and there is additional risk in what we need to put in place today when it comes to the lives of our men and women who are fighting our conflicts and who are flying these airplanes.

The history of Defense programs, and aviation programs in particular, has been remarkably consistent, particularly when it comes to building programs that represent a leap in technology. They cost more. They take longer. They have more problems than we expect. GAO has criticized the F–35 approach, and they, as well as the leadership of our committee, have stated that not performing sufficient development testing before we proceed to procurement is one of the primary drivers for cost increases and schedule delays in major programs. That is exactly what is being proposed with respect to the F–35.

I am a supporter of the F–35. We are going to build far more of them than we are F–22s. But I am not the only observer to state that we should think twice about staking the future of our TACAIR fleet on a program that has only five test aircraft flying today.

I wish to talk briefly about the offsets included in our amendment which are in the mark used to fund the purchase of these additional seven F–22s. Senator LEVIN talked about the offset at length. I would like to respond to some of his comments. Most importantly, there is absolutely nothing in the offset we used and nothing that has not been used by the Senate Armed Services Committee or the chairman himself in previous bills.

Just last year, Senator LEVIN reduced military personnel funding by $1.1 billion, which is significantly more than what my amendment reduced it by. For the MILPERS and O&M reductions in my amendment and the markup, in each case the amendment takes either less or approximately the same amount as the House Armed Services Committee bill did for this year. In every case, the amendment takes less than the GAO reported average under-execution/unobligated balances in those accounts. This includes the cuts the Senate Armed Services Committee already took in their mark.

The SASC bill itself notes that GAO estimates that DOD has $1.2 billion in unobligated O&M balances and $588 million under-execution in the Air Force civ pay accounts. This is from actual language in the Senate report.

In the civilian personnel area, the GAO reports conclude that more funding is available than what my amendment takes. The GAO report takes into account the expansion of acquisition personnel who will be hired this year.

Regarding MILPERS, GAO analysis suggests that there is on average $1 billion available. My amendment leaves a balance of $200 million in that account.

The chairman also commented on the provision in my amendment that assumes savings based on acquisition reform legislation authored by Senators LEVIN and MCCAIN. Let me say that my inspiration for this particular offset was Senators LEVIN and MCCAIN. I thought they did a great job with that bill. I hope we can continue to improve it because it is an area where we have to work harder to avoid wasteful spending.

The chairman included a nearly identical provision as mine in S. 1416, which was the Senate version of the fiscal year 2002 Defense authorization bill. That bill assumed a savings of $1.6 billion based on acquisition reform bills and the SASC bill for that year. However, unlike my provision, which assumes savings already in law because of passage of the Levin-McCain bill, savings assumed by the chairman were based on provisions that were not yet enacted and, based on the conference process, may never have been enacted. Based on inflation and large increases in the DOD budget since then, that is probably the equivalent of $2 to $2.5 billion today. In any case, this is a tremendous amount of savings, and my amendment would assume far less. The offset is based upon predicted savings in the fiscal year 2010 budget based on recently passed acquisition reform legislation such as the Weapons System Acquisition Reform Act, Public Law 111–23, also the business process reengineering provision in the SASC mark and other management efficiencies and business process reforms.

Senators MCCAIN and LEVIN and President Obama are correct. Savings from this acquisition reform measure could greatly exceed that number, because in their press conference after the successful passage of that bill, they all three talked about the tremendous savings. I agree with them. That is going to happen. That is what we used as part of our offset.

I want to end where I started, by agreeing with John Hamre. John Hamre says:

> Congress can and should legitimately question spending priorities.
>
> Not only is it appropriate but necessary for the Congress to pass final judgment on this question.
>
> Secretary Gates has rendered his judgment. . . .But it is the duty and obligation of members of Congress to question his recommendations [and his analysis].

There is absolutely nothing unique or in the least bit wrong about what we are doing. Not to do so would be to abdicate the role with which the Constitution and the American people have entrusted us. If President Obama believes the additional funding for these F–22s warrants a veto threat, even though that funding addresses an unmet military requirement, then that is his decision. Our job in Congress, as John Hamre has indicated, is to look at the facts, weigh the risks, and render the judgment. That is our role—our independent role—in the process, and we should accept it and use our best judgment to decide what is right for the Nation.

With that, Mr. President, I yield the floor.

Mr. MCCAIN. Mr. President, I rise for two purposes. One is to make a quick response to the remarks of Senator CHAMBLISS concerning the F–22 and a couple of remarks about what I understand is going to be next on the agenda which will be proposed by the majority leader, which is a hate crimes bill, which is very difficult for me to understand.

Senator CHAMBLISS very appropriately pointed out that many times when we put together an authorization bill, we find offsets, as we call them—ways of paying for whatever item we want to add in the authorization bill. But I think it is important for us to point out that the Chambliss amendment during the markup, while putting this bill together, provided $1.75 billion for F–22 procurement. It took funds from presumed unobligated balances of several accounts. In all candor, they were unjustified assumptions.

The amendment cut $850 million from O&M accounts, which is operations and maintenance. That means the operating, the maintenance, the equipping, the replacement of very much needed parts and supplies that provide for the readiness of our troops, enabling them to stay ready for today's conflicts and for tomorrow's challenges. The account also covers day-to-day costs of the Department. This includes items such as training, maintenance of ships, aircraft, combat vehicles, recruiting, education support, procurement of general supplies and equipment, and repairs and maintenance of Department of Defense facilities.

Our military is engaged around the world. It is irresponsible to cut the resources they rely on to prepare successfully for their mission to protect the United States and its security interests worldwide. We owe it to our military to provide them with every resource. Based on historical data, the reductions that are in the Chambliss amendment to pay for the additional $1.75 billion would affect the following areas: Army's training and operating tempo, including training additional helicopter crews for irregular warfare missions; Navy's depot maintenance for surface ships; Air Force's depot maintenance and contractor logistical support for critical aircraft and unmanned vehicles; and the special operations command missions support and training of its forces.

Furthermore, a reduction of this magnitude would affect the Secretary's initiatives to hire and train additional acquisition professionals needed to improve the Department's ability to contract, develop, and procure weapon systems and to replace contractors with Federal employees, thereby reducing the $1.2 billion in savings that is reflected in the budget.

In addition, these accounts will have to absorb the increased cost of fuel that has occurred since the budget was submitted and additional civilian pay raises. That assumes the Congress sets the civilian pay raises at the same level as the military pay raise of 3.4 percent.

The other two ''offsets'' are $400 million from military personnel funding. Much of the funding in the military personnel accounts is entitlement driven. Thus, there is limited flexibility to absorb these reductions without affecting the readiness of U.S. forces. These reductions will directly translate into cuts to recruiting and retention bonuses incentives and other important programs such as covering the cost to move members and their families to new assignments. It will affect unit readiness by hindering the services' ability to meet end strength goals and fully staff operational units with critical personnel prior to deployment. If Congress sustains these reductions, the services will need to submit a reprogramming action to make sure our military forces are fully supported.

Finally, the Senator from Georgia assumes $500 million in first-year savings from the Weapon Systems Acquisition Reform Act, which he referred to in his remarks. I am very proud to have worked under the leadership of Senator LEVIN and together coming up with a very important piece of legislation, strongly supported by the President and the Secretary of Defense, to reform the way we acquire weapon systems. The cost overruns have been outrageous, as we know, throughout the past few years. But there is no one—no one in our wildest imagination—who believes that in the first year of acquisition reform we will save $500 million. I would love to see that happen. I would love to see pigs fly. But we are not going to save $500 million in the first year of a piece of legislation that has not been implemented and would not be for some period of time.

So I am very flattered by the reliance of Senator CHAMBLISS on $500 million in savings from the legislation we recently passed through the Congress and that has been signed by the President of the United States, but in all due respect, it is totally unrealistic. So what we are really doing is adding $1.75 billion and not accounting for ways to reduce spending or impose savings in any other way.

But I also understand and appreciate the passion, commitment, knowledge, and contributions of Senator CHAMBLISS of Georgia. There is no more valued member of the Senate Armed Services Committee. We simply have an honest disagreement on this issue. I appreciate the many qualities of the F–22 aircraft and the enormous contribution it makes to our Nation's security, but the fact is, we don't need any more of them. That comes from the Secretary of Defense, the Secretary of the Air Force, and others involved in these issues for a long period of time.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will perhaps come back later to speak on the F–22 and the work my colleagues, Senator LEVIN and Senator MCCAIN, have done. But I want to speak about another amendment I have offered that I hope might gain acceptance as we move forward, and that is an amendment to the Defense authorization bill that would require contracting officials in the Pentagon to take into account evidence of bad past performance by a contractor when deciding who should get future contracts.

You might think that contracting officials would already be required to take past performance into account. But the fact is, that is not now required over in the Pentagon. I want to go through some thoughts with you about this issue very quickly.

I have held 19 hearings on contractor waste, fraud, and abuse. I have to say, going back some years now, we have had the greatest amount of waste and fraud and abuse by contractors than we have seen in the history of this country. Let me give you some examples.

Shown on this chart is a man named Efraim Diveroli, 22 years old. Oh, by the way, he is the CEO of a company. That is right, the president and CEO of a company. The company is a shell company his father used to have. But he took it over, and he hired a vice president, as a matter of fact. The vice president's name is David Packouz, 25 years old, the former vice president of the company. He is a massage therapist. So this is a company in Miami, FL, that does business out of an unmarked door. Through the best evidence, there are only two employees—a 22-year-old president and a 25-year-old massage therapist who is the vice president. Well, guess what. These two guys got $300 million in contracts from the U.S. Government. Can you imagine, $300 million in contracts from the Pentagon?

There have been arrests in this case. But the question is, Why? I called a three-star general to my office to say: How on Earth could you have done that? How could you possibly have done that? Did you not check?

I checked. These guys also had some small contracts with the State Department which turned out to be bad contracts. But they could have at least done a small amount of checking before committing $300 million of the American taxpayers' money. What they did for that money was ship a bunch of shoddy products over to Afghanistan to the military, bullets and guns that were dated from the 1960s. That is one of the reasons this company and these fellows ran afoul of the law. But the question is, How did all this happen?

This guy, as shown in this picture, with a striped shirt is named Frank Willis. This is he, in the striped shirt. He is holding a Saran-wrapped pack of money. This is part of a couple million dollars that went to a company called Custer Battles. This is he, by the way, in Iraq. He said: Our motto was, You bring a bag because we pay cash. He is talking about defense contracting.

Custer Battles is alleged to have taken—they were going to provide security for the Baghdad Airport, which had no commercial airplanes flying in and out. It was alleged they took the forklift trucks off the airport and put them in some sort of machine shed and repainted them blue and then sold them to the Coalition Provisional Authority. So you bring a bag because we pay cash, it was said.

Here is what the guy over at the Baghdad Airport said. I am just telling you all this because I held 19 hearings. I have done 19 of them. Here is what the guy who is the airport director of security said in a memo to the Coalition Provisional Authority. Here is what he said about Custer Battles, which was given the contract. They got over $100 million in contracts.

Custer Battles have shown themselves to be unresponsive, uncooperative, incompetent, deceitful, manipulative and war profiteers. Other than that they are swell fellows.

Think of it. So what do we think of these contractors? They got a lot of the taxpayers' money.

This is a picture of Cheryl Harris with her son Ryan Maseth, a Green Beret, Special Forces. Ryan, unfortunately, tragically was killed in Iraq—no, he was not shot by some insurgent; he was electrocuted in the shower. His mother Cheryl was told that they thought maybe he went into the shower carrying a radio and therefore was electrocuted. It turns out that was not the case at all. The fact is, he took a shower in a place where the wiring had been done improperly. Why? Because Kellogg, Brown, and Root, which was paid to do the wiring, hired third-country nationals in most cases who could not speak English and did not know the wiring codes, and they wired up a shower and this poor soldier lost his life because he was electrocuted in the shower.

I held hearings about that. Eric Peters, who was working in Iraq as an electrician, said: Third-country nationals performed the majority of KBR's electrical work. Most have absolutely no knowledge of the National Electric Code or British Standards, and the quality of their work reflects that. Much of this work is not clearly inspected by licensed electricians. I personally have refused to sign off on work they have performed because I knew it was not up to code. That is what we paid for, and some soldiers have lost their lives.

This list goes on and on and on.

Eric Peters, a brave soul who worked in Iraq to do electrical work, worked for KBR. He came back and testified: I concluded that KBR was not capable of performing quality, legal, electric installations in Iraq. I worried every day that people would be seriously injured or killed by this defective work.

The reason I want to tell you about this is, not only have soldiers lost their lives, but the task orders for which that work was done resulted in award fees, bonus fees, to the company that did shoddy work.

As a result of my hearing, they sent a task force over to investigate all of the buildings in Iraq. The fact is, we have testimony and evidence that there was a massive amount of wiring that was done improperly that put soldiers at risk. Yet the Pentagon provided award fees, which are fees designed only for excellent performance, of $83 million of the taxpayers' money to a company that did shoddy work; work sufficient so we had to come back around and do what is called, I believe, a corrective action request order, where you had to go back and inspect everything and redo the work. The question is, How is all this going on?

Let me describe the story of Bunny Greenhouse. A lot of people do not know Bunny Greenhouse. What an extraordinary person she is. She grew up in southern Louisiana in a family who had nothing. Two in their family teach college. Her brother is Elvin Hayes, one of the top 50 basketball players of all time. Bunny Greenhouse has a couple of master's degrees, is very well educated, and rose to become the highest civilian in the Corps of Engineers over in the Pentagon. Here is what she testified to with respect to some of the contracting that went on. She lost her job as a result of having the courage to speak publicly.

I can unequivocally state that the abuse related to contracts awarded to KBR represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

For that, she lost her job.

It is not just KBR. I mentioned Custer Battles, Efraim Diveroli. How about Parsons Corporation?

This, by the way, is a photograph every American should remember when you talk about waste and fraud and abuse. This is called ''The Whale.'' This picture is a picture of a prison in Iraq that was never completed and will never be used. Mr. President, $31 million was paid to the Parsons Corporation for building a prison the Iraqis said they did not want and would not use. The $31 million was colossally wasted in unbelievably bad construction. That is after this same company was given a couple hundred million dollars to rehabilitate 140 health clinics in Iraq, and we were told later that most of those health clinics are imaginary, quote/unquote. They do not exist. Well, the money is gone. The $200 million is gone. But the health clinics are imaginary.

Well, the same company was contracted to build the prison in Iraq. It is called the Kahn Bani Sa'ad prison, but it is referred to as ''The Whale.'' Here is what it looks like, as shown in this picture. We spent $40 million. The first $31 million was paid to Parsons. Another $9 million was paid to an Iraqi contractor. And here it sits in the desert, never ever to be used, paid for by the American taxpayer, and paid to contractors who did shoddy work and were kicked off the site.

The question is, What do we do about all that?

I have proposed an amendment that is pretty simple. It is interesting. There is currently no requirement that contracting officials over in the DOD have to take into account shoddy work practices or shoddy performances by contractors. There is a requirement they take into account criminal actions, civil fines, that are leveled against contractors. But there is no requirement they must consider bad past performance. It is unbelievable, but it is true.

I offer an amendment that says, Do you know what, the time is past when bad performance by big contractors gets you a slap on the wrist and a pat on the back and another contract. It is time—long past the time—we put an end to this.

I know my colleagues, Senator LEVIN and Senator MCCAIN, feel strongly about this issue as well. I appreciate the work they have done. All of us need to do everything we can to assure the American taxpayers they are getting their money's worth. Defense is something we invest in for this country. It is very important.

As I conclude, I want to say this: I put together a chart, and I am going to speak about it in the next day or two. But it relates to this question of the F–22. This chart shows Federal budget deficits. We are on an unsustainable path. It is not a Republican path or a Democratic path. It is just an unsustainable path that cannot work for this country's future.

Take a look at this chart. Here is the middle of a deep recession, $1.9 trillion in deficits, and then it gets a little better, and then goes back down.

We are on an unsustainable path, and it does not matter what you are talking about, whether you are talking about an airplane or some other area of Federal budget responsibility. We finally have to decide: Things have changed. We have to invest in things that provide dividends for this country's future. We cannot continue to spend money we do not have on things we do not need. That is not a sustainable course for this country.

So I will speak more about these issues, including the F–22, at some other point. But let me thank my colleague, Senator LEVIN, and my colleague, Senator MCCAIN as well.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, very briefly, let me thank Senator DORGAN for his extraordinary work in the area of waste, fraud, and abuse, not just in the area of the Department of Defense but in so many other areas as well. He is surely a foremost leader in this institution in this effort, and the oversight work he has been able to do is surely cutting-edge with the kind of leadership he has undertaken. We appreciate it. We need it. We need more of it. We are grateful for it. Every taxpayer in America ought to be grateful to Senator DORGAN.

Mr. President, let me urge Members who are going to be speaking on the F–22 to let us know and come to the floor because we are hopeful to conclude this debate no later than early tomorrow morning and to bring it to a vote. We are making every effort to see if we can agree on that.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, just for a minute, because I know colleagues are waiting, it is my understanding that following the disposition of this amendment, which we hope would happen tomorrow morning, the majority leader will move to take up a hate crimes bill. The hate crimes bill is, to say the least, a very controversial piece of legislation and may deserve the debate and discussion of the Members of this body. But the fact is, it has nothing to do with the Department of Defense authorization bill. What the Defense authorization bill has a lot to do with is the training, equipping, taking care of reenlistment and retention, and all of the things necessary to defend our Nation's national security.

We are in two wars. We are in two wars, and we need to pass this legislation. So the majority leader's priority is a hate crimes bill—a hate crimes bill which has nothing to do with the Defense authorization. I hope if the majority leader does that, it will be the last time he will ever complain about an unrelated amendment being brought up by this side of the aisle.

Look, there are important amendments that need to be debated and considered on this legislation. This has to do with the defense of this Nation. So what are we going to do? We are going to tie up the Senate for a number of days. For a number of days we are going to tie up the Senate on a totally unrelated, very controversial, very emotional issue that has nothing to do with defending this Nation.

So I urge my colleagues on this side of the aisle, I urge the distinguished chairman, I urge the majority leader, let's move forward with addressing the defense needs of this country, save the hate crimes bill for another day, and do what is necessary for the men and women in our military rather than putting an agenda item that has nothing to do with defense next before this body.

I predict again that when this bill comes up, if the hate crimes bill is proposed by the majority leader and agreed to by the distinguished chairman, it will lead to a great deal of controversy and unnecessary debate and discussion on a defense bill. If the majority leader, who controls the agenda, wants to bring up a hate crimes bill, I would imagine he would be able to bring it up on his own. Instead, he wants to stick it on to the bill that the men and women who are serving in our military and are in harm's way today are depending on. It is not right. It is not the right thing to do.

I hope the majority leader and the chairman of the committee will reconsider their position and wait and bring up a hate crimes bill as a separate piece of legislation for deliberation and discussion and vote from this body and not tie it to the Defense authorization bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to speak on another amendment I have filed that is at the desk, but I know there is a pending amendment, so I suppose I should ask to speak as in morning business for 10 minutes.

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

AMENDMENT NO. 1528

Mr. LIEBERMAN. Mr. President, this amendment I rise to speak about is numbered 1528. I am hopeful before too long it will be the pending business. I know it has now, and I believe it will, enjoy broad bipartisan support.

This amendment would increase the authorization for the Active-Duty end strength of the U.S. Army over the next 3 years by 30,000 additional soldiers. I wish to say right at the outset it is an authorization; it is not an appropriation. It says within its terms that it is contingent on a decision by the Secretary of Defense that he chooses to fill these positions, and if he does, then he has two major options.

One is to reprogram from other funds under his control to support these additional troops, and the second, of course, is to return to Congress for a supplemental appropriation.

In my opinion, for all we have said and done in expression of our concern about the stress the members of the U.S. Army are feeling and their families are feeling, based on the fact that they are carrying the overwhelming burden of the wars in which we are involved in Iraq and Afghanistan—we have done a lot to improve living conditions, to offer more support for physical and mental health services, to provide better housing for families, but this is about how much time the soldiers can be back at their home bases and back with their families. I will get to this in detail as we go on.

Last month, the House and Senate Armed Services Committees voted to give the Secretary of Defense the authority to increase the Army's end strength by an additional 30,000 soldiers for fiscal years 2011 and 2012 but not 2010, for reasons that I will describe as somewhat arcane. This new authorization will provide the Secretary of Defense with the ability to increase the size of the Army to the extent he thinks it is necessary for the national defense or for other purposes such as reducing the stress to which I have referred on our troops today.

I was privileged to introduce the amendment along with Senator THUNE, my ranking member on the Airland Subcommittee, during the Senate Armed Services Committee, as well as Senator GRAHAM, to provide this authorization, and I am glad to be joined in introducing this amendment No. 1528 with my bipartisan group, including the two formerly mentioned Senators, and others.

This amendment would extend this authorization where it logically must begin to fiscal year 2010 beginning on October 1 of this year, 2009. We introduced this amendment because it will provide our soldiers with the reinforcements they will need to execute the missions we as a nation have sent them on. Indeed, our soldiers will be under even more stress in the coming months because of this fact. As we begin the responsible strategy for drawdown in Iraq based on the extraordinary success of our troops and the Iraqis in turning around the war in Iraq, we are also deploying additional soldiers under the direction of our Commander in Chief, President Obama, to Afghanistan at an even faster pace than they are returning home.

GEN George Casey, the Army's Chief of Staff, warned us in the Armed Services Committee earlier this year that the effect of these two facts—a slow and methodical drawdown in Iraq of our Armed Forces, Army, and an increase in deployment to Afghanistan—means that the total number of soldiers deployed to combat will be increasing through the rest of this calendar year and into the next.

As General Casey said to us, this matter of dwell time, which I will speak about in more detail in a moment, is a matter of supply and demand: How many soldiers do we have, and what is the demand for them in the battle zones, the war zones.

GEN James Cartwright, Vice Chairman of the Joint Chiefs of Staff, recently confirmed the critical challenges the U.S. Army will face in the near term and the importance of increasing Army Active Duty end strength. Speaking before the Senate Armed Services Committee just last week, General Cartwright said:

> There is that period of 2010 and 2011 in particular where that stress is going to be there. During 2010 because of execution, and in 2011 because [units will be] coming back, refilling and trying to retrofit. You're going to have stress on the Army in a significant way.

And I add, stress on the Army means stress on the families of those who serve us in the Army.

General Cartwright continued by stating that the Joint Chiefs of Staff are working with the Army to find a range for growth that would reduce this strain on the service. ''We have looked at this, we have worked in a range''—and I add here of increasing Army Active Duty—''from about 15,000 to 25,000 . . . 30,000 would give us the range in which to work to allow us to do that.''

That is exactly what this amendment would do, give the Secretary of Defense, the Joint Chiefs, and the Secretary of the Army the latitude to increase the Army temporarily by as

much as 30,000. Why? To increase the dwell time. That is the time our troops can spend at home and, thereby, reduce the stress in a most significant way imaginable.

I deeply appreciate that General Cartwright would speak so clearly about the Army's requirements of additional soldiers in the coming months and how hard he and Secretary Gates are working to support our troops. I believe it is our duty to make sure they have all the authority required to do so.

