(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include in the report the following:

(1) A description of the authorities under laws in effect as of the date of the enactment of this Act for the United States to provide compensation, monetary payments, or other assistance to civilians who incur harm due directly or indirectly to the combat activities of the United States Armed Forces.

(2) A description of the practices in effect as of the date of enactment of this Act for the United States to provide ex gratia, solatia, or other types of condolence payments to civilians who incur harm due directly or indirectly to the combat activities of the United States Armed Forces.

(3) A discussion of the historic practice of the United States to provide compensation, other monetary payments, or other assistance to civilian foreign nationals who incur harm due directly or indirectly to combat activities of the United States Armed Forces.

(4) A discussion of the practice of the United States in Operation Enduring Freedom and Operation Iraqi Freedom to provide compensation, other monetary payments, or other assistance to civilian foreign nationals who incur harm due directly or indirectly to the combat activities of the United States Armed Forces, including the procedures and guidelines used and an assessment of its effectiveness. This discussion will also include estimates of the total amount of funds disbursed to civilian foreign nationals who have incurred harm since the inception of Operation Iraqi Freedom and Operation Enduring Freedom. This discussion will also include how such procedures and guidelines compare to the processing of claims filed under the Foreign Claims Act.

(5) A discussion of the positive and negative effects of using different authorities, procedure, and guidelines to provide monetary assistance to civilian foreign nationals, based upon the culture and economic circumstances of the local populace and the operational impact on the military mission. This discussion will also include whether the use of different authorities, procedures, and guidelines has resulted in disparate monetary assistance to civilian foreign nationals who have incurred substantially similar harm, and if so, the frequency and effect of such results.

(6) A discussion of the positive and negative effects of establishing general uniform procedures and guidelines for the provision of such assistance, based upon the goals of timely commencement of a program of monetary assistance, efficient and effective implementation of such program, and consistency in the amount of assistance in relation to the harm incurred. This discussion will also include whether the implementation of general procedures and guidelines would create a legally enforceable entitlement to ''compensation'' and, if so, any potential significant operational impact arising from such an entitlement.

(7) Assuming general uniform procedures and guidelines were to be established, a discussion of the following:

(A) Whether such assistance should be limited to specified types of combat activities or operations, e.g., such as during counter-insurgency operations.

(B) Whether such assistance should be contingent upon a formal determination that a particular combat activity/operation is a qualifying activity, and the criteria, if any, for such a determination.

(C) Whether a time limit from the date of loss for providing such assistance should be prescribed.

(D) Whether only monetary or other types of assistance should be authorized, and what types of nonmonetary assistance, if any, should be authorized.

(E) Whether monetary value limits should be placed on the assistance that may be provided, or whether the determination to provide assistance and, if so, the monetary value of such assistance, should be based, in whole or in part, on a legal advisor's assessment of the facts.

(G) Whether a written record of the determination to provide or to not provide such assistance should be maintained and a copy made available to the civilian foreign national.

(H) Whether in the event of a determination to not provide such assistance the civilian foreign national should be afforded the option of a review of the determination by a higher ranking authority.

(c) RECOMMENDATIONS.—The Secretary shall include in the report such recommendations as the Secretary considers appropriate for legislative or administrative action with respect to the matters discussed in the report.

(d) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act. The report shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 1658

(Purpose: To require the Comptroller General of the United States to report to Congress on financial assistance for child care available to deployed members of the reserve components of the Armed Forces)

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

SEC. 557. COMPTROLLER GENERAL REPORT ON CHILD CARE ASSISTANCE FOR DEPLOYED MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representative a report on financial assistance for child care provided by the Department of Defense, including through the Operation: Military Child Care and Military Child Care in Your Neighborhood programs, to members of the reserve components of the Armed Forces who are deployed in connection with a contingency operation.

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

(1) The types of financial assistance for child care made available by the Department of Defense to members of the reserve components of the Armed Forces who are deployed in connection with a contingency operation.

(2) The extent to which such members have taken advantage of such assistance since such assistance was first made available.

(3) The formulas used for calculating the amount of such assistance provided to such members.

(4) The funding allocated to such assistance.

(5) The remaining costs of child care to families of such members that are not covered by the Department of Defense.

(6) Any barriers to access to such assistance faced by such members and the families of such members.

(7) The different criteria used by different States with respect to the regulation of child care services and the potential impact differences in such criteria may have on the access of such members to such assistance.

(8) The different standards and criteria used by different programs of the Department of Defense for providing such assistance with respect to child care providers and the potential impact differences in such standards and criteria may have on the access of such members to such assistance.

(9) Any other matters the Comptroller General determines relevant to the improvement of financial assistance for child care made available by the Department of Defense to members of the reserve components of the Armed Forces who are deployed in connection with a contingency operation.

AMENDMENT NO. 1796, AS MODIFIED

(Purpose: To modify the provision requiring a report on potential foreign military sales of the F–22A fighter aircraft to have the report developed by a federally funded research and development center)

In section 123, insert:

ADDITIONAL REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall provide for a federally funded research and development center which will submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives, through the Secretary of Defense, a report on potential foreign military sales of the F–22A fighter aircraft, addressing the same elements as in subsection (b) of this section.

AMENDMENT NO. 1533, AS MODIFIED

(Purpose: To clarify that the definition of unprivileged enemy belligerent includes members of al Qaeda)

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''.

MORNING BUSINESS

Mr. LEVIN. I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TREATY MAKING PROCESS

Mr. MCCONNELL. Mr. President, as some of my colleagues may be aware, this week the State Department acceded to a Treaty of Amity and Cooperation in Southeast Asia, TAC. This action reflects an effort by the administration to engage vigorously in the region, which I applaud.

The State Department consulted with the Senate prior to taking this step. During the course of these consultations, Senator KERRY, Senator LUGAR, and I sought clarification on issues related to the substance of the TAC and to the unique process suggested for U.S. accession. To confirm our understandings on these points, Senators KERRY, LUGAR, and I sent a letter to the Secretary of State on July 10, 2009. On the basis of the understandings set forth in this letter, we did not object to the Department's plan for acceding to the TAC. I believe the letter may be of some interest to Senators since it involves both the constitutional role of the Senate in the treaty making process and American foreign policy in Southeast Asia.