Let me speak more about what dwell time is. Dwell time is time soldiers have between Active Duty deployments, time they spend recovering and preparing for their next deployment and, most significant to our soldiers, I would guess, precious time they can spend at home with their families. This dwell time ratio for many of our soldiers today is little more than 1 to 1, which means they have but 1 year at home for every year they spend in the theater. Everyone agrees—everyone agrees—that this dwell time is absolutely unacceptable. It may also be unsustainable.

When General Casey testified before the Senate Armed Services Committee earlier this year, he said it is his goal to get to a point where we have at least 2 years back home for every year our soldiers spend deployed. In fact, he said his ultimate goal at which he believes the Army would be most effective would be to have 3 years at home for every year in the field.

General Casey hopes that a responsible drawdown from Iraq will allow him to achieve that goal. I share the general's hopes. But, frankly, I do not believe we can bet the well-being of our Army on them without providing authority to the Army and the Secretary of Defense to expand the troops to reach those dwell-time goals of at least 2 to 1 about which General Casey talked.

The Chairman of the Joint Chiefs, Admiral Mullen, told our committee this year that the ''light at the end of the tunnel'' is still more than 2 years away for the Army, and that is only if everything goes according to plan in Iraq. I believe that 2 years is too long to wait, especially when we can take steps now to turn on the light, if you will, to provide our soldiers with the reinforcements and relief they need.

I think it is important for my colleagues to know this amendment has the strong support of many of our soldiers and those organizations that fight for them.

Mr. President, I ask unanimous consent to have printed in the RECORD two letters, one from GEN Gordon Sullivan, president of the Association of the U.S. Army, and, second, from ADM Norbert Ryan, writing on behalf of the Military Officers Association of America.

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

ASSOCIATION OF
THE UNITED STATES ARMY,
*Arlington, VA, July 13, 2009.*

Hon. JOSEPH LIEBERMAN,
*United States Senate,*
*Washington, DC.*

DEAR SENATOR LIEBERMAN: On behalf of the more than 100,000 members of the Association of the United States Army, I want to thank you for your floor amendment to S. 1390, the FY 2010 Defense Authorization Act, which would provide authority to increase Army active-duty end strengths for fiscal years 2010 through 2012.

As you know, the troop increases in Afghanistan will precede decreases in Iraq, causing the number of deployed soldiers to increase into next year. The Chairman of the Joint Chiefs of Staff testified to Congress that it will be difficult to increase dwell time at home over the next 18 to 24 months with our current end strength. Factor in the more than 30,000 soldiers who are on the rolls but not deployable, and it's obvious what a strain that would be to our current troop levels. You get this, and I hope your floor amendment will help your fellow Senators see it, too.

The Army is in dire need of sufficient troops to increase dwell time for active duty soldiers, increase support for operational missions, and help the Army achieve reorganization objectives. Thanks to your recognition of this gap in end strength planning, we have a chance at giving the Army the resources our Soldiers deserve.

We say that we want to ease the stress and strain on soldiers and their families, and now is the time to do the one thing that will provide immediate relief. Your actions to make this a reality show that you are a true ally to the Armed Forces. Thank you for introducing the Lieberman Amendment to S. 1390 which will authorize the Army to increase its size now, I hope that your fellow Senators also lend their support to your worthy cause.

Sincerely,

GORDON R. SULLIVAN,
*General, USA Retired.*

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MILITARY OFFICERS
ASSOCIATION OF AMERICA,
*Alexandria, VA, July 10, 2009.*

Hon. JOE LIEBERMAN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR LIEBERMAN: On behalf of the 370,000 members of the Military Officers Association of America (MOAA), I am writing to express MOAA's strong support for your proposed FY2010 Defense Authorization Act amendment that would authorize an additional 30,000 end strength increase for the Army in FY2010.

Today's combat forces and their families are paying a terrible price in family separation and stress for our past failure to grow our armed forces at a pace sufficient to accommodate the extraordinary wartime deployment requirements of the past seven years.

For years, we have relied on the patriotism, dedication, and resilience of our men and women in uniform to bear 100% of the nation's wartime sacrifice. But with thousands experiencing their third or fourth combat tour since 2001 and the prospect of a decade of persistent conflict ahead, reasonable leaders must take responsible action to ease the extreme strain our military members and families have been required to absorb for so long.

Your amendment recognizes that the only way to do so in the face of increasing deployment requirements in the near term is to authorize a substantial increase in Army end strength for FY2010.

MOAA applauds your strong and persistent leadership in pursuing this important personnel readiness initiative, and we pledge to do all we can to ensure it is sustained in the final defense bill.

Sincerely and with deep gratitude for your leadership,

NORBERT RYAN.

Mr. LIEBERMAN. Mr. President, General Sullivan is a retired former Chief of the U.S. Army, a great American soldier. I quote, briefly, from his letter to me about this amendment supporting the amendment:

As you know, the troop increases in Afghanistan will precede decreases in Iraq, causing the number of deployed soldiers to increase into next year. The Chairman of the Joint Chiefs of Staff testified to Congress that it will be difficult to increase dwell time at home over the next 18 to 24 months within our current end strength. Factor in the more than 30,000 soldiers who are on the rolls but not deployable, and it's obvious what a strain that would be to our current troop levels. . . . I hope your floor amendment [and the debate of it] will help your fellow Senators see [that].

The Army is in dire need of sufficient troops to increase dwell time for active duty soldiers, increase support for operational missions, and help the Army achieve reorganization objectives.

He concludes:

We say that we want to ease the stress and strain on soldiers and their families, and now is the time to do the one thing that will provide immediate relief.

And that is to increase the authorization of the U.S. Army end strength as the number of troops it can have actively deployed by 30,000 and to fill that 30,000 increase.

Second, Admiral Ryan, another distinguished servant of the United States, a patriot, says:

On behalf . . . of the Military Officers Association of America . . . Today's combat forces and their families are paying a terrible price.

This is a very personal letter. I will start again.

Today's combat forces and their families are paying a terrible price in family separation and stress for our past failure to grow our armed forces at a pace sufficient to accommodate the extraordinary wartime deployment requirements of the past seven years.

For years, we have relied on the patriotism, dedication, and resilience of our men and women in uniform to bear 100 percent of the Nation's wartime sacrifice. But with thousands experiencing their third or fourth combat tour since 2001 and the prospect of a decade of persistent conflict ahead, reasonable leaders must take responsible action to ease the extreme strain our military members and families have been required to absorb for so long.

And then he says:

[This] amendment recognizes that the only way to do so in the face of increasing deployment requirements in the near term is to authorize a substantial increase in Army end strength for FY2010.

That is exactly what this amendment would do. The authority provided in the amendment is temporary in nature and will expire in 2012. We hope and pray that by that time, we will be able to return the Army end strength to 547,000. If Congress increases the end strength of the Army now, as this

amendment would authorize, we would be able to reevaluate that judgment as conditions on the ground and in the world justify.

I say, in conclusion, again, there is no money attached to this amendment. This gives authority to the Defense Department to raise the Army end strength, the number of troops on Active Duty by 30,000. If Secretary Gates decides, in his judgment, it is necessary to do in our national interest, then he will either have to come back and ask us for the money to do so or he will reprogram funds that are now under his control.

I ask my colleagues for their support when this amendment comes up, and I hope it comes up soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

COMMUNITY COLLEGE INITIATIVE

Mr. ALEXANDER. Mr. President, President Obama was in Warren, MI, today, and a little while ago he made an announcement. He announced a new $12 billion national community college initiative. That sounds very good at first. As a former Governor and Secretary of Education for the United States, I am a big fan of community colleges. I think they are our secret weapon for helping men and women in this country go from one job to the next and to improve our workforce.

But I respectfully suggest that what the President, his Education Secretary and his economic advisers—and I think his Education Secretary may be his very best appointee of all—I say this with respect, I think they ought to be asked to stay after school at the community college and write on the blackboard 100 times that in a year in which we have run the Federal deficit up by another $1.8 trillion, I will never again add another penny to entitlement mandatory spending. Then I think we in the Congress, as we legislate this year, ought to do some truth in lending. To do that, we would have to put a little card with every 1 of the 15 million student loans, if the President's proposal goes through, and say: The interest you are paying on the money you are borrowing is almost all being used to pay for somebody else's scholarship in the President's community college initiative.

I think it is important to say that because, as good as it sounds to say: Let's help the community colleges, I am afraid this is a familiar refrain we have been hearing from the White House for the last 6 months. Instead of reducing entitlement spending the President is again adding to mandatory spending. Entitlement spending, which is driving up our debt to unbelievable numbers, a situation where the President's proposal for the next 10 years is more new debt than we spent, three times as much money as we spent in World War II. This is one more Washington takeover, in addition to banks and insurance companies and car companies and maybe health care. It is now the student loans of the country.

It also changes the way we fund higher education, which is usually to take almost all our money and give it to students in Pell grants and student loans and let them choose the college, rather than to give grants the way we do with K–12.

Let me take a few minutes to explain why I am saying this. The idea the President has is to spend $2.5 billion for community college facilities, buildings. Every State has community colleges. One of our major jobs as governors and state legislators is to fund those community colleges. Traditionally, the Federal Government gives scholarships, and the Pell grants often pay for almost the entire tuition at a community college, making them very important to American students. But this moves the Federal Government into construction and renovation of community colleges, as well as $9 billion for competitive challenge college grants to increase graduation rates and $500 million for online curriculum. So the choice is, instead of more money for Pell grants and administration of student loans, we are going to spend it on direct grants to some community colleges. In other words, we are going to start funding higher education, community colleges, in the way we fund kindergarten through the 12th grade.

Despite the fact that higher education is by far the best in the world, the most admired system—and one reason is because we don't have a lot of Federal direct programs for it; we give the money to students, they choose the school—we are going to start doing it more like K–12, which is not the most admired system in the world.

The $12 billion would be paid for out of savings from the regular student loan program we have now because under the President's plan all new student loans would go through the U.S. Department of Education. So let's take that idea first.

We have about $75 billion in student loans every year. That is a huge bank. Fifteen million students borrow money for student loans. Twelve million of them borrow through 2,000 different institutions—banks—and spend the money at 4,000 institutions of higher education. Three million choose to go through the government, where they get a direct loan directly from the government.

I was the Secretary of Education when this program was created. I didn't see any reason for the Direct Loan Program because I didn't think the U.S. Department of Education ought to be a bank. I thought the Secretary of Education ought to be trying to be the educator of the year, not the banker of the year. But the argument is, well, we can borrow money more cheaply in the government. We can borrow it for a quarter of 1 percent and then we can loan it out at 6.8 percent to students. Banks can't do that. So we will do it, and we will take it over and do it all here. We will do all 15 million loans from the U.S. Department of Education. We will be the banker of the year.

Mr. President, the Federal Government is getting real busy. This is becoming the national headquarters for automobiles, where we own 60 percent of General Motors; we are running a bunch of banks; we run some insurance companies; we are talking about a government-run health care program; and now we are going to take over and make a huge national bank out of the U.S. Department of Education. The reason is because we can borrow money more cheaply here.

Well, why don't we just abolish all the financial institutions in America and say: We can borrow money more cheaply than you can, so you go away and we will do it all.

That is not the American way. In fact, most Americans would like to get the government out of the car business, out of the banking business, and out of the insurance business. I can guarantee you that as soon as 15 million students start lining up outside the U.S. Department of Education to get their student loans, instead of going through their local banks and dealing with their local universities, they are not going to be very happy about this either because they have had a choice for nearly 20 years, and they have chosen to go to their private lenders.

So that is the first problem. We are canceling the choice that 12 million students are exercising this year to get a federally backed student loan from a bank even though they could have gotten a student loan directly from the government.

Then we are saying: All right, because we are canceling that, we are saving $94 billion and we have money to spend. Well, in the first place, that is not right, Mr. President. By my calculation, according to the Congressional Budget Office estimate of what it costs to operate the current Direct Loan Program, it will cost about $32 billion over the next 10 years, at least, to operate the entire student loan program out of the U.S. Department of Education.

My common sense tells me—and I have thought this for years—that there is not any way a group of educators in the Department of Education—a relatively small department—are going to operate more efficiently than banking institutions across America in making loans. That is not their business. They know about scholarships and graduation rates, not about being bankers. My common sense tells me that, and I think it does most Americans. Plus, we have a free market system, or at least we did, where we try to get things out of government, not into government.

So that is the proposal. Yet 32 billion of the dollars over the next 10 years are

illusory savings, so we are really adding to the debt. Then the President is saying, well, let's take some of that $90 billion as mandatory spending. I know this gets a little complicated, but it is really not that complicated. He is saying the money we now spend to pay the costs to the government of loaning out this $75 billion every year is automatic mandatory spending, so let's take it away from how we now spend it on the administration with banks, and let's spend it instead on mandatory spending for community colleges.

In other words, he has an opportunity to say let's take away some money that is being automatically spent every year and save it. Let's save it. Or he could say, let's put it for students. But I think most of us would say—and he has said in his summit on entitlement spending—that we need to stop adding entitlement spending. But that is not what he is doing.

Indeed, his other proposal—which is not announced today but is the rest of his proposal—is to say we have this $94 billion—which I think is closer to $60 billion or $50 billion—that we could save, and he is going to say we will make Pell grants entitlement spending. Well, Pell grants are terrific grants. There are 5 million of them. We appropriate them every year for low-income students. There was $19 billion appropriated for that purpose last year. The Congress has always been enormously generous with that. We appropriate a certain amount. It is almost automatic, but it is not automatic.

In other words, we appropriate what we think we can afford, and then we spend it on the students who need it. This proposal to shift Pell grants to mandatory says it doesn't matter what we can afford, we are just going to do it. Again, it is exactly the kind of thing that most economists, most Americans, and the President himself has said we need to stop doing. Yet in the full light of day, we are saying and announcing that we are going to create a community college program, and later a Pell grant program, and we are going to pay for it with mandatory automatic entitlement spending.

While the President says it is $94 billion that could be saved over 10 years, the Congressional Budget Office said it is $293 billion—nearly $300 billion—in automatic spending over 10 years that we could avoid. Yet the President is saying we should spend it. I am very disappointed with that.

Then here is the last point I would like to emphasize—well, there are two points really. The President is saying: I am here today to do a favor for you. I am going to spend $12 billion on community colleges. But what he doesn't tell you is the people paying for that are the people borrowing money to go to college.

So if you are getting an extra job at night so you can go to college, and you are taking out a student loan, the government is going to borrow money at a quarter of 1 percent and loan it to you at 6.8 percent and use the difference for its own purposes. We are making money on the backs of students who are borrowing money to go to college and then taking credit for spending it for somebody else's scholarship or some community college program and we are not telling anyone that. So we need a little truth in lending.

Finally, I am concerned about the changes in direction from the way we support higher education. We are very fortunate in America to have this terrific higher education system, including our community colleges. In a way, we got it by accident because with the GI bill, when the veterans came home from World War II, we just gave the money to them and they went anywhere they wanted to. That is not the way we do with kindergarten through 12. We have all these programs. It is command and control, and we support the institution instead of the student. We call the argument about that ''vouchers.''

When we have arguments like that, we get all excited. We did in the Appropriations Committee the other day, and the Senator from Illinois and I argued—we each got 15 votes—about the DC voucher program: Shall we give our money to students and let them choose a school or shall we support the school? Well, in higher education, 85 percent of the dollars we spend, or some figure about like that, goes to the student, who then chooses the school. It may be a community college or a Jewish school or an African American school or a Catholic school or a public school or a private school or a for-profit school. We don't care, as long as it is accredited.

As a result, we have a higher education system that attracts the best foreign students anywhere in the world and gives Americans choices. As a result we have almost all the best colleges and universities in the world.

So this proposal is a little shift from that to say the Federal Government would take all the money—which I would argue we don't have—but this $12 billion we are going to give to grants in higher education instead of to students. I would rather give it to students.

So I applaud the President for his interest in higher education and community colleges, but I would suggest to him that we have too much debt and too many Washington takeovers, and we shouldn't be funding this program on the backs of the students who are borrowing money and working an extra job to go to college. I don't think they would appreciate knowing that the interest they are paying is mostly going to pay for someone else's scholarship. They might ask: Why do I have to do that? Why isn't that person in the same shape I am?

The President was in Warren, MI, in the middle of the auto business, and we have some suggestions—or I would have—for other ways to deal with the problems we have with the economy today. One would be that since we are near the General Motors headquarters, to celebrate their emergence from bankruptcy by giving the 60 percent of the stock the government owns in General Motors back to the taxpayers who paid taxes on April 15; that we should focus on cheap energy so we can reindustrialize America, including our automobile industry, by 100 nuclear powerplants; that we could take the mandatory spending and instead of spending it, save it and have less debt. That would be a real favor to the students.

To revitalize housing, we could have Senator ISAKSON's $15,000 tax credit to help get the housing market going again. Then in our health care debate we could stop talking about more government takeovers and, instead, take the available dollars and give the money to low-income Americans and let them buy their own insurance, like most of the rest of us have.

So this is a big difference of opinion we have. As noble as the idea of supporting community colleges is, this is not the way to do it.

The PRESIDING OFFICER. The Senator has used his 15 minutes.

Mr. ALEXANDER. Another Washington takeover and too much debt. There is a better way.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak for 5 minutes, to be followed by the Senator from New Hampshire, Mr. GREGG, who wishes to speak for 10 minutes.

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

AMENDMENT NO. 1469

Ms. KLOBUCHAR. Mr. President, I come to the floor today to voice my support for the Levin-McCain amendment to strike $1.75 billion added to the bill that is on the Senate floor to purchase additional F–22 aircraft that have not been requested by the Pentagon.

I believe this amendment presents us with an important choice of what our national security priorities will be going forward: Will we continue to pour billions and billions of dollars into weapon systems despite the fact they are not requested and despite cost overruns and program delays, or will we make the hard choices necessary to ensure that our troops in the field have what they need to fight present and future conflicts?

I believe the choice is clear. I am aware this means, for some States that are making this plane or have subcontracts—and we have some in our own State—that this means jobs. But if we don't move forward to what we really need to produce for our troops today, we are never going to be able to do the best for our troops and do the best for our country.

By the way, as we move forward, that means jobs. I was just up in northern

Minnesota visiting a little company that has no contacts with the military, no political connections to get contracts, and they had been in a very open, transparent process because they make an incredibly light backpack that is good for the troops, good for their back, and they got the contract. This is a new era, and part of this new era is transparency. Part of the new era means we actually will look at what our military needs.

No one can dispute that the F–22 possesses unique flying and combat capabilities or that it will serve an important role in protecting our Nation in the future. The question is not whether we should keep the F–22 in service, the question is whether we should purchase additional planes at the expense of more urgent needs for our troops.

Our Armed Forces are currently fighting in two major conflicts in Iraq and Afghanistan. After more than 7 years in Afghanistan and more than 6 years in Iraq, the F–22 has not been used in combat. It has not flown over those countries. Over the course of these conflicts, we have seen the tragic consequences when our troops don't have the equipment and resources they need, such as enhanced body armor or vehicles to protect them from IEDs. We have seen what happens when we don't give our troops what they need. We cannot continue on this course. We must focus our defense resources on the personnel, equipment, and systems necessary to respond quickly to unconventional and evolving conflicts while maintaining the ability to counter conventional foes.

For years, Members on both sides of the aisle have come to the Senate Floor to denounce wasteful spending in our defense budget and called on the Pentagon to be more responsible in its budgetary and procurement policies. Hearing this call, our military leaders have produced a plan this year to address wasteful and unnecessary defense spending so we can ensure that we are providing our Armed Forces the tools they need to keep America safe and strong while also ensuring that taxpayer dollars are used responsibly.

We have a major debt in this country. Some of it is because of mistakes made in the past. With this economy, there is enough blame to go around everywhere. We have a major debt, a major deficit, and we have troops who need to get the equipment they deserve. What is the answer, put $1.75 billion into some planes the Pentagon says they do not need? I don't think that is the answer.

It should be noted that the limit on the number of F–22s that the Levin-McCain amendment would restore is supported by the Secretary of Defense, the Chairman of the Joint Chiefs, and both the current and the immediate past Presidents of the United States.

I believe Senators LEVIN and MCCAIN should be commended for their dedication to improving our defense posture and budget and for putting their own political interests aside—their own jobs, in their own States.

Earlier this spring, I was traveling with Senator MCCAIN in Vietnam when the Pentagon's proposed reductions, including the F–22s, were announced. I discussed with him at length what this would mean, the difficult decisions that Members are going to have in their own States. But I also talked to him about what the troops need. Right now the troops and their commanders are telling us they do not need these planes, so it is a testament to the service of Senator MCCAIN to our Nation and the work Senator LEVIN has done for years that they are leading the fight to defend the recommendations of our military and civilian leaders. I am proud to join them.

This amendment presents us with an opportunity. We can begin making decisions based on security interests and fiscal responsibility and cut $1.75 billion for additional F–22 aircraft that our military commanders say they do not need or we continue on a course that cannot be sustained. I urge my colleagues to do what is in this Nation's best long-term interest, in the best interests of our troops, and to vote for the Levin-McCain amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, first, I thank the Senator from Minnesota for yielding me this time and, second, I wish to talk today about waste. We are all concerned about waste. I have an amendment which I understand I cannot call up because the parliamentary situation is such that the floor leaders did not wish to have another amendment brought up.

This sign here, which is a type of sign that is proliferating across our Nation everywhere, reflects waste. It is totally inexcusable. It is a political advertisement for money that is being spent as a result of the stimulus package. That is all it is. The sign says: ''Project Funded by the American Recovery and Reinvestment Act, Completion August 2009.''

That is a political statement, the purpose of which is to promote spending on the stimulus package. I did not vote for the stimulus package. I thought a program which is going to spend almost 50 percent of the money after the year 2011 made little sense and was not stimulus at all. But I certainly would not have expected that as a result of this program we would be funding these signs all over America to promote this program.

These signs are not cheap, by the way. In New Hampshire we get them for less than most places. They cost about $300 a sign. But in Georgia they cost $1,700 a sign; in Pennsylvania they cost $2,000 a sign; in New Jersey they are costing $3,000 per sign. Literally, there are 20,000 projects going on—most of them paving projects across this country, paving projects most of which may have occurred anyway, but in any event they are paving projects. If you start multiplying the number of signs going up, and each one of these projects require having two or three signs put up, you are talking very significant dollars, you are talking tens of millions of dollars for self-promotion of these programs.

Ironically, these signs are actually required before people can get the funds. We had a gentleman in one of our towns in New Hampshire, I think it was Derry, who said, before he would be released the dollars to do the project in his town that the town had applied for and it had approved, they had to agree to put up this sign. He didn't want to put up the sign. He thought it was a waste of money, but he was required to put up this sign.

Why are we doing this? The American people are sort of tired of us wasting dollars. They are especially tired of us wasting dollars trying to blow our own horn around here. If the administration believed these signs promoting the stimulus package were so valuable, let them spend campaign funds—because that is what they are, they are campaign signs—to put them up. But instead we are putting these signs up.

What these signs should say if we are going to put them up is: Project funded by the future generations of American taxpayers—and they add to the debt of our children. That should be added under here, ''add to the debt of our children.''

The signs have no value at all, none, other than self-promotion of these projects.

Maybe some of the projects are legitimate. I think probably most of them are legitimate. To the extent they are done within this period of recession, I support them. The problem I had with the stimulus package was so much of the money was being spent outside the period when we know the recession will be over. But even if the projects are legitimate, which most of them I am sure are—although some have been questioned, such as the crossing path for turtles. That received a fair amount of press. I have to say I didn't understand why we had to build an underpass for turtles, but I don't live in whatever State that was in. But as a very practical matter, the underpass for turtles had a sign which said the project is being built at the expense of the American taxpayers, promoting the American Recovery and Reinvestment Act.

This is foolish. This is the type of thing that drives taxpayers crazy, and it should. It is so inexcusable. People get outraged by us doing things such as this and by the Government doing things such as this. You drive by this sign and, if you have a chainsaw in the back of your truck, you want to cut them down. Of course, they put them up in steel so you have to have a blowtorch, but in any event they should not be out there, and they certainly should not be out there costing $300 to $3,000

per sign. That money, at the minimum—first, it should not have been spent. But if it is going to be spent, it should have been actually spent on the project itself or other projects which were deserving. But certainly there was no reason to spend it to promote the project through these signs.

I will have an amendment which says, essentially, no more signs, no more wasting taxpayers' dollars on signs that cost $3,000 promoting projects for the purposes of political aggrandizement. I hope to be able to call it up as we move forward on the Defense bill. I recognize it is not immediately a defense issue, but unfortunately this is the only authorizing bill floating around the body. These signs are going up like weeds across the Nation. Every time they go up, they cost our children a few thousand dollars on the national debt. So if we are going to stop that type of profligate spending, we have to act now. Therefore, I am going to call up this amendment when the proper time occurs on the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I hope, if our colleagues might have remarks on the pending amendment, they would come over now or give us some indication they might want to speak in the morning because we need to press ahead with this amendment. In the next few minutes, I am going to be making inquiry with the other side of the aisle to see if we cannot reach a unanimous consent agreement to have a vote tomorrow morning. We tried this yesterday without success and earlier today without success, but we are going to try again because it is important we resolve this amendment, dispose of this amendment, so we can go on with other amendments to the bill. I will be making that inquiry of my good friend from Arizona in the next few minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this afternoon to express my opposition to the Levin-McCain amendment that would cut off production of the F–22 fleet and would hurt hard-working families in the aerospace industry across our country.

I know many of my colleagues have come to the floor to echo their opposition to this amendment, and I have listened to them speak very convincingly about how it would limit our continued air superiority in the skies across the globe. I have listened to them talk about how allowing our air superiority to slip would mean we could lose our ability to safeguard our Nation in the years ahead. They have also noted that prominent military officials have been clear that cutting off production of the F–22 would put our Nation's defense at high to moderate risk.

While I agree with my colleagues on all of these points, today I want to discuss on the floor, this afternoon, another negative consequence of this amendment that would harm our security, our economy, and our ability to respond quickly to threats in the future—a consequence that will hit home for so many in States such as Georgia, Connecticut, Texas, California, and Washington, where every day we are fighting rising unemployment. It is another area in which our country has had clear superiority but where today, because of actions like this amendment, we are slipping into deep trouble.

Today, I want to discuss how this amendment will erode the health and long-term needs of our Nation's industrial base. As many here in this body know, this is not the first time I have sounded the alarm about our disappearing industrial base. This effort to prematurely cut production of the F–22 is simply the latest in a series of decisions that fail to take into account the men and women who work every day to provide for their families by building the equipment that protects our country. But, as I have said all along, protecting our domestic base is not just about one company or one program or one State or one industry. This is about our Nation's economic stability. It is about our future military capability and the ability to retain skilled family-wage jobs in communities throughout our country.

Just a few months ago, we passed a long overdue bill in the Senate that reforms many of the Pentagon's procurement practices. In that bill, I worked with Chairman LEVIN and others to successfully add an amendment that draws the attention of the Pentagon leadership to consider the effects of their decisions on our industrial base and its ability to meet our national security objectives. I worked to include that provision because I believe it is time to start a serious conversation about the future of the men and women who produce our tanks, our boats, and our planes, the skilled workers our military depends on. It is a workforce that is disappearing before our eyes.

Providing the equipment our warfighters need is a partnership. It is a partnership that requires the Pentagon to be actively engaged with the manufacturers that supply the systems and parts that make up our aircraft and defense systems. It is a partnership that requires the Pentagon to take into account how our workforce and manufacturing capability will be affected when they cancel vital programs.

Unfortunately, today military procurement is a one-way street. In fact, just yesterday, the Aerospace Industries Association issued a major report. I have it here in my hand today. This report finds that the Pentagon has failed to consider industrial efforts when choosing strategies.

Much like my amendment to the procurement reform bill, this report urges the Pentagon to take into account the impact decisions, like the one to stop production of the F–22, take on our manufacturing base. This report—and I urge my colleagues to take a look at it if you have not seen it—notes that our manufacturing base was not taken into account in past Quadrennial Defense Reviews and that when Secretary Gates unveiled his program cuts in April, he specifically said that defense industry jobs were not a factor in his decisions.

Well, as our country faces two difficult but not unrelated challenges—safeguarding our country in a dangerous world and rebuilding our faltering economy—ignoring the needs of our industrial base should not be an option. Whether it is the scientists who are designing the next generation of military satellites or the engineers who are improving our radar systems or the machinists who assemble our warplanes, these industries and their workers are one of our greatest strategic assets. What if they were not available? What if we made budgetary and policy decisions without taking into account the future needs of our domestic workforce? Well, that is not impossible. It is not even unthinkable. It is actually happening today.

We need to be clear about the ramifications of amendments such as the one that has been offered here today because once our plants shut down and once our skilled workers have moved on to other fields and once that basic infrastructure is gone, we are not going to be able to rebuild it overnight. Building an F–22 is not something you learn in school. It takes years of on-the-job experience. Ask any one of the workers from Forth Worth to Baltimore who are responsible for the intricate radar systems or the high-tech engine parts or the complex stealth technology. We have machinists today in this country who have past experience and know-how down the ranks for 50 years. We have engineers who know our mission and who know the needs of our soldiers and sailors and airmen and marines. We have a reputation for delivering for our military. It took us a long time to build this industrial base to the point where we have workers who can make fifth-generation air fighter planes. What we have left we have to work to keep because once our plants shut down, those industries are gone, and we not only lose the jobs but we lose the skills and the potential ability to provide our military with the equipment to defend our Nation and project our might worldwide.

So today, as we consider a critical tool for the future of our military across the globe, we cannot forget the needs of our industrial base, because unless we begin to address this issue

now and really think about it, we are not only going to lose some of our best-paying American jobs, we are going to lose the backbone of our military might.

At a time when we are looking to create jobs and build the economy, eliminating the $12 billion in economic activity and thousands of American jobs that are tied to the F–22 production does not make sense to me. Supporting continued F–22 production will help defend against potential threats, and, of course, it will protect family-wage jobs, and, importantly, it will preserve our domestic base.

So I urge our colleagues to oppose the amendment that has been offered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MATTHEW SHEPARD LOCAL LAW ENFORCEMENT ACT

Mr. BURRIS. Mr. President, I would like to speak on the National Defense authorization bill that is pending before the Senate in reference to an amendment that would be on that bill.

More than a decade ago, on a cold night in Wyoming, a young man was assaulted and killed simply for being who he was. The brutality of that murder shocked the Nation. But even more shocking was the motive for the crime. Matthew Shepard was targeted and killed that night for nothing more than his sexual orientation.

The fact that the vicious attack could occur at all is hard to believe. But the fact that it was done out of blind hatred is simply too much to bear. So we must make sure Matthew Shepard's death was not in vain.

We must shape a positive legacy from the ashes of this terrible tragedy. I believe this is the next chapter in the struggle against hatred and in the favor of equal rights. As we have been called to do throughout our history, I believe it is time to take action once again.

I rise today in support of the legislation inspired by Matthew's tragic story. I am proud to be a cosponsor of the Matthew Shepard Local Law Enforcement Hate Crime Prevention Act. If it becomes law, the Matthew Shepard Act will add ''sexual orientation'' to the definition of hate crimes under Federal law, giving law enforcement officials the tools they need to bring all violent criminals to justice.

Many States already have hate crimes legislation on the books. I am proud to say my home State of Illinois is among them. But we need to make sure violent criminals face the same penalties in Washington as they do in Illinois and across the Nation.

Hate crimes are assaults against individuals, but they tragically target an entire group of people. Matthew Shepard was not just a young gay man, he was a very young gay man. Colleagues, it is time to take a stand. It is time for the Senate to help end the hatred, to reaffirm our commitment to an America that is as free and as equal as our founders intended for it to be, to make sure that no American lives in fear because of who they are.

As a former attorney general of Illinois, I have been fighting hate crimes for many years. Since the very beginning of my career, I have spoken out against injustice and worked hard to end discrimination. So I understand how important the Matthew Shepherd Act will be as we seek to bring criminals to justice for their actions.

But some have expressed concern about this measure. I have heard from Illinois residents who worry that this may prevent them or their religious leaders from expressing their faith. As a deeply religious American myself, I would oppose any bill that restricts our freedom of speech or our freedom of religion.

So let me assure my constituents and my colleagues that the Matthew Shepard Act applies to violent crimes, not religious speech. It will help us end murder and assault, but it will not affect the sermons people will hear every Sunday or the ability to preach the things they believe.

A decade has passed since Matthew Shepard's tragic death. We must not let another year go by without the Matthew Shepard Act as the law of the land.

I urge my colleagues to join me in supporting this important legislation. Hopefully, we will be able to have hate crimes as a crime on the books in the Nation as well as in our States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. LEVIN. Mr. President, so far we have been unable to obtain agreement to have a vote tomorrow morning on the Levin-McCain amendment. I am hoping we can achieve such agreement yet tonight; if not, in the clear dawn of tomorrow morning. I am disappointed we have not been able to reach agreement to go to a vote on that amendment, but that is a fact with which we will have to deal. In the meantime, I ask unanimous consent that the Senate now proceed to a period of morning business, with each Senator allowed to speak up to 10 minutes.

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

REMEMBERING STEVEN CROWLEY AND BRIAN ELLIS

Ms. STABENOW. Mr. President, 30 years ago this November, two Americans were killed when a mob attacked the American Embassy in Islamabad, Pakistan. I wish to pay tribute to those men, Marine CPL Steven Crowley and Army WO Brian Ellis.

Just a little over 2 weeks earlier, 66 Americans had been taken hostage by students in Tehran. On November 21, 1979, Ayatollah Khomeini, the Supreme Leader of Iran, took to the airwaves and falsely accused American troops of occupying the Great Mosque in Mecca.

Protests raged against the United States throughout Pakistan that day. A student protest formed outside the gates of the American Embassy compound in Islamabad, but it quickly turned violent. Protesters broke down part of the wall, surged into the compound, and began shooting at American forces, breaking windows, and setting fire to the buildings.

Most of the Embassy staff members were able to get to a secure communications room, where they remained for over 5 hours until the Pakistani military arrived to quell the rioters. Corporal Crowley was killed while protecting the compound; Warrant Officer Ellis was found burned to death in his apartment on the compound. Two Pakistani employees of the Embassy were also killed by rioters that day.

This weekend, survivors of that attack will meet at Arlington National Cemetery. My thoughts and prayers will be with them as they remember those whose lives were cut short that fateful day in November.

Steven Crowley and Brian Ellis died in the line of duty, serving their country and defending American lives. Their service must not be forgotten.

## ADDITIONAL STATEMENTS

COMMENDING THE NORTH DAKOTA WHEAT COMMISSION

• Mr. CONRAD. Mr. President, today I honor the North Dakota Wheat Commission.

On July 8, the North Dakota Wheat Commission celebrated its 50th year marketing and promoting wheat on behalf of my State's farm families. As the top spring wheat and durum wheat producing State in the Nation, I am proud of what the North Dakota Wheat Commission has been able to achieve for our State's producers.

The commission, created by the North Dakota Legislature in 1959, has allowed my State's farmers to become more actively engaged in the export and market promotion of our wheat crop because the commission is funded and directed by producers. During its 50 years of existence, North Dakota's average wheat production has increased from 100 million bushels to 300 million bushels annually. In that same

time period, total U.S. exports have increased from 500 million bushels to 1.3 billion bushels.

Thanks in part to the work of the North Dakota Wheat Commission, U.S. hard red spring and durum wheat are exported to more than 80 countries around the world. These exports account for 50 percent of hard red spring wheat and one-third of durum wheat. The North Dakota Wheat Commission's customer base includes markets across the globe, including Asia, Latin America and Europe.

While our wheat output and exports have increased, one thing has remained the same: My State's wheat producers have a solid reputation around the world for having a premium product. This is, in part, thanks to the hard work of the North Dakota Wheat Commission.

In closing, I again want to recognize the North Dakota Wheat Commission for a successful first 50 years and wish them continued success in the future.●

## COMMENDING ERIC YANG

● Mr. CORNYN. Mr. President, today I wish to recognize the achievements of Eric Yang, a 13-year-old seventh grade student at Griffin Middle School in The Colony, TX. Eric recently competed in and won the 2009 National Geographic Bee, held here in Washington, DC. Out of a field of 55 contestants, one from each of the 50 States and territories, Eric won the competition in the third finals tie-breaker. Out of nine students, Eric was the only one who missed no questions. This has only occurred five times in the competition's 21-year history. In recognition of his success, Eric will receive a college scholarship worth $25,000, a lifetime membership in the National Geographic Society, and a trip to the Galàpagos Islands with the moderator of the National Geographic Bee and host of ''Jeopardy!,'' Alex Trebek. To achieve this honor, Eric won a nationwide contest comprised of nearly 5 million students in the fourth through eighth grades who had participated in the local geographic bees held in the 50 States and five territories.

The winning question was: ''Timis County shares its name with a tributary of the Danube and is located in the western part of which European country?'' The answer, ''Romania,'' was given correctly by Eric Yang after two other tie-breaker questions. Eric is the first Texan to be named champion in the competition's 21-year history. According to Eric's mother, the main reason for his success has been his curiosity, saying that it ''is a major part of Eric. He reads everything from history books to cookbooks to learn about other places and cultures.'' Eric's desire to learn is also evident in his scholastic record. At age 13, Eric scored a 2200 on the SATs out of a possible score of 2400.

Young Texans, such as Eric Yang, prove that persistence and a curious mind are the keys to unlocking opportunities for success. I congratulate Eric on this important accomplishment and encourage him as he continues his quest for knowledge.●

## COMMENDING JOE AND CHRISTINE TOWNSEND

● Mr. CORNYN. Mr. President, today I recognize the distinguished service of two Texans, as they approach retirement from Texas A&M in January 2010. For over 30 years, Dr. Joe D. Townsend and Dr. Christine Townsend, often referred to as ''Dr. Joe and Dr. Chris'' by their students, have served the students of Texas as instructors, mentors, and friends. By recognizing and cultivating the untapped potential within students, they have inspired countless youth to be men and women of character, vision, and dedication.

Dr. Joe began serving students over 40 years ago as a vocational agriculture teacher in Aubrey, TX. Since that time, he has positively impacted the lives of thousands of students through many different roles. At Texas A&M University, Dr. Joe served as a professor, associate dean for student development in the College of Agriculture and Life Sciences, and most recently, associate vice president for student affairs. His office was known as refuge for students in need of wisdom and advice, and many relied on his support and encouragement to make the difficult transition from high school to college.

Dr. Chris' career in higher education began three decades ago at Illinois State University. At Texas A&M, Dr. Chris has served as a professor, department head, undergraduate coordinator, and undergraduate adviser in the department of agricultural leadership, education, and development. She has a gift for recognizing the unique needs of students and never failed to commit her time, energy, and resources to meeting their needs. Dr. Chris' love for teaching students has made a lasting impact on her department and her departure will leave a void that will be difficult to fill, and a legacy that will be easy to remember.

Their years of selfless service and unwavering devotion to the improvement of students' lives have earned the respect of countless Texans. I thank them for their commitment to excellence and send my best wishes for the years ahead.●

## REMEMBERING JACK EBERSPACHER

● Mr. NELSON of Nebraska. Mr. President, today I wish to pay tribute to a good friend and great Nebraskan, Jack Eberspacher, who passed away on July 5, 2009, at the tender age of 55 after a short but courageous battle with cancer. Jack was a very special friend to all who knew him, dedicating his professional life to the advancement and betterment of the agricultural industry and the agribusiness community.

A native of Seward, NE, Jack received his bachelor of science degree from the University of Nebraska at Lincoln. After several years working in various agribusiness positions throughout the United States, Jack was named the chief executive officer of the National Grain Sorghum Producers Association, headquartered in Lubbock, TX. He is credited with growing that association by 300 percent and with developing balanced association programs on policy, plant science and utilization, and for placing the association on the national legislative and regulatory scene.

In 1998, Jack accepted the position of chief executive officer of the National Association of Wheat Growers here in Washington, DC. Under his leadership, the organization experienced a financial turnaround, with Jack leading the group out of a negative budget in net earnings to a positive one in just over 2 years.

Jack was appointed president and chief executive officer of the Agricultural Retailers Association in 2001, where he remained until his passing. In this capacity, he increased the annual association dues revenue by more than 100 percent. In February 2002, he was the only commodity leader invited to address the National Governors' Conference, where he discussed the importance of the 2002 farm bill and the state of the agricultural economy.

Jack was also a political activist and volunteer; an active member of the Bennett Roundtable of the Farm Foundation of Chicago, Illinois; and a recipient of the Alpha Gamma Rho Fraternity Brother of the Century Award.

I offer my most sincere condolences to Jack's wife Jinger and their family. Jack's passion for service, dynamic leadership, and unwavering dedication to the greater agribusiness community will remain a source of inspiration to all those who knew him.●

## 50TH ANNIVERSARY OF THUNDER ROAD INTERNATIONAL SPEEDBOWL

● Mr. SANDERS. Mr. President, today I honor a renowned Vermont landmark and business, Thunder Road International SpeedBowl, which is celebrating its 50th anniversary this season.

Thursday nights every summer, short track races take place on Thunder Road's uniquely configured quarter-mile paved track. Thunder Road has been recognized as one of the finest short tracks in the Nation. Built in 1959 on farm land in Barre, VT, by longtime network sports commentator Ken Squier and his partners, Thunder Road is an American institution of which Vermont is proud.

Thunder Road has offered inexpensive family entertainment for five decades. This revered race track has brought international racing stars to the Green Mountain State while also offering opportunities for Vermonters

to compete in front of passionate and knowledgeable fans.

After World War II, there were more than 22 short tracks in the State of Vermont. With only three tracks remaining, Thunder Road stands out as the largest spectator sports venue in the State.

Today, some drivers at Thunder Road can recall watching their grandfathers drive the same track. ''Thunder Road is just about racing—there's no politics, no marketing—it's just racing and it's always been that way,'' said Steve Letarte, a Maine native and crew chief for NASCAR star Jeff Gordon.

Vermonters appreciate Thunder Road for its longtime contributions to its community. For 50 years, this short track has been an invaluable institution for the people of Vermont and throughout the Northeast.●

## 125TH ANNIVERSARY OF WHITE, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize White, SD. The town of White will celebrate the 125th anniversary of its founding this year.

Located in Brookings County, White was founded as an agricultural town in 1884. Now, 125 years later, the town still relies on agriculture, but has also expanded into a destination for hunting, fishing, and outdoor adventures. White continues to be an excellent example of what makes South Dakota such a great place to live and do business. The town will celebrate this milestone during their annual ''Pioneer Days'' July 17 through 19 with a number of activities for residents and visitors to enjoy.

I would like to offer my congratulations to White on its 125th anniversary.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2301. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management'' ((RIN0648–XP50) (Docket No. 080521698–9067–02)) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2302. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''2009 Monkfish Research Set-Aside Program'' ((RIN0648–XP54) (Docket No. 080626787–8788–01)) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2303. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species; Determination of Endangered Status for the Gulf of Maine Distinct Population Segment of Atlantic Salmon'' (RIN0648–XJ93) received in the Office of the President of the Senate on July 9, 2009; to the Committee on Commerce, Science, and Transportation .

EC–2304. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Species; Designation of Critical Habitat for Atlantic Salmon (Salmo salar) Gulf of Maine Distinct Population Segment'' (RIN0648–AW77) received in the Office of the President of the Senate on July 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2305. A communication from the Assistant Secretary for Communications and Information, National Telecommunication and Information Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''State Broadband Data and Development Grant Program'' (RIN0660–ZA29) received in the Office of the President of the Senate on July 9, 2009; to the Committee on Commerce, Science, and Transportation.

EC–2306. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Buprofezin; Pesticide Tolerances'' (FRL No. 8421–3) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2307. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Indoxacarb; Pesticide Tolerances'' (FRL No. 8424–9) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2308. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mandipropamid; Pesticide Tolerances'' (FRL No. 8422–5) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2309. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report entitled ''National Defense Stockpile Annual Materials Plan for Fiscal Year 2010 and for the Succeeding 4 Years''; to the Committee on Armed Services.

EC–2310. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to the quarterly reporting of withdrawals or diversions of equipment from Reserve component units; to the Committee on Armed Services.

EC–2311. A communication from the Executive Vice President and Chief Financial Officer, Federal Home Loan Bank of Atlanta, transmitting, pursuant to law, the Bank's 2008 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2312. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Pittsburgh, transmitting, pursuant to law, the Bank's 2008 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2313. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Seattle, transmitting, pursuant to law, the Bank's 2008 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC–2314. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((44 CFR Part 65) (Docket No. FEMA–2008–0020)) received in the Office of the President of the Senate on July 9, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–2315. A communication from the Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Housing and Urban Development, transmitting a report entitled ''2008 Annual Homelessness Assessment Report to Congress''; to the Committee on Banking, Housing, and Urban Affairs.

EC–2316. A communication from the Attorney of the Office of Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program: Test Procedures for Small Electric Motors'' (RIN1904–AB71) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Energy and Natural Resources.

EC–2317. A communication from the Attorney of the Office of Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Test Procedures for General Service Fluorescent Lamps, Incandescent Reflector Lamps, and General Service Incandescent Lamps'' (RIN1904–AB72) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Energy and Natural Resources.

EC–2318. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''West Virginia Regulatory Program'' ((WV–115–FOR)(Docket No. OSM–2009–0006)) received in the Office of the President of the Senate on July 10, 2009; to the Committee on Energy and Natural Resources.

EC–2319. A communication from the Acting Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalties'' ((RIN1028–AC61)(Docket No. OSM–2009–0004)) received in the Office of the President of the Senate on July 10, 2009; to the

Committee on Energy and Natural Resources.

EC–2320. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County, Continuous Opacity Monitor Regulation'' (FRL No. 8929–2) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Environment and Public Works.

EC–2321. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to the 1-Hour Ozone Plan for the Beaumont/Port Arthur Area: Control of Air Pollution from Volatile Organic Compounds, and Nitrogen Compounds, and Reasonably Available Control Technology'' (FRL No. 8928–6) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Environment and Public Works.

EC–2322. A communication from the Director, Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference'' (FRL No. 8923–9) received in the Office of the President of the Senate on July 8, 2009; to the Committee on Environment and Public Works.

EC–2323. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Finalizing Medicare Regulations under Section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 for Calendar Year 2008''; to the Committee on Finance.

EC–2324. A communication from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports that appeared in the March 2009 edition of the Treasury Bulletin; to the Committee on Finance.

EC–2325. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to an amendment to Parts 123, 124, 126, and 129 of the International Traffic in Arms Regulations (ITAR); to the Committee on Foreign Relations.

EC–2326. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of an application for a license for the export of defense articles or services, including technical data, realated to the design, manufacture, test and delivery of the BSAT–3c/JCSAT–110R Commercial Communications Satellite(s) for Japan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–2327. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles or services for the M72 Lightweight Anti-Armor Weapon System for Thailand in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–2328. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles or services, including technical data, related to the manufacture, assembly, repair, overhaul and logistical support for the MK44 Chain Gun used in an Armored Infantry Vehicle for Switzerland in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–2329. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed permanent transfer of six F–16 A MLU Block 15, three F–16 B MLU Block 10 aircraft, ten F100–220E engines, personnel and technical assistance, Ground Support Equipment, Alternate Mission Equipment, and one Falcon STAR kit (hardware) package from the Government of Belgium to the Kingdom of Jordan in the amount of $25,000,000 or more; to the Committee on Foreign Relations.

EC–2330. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical service agreement for the export of defense articles or services, including technical data, and hardware to support the Proton launch of the Intelsat 16 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–2331. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles for the supply and support of the RF–5800 and RF–7800 series radios and accessories for end-use by the United Arab Emirates Armed Forces Special Operations Command in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–2332. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the technical data, defense services, and hardware to support the Proton launch of the AMC–4R Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mrs. GILLIBRAND, and Mr. NELSON of Nebraska):

S. 1445. A bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND:

S. 1446. A bill to amend title XIX of the Social Security Act to provide incentives for increased use of HIV screening tests under the Medicaid program; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 1447. A bill to expand broadband deployment, and for other purposes; to the Committee on Finance.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. 1448. A bill to amend the Act of August 9, 1955, to authorize the Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land; to the Committee on Indian Affairs.

By Mr. NELSON of Florida:

S. 1449. A bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Mr. BROWN):

S. 1450. A bill to enable State homes to furnish nursing home care to parents any of whose children died while serving in the Armed Forces; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. DORGAN, and Mr. DEMINT):

S. 1451. A bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself, Mr. WICKER, Mr. BAYH, Mrs. GILLIBRAND, and Mr. LIEBERMAN):

S. 1452. A bill to amend title 38, United States Code, to clarify the meaning of ''combat with the enemy'' for purposes of service-connection of disabilities; to the Committee on Veterans' Affairs.

By Mr. BINGAMAN (for himself, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. BENNET, Mr. BENNETT, and Mr. HATCH):

S. 1453. A bill to amend Public Law 106–392 to maintain annual base funding for the Bureau of Reclamation for the Upper Colorado River and San Juan fish recovery programs through fiscal year 2023; to the Committee on Energy and Natural Resources.

By Mrs. MCCASKILL:

S. 1454. A bill to provide for adequate oversight and inspection by the Federal Aviation Administration of individuals who perform maintenance work on United States commercial aircraft and of foreign repair stations that perform such work, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida:

S. 1455. A bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 1456. A bill to fully compensate local educational agencies and local governments for tax revenues lost when the Federal Government takes land into trust for the benefit of a federally recognized Indian tribe or an individual Indian; to the Committee on Energy and Natural Resources.

## ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from Maryland

(Ms. MIKULSKI) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 259

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 259, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 469

At the request of Mr. VOINOVICH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 469, a bill to amend chapter 83 of title 5, United States Code, to modify the computation for part-time service under the Civil Service Retirement System.

S. 525

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 525, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 572, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 584

At the request of Mr. HARKIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 584, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 727

At the request of Ms. LANDRIEU, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 727, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 823

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 825

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 825, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 864

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 864, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 883

At the request of Mr. KERRY, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 889

At the request of Mr. SPECTER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 889, a bill to amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes.

S. 935

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 950

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 950, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 951

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Mr. CARDIN), the Senator from New York (Mr. SCHUMER), the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from North Dakota (Mr. DORGAN), the Senator from West Virginia (Mr. BYRD), the Senator from Arkansas (Mr. PRYOR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 951, a bill to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk on the moon; Edwin E. ''Buzz'' Aldrin, Jr., the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and, the first American to orbit the Earth, John Herschel Glenn, Jr.

S. 1065

At the request of Mr. BROWNBACK, the names of the Senator from Florida (Mr. NELSON) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1157

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 1157, a bill to amend title XVIII of the Social Security Act to

protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1232

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1232, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 1253

At the request of Mr. CORKER, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1253, a bill to address reimbursement of certain costs to automobile dealers.

S. 1273

At the request of Mr. DORGAN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Illinois (Mr. DURBIN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1273, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. SNOWE), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Idaho (Mr. CRAPO) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1415

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 161

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 161, a resolution recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiecstasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

AMENDMENT NO. 1478

At the request of Mr. REID, the names of the Senator from Maine (Ms. COLLINS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 1478 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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.

AMENDMENT NO. 1480

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of amendment No. 1480 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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.

AMENDMENT NO. 1487

At the request of Mrs. LINCOLN, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1487 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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.

AMENDMENT NO. 1491

At the request of Mr. PRYOR, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 1491 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. BENNET, Mr. BENNETT, and Mr. HATCH):

S. 1453. A bill to amend Public Law 106–392 to maintain annual base funding for the Bureau of Reclamation for the Upper Colorado River and San Juan fish recovery programs through fiscal year 2023; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to introduce the Bureau of Reclamation Fish Recovery Programs Reauthorization Act of 2009 with my colleagues Senator UDALL of New Mexico, Senator UDALL of Colorado, Senator BENNET, Senator BENNETT, and Senator HATCH. This bill will extend the Bureau of Reclamation's authorization to provide cost sharing for capital construction and annual operations from 2011 through 2023 for the Upper Colorado and San Juan River Basin endangered fish recovery programs.

The programs have the dual goals of recovering federally listed endangered fish species in the Upper Colorado River basin while allowing water development and management activities to proceed in compliance with state laws, interstate compacts and the federal Endangered Species Act. The programs have substantial support from the Upper Basin states of New Mexico, Colorado, Wyoming and Utah, the Navajo Nation, the Jicarilla Apache Nation, the Southern Ute Tribe, and the Ute Mountain Tribe. Other water users, power customers and environmental organizations are also active participants in the programs. The Fish and Wildlife Service, the Bureau of Reclamation, the National Park Service and Western Area Power Administration also participate in the programs. All of the partners contribute significantly to the success of the programs.

Since 2000, the Bureau of Reclamation has been authorized to utilize revenues generated from Colorado River Storage Project Act projects as base funding for operation and maintenance of capital projects, monitoring and research to evaluate the need for, and effectiveness of, any recovery action, and for general program management. This bill extends the Bureau of Reclamation's authority to provide annual base funding for the programs through 2023 which coincides with the term of the existing Cooperative Agreements for the recovery programs and the expected date of recovery for certain species covered by the programs. The annual base funding contributes significantly to the successful implementation of the recovery actions in both programs.

Currently the Bureau of Reclamation's ability to use such funding will expire in 2011. If the expiration date is not extended, the annual base funding will be significantly reduced which would likely delay or impede the success of the recovery programs. The original authorizing legislation has been extended most recently through Section 9107 of the Omnibus Public Land Management Act of 2009, P.L. 111–11, and the amendments proposed by this bill would ensure that the Bureau of Reclamation's authorization for base funding coincides with the other authorizing provisions in P.L. 106–392.

I hope my colleagues will work with me and the bi-partisan group of cosponsors to help ensure that the recovery goals of the San Juan and Upper Colorado River Basin Recovery Programs can continue to be met. I therefore urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1453

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Bureau of Reclamation Fish Recovery Programs Reauthorization Act of 2009''.

**SEC. 2. REAUTHORIZATION OF BASE FUNDING FOR FISH RECOVERY PROGRAMS.**

Section 3(d)(2) of Public Law 106–392 (114 Stat. 1602) is amended in the fourth sentence by striking ''2011'' and inserting ''2023''.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1505. Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table.

SA 1506. Mrs. SHAHEEN (for herself and Mr. JOHANNS) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1507. Mr. ALEXANDER (for himself, Mr. BENNETT, Mr. CORNYN, Mr. ROBERTS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1508. Mr. AKAKA (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. BEGICH, Mr. KOHL, Ms. MIKULSKI, Mr. CARDIN, Mr. INOUYE, Mr. WEBB, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1509. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1510. Mr. THUNE (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1511. Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1512. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1513. Mrs. LINCOLN (for herself, Mr. BYRD, Ms. LANDRIEU, and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1514. Mr. SANDERS (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1515. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1516. Mr. CASEY (for himself, Mr. BROWN, Mr. SCHUMER, Mrs. GILLIBRAND, Ms. MIKULSKI, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1517. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1518. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1519. Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1520. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1521. Mr. ENSIGN (for himself and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1522. Mr. AKAKA (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. BEGICH, Mr. KOHL, Ms. MIKULSKI, Mr. CARDIN, Mr. INOUYE, Mr. WEBB, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1523. Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. KOHL) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1524. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1525. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1526. Mr. FEINGOLD (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, and Mr. BURRIS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1527. Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1528. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. CORNYN, Mrs. HUTCHISON, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1529. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1530. Mrs. LINCOLN (for herself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1531. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1532. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1533. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1534. Mr. VOINOVICH (for himself, Mr. LEAHY, Mr. BOND, Mr. BENNETT, Mr. BYRD, Mr. COCHRAN, Mr. CRAPO, Mr. DORGAN, Ms. MURKOWSKI, Mr. RISCH, Mr. ROCKEFELLER, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1535. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1536. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1537. Mr. MARTINEZ (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1538. Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1505.** Mr. JOHANNS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. CONGRESSIONAL APPROVAL OF CERTAIN TARP EXPENDITURES.**

Notwithstanding any other provision of law, including any provision of the Emergency Economic Stabilization Act of 2008, no funds may be disbursed or otherwise obligated under that Act to any entity, if such disbursement would result in the Federal Government acquiring any ownership of the common or preferred stock of the entity receiving such funds, unless the Congress first approves of such disbursement or obligation.

**SA 1506.** Mrs. SHAHEEN (for herself and Mr. JOHANNS) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 161, after line 23, add the following:

**SEC. 557. EXPANSION OF SUICIDE PREVENTION AND COMMUNITY HEALING AND RESPONSE TRAINING UNDER THE YELLOW RIBBON REINTEGRATION PROGRAM.**

Section 582 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 10101 note) is amended—

(1) in subsection (h)—

(A) by striking paragraph (3); and

(B) by redesignating paragraphs (4) through (15) as paragraphs (3) through (14), respectively; and

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

''(i) SUICIDE PREVENTION AND COMMUNITY HEALING AND RESPONSE PROGRAM.—

''(1) ESTABLISHMENT.—As part of the Yellow Ribbon Reintegration Program, the Office for Reintegration Programs shall establish a program to provide National Guard and Reserve members, their families, and their communities with training in suicide prevention and community healing and response to suicide.

''(2) DESIGN.—In establishing the program under paragraph (1), the Office for Reintegration Programs shall consult with—

''(A) persons that have experience and expertise with combining military and civilian intervention strategies that reduce risk and promote healing after a suicide attempt or suicide death for National Guard and Reserve members; and

''(B) the adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

''(3) OPERATION.—

''(A) SUICIDE PREVENTION TRAINING.—The Office for Reintegration Programs shall provide National Guard and Reserve members with training in suicide prevention. Such training shall include—

''(i) describing the warning signs for suicide and teaching effective strategies for prevention and intervention;

''(ii) examining the influence of military culture on risk and protective factors for suicide; and

''(iii) engaging in interactive case scenarios and role plays to practice effective intervention strategies.

''(B) COMMUNITY HEALING AND RESPONSE TRAINING.—The Office for Reintegration Programs shall provide the families and communities of National Guard and Reserve members with training in responses to suicide that promote individual and community healing. Such training shall include—

''(i) enhancing collaboration among community members and local service providers to create an integrated, coordinated community response to suicide;

''(ii) communicating best practices for preventing suicide, including safe messaging, appropriate memorial services, and media guidelines;

''(iii) addressing the impact of suicide on the military and the larger community, and the increased risk that can result; and

''(iv) managing resources to assist key community and military service providers in helping the families, friends, and fellow soldiers of a suicide victim through the processes of grieving and healing.

''(C) COLLABORATION WITH CENTERS OF EXCELLENCE.—The Office for Reintegration Programs, in consultation with the Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury, shall collect and analyze 'lessons learned' and suggestions from State National Guard and Reserve organizations with existing or developing suicide prevention and community response programs.''.

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**SA 1507.** Mr. ALEXANDER (for himself, Mr. BENNETT, Mr. CORNYN, Mr. ROBERTS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

**SEC. 1083. RESTRICTIONS ON TARP EXPENDITURES FOR AUTOMOBILE MANUFACTURERS; FIDUCIARY DUTY TO TAXPAYERS; REQUIRED ISSUANCE OF COMMON STOCK TO TAXPAYERS.**

(a) SHORT TITLE.—This section may be cited as the ''Auto Stock for Every Taxpayer Act''.

(b) PROHIBITION ON FURTHER TARP FUNDS.—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.) or any other provision of law, the Secretary may not expend or obligate any funds made available under that Act on or after the date of enactment of this Act with respect to any designated automobile manufacturer.

(c) FIDUCIARY DUTY TO SHAREHOLDERS.—With respect to any designated automobile manufacturer, the Secretary, and the designee of the Secretary who is responsible for the exercise of shareholder voting rights with respect to a designated automobile manufacturer pursuant to assistance provided under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), shall have a fiduciary duty to each eligible taxpayer for the maximization of the return on the investment of the taxpayer under that Act, in the same manner, and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applicable provisions of State law.

(d) REQUIRED ISSUANCE OF COMMON STOCK TO ELIGIBLE TAXPAYERS.—Not later than 1 year after the emergence of any designated automobile manufacturer from bankruptcy protection described in subsection (f)(1)(B), the Secretary shall direct the designated automobile manufacturer to issue through the Secretary a certificate of common stock to each eligible taxpayer, which shall represent such taxpayer's per capita share of the aggregate common stock holdings of the United States Government in the designated automobile manufacturer on such date.

(e) CIVIL ACTIONS AUTHORIZED.—A person who is aggrieved of a violation of the fiduciary duty established under subsection (c) may bring a civil action in an appropriate United States district court to obtain injunctive or other equitable relief relating to the violation.

(f) DEFINITIONS.—As used in this section—

(1) the term ''designated automobile manufacturer'' means an entity organized under the laws of a State, the primary business of which is the manufacture of automobiles, and any affiliate thereof, if such automobile manufacturer—

(A) has received funds under the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.), or funds were obligated under that Act, before the date of enactment of this Act; and

(B) has filed for bankruptcy protection under chapter 11 of title 11, United States Code, during the 90-day period preceding the date of enactment of this Act;

(2) the term ''eligible taxpayer'' means any individual taxpayer who filed a Federal taxable return for taxable year 2008 (including any joint return) not later than the due date for such return (including any extension);

(3) the term ''Secretary'' means the Secretary of the Treasury or the designee of the Secretary; and

(4) the terms ''director'', ''issuer'', ''securities'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

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**SA 1508.** Mr. AKAKA (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. BEGICH, Mr. KOHL, Ms. MIKULSKI, Mr. CARDIN, Mr. INOUYE, Mr. WEBB, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of title XI of division A, insert the following:

**Subtitle B—Federal Employee Retirement-Related Provisions**

**SEC. 1121. CREDIT FOR UNUSED SICK LEAVE.**

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

**SEC. 1122. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.**

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

**SEC. 1123. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.**

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

**SEC. 1124. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.**

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

**''§ 8422. Deductions from pay; contributions for other service; deposits''.**

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

**SEC. 1125. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.**

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

**SEC. 1126. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.**

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made under title II of the Social Security Act while employed by the United States Secret Service. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable .

(ii) BENEFITS.—A covered employee shall not be entitled to any benefit based on any contribution forfeited under clause (i).

(3) IMPLEMENT.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

## Subtitle C—Non-Foreign Area Retirement Equity Assurance

**SEC. 1141. SHORT TITLE.**

This subtitle may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

**SEC. 1142. EXTENSION OF LOCALITY PAY.**

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 1144 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section 1144 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

**SEC. 1143. ADJUSTMENT OF SPECIAL RATES.**

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 1144 of this subtitle, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 1148 of this subtitle.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 1144 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

**SEC. 1144. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.**

Notwithstanding any other provision of this subtitle or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this subtitle, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

**SEC. 1145. SAVINGS PROVISION.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the application of this subtitle to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes of section 5304 of that title) is commonly known as the ''Rest of the United States'', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 1144 of this subtitle, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 1144 of this subtitle, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this subtitle, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 1144 of this subtitle which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

**SEC. 1146. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.**

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this subtitle (including the amendments made by this subtitle) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 1142 of this subtitle), and section 1144 of this subtitle apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this subtitle shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this subtitle including section 5941 of title 5, United States Code (as amended by section 1142 of this subtitle), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section 1146(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this subtitle (including the amendments made by this subtitle) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 1144.

(B) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 1147 of this subtitle.

**SEC. 1147. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.**

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 1144 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 1144 of this subtitle did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

**SEC. 1148. REGULATIONS.**

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this subtitle, including—

(1) rules for special rate employees described under section 1143;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 1144 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this subtitle with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

**SEC. 1149. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided by subsection (b), this subtitle (including the amendments made by this subtitle) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 1142 and the provisions of section 1144 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

**Subtitle D—Part-Time Reemployment of Annuitants**

**SEC. 1161. SHORT TITLE.**

This subtitle may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

**SEC. 1162. PART-TIME REEMPLOYMENT.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

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

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

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

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to

any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

**SEC. 1163. GENERAL ACCOUNTABILITY OFFICE REPORT.**

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section 1162.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this subtitle, or subsection (i) of section 8468 of title 5, United States Code, as amended by this subtitle; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section 1162 of this subtitle) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

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**SA 1509.** Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 201, after line 25, insert the following:

**SEC. 652. CREDIT FOR CERTAIN HOME PURCHASES.**

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25D the following new section:

**''SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an individual who is a purchaser of a principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the residence.

''(2) DOLLAR LIMITATION.—The amount of the credit allowed under paragraph (1) shall not exceed $15,000.

''(3) ALLOCATION OF CREDIT AMOUNT.—At the election of the taxpayer, the amount of the credit allowed under paragraph (1) (after application of paragraph (2)) may be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the principal residence is made.

''(b) LIMITATIONS.—

''(1) DATE OF PURCHASE.—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

''(A) after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010, and

''(B) on or before the date that is 1 year after such date of enactment.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) for the taxable year.

''(3) ONE-TIME ONLY.—

''(A) IN GENERAL.—If a credit is allowed under this section in the case of any individual (and such individual's spouse, if married) with respect to the purchase of any principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other principal residence by such individual or a spouse of such individual.

''(B) JOINT PURCHASE.—In the case of a purchase of a principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other principal residence.

''(c) PRINCIPAL RESIDENCE.—For purposes of this section, the term 'principal residence' has the same meaning as when used in section 121.

''(d) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 36 or section 1400C.

''(e) SPECIAL RULES.—

''(1) JOINT PURCHASE.—

''(A) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting '$7,500' for '$15,000' in subsection (a)(1).

''(B) UNMARRIED INDIVIDUALS.—If 2 or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $15,000.

''(2) PURCHASE.—In defining the purchase of a principal residence, rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply.

''(3) REPORTING REQUIREMENT.—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply.

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 24-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(h) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—In the case of a purchase of a principal residence after December 31, 2009, and on or before the date described in subsection (b)(1)(B), a taxpayer may elect to treat such purchase as made on December 31, 2009, for purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting '', 25B, and 25E''.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting ''25E,'' after ''25D,''.

(3) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25E''.

(4) Section 904(i) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25E''.

(5) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 25E(g).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Credit for certain home purchases.''.

(d) SUNSET OF CURRENT FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''before December 1, 2009'' and inserting ''on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010''.

(2) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''before December 1, 2009'' and inserting ''on or before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of the enactment of this Act.

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**SA 1510.** Mr. THUNE (for himself and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

**SEC. 2832. LAND CONVEYANCE, ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA.**

(a) CHANGE IN RECIPIENT UNDER EXISTING AUTHORITY.—

(1) IN GENERAL.—Section 2863(a) of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2010), as amended by section 2865(a) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–435), is further amended by striking ''West River Foundation for Economic and Community Development, Sturgis, South Dakota (in this section referred to as the 'Foundation')'' and inserting ''South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this section referred to as the 'Authority')''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2863 of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2010), as amended by section 2865(b) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–435), is further amended—

(A) by striking ''Foundation'' each place it appears in subsections (c) and (e) and inserting ''Authority'';

(B) in subsection (b)(1)—

(i) in subparagraph (B), by striking ''137.56 acres'' and inserting ''120.70 acres''; and

(ii) by striking subparagraphs (C), (D), and (E).

(b) NEW CONVEYANCE AUTHORITY.—

(1) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this subsection referred to as the ''Authority''), all right, title, and interest of the United States in and to the parcels of real property located at Ellsworth Air Force Base, South Dakota, referred to in paragraph (2).

(2) COVERED PROPERTY.—The real property referred to in paragraph (1) is the following:

(A) A parcel of real property, together with any improvements thereon, consisting of approximately 2.37 acres and comprising the 11000 West Communications Annex.

(B) A parcel of real property, together with any improvements thereon, consisting of approximately 6.643 acres and comprising the South Nike Education Annex.

(3) CONDITION.—As a condition of the conveyance under this subsection, the Authority, and any person or entity to which the Authority transfers the property, shall comply in the use of the property with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study.

(4) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under paragraph (1) is not being used in compliance with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this paragraph shall be made on the record after an opportunity for a hearing.

(5) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory to the Secretary.

(6) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

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**SA 1511.** Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

**DIVISION ____—MATTHEW SHEPARD HATE CRIMES PREVENTION ACT**

**SEC. __01. SHORT TITLE.**

This division may be cited as the ''Matthew Shepard Hate Crimes Prevention Act''.

**SEC. __02. FINDINGS.**

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including the following:

(A) The movement of members of targeted groups is impeded, and members of such groups are forced to move across State lines to escape the incidence or risk of such violence.

(B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(C) Perpetrators cross State lines to commit such violence.

(D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(9) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

**SEC. __03. DEFINITION OF HATE CRIME.**

In this division—

(1) the term ''crime of violence'' has the meaning given that term in section 16, title 18, United States Code;

(2) the term ''hate crime'' has the meaning given such term in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note); and

(3) the term ''local'' means a county, city, town, township, parish, village, or other general purpose political subdivision of a State.

**SEC. __04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT OFFICIALS.**

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of State, local, or tribal law enforcement agency, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence;

(B) constitutes a felony under the State, local, or tribal laws; and

(C) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or is a violation of the State, local, or tribal hate crime laws.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than one State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to State, local, and tribal law enforcement agencies for extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program under this subsection, the Office of Justice Programs shall work closely with grantees to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State, local, and tribal law enforcement agency that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State, local, and tribal law enforcement agency applying for a grant under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, local government, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, local, and tribal law enforcement agency has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or denied by the Attorney General not later than 180 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction in any 1-year period.

(6) REPORT.—Not later than December 31, 2010, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2010 and 2011.

**SEC. __05. GRANT PROGRAM.**

(a) AUTHORITY TO AWARD GRANTS.—The Office of Justice Programs of the Department of Justice may award grants, in accordance with such regulations as the Attorney General may prescribe, to State, local, or tribal programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. __06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT.**

There are authorized to be appropriated to the Department of Justice, including the Community Relations Service, for fiscal years 2010, 2011, and 2012 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section __07 of this division.

**SEC. __07. PROHIBITION OF CERTAIN HATE CRIME ACTS.**

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

**''§ 249. Hate crime acts**

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER,

SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B) or paragraph (3), willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, dangerous weapon, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(3) OFFENSES OCCURRING IN THE SPECIAL MARITIME OR TERRITORIAL JURISDICTION OF THE UNITED STATES.—Whoever, within the special maritime or territorial jurisdiction of the United States, commits an offense described in paragraph (1) or (2) shall be subject to the same penalties as prescribed in those paragraphs.

''(b) CERTIFICATION REQUIREMENT.—

''(1) IN GENERAL.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, or his designee, that—

''(A) the State does not have jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence; or

''(D) a prosecution by the United States is in the public interest and necessary to secure substantial justice.

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

''(c) DEFINITIONS.—In this section—

''(1) the term ''bodily injury'' has the meaning given such term in section 1365(h)(4) of this title, but does not include solely emotional or psychological harm to the victim;

''(2) the term 'explosive or incendiary device' has the meaning given such term in section 232 of this title;

''(3) the term 'firearm' has the meaning given such term in section 921(a) of this title; and

''(4) the term 'gender identity' for the purposes of this chapter means actual or perceived gender-related characteristics.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

**SEC. __08. STATISTICS.**

(a) IN GENERAL.—Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender and gender identity,'' after ''race,''.

(b) DATA.—Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting '', including data about crimes committed by, and crimes directed against, juveniles'' after ''data acquired under this section''.

**SEC. __09. SEVERABILITY.**

If any provision of this division, an amendment made by this division, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this division, the amendments made by this division, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SEC. __10. RULE OF CONSTRUCTION.**

For purposes of construing this division and the amendments made by this division the following shall apply:

(1) RELEVANT EVIDENCE.—Courts may consider relevant evidence of speech, beliefs, or expressive conduct to the extent that such evidence is offered to prove an element of a charged offense or is otherwise admissible under the Federal Rules of Evidence. Nothing in this division is intended to affect the existing rules of evidence.

(2) VIOLENT ACTS.—This division applies to violent acts motivated by actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability of a victim.

(3) CONSTITUTIONAL PROTECTIONS.—Nothing in this division shall be construed to prohibit any constitutionally protected speech, expressive conduct or activities (regardless of whether compelled by, or central to, a system of religious belief), including the exercise of religion protected by the First Amendment and peaceful picketing or demonstration. The Constitution does not protect speech, conduct or activities consisting of planning for, conspiring to commit, or committing an act of violence.

(4) FREE EXPRESSION.—Nothing in this division shall be construed to allow prosecution based solely upon an individual's expression of racial, religious, political, or other beliefs or solely upon an individual's membership in a group advocating or espousing such beliefs.

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**SA 1512.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 259, between lines 12 and 13, insert the following:

**SEC. 824. MODIFICATIONS TO DATABASE FOR FEDERAL AGENCY CONTRACT AND GRANT OFFICERS AND SUSPENSION AND DEBARMENT OFFICIALS.**

Subsection (c) of section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4556) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

''(6) Each audit report that, as determined by an Inspector General or the head of an audit agency responsible for the report, contains significant adverse information about a contractor that should be included in the database.

''(7) Each contract action that, as determined by the head of the contracting activity responsible for the contract action, reflects information about contractor performance or integrity that should be included in the database.''.

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**SA 1513.** Mrs. LINCOLN (for herself, Mr. BYRD, Ms. LANDRIEU, and Mr. TESTER) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 724. REQUIREMENT FOR PROVISION OF MEDICAL AND DENTAL READINESS SERVICES TO CERTAIN MEMBERS OF THE SELECTED RESERVE AND INDIVIDUAL READY RESERVE BASED ON MEDICAL NEED.**

(a) IN GENERAL.—Section 1074a(g)(1) of title 10, United States Code, is amended—

(1) by striking ''may provide'' and inserting ''shall provide''; and

(2) by striking ''if the Secretary determines'' and inserting '', as applicable, if a qualified health care professional determines, based on the member's most recent annual medical exam or annual dental exam, as the case may be,''.

(b) FUNDING.—Subject to applicable provisions of appropriations Acts, amounts available to the Department of Defense for the Defense Health Program shall be available for the provision of medical and dental services under section 1074a(g)(1) of title 10, United States Code, in accordance with the amendments made by subsection (a).

(c) BUDGETING FOR HEALTH CARE.—In determining the amounts to be required for medical and dental readiness services for members of the Selected Reserve and the Individual Ready Reserve under section 1074a(g)(1) of title 10, United States Code (as amended by subsection (a)), for purposes of the budget of the President for fiscal years after fiscal year 2010, as submitted to Congress pursuant to section 1105 of title 31, United States Code, the Assistant Secretary of Defense for Health Affairs shall consult with appropriate officials having responsibility for the administration of the reserve components of the Armed Forces, including the Chief of the National Guard Bureau with respect to the National Guard.

(d) MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.—Section 1074a(f)(1) of title 10, United States Code, is amended by striking ''may provide'' and inserting ''shall provide''.

**SA 1514.** Mr. SANDERS (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

**SEC. 573. ISSUANCE OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY TO MEMBERS OF THE ARMED FORCES WHO SERVE ON ACTIVE DUTY IN SUPPORT OF A CONTINGENCY OPERATION FOR LESS THAN 90 DAYS.**

(a) ISSUANCE REQUIRED.—Each Secretary of a military department shall modify applicable regulations to provide for the issuance of a Certificate of Release or Discharge from Active Duty (DD Form 214) to each member of the Armed Forces (including a member of the National Guard or Reserve) under the jurisdiction of such Secretary who serves on active duty in the Armed Forces in support of a contingency operation upon the separation of the member from such service, regardless of whether the period of such service is less than 90 days. The regulations shall be so modified not later than 180 days after the date of the enactment of this Act.

(b) CONTINGENCY OPERATION DEFINED.—In this section, the term ''contingency operation'' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

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**SA 1515.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. _____. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) REPEAL.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

(i) by striking subsection (e);

(ii) by striking subsection (k); and

(iii) by striking subsection (m).

(B) In section 1451(g)(1), by striking subparagraph (C).

(C) In section 1452—

(i) in subsection (f)(2), by striking ''does not apply—'' and all that follows and inserting ''does not apply in the case of a deduction made through administrative error.''; and

(ii) by striking subsection (g).

(D) In section 1455(c), by striking '', 1450(k)(2),''.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (f) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY FOR DEPENDENT CHILDREN.—Section 1448(d) of such title is amended—

(1) in paragraph (1), by striking ''Except as provided in paragraph (2)(B), the Secretary concerned'' and inserting ''The Secretary concerned''; and

(2) in paragraph (2)—

(A) by striking ''DEPENDENT CHILDREN.—'' and all that follows through ''In the case of a member described in paragraph (1),'' and inserting ''DEPENDENT CHILDREN ANNUITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1),''; and

(B) by striking subparagraph (B).

(e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES.—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

(f) EFFECTIVE DATE.—The sections and the amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

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**SA 1516.** Mr. CASEY (for himself, Mr. BROWN, Mr. SCHUMER, Mrs. GILLIBRAND, Ms. MIKULSKI, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 77, strike lines 1 through 26 and insert the following:

**SEC. 323. TEMPORARY SUSPENSION OF AUTHORITY FOR PUBLIC-PRIVATE COMPETITIONS.**

(a) TEMPORARY SUSPENSION.—No study or competition regarding the conversion to performance by a contractor of any Department of Defense function may be begun or announced pursuant to section 2461 of title 10, United States Code, Office of Management and Budget Circular A–76, or any other authority until September 30, 2010, or the date on which the Secretary of Defense submits to the congressional defense committees the certification described in subsection (b), whichever is later.

(b) CERTIFICATION REQUIREMENT.—The certification described in this subsection is a certification that—

(1) the Secretary of Defense has completed and submitted to Congress a complete inventory of contracts for services for or on behalf of the Department of Defense in compliance with the requirements of subsection (c) of section 2330a of title 10, United States Code; and

(2) the Secretary of each military department and the head of each Defense Agency responsible for activities in the inventory is in compliance with the review and planning requirements of subsection (e) of such section.

**SEC. 323A. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION OF ANY DEPARTMENT OF DEFENSE FUNCTION PERFORMED BY CIVILIAN EMPLOYEES TO CONTRACTOR PERFORMANCE.**

(a) REQUIREMENT.—Section 2461(a)(1) of title 10, United States Code, is amended—

(1) by striking ''A function'' and inserting ''No function'';

(2) by striking ''10 or more''; and

(3) by striking ''may not be converted'' and inserting ''may be converted''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a function for which a public-private competition is commenced on or after the date of the enactment of this Act.

**SEC. 323B. TIME LIMITATION ON DURATION OF PUBLIC-PRIVATE COMPETITIONS.**

(a) TIME LIMITATION.—Section 2461(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) The duration of a public-private competition conducted pursuant to Office of Management and Budget Circular A–76 or any other provision of law for any function of the Department of Defense performed by Department of Defense civilian employees may not exceed a period of 720 days, commencing on the date on which the preliminary planning for the public-private competition begins through the date on which a performance decision is rendered with respect to the function.

''(B) The time period specified in subparagraph (A) for a public-private competition does not include any day during which the public-private competition is delayed by reason of a protest before the Government Accountability Office or the United States Court of Federal Claims unless the Secretary of Defense determines that the delay is caused by issues being raised during the appellate process that were not previously raised during the competition.

''(C) In this paragraph, the term 'preliminary planning' with respect to a public-private competition means any action taken to carry out any of the following activities:

''(i) Determining the scope of the competition.

''(ii) Conducting research to determine the appropriate grouping of functions for the competition.

''(iii) Assessing the availability of workload data, quantifiable outputs of functions,

and agency or industry performance standards applicable to the competition.

''(iv) Determining the baseline cost of any function for which the competition is conducted.''.

(b) EFFECTIVE DATE.—Paragraph (5) of section 2461(a) of title 10, United States Code, as added by subsection (a), shall apply with respect to a public-private competition covered by such section that is being conducted on or after the date of the enactment of this Act.

**SEC. 323C. TERMINATION OF CERTAIN PUBLIC-PRIVATE COMPETITIONS FOR CONVERSION OF DEPARTMENT OF DEFENSE FUNCTIONS TO PERFORMANCE BY A CONTRACTOR.**

(a) TEMPORARY SUSPENSION OF PENDING STUDIES.—The Secretary of Defense shall halt all pending public-private competitions being conducted pursuant to section 2461 of title 10, United States Code, or Office of Management and Budget Circular A–76 that had not resulted in conversion to performance to a contractor as of March 26, 2009, until such time as the Secretary may review such competitions.

(b) REVIEW AND APPROVAL PROCESS.—

(1) REVIEW REQUIRED.—Before recommencing any pending study for a public-private competition halted under subsection (a), the Secretary of Defense shall review all the studies halted by reason of that subsection and take the following actions with respect to each such study:

(A) Describe the methodology and data sources along with outside resources to gather and analyze information necessary to estimate cost savings.

(B) Certify that the estimated savings are still achievable.

(C) Document the rationale for rejecting an individual command's request to cancel, defer, or reduce the scope of a decision to conduct the study.

(D) Consider alternatives to the study that would provide savings and improve performance such as internal reorganizations.

(E) Include any other relevant information to justify recommencement of the study.

(2) TERMINATION OF CERTAIN STUDIES.—The Secretary of Defense shall terminate any study for a public-private competition that was or has been conducted for longer than 30 months (beginning with preliminary planning and ending with a performance decision, excluding time expended because of a bid protest, but not additional time required to conduct the study subsequent to a bid protest), consistent with section 8023 of the Department of Defense Appropriations Act, 2009 (division C of Public Law 110–329; 122 Stat. 3626).

(c) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the actions taken by the Secretary under paragraphs (1) and (2) of subsection (b).

(d) COMPTROLLER GENERAL REVIEW.—Not later than 45 days after the Secretary of Defense submits the report required under subsection (c), the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on whether the review and approval process conducted by the Department of Defense is in compliance with subsection (b) and whether it includes consideration of all costs and savings associated with preparing for and carrying out a pending study as well as all costs that would be associated with converting functions to performance by a contractor and transitioning the Federal employee workforce.

(e) RECOMMENCING A STUDY.—The Secretary of Defense may not recommence a study halted pursuant to subsection (a) until 30 days after the Comptroller General has submitted to the Committees on Armed Services of the Senate and the House of Representatives the report required under subsection (d).

**SEC. 323D. REQUIREMENT FOR DEBRIEFINGS RELATED TO CONVERSION OF FUNCTIONS FROM PERFORMANCE BY FEDERAL EMPLOYEES TO PERFORMANCE BY A CONTRACTOR.**

The Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation to allow for pre-award and post-award debriefings of Federal employee representatives in the case of a conversion of any function from performance by Federal employees to performance by a contractor.

**SEC. 323E. AMENDMENTS TO BID PROTEST PROCEDURES BY FEDERAL EMPLOYEES AND AGENCY OFFICIALS IN CONVERSIONS OF FUNCTIONS FROM PERFORMANCE BY FEDERAL EMPLOYEES TO PERFORMANCE BY A CONTRACTOR.**

(a) PROTEST JURISDICTION OF THE COMPTROLLER GENERAL.—Section 3551(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

''(E) Conversion of a function or part thereof that is being performed by Federal employees to private sector performance.''.

(b) ELIGIBILITY TO PROTEST PUBLIC-PRIVATE COMPETITIONS.—Clause (i) of paragraph (2)(B) of section 3551 of title 31, United States Code, is amended to read as follows:

''(i) any official who is responsible for submitting the agency tender in such competition; and''.

(c) PREJUDICE TO FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 3557 of title 31, United States Code, is amended—

(A) by inserting ''(a) EXPEDITED ACTION.—'' before ''For any protest''; and

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

''(b) INJURY TO FEDERAL EMPLOYEES.—In the case of a protest filed by an interested party described in subparagraph (B) of section 3551(2) of this title, a showing that a Federal employee has been displaced from performing a function or part thereof, or will be displaced as a direct result of the action protested, and that function is being performed by the private sector, or will be performed by the private sector as a direct result of the action protested, is sufficient evidence that a conversion has occurred resulting in concrete injury and prejudice to the Federal employee as a consequence of agency action.''.

(2) CONFORMING AND CLERICAL AMENDMENTS.—

(A) The heading of section 3557 of such title is amended to read as follows:

**''§ 3557. Protests of public-private competitions''.**

(B) The item relating to section 3557 in the table of sections at the beginning of chapter 35 of such title is amended to read as follows:

''3557. Protests of public-private competitions.''.

(d) DECISIONS ON PROTESTS.—Section 3554(b) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively;

(2) by inserting after subparagraph (E) the following new subparagraph (F):

''(F) cancel the solicitation issued pursuant to the public-private competition conducted under Office of Management and Budget Circular A–76 or any successor policy;''; and

(3) in subparagraph (G), as redesignated by paragraph (1), by striking '', and (E)'' and inserting '', (E), and (G)''.

(e) APPLICABILITY.—The amendments made by this section shall apply—

(1) to any protest or civil action that relates to a public-private competition conducted after the date of the enactment of this Act under Office of Management and Budget Circular A–76, or any successor circular; or

(2) to a decision made after the date of the enactment of this Act to convert a function or part thereof performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A–76.

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**SA 1517.** Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 90, between lines 18 and 19, insert the following:

**SEC. 335. MULTIYEAR CONTRACT AUTHORITY FOR DEPARTMENT OF DEFENSE FOR PROCUREMENT OF ALTERNATIVE FUELS.**

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF ALTERNATIVE FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

**''SEC. 2410r. MULTIYEAR CONTRACT AUTHORITY: PURCHASE OF ALTERNATIVE FUELS.**

''The head of an agency (as defined in section 2302) may enter into contracts for a period of not to exceed 20 years for the purchase of alternative fuels.''.

(2) CLERICAL AMENDMENT.—The table of sections of chapter 141 of title 10, United States Code, is amended by adding at the end the following:

''Sec. 2410r. Multiyear contract authority: purchase of alternative fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue regulations that authorize the head of an agency to enter into a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that, throughout the contemplated contract period, the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of alternative fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Federal Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are issued.

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**SA 1518.** Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

**Subtitle D—Other Matters**

**SEC. 2841. EXPANSION OF FIRST SERGEANTS BARRACKS INITIATIVE.**

(a) EXPANSION OF INITIATIVE.—Not later than September 30, 2011, the Secretary of the Army shall expand the First Sergeants Barracks Initiative (FSBI) to include all Army installations in order to improve the quality of life and living environments for single soldiers.

(b) PROGRESS REPORTS.—Not later than February 15, 2010, and February 15, 2011, the Secretary of the Army shall submit to Congress a report describing the progress made in expanding the First Sergeants Barracks Initiative to all Army installations, including whether the Secretary anticipates meeting the deadline imposed by subsection (a).

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**SA 1519.** Mr. BURR (for himself and Mrs. HAGAN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

**Subtitle D—Other Matters**

**SEC. 2481. PROHIBITION ON OUTLYING LANDING FIELD AT SANDBANKS OR HALE'S LAKE, NORTH CAROLINA, FOR OCEANA NAVAL AIR STATION.**

The Secretary of the Navy may not establish, consider the establishment of, or purchase land, construct facilities, implement bird management plans, or conduct any other activities that would facilitate the establishment of an outlying landing field at either of the proposed sites in North Carolina, Sandbanks or Hale's Lake, to support field carrier landing practice for naval aircraft operating out of Oceana, Naval Air Station, Virginia.

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**SA 1520.** Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1073. REPORT ON RE-DETERMINATION PROCESS FOR PERMANENTLY INCAPACITATED DEPENDENTS OF RETIRED AND DECEASED MEMBERS OF THE ARMED FORCES.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the re-determination process of the Department of Defense used to determine the eligibility of permanently incapacitated dependents of retired and deceased members of the Armed Forces for benefits provided under laws administered by the Secretary. The report shall include the following:

(1) An assessment of the re-determination process, including the following:

(A) The rationale for requiring a quadrennial recertification of financial support after issuance of a permanent identification card to a permanently incapacitated dependent.

(B) The administrative and other burdens the quadrennial recertification imposes on the affected sponsor and dependents, especially after the sponsor becomes ill, incapacitated, or deceased.

(C) The extent to which the quadrennial recertification undermines the utility of issuing a permanent identification card.

(D) The extent of the consequences entailed in eliminating the requirement for quadrennial recertification.

(2) Specific recommendations for the following:

(A) Improving the efficiency of the recertification process.

(B) Minimizing the burden of such process on the sponsors of such dependents.

(C) Eliminating the requirement for quadrennial recertification.

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**SA 1521.** Mr. ENSIGN (for himself and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1083. EXPANSION OF STATE HOME CARE FOR PARENTS OF VETERANS WHO DIED WHILE SERVING IN ARMED FORCES.**

In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs shall permit a State home to provide services to, in addition to non-veterans described in such subsection, a non-veteran any of whose children died while serving in the Armed Forces.

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**SA 1522.** Mr. AKAKA (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. BEGICH, Mr. KOHL, Ms. MIKULSKI, Mr. CARDIN, Mr. INOUYE, Mr. WEBB, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of title XI of division A, insert the following:

**Subtitle B—Federal Employee Retirement-Related Provisions**

**SEC. 1121. CREDIT FOR UNUSED SICK LEAVE.**

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (k) and subsection (l) as subsections (l) and (m), respectively; and

(2) in subsection (l) (as so redesignated by paragraph (1))—

(A) by striking ''(l) In computing'' and inserting ''(l)(1) In computing''; and

(B) by adding at the end the following:

''(2) Except as provided in paragraph (1), in computing an annuity under this subchapter, the total service of an employee who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes the days of unused sick leave to his credit under a formal leave system and for which days the employee has not received payment, except that these days will not be counted in determining average pay or annuity eligibility under this subchapter. For purposes of this subsection, in the case of any such employee who is excepted from subchapter I of chapter 63 under section 6301(2)(x) through (xiii), the days of unused sick leave to his credit include any unused sick leave standing to his credit when he was excepted from such subchapter.''.

(b) EXCEPTION FROM DEPOSIT REQUIREMENT.—Section 8422(d)(2) of title 5, United States Code, is amended by striking ''section 8415(k)'' and inserting ''paragraph (1) or (2) of section 8415(l)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to annuities computed based on separations occurring on or after the date of enactment of this Act.

**SEC. 1122. LIMITED EXPANSION OF THE CLASS OF INDIVIDUALS ELIGIBLE TO RECEIVE AN ACTUARIALLY REDUCED ANNUITY UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.**

(a) IN GENERAL.—Section 8334(d)(2)(A)(i) of title 5, United States Code, is amended by striking ''October 1, 1990'' each place it appears and inserting ''March 1, 1991''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

**SEC. 1123. COMPUTATION OF CERTAIN ANNUITIES BASED ON PART-TIME SERVICE.**

(a) IN GENERAL.—Section 8339(p) of title 5, United States Code, is amended by adding at the end the following:

''(3) In the administration of paragraph (1)—

''(A) subparagraph (A) of such paragraph shall apply with respect to service performed before, on, or after April 7, 1986; and

''(B) subparagraph (B) of such paragraph—

''(i) shall apply with respect to that portion of any annuity which is attributable to service performed on or after April 7, 1986; and

''(ii) shall not apply with respect to that portion of any annuity which is attributable to service performed before April 7, 1986.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall be effective with respect to any annuity, entitlement to which is based on a separation from service occurring on or after the date of enactment of this Act.

**SEC. 1124. AUTHORITY TO DEPOSIT REFUNDS UNDER FERS.**

(a) DEPOSIT AUTHORITY.—Section 8422 of title 5, United States Code, is amended by adding at the end the following:

''(i)(1) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which such employee or Member may be allowed credit under this chapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

''(2) Interest under this subsection shall be computed in accordance with paragraphs (2) and (3) of section 8334(e) and regulations prescribed by the Office. The option under the

third sentence of section 8334(e)(2) to make a deposit in one or more installments shall apply to deposits under this subsection.

''(3) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONAL AMENDMENT.—Section 8401(19)(C) of title 5, United States Code, is amended by striking ''8411(f);'' and inserting ''8411(f) or 8422(i);''.

(2) CREDITING OF DEPOSITS.—Section 8422(c) of title 5, United States Code, is amended by adding at the end the following: ''Deposits made by an employee, Member, or survivor also shall be credited to the Fund.''.

(3) SECTION HEADING.—(A) The heading for section 8422 of title 5, United States Code, is amended to read as follows:

**''§ 8422. Deductions from pay; contributions for other service; deposits''.**

(B) The analysis for chapter 84 of title 5, United States Code, is amended by striking the item relating to section 8422 and inserting the following:

''8422. Deductions from pay; contributions for other service; deposits.''.

(4) RESTORATION OF ANNUITY RIGHTS.—The last sentence of section 8424(a) of title 5, United States Code, is amended by striking ''based.'' and inserting ''based, until the employee or Member is reemployed in the service subject to this chapter.''.

**SEC. 1125. RETIREMENT CREDIT FOR SERVICE OF CERTAIN EMPLOYEES TRANSFERRED FROM DISTRICT OF COLUMBIA SERVICE TO FEDERAL SERVICE.**

(a) RETIREMENT CREDIT.—

(1) IN GENERAL.—Any individual who is treated as an employee of the Federal Government for purposes of chapter 83 or chapter 84 of title 5, United States Code, on or after the date of enactment of this Act who performed qualifying District of Columbia service shall be entitled to have such service included in calculating the individual's creditable service under sections 8332 or 8411 of title 5, United States Code, but only for purposes of the following provisions of such title:

(A) Sections 8333 and 8410 (relating to eligibility for annuity).

(B) Sections 8336 (other than subsections (d), (h), and (p) thereof) and 8412 (relating to immediate retirement).

(C) Sections 8338 and 8413 (relating to deferred retirement).

(D) Sections 8336(d), 8336(h), 8336(p), and 8414 (relating to early retirement).

(E) Section 8341 and subchapter IV of chapter 84 (relating to survivor annuities).

(F) Section 8337 and subchapter V of chapter 84 (relating to disability benefits).

(2) TREATMENT OF DETENTION OFFICER SERVICE AS LAW ENFORCEMENT OFFICER SERVICE.—Any portion of an individual's qualifying District of Columbia service which consisted of service as a detention officer under section 2604(2) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–626.04(2), D.C. Official Code) shall be treated as service as a law enforcement officer under sections 8331(20) or 8401(17) of title 5, United States Code, for purposes of applying paragraph (1) with respect to the individual.

(3) SERVICE NOT INCLUDED IN COMPUTING AMOUNT OF ANY ANNUITY.—Qualifying District of Columbia service shall not be taken into account for purposes of computing the amount of any benefit payable out of the Civil Service Retirement and Disability Fund.

(b) QUALIFYING DISTRICT OF COLUMBIA SERVICE DEFINED.—In this section, ''qualifying District of Columbia service'' means any of the following:

(1) Service performed by an individual as a nonjudicial employee of the District of Columbia courts—

(A) which was performed prior to the effective date of the amendments made by section 11246(b) of the Balanced Budget Act of 1997; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(2) Service performed by an individual as an employee of an entity of the District of Columbia government whose functions were transferred to the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee under section 11232 of the Balanced Budget Act of 1997—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government under section 11232(f) of such Act; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(3) Service performed by an individual as an employee of the District of Columbia Public Defender Service—

(A) which was performed prior to the effective date of the amendments made by section 7(e) of the District of Columbia Courts and Justice Technical Corrections Act of 1998; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(4) In the case of an individual who was an employee of the District of Columbia Department of Corrections who was separated from service as a result of the closing of the Lorton Correctional Complex and who was appointed to a position with the Bureau of Prisons, the District of Columbia courts, the Pretrial Services, Parole, Adult Supervision, and Offender Supervision Trustee, the United States Parole Commission, or the District of Columbia Public Defender Service, service performed by the individual as an employee of the District of Columbia Department of Corrections—

(A) which was performed prior to the effective date of the individual's coverage as an employee of the Federal Government; and

(B) for which the individual did not ever receive credit under the provisions of subchapter III of chapter 83 or chapter 84 of title 5, United States Code (other than by virtue of section 8331(1)(iv) of such title).

(c) CERTIFICATION OF SERVICE.—The Office of Personnel Management shall accept the certification of the appropriate personnel official of the government of the District of Columbia or other independent employing entity concerning whether an individual performed qualifying District of Columbia service and the length of the period of such service the individual performed.

**SEC. 1126. RETIREMENT TREATMENT OF CERTAIN SECRET SERVICE EMPLOYEES.**

(a) DEFINITION.—In this section the term ''covered employee'' means an individual who—

(1) was hired as a member of the United States Secret Service Division during the period beginning on January 1, 1984 through December 31, 1986;

(2) has actively performed duties other than clerical for 10 or more years directly related to the protection mission of the United States Secret Service described under section 3056 of title 18, United States Code;

(3) is serving as a member of the United States Secret Service Division or the United States Secret Service Uniform Division (or any successor entity) on the effective date of this section; and

(4) files an election to be a covered employee under subsection (b)(1).

(b) ELECTION OF COVERAGE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, an individual described under subsection (a)(1), (2), and (3) may file an election with the United States Secret Service to be a covered employee and to transition to the District of Columbia Police and Fire Fighter Retirement and Disability System.

(2) NOTIFICATION.—Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management and the United States Secret Service shall notify each individual described under subsection (a)(1), (2), and (3) that the individual is qualified to file an election under paragraph (1).

(c) RETIREMENT COVERAGE CONVERSION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and in consultation with the Secretary of Homeland Security and the Thrift Savings Board, the Office of Personnel Management shall prescribe regulations to carry out the responsibilities of the Federal Government under this section. The regulations prescribed under this paragraph shall provide for transition of covered employees from the Federal Employees' Retirement System to the Civil Service Retirement System.

(2) TREATMENT OF COVERED EMPLOYEES.—

(A) ELECTION OF COVERAGE.—

(i) IN GENERAL.—If a covered employee files an election under subsection (b)(1), the covered employee shall, subject to clause (ii), be converted from the Federal Employees' Retirement System to the Civil Service Retirement System.

(ii) COVERAGE IN DISTRICT OF COLUMBIA RETIREMENT SYSTEM.—

(I) IN GENERAL.—Chapter 7 of title 5 of the District of Columbia Code shall apply with respect to a covered employee on the date on which the covered employee transitions to the Civil Service Retirement System.

(II) AUTHORIZATION FOR DISTRICT OF COLUMBIA.—The government of the District of Columbia shall provide for the coverage of covered employees in the District of Columbia Police and Fire Fighter Retirement and Disability System in accordance with this section.

(B) THRIFT SAVINGS PLAN.—A covered employee shall forfeit, under procedures prescribed by the Executive Director of the Federal Retirement Thrift Investment Board, all Thrift Savings Plan contributions and associated earnings made by an employing agency pursuant to section 8432(c) of title 5, United States Code. Any amounts remaining in the Thrift Savings Plan account of the covered employee may be transferred to a private account or the District of Columbia Police and Firefighter Retirement and Disability System.

(C) FORFEITURE OF SOCIAL SECURITY BENEFITS.—

(i) CONTRIBUTIONS.—Upon conversion into the Civil Service Retirement System, a covered employee shall forfeit all contributions made for purposes of title II of the Social Security Act on the basis of the covered employee's employment with the United States Secret Service under sections 3101(a) and 3111(a) of the Internal Revenue Code of 1986. All forfeited funds shall remain in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as applicable. Notwithstanding paragraphs (4) and (5) of section 205(c) of the Social Security Act, the Commissioner of Social Security shall change or delete any

entry with respect to wages of a covered employee that are forfeited under this clause.

(ii) BENEFITS.—

(I) IN GENERAL.—No individual shall be entitled to any benefit under title II of the Social Security Act based on wages for which the contributions were forfeited under clause (i).

(II) NO EFFECT ON MEDICARE BENEFITS.—Notwithstanding the forfeiture by a covered employee under clause (i), such contributions shall continue to be treated as having been made while performing medicare qualified government employment (as defined in section 210(p) of the Social Security Act) for purposes of sections 226 and 226A of that Act.

(3) IMPLEMENTATION.—The Office of Personnel Management, the Department of Homeland Security, the Social Security Administration, and the Thrift Savings Board shall take such actions as necessary to provide for the implementation of this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the first day of the first applicable pay period that begins 180 days after the date of enactment of this Act.

(2) ELECTIONS AND IMPLEMENTATION.—Subsections (b) and (c)(1) and (3) shall take effect on the date of enactment of this Act.

**Subtitle C—Non-Foreign Area Retirement Equity Assurance**

**SEC. 1141. SHORT TITLE.**

This subtitle may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2009'' or the ''Non-Foreign AREA Act of 2009''.

**SEC. 1142. EXTENSION OF LOCALITY PAY.**

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) in subparagraph (B) by striking the period and inserting ''; and''; and

(iii) by adding after subparagraph (B) the following:

''(C) positions under subsection (h)(1)(C) not covered by appraisal systems certified under section 5382; and''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(C) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (B) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D);

(C) by inserting after subparagraph (B) the following:

''(C) a Senior Executive Service position under section 3132 or 3151 or a senior level position under section 5376 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent was an individual who on the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009 was eligible to receive a cost-of-living allowance under section 5941; and'';

(D) in clause (iv) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon; and

(E) in clause (v) in the matter following subparagraph (D), by inserting '', except for members covered by subparagraph (C)'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) shall be the cost-of-living allowance rate in effect on the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2009.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2010; and

''(B) January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 1144 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2010 and each calendar year thereafter, the applicable percentage under section 1144 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2009.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2009; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

**SEC. 1143. ADJUSTMENT OF SPECIAL RATES.**

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 1144 of this subtitle, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 1148 of this subtitle.

(b) AGENCIES WITH STATUTORY AUTHORITY.—

(1) IN GENERAL.—Each special rate of pay established under an authority described under paragraph (2) and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the applicable head of the agency that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(2) STATUTORY AUTHORITY.—The authority referred to under paragraph (1), is any statutory authority that—

(A) is similar to the authority exercised under section 5305 of title 5, United States Code;

(B) is exercised by the head of an agency when the head of the agency determines it to be necessary in order to obtain or retain the services of persons specified by statute; and

(C) authorizes the head of the agency to increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations.

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 1144 ending on the first day of the first pay period beginning on or after January 1, 2012, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

**SEC. 1144. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.**

Notwithstanding any other provision of this subtitle or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this subtitle, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2010, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2011, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2012 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

**SEC. 1145. SAVINGS PROVISION.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the application of this subtitle to any employee should not result in a decrease in the take home pay of that employee;

(2) in calendar year 2012 and each subsequent year, no employee shall receive less than the Rest of the U.S. locality pay rate;

(3) concurrent with the surveys next conducted under the provisions of section 5304(d)(1)(A) of title 5, United States Code, beginning after the date of the enactment of this Act, the Bureau of Labor Statistics should conduct separate surveys to determine the extent of any pay disparity (as defined by section 5302 of that title) that may exist with respect to positions located in the State of Alaska, the State of Hawaii, and the United States territories, including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands;

(4) if the surveys under paragraph (3) indicate that the pay disparity determined for the State of Alaska, the State of Hawaii, or any 1 of the United States territories including American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the United States Virgin Islands exceeds the pay disparity determined for the locality which (for purposes

of section 5304 of that title) is commonly known as the ''Rest of the United States'', the President's Pay Agent should take appropriate measures to provide that each such surveyed area be treated as a separate pay locality for purposes of that section; and

(5) the President's Pay Agent will establish 1 locality area for the entire State of Hawaii and 1 locality area for the entire State of Alaska.

(b) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 1144 of this subtitle, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 1144 of this subtitle, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this subtitle, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2009 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 1144 of this subtitle which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay limitations under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

**SEC. 1146. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.**

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(II) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(ii) on or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) was eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code;

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(IV) is eligible to be paid under any other authority a cost-of-living allowance that is equivalent to the cost-of-living allowance under section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this subtitle (including the amendments made by this subtitle) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 1142 of this subtitle), and section 1144 of this subtitle apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this subtitle shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this subtitle including section 5941 of title 5, United States Code (as amended by section 1142 of this subtitle), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2009—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003 (b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) of section 1146(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this subtitle (including the amendments made by this subtitle) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2009 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 1144.

(B) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 1147 of this subtitle.

**SEC. 1147. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.**

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 1144 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2010, through December 31, 2012; and

(3) who files an election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2012.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2010 through the first applicable pay period ending on or after December 31, 2012, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 1144 of this subtitle did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under

section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if the cost-of-living allowances described under that subsection had been treated as basic pay under section 8331(3) or 8401(4) of title 5, United States Code; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

**SEC. 1148. REGULATIONS.**

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this subtitle, including—

(1) rules for special rate employees described under section 1143;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 1144 ending on the first day of the first pay period beginning on or after January 1, 2012; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2012.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this subtitle with respect to employees in such pay system, consistent with the regulations prescribed by the Office under subsection (a). With respect to employees not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, regulations prescribed under this subsection may provide for special payments or adjustments for employees who were eligible to receive a cost-of-living allowance under section 5941 of that title on the date before the date of enactment of this Act.

**SEC. 1149. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided by subsection (b), this subtitle (including the amendments made by this subtitle) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 1142 and the provisions of section 1144 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2010.

## Subtitle D—Part-Time Reemployment of Annuitants

**SEC. 1161. SHORT TITLE.**

This subtitle may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

**SEC. 1162. PART-TIME REEMPLOYMENT.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

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

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

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

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or

the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

**SEC. 1163. GENERAL ACCOUNTABILITY OFFICE REPORT.**

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section 1162.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this subtitle, or subsection (i) of section 8468 of title 5, United States Code, as amended by this subtitle; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section 1162 of this subtitle) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

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**SA 1523.** Ms. COLLINS (for herself, Mr. VOINOVICH, and Mr. KOHL) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the end of title XI of division A, insert the following:

**Subtitle B—Part-Time Reemployment of Annuitants**

**SEC. 1161. SHORT TITLE.**

This subtitle may be cited as the ''Part-Time Reemployment of Annuitants Act of 2009''.

**SEC. 1162. PART-TIME REEMPLOYMENT.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m);

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

''(l)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (k)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) or (b) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) or (b) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8468(i) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office of Personnel Management or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for the effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) or (b) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (m) (as so redesignated)—

(A) in paragraph (1), by striking ''(k)'' and inserting ''(l)''; and

(B) in paragraph (2), by striking ''or (k)'' and inserting ''(k), or (l)''.

(b) FEDERAL EMPLOYEE RETIREMENT SYSTEM.—Section 8468 of title 5, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j);

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

''(i)(1) For purposes of this subsection—

''(A) the term 'head of an agency' means—

''(i) the head of an Executive agency, other than the Department of Defense or the Government Accountability Office;

''(ii) the head of the United States Postal Service;

''(iii) the Director of the Administrative Office of the United States Courts, with respect to employees of the judicial branch; and

''(iv) any employing authority described under subsection (h)(2), other than the Government Accountability Office; and

''(B) the term 'limited time appointee' means an annuitant appointed under a temporary appointment limited to 1 year or less.

''(2) The head of an agency may waive the application of subsection (a) with respect to any annuitant who is employed in such agency as a limited time appointee, if the head of the agency determines that the employment of the annuitant is necessary to—

''(A) fulfill functions critical to the mission of the agency, or any component of that agency;

''(B) assist in the implementation or oversight of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) or the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.);

''(C) assist in the development, management, or oversight of agency procurement actions;

''(D) assist the Inspector General for that agency in the performance of the mission of that Inspector General;

''(E) promote appropriate training or mentoring programs of employees;

''(F) assist in the recruitment or retention of employees; or

''(G) respond to an emergency involving a direct threat to life of property or other unusual circumstances.

''(3) The head of an agency may not waive the application of subsection (a) with respect to an annuitant—

''(A) for more than 520 hours of service performed by that annuitant during the period ending 6 months following the individual's annuity commencing date;

''(B) for more than 1040 hours of service performed by that annuitant during any 12-month period; or

''(C) for more than a total of 3120 hours of service performed by that annuitant.

''(4)(A) The total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies may not exceed 2.5 percent of the total number of full-time employees of that agency.

''(B) If the total number of annuitants to whom a waiver by the head of an agency under this subsection or section 8344(l) applies exceeds 1 percent of the total number of full-time employees of that agency, the head of that agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Personnel Management—

''(i) a report with an explanation that justifies the need for the waivers in excess of that percentage; and

''(ii) not later than 180 days after submitting the report under clause (i), a succession plan.

''(5)(A) The Director of the Office of Personnel Management may promulgate regulations providing for the administration of this subsection.

''(B) Any regulations promulgated under subparagraph (A) may—

''(i) provide standards for the maintenance and form of necessary records of employment under this subsection;

''(ii) to the extent not otherwise expressly prohibited by law, require employing agencies to provide records of such employment to the Office or other employing agencies as necessary to ensure compliance with paragraph (3);

''(iii) authorize other administratively convenient periods substantially equivalent to 12 months, such as 26 pay periods, to be used in determining compliance with paragraph (3)(B);

''(iv) include such other administrative requirements as the Director of the Office of Personnel Management may find appropriate to provide for effective operation of, or to ensure compliance with, this subsection; and

''(v) encourage the training and mentoring of employees by any limited time appointee employed under this subsection.

''(6)(A) Any hours of training or mentoring of employees by any limited time appointee employed under this subsection shall not be included in the hours of service performed for purposes of paragraph (3), but those hours of training or mentoring may not exceed 520 hours.

''(B) If the primary service performed by any limited time appointee employed under this subsection is training or mentoring of employees, the hours of that service shall be included in the hours of service performed for purposes of paragraph (3).

''(7) The authority of the head of an agency under this subsection to waive the application of subsection (a) shall terminate 5 years after the date of enactment of the Part-Time Reemployment of Annuitants Act of 2009.''; and

(3) in subsection (j) (as so redesignated)—

(A) in paragraph (1), by striking ''(h)'' and inserting ''(i)''; and

(B) in paragraph (2), by striking ''or (h)'' and inserting ''(h), or (i)''.

(c) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section may be construed to authorize the waiver of the hiring preferences under chapter 33 of title 5, United States Code in selecting annuitants to employ in an appointive or elective position.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1005(d)(2) of title 39, United States Code, is amended—

(1) by striking ''(l)(2)'' and inserting ''(m)(2)''; and

(2) by striking ''(i)(2)'' and inserting ''(j)(2)''.

**SEC. 1163. GENERAL ACCOUNTABILITY OFFICE REPORT.**

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report regarding the use of the authority under the amendments made by section 1162.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) include the number of annuitants for whom a waiver was made under subsection (l) of section 8344 of title 5, United States Code, as amended by this subtitle, or subsection (i) of section 8468 of title 5, United States Code, as amended by this subtitle; and

(2) identify each agency that used the authority described in paragraph (1).

(c) AGENCY DATA.—Each head of an agency (as defined under sections 8344(l)(1) and 8468(i)(1)(A) of title 5, United States Code, as added by section 1162 of this subtitle) shall—

(1) collect and maintain data necessary for purposes of the Comptroller General report submitted under subsection (a); and

(2) submit to the Comptroller General that data as the Comptroller General requires in a timely fashion.

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**SA 1524.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the appropriate place in title III, insert the following:

**SEC. ____. TRANSFER OF CERTAIN ARMY PROPERTY TO UNIVERSITY OF NORTH DAKOTA.**

(a) AUTHORITY TO TRANSFER.—The Secretary of the Army shall transfer, without consideration, to the University of North Dakota, Grand Forks, North Dakota, all right, title, and interest of the United States in the property described in subsection (b) if, upon the completion of the contracts referenced in

subsection (b), the Secretary determines that it is no longer in the best interest of the Army to recover the property and there are no statutory, regulatory, or other impediments to the transfer.

(b) DESCRIPTION OF PROPERTY.—The exact legal description of the property transferred under this section shall be determined by the Secretary following an inventory. In general, such property consists of all United States Government property procured for the United States Army Engineered Surfaces for Weapons System Life Extension Program and in the possession of Alion Science and Technology Corporation and the University of North Dakota, both located in Grand Forks, North Dakota, and assigned to the following contracts: FA4600–06–D–0003, SPO7000–97–D–4001, and AMPTIAC–05–0001.

(c) CONDITION OF TRANSFER.—The transfer authorized under subsection (a) shall be subject to the condition that the University of North Dakota enters into an agreement with the Secretary that governs future uses of the transferred property.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transfer under this section as the Secretary determines appropriate to protect the interests of the United States.

(e) DATES OF TRANSFER.—Any transfer of property under this section shall take effect not later than 180 days after the date of the enactment of this Act, or upon completion and termination of the contracts identified in subsection (b), whichever occurs later.

(f) DELEGATION.—The Secretary may delegate roles and responsibilities under this section to one or more subordinates as needed.

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**SA 1525.** Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 245, between lines 3 and 4, insert the following:

**SEC. 803. REPEAL OF SUNSET OF AUTHORITY TO PROCURE FIRE RESISTANT RAYON FIBER FOR THE PRODUCTION OF UNIFORMS FROM FOREIGN SOURCES.**

Subsection (f) of section 829 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 229; 10 U.S.C. 2533a note) is repealed.

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**SA 1526.** Mr. FEINGOLD (for himself, Ms. MURKOWSKI, Mrs. LINCOLN, and Mr. BURRIS) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 652. CONTINUATION OF MILITARY COMPENSATION FOR RESERVE COMPONENT MEMBERS DURING PHYSICAL EVALUATION BOARD PROCESS AND FOR CERTAIN OTHER RESERVE COMPONENT MEMBERS.**

Section 1218 of title 10, United States Code, is amended by adding at the end the following new subsections:

''(d)(1) The Secretary of a military department shall give a member of a reserve component under the jurisdiction of the Secretary who is being evaluated by a physical evaluation board for separation or retirement for disability under this chapter or for placement on the temporary disability retired list or inactive status list under this chapter the option to remain on active duty in order to continue to receive pay and allowances under title 37 during the physical evaluation board process until such time as the member—

''(A) is cleared by the board to return to duty; or

''(B) is separated, retired, or placed on the temporary disability retired list or inactive status list.

''(2) A member may change the election under paragraph (1) at any point during the physical evaluation board process and be released from active duty.

''(3) The requirements in paragraph (1) shall expire on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010.

''(e) A member contemplating the exercise of an option under subsection (d) may exercise such option only after consultation with a member of the applicable judge advocate general's corps.''.

**SEC. 653. ENCOURAGEMENT OF USE OF LOCAL RESIDENCES FOR CERTAIN RESERVE COMPONENT MEMBERS.**

Section 1222 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) USE OF LOCAL RESIDENCES FOR CERTAIN RESERVE COMPONENT MEMBERS.—(1)(A) A member of a reserve component described by subparagraph (B) shall be permitted to reside at the member's permanent place of residence if residing at that location is medically feasible, as determined by a licensed health care provider.

''(B) A member of a reserve component described by this subparagraph is any member remaining on active duty under section 1218(d) of this title during the period the member is on active duty under such subsection.

''(2) Nothing in this subsection shall be construed as terminating, altering, or otherwise affecting the authority of the commander of a member described in paragraph (1)(B) to order the member to perform duties consistent with the member's fitness for duty.

''(3) The Secretary concerned shall pay any reasonable expenses of transportation, lodging, and meals incurred by a member residing at the member's permanent place of residence under this subsection in connection with travel from the member's permanent place of residence to a medical facility during the period in which the member is covered by this subsection.''.

**SEC. 654. ASSISTANCE WITH TRANSITIONAL BENEFITS.**

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1218 the following new section:

**''§ 1218a. Discharge or release from active duty: transition assistance**

''The Secretary of a military department shall provide to a member of a reserve component under the jurisdiction of the Secretary who is injured while on active duty in the armed forces the following before such member is demobilized or separated from the armed forces:

''(1) Information on the availability of care and administrative processing through community based warrior transition units.

''(2) The location of the community based warrior transition unit located nearest to the member's permanent place of residence.

''(3) An opportunity to consult with a member of the applicable judge advocate general's corps regarding the member's eligibility for compensation, disability, or other transitional benefits.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 61 of such title is amended by inserting after the item relating to section 1218 the following new item:

''1218a. Discharge or release from active duty; transition assistance.''.

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**SA 1527.** Mr. FEINGOLD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 312. PROHIBITION ON DISPOSING OF WASTE IN OPEN-AIR BURN PITS.**

(a) IN GENERAL.—The Secretary of Defense shall prohibit the disposal of covered waste in an open-air burn pit during a contingency operation lasting longer than one year.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the use of open-air burn pits in contingency operations. The report shall include—

(1) a description of each type of waste burned in such open-air burn pits; and

(2) a discussion of the feasibility of alternative methods of disposing of covered waste, including—

(A) a plan to use such alternative methods; or

(B) if the Secretary determines that no such alternative method is feasible, a detailed discussion explaining why open-air burn pits are the only feasible method of disposing of such waste.

(c) DEFINITIONS.—In this section:

(1) CONTINGENCY OPERATION.—The term ''contingency operation'' has the meaning given that term by section 101(a) of title 10, United States Code.

(2) COVERED WASTE.—The term ''covered waste'' includes the following:

(A) Hazardous waste, as defined by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)).

(B) Medical waste.

(C) Solid waste containing plastic.

(D) Automotive and marine batteries.

(E) Pesticides.

(F) Explosives.

(G) Automotive oils.

(H) Fuels and fluids.

(I) Compressed gas containers.

(J) Materials containing asbestos.

(K) Electrical equipment.

(L) Solvents.

(M) Paint thinners and strippers.

(N) Rubber.

(O) Preserved (treated) wood.

(P) Unexploded ordnance.

(3) MEDICAL WASTE.—The term ''medical waste'' means any solid waste generated in

the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals.

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**SA 1528.** Mr. LIEBERMAN (for himself and Mr. GRAHAM, Mr. BEGICH, Mr. CORNYN, Mrs. HUTCHISON, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

Strike section 402 and insert the following:

**SEC. 402. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE-DUTY END STRENGTHS FOR FISCAL YEARS 2010, 2011, AND 2012.**

(a) AUTHORITY TO INCREASE ARMY ACTIVE-DUTY END STRENGTH.—

(1) AUTHORITY.—For each of fiscal years 2010, 2011, and 2012, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (2), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2010 baseline plus 30,000.

(2) PURPOSE OF INCREASES.—The purposes for which an increase may be made in the active duty end strength for the Army under paragraph (1) are the following:

(A) To increase dwell time for members of the Army on active duty.

(B) To support operational missions.

(C) To achieve reorganizational objectives, including increased unit manning, force stabilization and shaping, and supporting wounded warriors.

(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the authority of the President under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority in subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

(d) BUDGET TREATMENT.—

(1) IN GENERAL.—If the Secretary of Defense increases active-duty end strength for the Army for fiscal year 2010 under subsection (a), the Secretary may fund such an increase through Department of Defense reserve funds or through an emergency supplemental appropriation.

(2) FISCAL YEARS 2011 AND 2012.—(2) If the Secretary of Defense plans to increase the active-duty end strength for the Army for fiscal year 2011 or 2012, the budget for the Department of Defense for such fiscal year as submitted to Congress shall include the amounts necessary for funding the active-duty end strength for the Army in excess of the fiscal-year 2010 baseline.

(e) DEFINITIONS.—In this section:

(1) FISCAL-YEAR 2010 BASELINE.—The term ''fiscal-year 2010 baseline'', with respect to the Army, means the active-duty end strength authorized for the Army in section 401(1).

(2) ACTIVE-DUTY END STRENGTH.—The term ''active-duty end strength'', with respect to the Army for a fiscal year, means the strength for active duty personnel of Army as of the last day of the fiscal year.

**SA 1529.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1073. REPORT ON ARMY NATIONAL GUARD DOMESTIC COMMUNICATIONS CAPABILITY.**

Not later than 30 days after completing the evaluation of communications systems enhancements and capabilities that are needed for the Army National Guard to respond to natural and man-made disasters, as called for in the Defense Science Board 2009 Report on Interagency Operability, the Secretary of the Army shall submit to Congress a report on the evaluation. The report required under subsection (a) shall include an assessment of the capabilities of GUARDNET, the mobilization, training, and administrative network of the Army National Guard.

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**SA 1530.** Mrs. LINCOLN (for herself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1083. CERTAIN SERVICE PERFORMED IN THE RESERVE COMPONENTS DEEMED ACTIVE SERVICE.**

Section 106 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(g) Any person who has not otherwise performed qualifying active duty service shall be deemed to have been on active duty for purposes of all laws administered by the Secretary if the person is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service.''.

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**SA 1531.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. SENSE OF THE SENATE ON NEGOTIATING CONCESSIONS WITH TERRORISTS.**

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States has a longstanding policy of opposing negotiations with terrorists and terrorist organizations on concessions of any kind, including ransom demands, prisoner releases, and hostage exchanges. This longstanding policy has been repeated by numerous administrations over the past 4 decades.

(2) For example, at an August 4, 1975 meeting between President Gerald Ford and Secretary of State Henry Kissinger and Yugoslavian President Josip Tito, Secretary Kissinger explained that the United States ''position is, as it has always been, that we refuse to negotiate and to pay ransom in these cases. We do this in order not to encourage the capture of other Americans for the same purpose.''.

(3) In his comments to President Tito, Secretary Kissinger explained the basis for the United States policy, as well as his expectation that the United States would never change this no-negotiation policy: ''The American Government will always refuse to negotiate because that is the only way we can keep demands from being made upon us.''.

(4) In the same conversation, President Ford said, ''It's our strong feeling that if we were to breach this hard line that we take there would be no end to the demands being made upon us. We have to be tough and that is right in the long run.''.

(5) On January 20, 1986, President Ronald Reagan issued National Security Decision Directive 207, which prohibits negotiations with terrorist organizations regarding the release of hostages.

(6) National Security Decision Directive 207 sets forth in unequivocal terms the United States ''firm opposition to terrorism in all its forms'' and makes clear the Government's ''conviction that to accede to terrorist demands places more American citizens at risk. This no-concessions policy is the best way of protecting the greatest number of people and ensuring their safety.''.

(7) National Security Decision Directive 207 continues to say: ''The [United States Government] will pay no ransoms, nor permit releases of prisoners or agree to other conditions that could serve to encourage additional terrorism. We will make no changes in our policy because of terrorist threats or acts.''.

(8) Department of State Publication 10217, which was released in similar formats by the administrations of George H.W. Bush in 1991 and Bill Clinton in 1994, espouses the same no-concessions policy and makes clear that the United States ''will not support the freeing of prisoners from incarceration in response to terrorist demands.''.

(9) On April 4, 2002, President George W. Bush said, ''[t]error must be stopped. No nation can negotiate with terrorists, for there is no way to make peace with those whose only goal is death.''.

(10) Secretary of State Hillary Clinton, while serving in the United States Senate, wrote in 2007 that the United States ''cannot negotiate with individual terrorists; they must be hunted down and captured or killed.''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States should firmly maintain its longstanding policy against negotiating with terrorists and terrorist organizations on any concession or demand. It is further the sense of the Senate that any abandonment or weakening of this policy would endanger the safety of American citizens, including United States servicemen, and increase terrorist kidnappings, hostage demands, and murders.

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**SA 1532.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. ___. REPORT ON ANY DIRECT OR INDIRECT NEGOTIATIONS WITH TERRORISTS.**

(a) DEFINITIONS.—In this section:

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

(A) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

(2) NEGOTIATIONS WITH TERRORISTS.—The term ''negotiations with terrorists'' includes any direct or indirect negotiations with any person or organization that—

(A) has been designated by the United States, including any department or agency of the United States, as a person or organization that commits, threatens to commit, or supports terrorism;

(B) has engaged in any activity or is a representative of an organization that would render the person inadmissible under section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

(C) is a member of al Qaeda or affiliated with al Qaeda through any council or activity.

(3) CONCESSION.—The term ''concession'' includes any discussion or demand for—

(A) payment or ransom;

(B) the withdrawal of United States military or diplomatic presence; or

(C) the release of any prisoner or detainee held by the United States.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate committees of Congress a preliminary report that identifies any case in 300 days preceding the report in which the United States engaged in negotiations with terrorists regarding any person held in the custody of the United States or allied forces.

(2) PERIODIC REPORTS.—If any employee, agent, or representative of the Department of Defense or the Department of State engages in, authorizes, or cooperates in any way with, negotiations with terrorists regarding any person held in the custody of the United States or allied forces, the Secretary of Defense or, where appropriate, the Secretary of State, shall submit a report to the appropriate committees of Congress within 30 days of the engagement, authorization, or cooperation.

(3) FORM.—A report required under this subsection shall include all relevant facts, including the name of the terrorist person or organization, the name of any prisoner, detainee, or hostage who was the subject of such negotiations, the concession demanded or discussed during the negotiations, the name of any government or third party involved in the negotiations, and the outcome of the negotiations. The report shall be submitted in an unclassified format with a classified annex where appropriate.

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**SA 1533.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 323, beginning on line 19, strike ''or'' and all that follows through line 22, and insert the following:

''(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

''(C) is a member of al Qaeda or a group that is connected with al Qaeda.''.

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**SA 1534.** Mr. VOINOVICH (for himself, Mr. LEAHY, Mr. BOND, Mr. BENNETT, Mr. BYRD, Mr. COCHRAN, Mr. CRAPO, Mr. DORGAN, Ms. MURKOWSKI, Mr. RISCH, Mr. ROCKEFELLER, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 512. AVAILABILITY OF APPROPRIATED FUNDS FOR INTERNATIONAL MILITARY-TO-CIVILIAN AND CIVIL SECURITY COOPERATION CONTACT ACTIVITIES CONDUCTED BY THE NATIONAL GUARD.**

(a) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

**''§ 2249e. International military-civilian contact activities conducted by the National Guard: availability of appropriated funds**

''(a) AVAILABILITY OF APPROPRIATED FUNDS.—Funds appropriated to the Department of Defense shall be available for the payment of costs incurred by the National Guard (including the costs of pay and allowances of members of the National Guard) in conducting international military-to-civilian contacts, civil security cooperation contacts, and comparable activities for purposes as follows:

''(1) To support the objectives of the commander of the combatant command for the theater of operations in which such contacts and activities are conducted.

''(2) To build international civil-military partnerships and capacity.

''(3) To strengthen cooperation between the departments and agencies of the United States Government and agencies of foreign governments.

''(4) To facilitate intergovernmental collaboration between the United States Government and foreign governments.

''(5) To facilitate and enhance the exchange of information between the United States Government and foreign governments on matters relating to defense and security.

''(b) LIMITATIONS.—(1) Funds shall not be available under subsection (a) for contacts and activities described in that subsection that are conducted in a foreign country unless jointly approved by the commander of the combatant command concerned and the chief of mission concerned.

''(2) Funds shall not be available under subsection (a) for the participation of a member of the National Guard in contacts and activities described in that subsection in a foreign country unless the member is on active duty in the armed forces at the time of such participation.

''(c) REIMBURSEMENT.—In the event of the participation of personnel of a department or agency of the United States Government (other than the Department of Defense) in contacts and activities for which payment is made under subsection (a), the head of such department or agency shall reimburse the Secretary of Defense for the costs associated with the participation of such personnel in such contacts and activities. Amounts reimbursed the Department of Defense under this subsection shall be deposited in the appropriation or account from which amounts for the payment concerned were derived. Any amounts so deposited shall be merged with amounts in such appropriation or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

''(d) DEFINITIONS.—In this section:

''(1) The term 'military-to-civilian contacts' means the following:

''(A) Contacts between members of the armed forces and foreign civilian personnel.

''(B) Contacts between members of foreign Armed Forces and United States civilian personnel.

''(2) The term 'civil security cooperation contacts' means contacts between United States civilian personnel and foreign civilian personnel.

''(3) The term 'United States civilian personnel' means the following:

''(A) Personnel of the United States Government (including personnel of departments and agencies of the United States Government other than the Department of Defense) and personnel of State and local governments of the United States.

''(B) Members and employees of the legislative branch, and non-governmental individuals, if the participation of such individuals in contacts and activities described in subsection (a)—

''(i) contributes to responsible management of defense resources;

''(ii) fosters greater respect for and understanding of the principle of civilian control of the military;

''(iii) contributes to cooperation between foreign military and civilian government agencies and United States military and civilian governmental agencies; or

''(iv) improves international partnerships and capacity on matters relating to defense and security.

''(4) The term 'foreign civilian personnel' means the following:

''(A) Civilian personnel of foreign governments at any level (including personnel of ministries other than ministries of defense).

''(B) Non-governmental individuals of foreign countries, if the participation of such individuals in contacts and activities described in subsection (a) will further the achievement of any matter set forth in clauses (i) through (iv) of paragraph (3)(B).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 134 of such title is amended by adding at the end the following new item:

''2249e. International military-civilian contact activities conducted by the National Guard: availability of appropriated funds.''.

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**SA 1535.** Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1222. REPORT ON CUBA AND CUBA'S RELATIONS WITH OTHER COUNTRIES.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the defense and intelligence committees of the Congress a report addressing the following:

(1) The cooperative agreements and relationships that Cuba has with Iran, North

Korea, and other states suspected of nuclear proliferation.

(2) A detailed account of the economic support provided by Venezuela to Cuba and the intelligence and other support that Cuba provides to the government of Hugo Chavez.

(3) A review of the evidence of relationships between the Cuban government or any of its components with drug cartels or involvement in other drug trafficking activities.

(4) The status and extent of Cuba's clandestine activities in the United States.

(5) The extent and activities of Cuban support for governments in Venezuela, Bolivia, Ecuador, Central America, and the Caribbean.

(6) The status and extent of Cuba's research and development program for biological weapons production.

(7) The status and extent of Cuba's cyberwarfare program.

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**SA 1536.** Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1222. REPORT ON VENEZUELA.**

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the defense and intelligence committees of the Congress a report addressing the following:

(1) An inventory of all weapons purchases by, and transfers to, the government of Venezuela and Venezuela's transfers to other countries since 1998, particularly purchases and transfers of missiles, ships, submarines, and any other advanced systems. The report shall include an assessment of whether there is accountability of the purchases and transfers with respect to the end-use and diversion of such materiel to popular militias, other governments, or irregular armed forces.

(2) The mining and shipping of Venezuelan uranium to Iran, North Korea, and other states suspected of nuclear proliferation.

(3) The extent to which Hugo Chavez and other Venezuelan officials and supporters of the Venezuelan government provide political counsel, collaboration, financial ties, refuge, and other forms of support, including military materiel, to the Revolutionary Armed Forces of Colombia (FARC).

(4) The extent to which Hugo Chavez and other Venezuelan officials provide funding, logistical and political support to the Islamist terrorist organization Hezbollah.

(5) Deployment of Venezuelan security or intelligence personnel to Bolivia, including any role such personnel have in suppressing opponents of the government of Bolivia.

(6) Venezuela's clandestine material support for political movements and individuals throughout the Western Hemisphere with the objective of influencing the internal affairs of nations in the Western Hemisphere.

(7) Efforts by Hugo Chavez and other officials or supporters of the Venezuelan government to convert or launder funds that are the property of Venezuelan government agencies, instrumentalities, parastatals, including Petroleos de Venezuela, SA (PDVSA).

(8) Covert payments by Hugo Chavez or officials or supporters of the Venezuelan government to foreign political candidates, government officials, or officials of international organizations for the purpose of influencing the performance of their official duties.

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**SA 1537.** Mr. MARTINEZ (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

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

**SEC. 1232. SENSE OF CONGRESS ON CONTINUED SUPPORT BY THE UNITED STATES FOR A STABLE AND DEMOCRATIC REPUBLIC OF IRAQ.**

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

(1) The men and women of the United States Armed Forces who have served or are serving in the Republic of Iraq have done so with the utmost bravery and courage and deserve the respect and gratitude of the people of the United States and the people of Iraq.

(2) The leadership of Generals David Petraeus and Raymond Odierno, as the Commanders of the Multi-National Force Iraq, as well as Ambassador Ryan Crocker, was instrumental in bringing stability and success to Iraq.

(3) The strategy known as the surge resulted in significant security gains and facilitated the economic, political, and social gains that have occurred in Iraq since the surge was initiated in 2007.

(4) The people of Iraq have begun to develop a stable government and stable society because of the security provided by the surge and the decision of the people of Iraq to accept the ideals of a free and fair democratic society over the tyranny espoused by Al Qaeda and other terrorist organizations.

(5) The security gains achieved by the surge must be carefully maintained so that those fragile gains can be solidified and expanded upon, primarily by citizens of Iraq in service to their country, with the support of the United States as necessary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a stable and democratic Republic of Iraq is in the long-term national security interest of the United States;

(2) the people and the Government of the United States are committed to helping the people of Iraq ensure the stability of Iraq and peace in the region, which the stability of Iraq will provide; and

(3) the United States should be a long-term strategic partner with the Government and the people of Iraq in support of their efforts to build democracy, good governance, and peace and stability in the region, including through providing non-military assistance to the people of Iraq.

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**SA 1538.** Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; which was ordered to lie on the table; as follows:

On page 571, line 6, strike ''$5,395,831,000'' and insert ''$5,763,856,000''.

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## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 14, 2009 at 9 a.m., to conduct a hearing on ''Creating a Consumer Financial Protection Agency: A Cornerstone of America's New Economic Foundation.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, July 14, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, July 14, 2009, at 10 a.m. in room 406 of the Dirksen Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, July 14, 2009, at 2:30 p.m. in room 406 of the Dirksen Office Building.

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, July 14, 2009, at 10 a.m., in 215 Dirksen Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Tuesday, July 14, 2009, at 9 a.m. in room 325 of the Russell Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized

to meet during the session of the Senate on July 14, 2009, at 9:30 a.m., in room SH–216 of the Hart Senate Office Building, to continue the hearing on the nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, July 14, 2009 at 9:30 a.m. to conduct a hearing entitled, ''Women Veterans: Bridging the Gaps in Care.'' The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, July 14, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

## PRIVILEGES OF THE FLOOR

Mrs. LINCOLN. Mr. President, I ask unanimous consent that Susan Kalasanas, who is a fellow in my office, be granted the privilege of the floor for the duration of my remarks.

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

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that MAJ Brian Forrest of the United States Army, whom I am privileged to have working in my office for a year, be granted floor privileges for the time the Senate is debating S. 1390, the National Defense Authorization Act for 2010.

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

## ORDERS FOR WEDNESDAY, JULY 15, 2009

Mr. KAUFMAN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, July 15; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of Calendar No. 89, S. 1390, the Department of Defense authorization bill.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KAUFMAN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:05 p.m., adjourned until Wednesday, July 15, 2009, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

PEACE CORPS

AARON S. WILLIAMS, OF VIRGINIA, TO BE DIRECTOR OF THE PEACE CORPS, VICE RONALD A. TSCHETTER, RESIGNED.

DEPARTMENT OF EDUCATION

BRENDA DANN-MESSIER, OF RHODE ISLAND, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE TROY R. JUSTESEN.

DEPARTMENT OF JUSTICE

DENNIS K. BURKE, OF ARIZONA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF FOUR YEARS, VICE DIANE J. HUMETEWA.

STEVEN M. DETTELBACH, OF OHIO, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS, VICE GREGORY A. WHITE, RESIGNED.

BRENDAN V. JOHNSON, OF SOUTH DAKOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH DAKOTA FOR THE TERM OF FOUR YEARS, VICE MARTIN J. JACKLEY.

KAREN LOUISE LOEFFLER, OF ALASKA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF ALASKA FOR THE TERM OF FOUR YEARS, VICE TIMOTHY MARK BURGESS, RESIGNED.

FLORENCE T. NAKAKUNI, OF HAWAII, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF FOUR YEARS, VICE EDWARD HACHIRO KUBO, JR.

CARTER M. STEWART, OF OHIO, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS, VICE GREGORY GORDON LOCKHART.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

ANTONIO J. ALFONSO
TINA L. ALLEN
MICHAEL S. ALLMAN
JULIE JOANNE ANDERSON
DEBORAH J. ANGELES
RICHARD J. ANSHUTZ
HECTOR R. APONTE
CHRISTOPHER L. ARCHER
GALMAR P. BALMACEDA
GLENN S. BANKSON
JENNIFER D. BANKSTON
AMBER J. BARKER
GEORGE T. BENSEMA
BENJAMIN BERZINIS
MELISSA A. BIRTZER
ANNA M. BRENNAN
DENISE D. CARCAMO
TRACI R. CARTER
WILLIAM R. CARTER
ROBERT L. CHAPLIN, JR.
WENDY A. CHAPMAN
STEPHANIE CHIRICO
KRISTA L. CHRISTIANSON
JUVELYN T. CHUA
WILLIAM N. CLARK
ROBERT L. COLELLA, JR.
JOY A. COLLINS
MOROM D. COULSON
ARMANDO L. CRUZ
PENNY H. CUNNINGHAM
PATRICIA J. DALTON
TAMARA D. DAVIS
PATTI JO IRENE DEMOTTS
RENAE R. DENELSBECK
LATASHA L. DUNN
JON D. EARLES
EMMELYNE P. EATON
MARION L. FOREMAN, JR.
MICHAEL M. FRIEBEL
MICKAELLE M. GERMAIN
TOD A. GIGLIO
MARK C. GOSLING
SUZANNE M. GREEN
KRISTA D. GREY
BOBBIE A. HANNER
MICHELLE L. HARMON
JAMALE R. HART
THOR F. HAUFF
KAREN A. HENDERSON
DAVID P. HERNANDEZ
ERVIN HERNANDEZ
JENNIFER B. HESSOCK
RONALD K. HODGEN
LONNIE W. HODGES
NISA T. HOGLE
DAWNKIMBERLY Y. HOPKINS
CLARENCE M. HUTTO
STEPHANIE ISAACFRANCIS
KELVIN L. JACK
KAREN S. JACKSON
JENNIFER LEA JAMISON GINES
TERRI J. JENNINGS
KARL E. KAMMER
AMANDA C. KRBEC
LYNN M. LAGADON
ALICIA M. LASITER
SCOTT A. LEBLANC
BRENDA LEE
TAMARA A. LEITAKERMYERS
AARON M. LEONARD
DAVID M. LEWIS
SARAH J. LINTHICUM
JON D. LONG
ROY L. LOUQUE
AMY F. MACIAS
ASHA K. MANDHARE
FOSTER ARTHUR MARRUFFO
CURLEN M. MARTINSON
MARIO D. MAXWELL
DANIELLE J. MCALLISTER
CINDY A. MCCULLOUGH
CLAUDIA G. MENJIVAR
TERESE E. MICHAUD
LAURIE A. MIGLIORE
WILLIAM R. MITCHELL
JAMES H. MONTGOMERY
MARIA E. MORGAN
SANDRA R. NESTOR
DAVID S. NORWOOD
GARY W. NOVAK
SARAH E. OLIVER
TONI OLIVIERI
ADELEKE A. OYEMADE
WANDA R. PARKS
TODD M. PFAFFENBICHLER
MATTHEW L. PFEIFFER
DAVID A. POJMAN
JONATHAN M. PRATT
GARY A. PULMANO
DONNA L. RADCLIFF
TIMOTHY N. RAINES
SUSAN P. RHEA
KRISTINE L. RILEY
GRICEL RODRIGUEZ
HEATHER N. ROSCISZEWSKI
ROBERT D. ROTH
SCOTT F. SANDERS
MARY E. SCHROEDER
TIMOTHY L. SHAW
AMANDA L. SIANGCO
ZAHID M. SIDDIQUE
KEVIN J. SKAGGS
ERIKA T. SMITH
PABLO A. SNEAD
LORI S. SPICER
MARSHA R. STARKS
WANDA K. STAUFFER
JAMES C. STEWARD
SHERRY D. STIGALL
ELIZABETH E. TAILLON
WILLIAM L. TENNYSON III
ROSLYN M. THOMAS
CLINTON K. WAHL
MARLENE M. B. WALLACE
JAMES K. WEBB
MARGARET A. WHITE
THEODORA G. WHITFIELD
STEPHEN T. WINNETT
JAMES C. WINTER
MARIA C. YAMZON
SINA M. ZIEMAK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

EBON S. ALLEY
MARISA A. ALVARADO
NATHAN L. ANDERSON
JEFFREY D. ANDREOLI
QUENTIN D. BAGBY
PAUL A. BECKER
DESMOND J. BIAVA
GWENDOLYN M. BOLEWARE
PHILIP C. BOSSART
SAUNYA N. BRIGHT
DAVID D. BURNS
PAMELA A. BYRD
EDGAR G. CADUA
CATHERINE M. CALLENDER
LARRY D. CARNES
SEAN M. CHICKERY
RICHARD C. CLARK
BARRY J. CLEARY
JOSEPH S. COFER
ADAYMEE COFRESI
JOANNE S. CONLEY
KWAME A. CURTIS
BRIAN K. DART
LAURA J. DART
ANTHONY P. DAVIS
PATRICE L. DAVIS
STEVEN W. DAWSON
BRENDA L. DEHN
STEVEN A. DEZELL

JOSE DIAZ
PAUL R. EDEN
CHRISTOPHER W. EDWARDS
BEVERLY L. EICHMAN
RICHARD J. FARLEY
DEREK J. FAVRET
JASON R. FEJES
MARSHALL A. FISCUS
GRETCHEN ANN FIVECOAT
MICHAEL G. FLEMING
CARLOS R. FLORES, JR.
KIM FLOYD
JOHNNIE FOSTER, JR.
MARIA E. GOMEZHERBERT
GREGORY A. GOOTEE
ENRIQUE GUERRERO, JR.
ALAN C. HALE
ELISA AMANTIAD HAMMER
JEREMY S. HASKELL
MARY E. HAY
VICTOR L. HOLMES
JERRY O. HOOPES, JR.
DEREC S. HUDSON
TY HUNT
CHELSEA D. JOHNSON
JULIE M. JOHNSON
MORRIS S. JONES II
STEVEN J. KEIFER
SAMANTHA J. KELPIS
PAUL Y. KIM
JACQUELINE E. KING
STEPHANIE I. KING
JOSEPH B. KIRKMAN
KAREN P. KRAMER
KEVIN L. KUBLY
JIMMEY N. LABIT, JR.
DIANE S. LANTAGNE
THAI H. LE
RONNI R. LESLIE
PHILIPP G. LIM
MICHAEL S. LUBY
PATRICIA M. LUCAS
WILLIAM E. LUJAN
ALEXANDER F. MACDONALD
THOMAS J. MADDEN
NATHAN B. MAERTENS
FAIRLIGHT B. MATTHEWS
TIMOTHY J. MCDOWELL
DANIEL S. MCKIM
TRAVIS J. MEIDINGER
CAROLANN MILLER
MICHAEL A. MILLIS
BRIDGET A. MOORE
DEREK F. MUNOZ
MARIO R. MUNOZ
BRUCE A. MURREN
ELIZABETH NAJERA
JON C. NEUMANN
MARK A. NOON
KAREN C. NZEREM
JAIME R. K. OKAMURA
CLIFFORD N. OTTE
CHUNIL PAENG
JAMES E. PARRIS
PAMELA S. PAULIN
VANTHY B. PHAM
ERIC L. PHILLIPS
STEPHEN G. POLY
ARON R. POTTER
NAYDA O. PROTZMAN
BARRY R. REEDER, JR.
RAY C. RENDON
GERMAN REYES
TRACY L. RIGGS
JAIME L. RIVAS
CLAY A. ROBERTS
WILLIAM D. ROBERTS
ALLISON R. ROGERS
PATRICIA ROHRBECK
CESAR ROMERO
ELLEN A. ROSKA
MIKLOS C. ROZSA
JUSTIN E. SANDHOLM
EDWIN Y. SANTOS
SEAN D. SARSFIELD
DANIEL J. SCHNEIDER
JEFFREY J. SCOTT
KELLI J. SILVERSTRIM
BRIAN D. SMITH
MICHAEL A. SMITH
GARY R. SNELLER II
HECTOR R. STEPHENSON
SEAN P. STROPE
DARRELL D. SVATEK
DANIEL D. SWEENEY
BRIAN K. SYDNOR
JASON P. TAUSEK
BRANDON M. TOURTILLOTT
ANTHONY R. TY
DERRICK F. VARNER
THOMAS D. VAUGHN
JEROME L. VINLUAN
THUY N. VO
KHAI H. VUONG
ANGIE M. WALKER
AARON D. WEAVER
JANA M. WEINER
DAVID J. WILLIAMS
MARY A. WORKMAN
CHRISTINE M. YARBROUGH
RICHARD Y. K. YOO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

LANCE L. ANNICELLI
PEGGY A. CAIN
PATRICK J. CASTLE
IMELDA M. CATALASAN
JOHN D. CHILDS
KRISSA J. C. CRAWFORD
ANDREW A. CRUZ
DAVID H. DICKEY
MARK R. DUFFY
MELANIE J. ELLIS
SHARON J. GOBER
STEPHEN G. GRIEP
LEVETTE M. HAMBLIN
BARBARA J. HOEBEN
THOMAS G. HUGHES
WILLIAM R. HURTLE
NATALIE M. JOHNS
DAVID W. KOLES
LARRY S. KROLL
MARTIN W. LAFRANCE
DAVID J. LINKH
GUY R. MAJKOWSKI
MARION F. MALINOWSKI, JR.
CHERIE ANNE C. MAUNTEL
TAMMY H. MCKENZIE
DOUGLAS M. ODEGAARD, JR.
MAUD OLIVER KELLEY
MICHAEL B. PEAKE
DARREN P. RHOTON
JOEL B. ROBB
JEREMY M. SLAGLEY
DONNA C. SMITH
SCOTT M. SONNEK
CHRISTINE L. STABILE
STEVEN G. STERN
DAVID F. SWAYNE, JR.
BERNARD L. VANPELT
MINH T. VUONG
DOUGLAS W. WEBB
DAVID A. WELGE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

ELISE A. AHLSWEDE
VALERIE T. BELLE
CHRISTINE R. BERBERICK
KATHLEEN M. BROWNING
MIMI CANNONIER
LISA M. COLE
RICHARD S. CONTE
LISA A. DAVISON
KRISTA L. DIXON
JULIE M. FAUBION
KAREN M. FEDERICI
LOUIS A. GALLO
CHERRON R. GALLUZZO
STEPHANIE M. GARDNER
HOLLY L. GINN
ANDREA K. GOODEN
CHRISTINE R. GUNDEL
EVELYN J. HALE
ROSEMARY T. HALEY
KERRY L. HESSELRODE
JADE K. HIN
MARY E. HOLMSTRAND
PENNY L. JESS
HEATHER L. JOHNSON
MARGRET M. JONES
TERYL A. LOENDORF
MARIA L. MARCANGELO
STEPHENIE J. MCCUE
SHERRY D. MOORE
BRENDA J. MORGAN
GEORGE R. MOSELEY
ROBYN D. NELSON
RAYMOND M. NUDO
BRADLEY A. OLSSON
CHRISTOPHER T. PAIGE
KAREN J. RADER
IMELDA M. REEDY
GAIL A. REICHERT
WILLIAM A. REYNOLDS
TREESA J. SALTER
SHEVONNE L. SCOTT
RICKY JAY SEXTON
GEMMA M. SMITH
AVEN L. STRAND
RICHARD J. TERRACCIANO
BEVERLY A. THORNBERG
COLLEEN P. TREACY
MARIA T. VIDA
THEODORE J. WALKER, JR.
MARY M. WALSH
PAUL K. YENTER
DEEDRA L. ZABOKRTSKY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

RAAN R. AALGAARD
MICHAEL D. ALFORD
CHARLES T. ALLEN
KEVIN S. ALLEN
MARK E. ALLEN
DAVID L. ALMAND
DAGVIN R. M. ANDERSON
DANIEL L. ANDERSON
JON M. ANDERSON
STEPHEN L. ANDREASEN
KEITH E. ANDREWS
JOHN S. R. ANTTONEN
JOHN E. ARMOUR
JOHN T. ARNOLD
AMY V. ARWOOD
CHRISTOPHER B. ATHEARN
HANS R. AUGUSTUS
CHRISTOPHER P. AZZANO
GEOFFREY S. BACON
WILLIAM D. BAILEY
JEFFREY A. BAIR
JAMES C. BAIRD
KEITH W. BALTS
JOHN M. BALZANO
PHILLIP B. BARKS
BARTON V. BARNHART
DOUGLAS W. BARRON
BRYAN C. BARTLETT
PAUL E. BAUMAN
KEITH L. BEARDEN
SETH BEAUBIEN
ANDREA D. BEGEL
SCOTT W. BEIDLEMAN
KEVIN S. BENNETT
MARK S. BENNETT
KEVIN L. BERKOMPAS
ALAN R. BERRY
KENNETH T. BIBB, JR.
STEPHEN H. BISSONNETTE
MILTON L. BLACKMON, JR.
KRISTINE E. BLACKWELL
JEFFREY E. BLALOCK
LISA D. BOMBERG
PHILLIP M. BOROFF
MARY NOEHL BOUCHER
RICHARD H. BOUTWELL
CLIFFORD M. BOWMAN
MARCUS A. BOYD
JAMIE S. BRADY
TROY A. J. BRASHEAR
CARL N. BRENNER
EDWARD S. BREWER
SEAN C. BRODERICK
KEVIN D. BROWN
JAMES E. BUCHMAN
LANCE R. BUNCH
SHERRY M. BUNCH
SUZANNE C. BUONO
KEVIN E. BURNS
DEAN E. BUSHEY
ANTHONY C. BUTTS
ERIC D. CAIN
MARLON G. CAMACHO
CAROLYN D. CAMPBELL
TODD D. CANTERBURY
CHRISTOPHER G. CANTU
ROBERT J. CAPOZZELLA
DANIEL D. CAPPABIANCA
MARIA L. CARL
CHRISTOPHER F. CARPER
JAMES W. CASEY
LINA M. CASHIN
HENRI F. CASTELAIN
JOHN W. CHAPMAN
XAVIER D. CHAVEZ
SCOTT D. CHOWNING
ROBYN A. CHUMLEY
MICHAEL CLAFFEY
KELLY B. CLARK
JAMES A. CLAVENNA
LUKE E. CLOSSON III
JAMES A. COFFEY
THOMAS D. COLBY
STAN G. COLE
DAVID M. COLEY
CHRISTOPHER A. COMEAU
DONALD M. CONLEY
SHANE M. CONNARY
MICHELE M. COOK
CHARLES S. CORCORAN
BARRY R. CORNISH
MICHAEL J. COSTELLO
JAMES A. CRUTCHFIELD
DANIEL D. DAETZ
KENT B. DALTON
LEONARD J. DAMICO
ERIC D. DANNA
PETER F. DAVEY
JOHN E. DAVIS
MELVIN G. DEAILE
ALEXANDER DEFAZIO III
JOSEPH W. DEMARCO
DAVID R. DENHARD
MICHAEL R. DENNIS
JAY B. DESJARDINS, JR.
STEVEN P. DESORDI
SCOTT V. DETHOMAS
FRANCES A. DEUTCH
MICHAEL L. DILDA
STEFAN B. DOSEDEL
RONALD J. DOUGHERTY
KEITH J. DUFFY
SCOTT D. EDWARDS
FRANK EFFRECE, JR.
CHRISTOPHER L. EISENBIES
THOMAS D. EISENHAUER
DANIEL J. ELMORE
DOUGLAS K. ENGELKE
ADAM C. ENGLEMAN
REY R. ERMITANO
STEVEN A. ESTOCK
ROBERT A. FABIAN
DAVID T. FAHRENKRUG
DAVID S. FARROW
JAMES L. FEDERWISCH
SCOTT T. FIKE
DONALD N. FINLEY
JEFFREY D. FLEWELLING
DAVID H. FOGLESONG
RICHARD P. FOJTIK
EDWARD L. FORD

TEDDY R. FORDYCE II
MARK A. FORINGER
STEVEN C. FRANKLIN
KENNETH D. FROLLINI
MARK P. GARST
ERIC S. GARTNER
WILLIAM E. GERHARD, JR.
COREY L. GERSTEN
THOMAS C. GILSTER
PETER D. GIUSTI
MICHAEL W. GLACCUM
KELLY L. GOGGIN
PETER E. GOLDFEIN
WILLIAM M. GOLLADAY
SAMUEL D. GRABLE
SCOTT D. GRAHAM
GORDON P. GREANEY
CHARLES S. GREENWALD
THOMAS C. GRIESBAUM
JOHN F. GROFF
MICHAEL A. GUETLEIN
DAVID M. HAAR
DOUGLAS I. HAGEN
MICHAEL T. HALBIG
CALVIN S. HALL II
PAUL S. HAMILTON
DOUGLAS M. HAMMER
JOEL T. HANSON
MICHAEL C. HARASIMOWICZ
SAMUEL M. HARBIN
DAVID F. HARDY
STEVEN B. HARDY
JOHN M. HARRISON
BRIAN E. HASTINGS
DAVID A. HAUPT
CHRISTOPHER P. HAUTH
MARKUS J. HENNEKE
THOMAS K. HENSLEY
MICHAEL A. HESS
THOMAS P. HESTERMAN
DAVID L. HICKEY
CHARLES W. HILL
MICHAEL S. HILL
DAVID W. HILTZ
SAMUEL C. HINOTE
BRADLEY T. HOAGLAND
JEFFREY A. HOKETT
MICHAEL W. HOLL
DALE S. HOLLAND
CAMERON G. HOLT
CHRISTOPHER M. HOLTON
DAVID E. HOOK
CRINLEY S. HOOVER
ADRIAN L. HOVIOUS
JAMES L. HUDSON
DOUGLAS A. HUFFMAN
DEAN G. HULLINGS
THAD A. HUNKINS
JEFFREY R. HUNT
JEFFREY H. HURLBERT
KEVIN A. HUYCK
CHRISTOPHER J. IRELAND
JOHN J. IWANSKI
JOEL D. JACKSON
TROY S. JACKSON
EVA S. JENKINS
JAMES G. JINNETTE
THOMAS N. JOHNSON
RONALD E. JOLLY, SR.
BRIAN S. JONASEN
KEITH B. KANE
KIRK S. KARVER
JANET LYNN KASMER
JAMES C. KATRENAK
RANDY L. KAUFMAN
JOSEPH C. KEELON
WARREN L. KEITHLEY, JR.
REBECCA A. KELLER
MICHAEL J. KELLY
STEPHEN H. KENNEDY
ROMAN H. KENT
DOUGLAS W. KIELY
ROBERT KILLEFER III
PETER E. KIM
CARL L. KING
KEVIN B. KING
CHRISTOPHER E. KINNE
KELLY A. KIRTS
WILLIAM M. KNIGHT
DAVID M. KOCH
MICHAEL W. KOMETER
DAVID W. KOONTZ
MICHAEL G. KOSCHESKI
IOANNIS KOSKINAS
JAMES N. KRAJEWSKI
ANTHONY B. KRAWIETZ
THOMAS R. W. KREUSER
CHRISTOPHER J. KUBICK
JOHN C. KUBINEC
STEPHEN P. LAMBERT
LANCE K. LANDRUM
DAVID M. LANGE
JEFFREY W. LANNING
MARGARET C. LAREZOS
GEORGE B. LAVEZZI, JR.
TIMOTHY J. LAWRENCE
CRAIG S. LEAVITT
DEAN W. LEE
GLENN B. LEMASTERS, JR.
ROBERT T. LEONARD
RONALD K. LIGHT, JR.
NATHAN J. LINDSAY, JR.
RAY A. LINDSAY
JOHN T. LINN
DEWEY G. LITTLE, JR.
VINCENT P. LOGSDON
DAVID S. LONG
RAYMOND S. LOPEZ
ROYCE D. LOTT
DAVID B. LOWE
DAVID J. LUCIA
MICHAEL J. LUTTON
RONALD G. MACHOIAN
KENNETH D. MADURA
ANGEL M. MALDONADO
MATTHEW E. MANGAN
JEFFREY L. MARKER
JAMES D. MARRY
LEE H. MARSH, JR.
STEVEN C. MARSMAN
HAROLD W. MARTIN III
MICHAEL A. MARZEC
DAVID M. MASON
EDWARD J. MASTERSON
KEVIN M. MASTERSON
PATRICK S. MATTHEWS
AARON D. MAYNARD
RACHEL A. MCCAFFREY
JAMES C. MCCLELLAN
JAMES D. MCCREARY
JOE D. MCDONALD
LAWRENCE W. MCLAUGHLIN
DEBORAH A. MCMURTREY
GREGORY J. MCNEW
JAMES P. MEGER
KURT W. MEIDEL
BERRAE N. MEIXSELL, JR.
DOUG J. MELANCON
PABLO F. MELENDEZ
JAMES C. MERCER
DEBORAH A. MESERVE
JEFFERY P. MESERVE
JEFFREY A. MEYER
MONICA E. MIDGETTE
JOHN M. MIGYANKO III
CURTIS S. MILAM
KARLA J. MILLER
CHERYL D. MINTO
MAX B. MITCHELL
RICHARD L. MITCHELL
JOHN J. MOES
CHRISTOPHER A. MOFFETT
RICHARD G. MOORE, JR.
RICHARD D. MOOREHEAD
JOHN W. MOREHEAD
MICHAEL D. MORELOCK
DAVE B. MORGAN
DAVID S. MORK
PETER G. MOUTSATSON
PAMELA A. MOXLEY
WILLIAM C. MURPHEY
TIMOTHY M. MURTHA
DAVID S. NAISBITT
JOHN R. NEAL
HOWARD D. NEELEY
ANDREW T. NIELSEN
MICHAEL J. NOBLE
RICHARD E. NOLAN
CAROL S. NORTHRUP
JULIE ANN NOTO
SHAWNA E. OBRIEN
JOHN SHERMAN OLIVER
CHARLES S. OLSON
EDWIN H. OSHIBA
MICHAEL R. OUTLAW
CHARLES R. OWEN
ANTHONY M. PACKARD
RICHARD S. PALMIERI
BRIAN A. PARKER
EDWARD L. PARKER, JR.
KEITH C. PARNELL
DAVID A. PARR
LIZA M. PARR
SCOTT GEORGE PATTON
JAMES D. PECCIA III
DONALD J. PECK II
STEPHEN D. PEDROTTY
SCOTT D. PEEL
MELVIN H. PETERSEN
RICHARD A. PETERSON, JR.
RODNEY J. PETITHOMME
DAVID L. PHILLIPS, JR.
TODD R. PHINNEY
MARC D. PICCOLO
MICHAEL S. PITTS
KENNETH PLAKS
WILLIAM J. POIRIER
DAVID E. POLLMILLER
MARK E. POLOMSKY
GLENN E. POWELL, JR.
MICHAEL W. PRATT
AARON M. PRUPAS
TERESA A. QUICK
ELIOT S. RAMEY
DOUGLAS M. RAUSCH
ALAN F. REBHOLZ
ROBERT D. REDANZ, JR.
MICHAEL D. REED
RANDALL REED
GREGORY J. REESE
MARC E. REESE
MICHAEL REYNA
KEVIN M. RHOADES
ROBERT S. RICCI
CHRISTOPHER C. RICHARDSON
RENEE M. RICHARDSON
CURTIS B. RIEDEL
PATRICIA M. RINALDI
JAMES E. ROBERTS, JR.
TOMMY A. ROBERTS
WILLIAM A. ROBINSON, JR.
JAMES A. RODRIGUEZ
ROBERT M. ROGERS
JOSEPH J. ROMERO
GREGORY J. ROSENMERKEL
RICHARD P. ROTH
KARL M. ROZELSKY
ERIK K. RUNDQUIST
DANIEL B. RUNYON
THOMAS G. SADLO
MATTHEW D. SAMBORA
THOMAS A. SANTORO, JR.
PETER A. SARTORI
TIMOTHY D. SARTZ
CARL E. SCHAEFER
TERRY SCOTT
DOUGLAS B. SEAGRAVES
DANIEL M. SEMSEL
JOSEPH A. SEXTON
JOHN K. SHAFER
BRETT D. SHARP
JOHN M. SHEPLEY
JEFFREY R. SHERK
MICHAEL W. SHIELDS
LEANNE M. SIEDLARZ
PAUL L. J. SINOPOLI
RICHARD A. P. SISON
MICHAEL L. SLOJKOWSKI
JEFFREY M. SMITH
KAY A. SMITH
JAMES P. SOLTI
WILLIAM A. SPANGENTHAL
RICHARD K. SPILLANE
ROBERT A. SPITZNAGEL
JEFFREY F. STAHA
PHILLIP A. STEWART
DAVID R. STIMAC
RODNEY J. STOKES
ANGELA G. STOUT
PATRICK T. SULLIVAN
JEFFREY P. SZCZEPANIK
DAVID H. TABOR
KYLE F. TAYLOR
KEITH J. TEISTER
GREGORY D. THOMAS
TROY S. THOMAS
WILLIAM C. THOMAS
RICKY L. THOMPSON
DANIEL W. TIPPETT
JEFFREY M. TODD
PATRICK M. TOM
CHARLES F. TOPLIKAR
MARIO J. TRONCOSO
THOMAS J. TRUMBULL II
CLAUDE K. TUDOR, JR.
JOSEPH J. TURK, JR.
ROBERT K. UEMURA
GEORGE A. URIBE
DAVID J. USELMAN
JEFFREY L. VANDENBUSSCHE
MARC C. VANWERT
CRISTOS VASILAS
WADE H. VAUGHT
ROBERT J. VERCHER
DARREN R. VIGEN
JOHN M. VITACCA
DEAN C. VITALE
WILLIAM J. VOGT, JR.
KYLE D. VOIGT
JOHN G. WAGGONER
DAVID W. WALKER
KENNETH A. WALTERS
WALTER H. WARD, JR.
GEORGE H. V. WARING
RUSSELL M. WARNER
DON R. WATSON, JR.
WILLIAM M. WEAVER
MICHAEL K. WEBB
ROBERT E. WEBB
JERRY A. WEIHE
CAROL P. WELSCH
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