

contingency. In fact, Gates said that even if he had \$50 billion more to spend, he would not buy any more F-22s.

The Air Force leadership itself no longer supports continued production of the F-22. Air Force Secretary Michael Donley and Air Force Chief of Staff Gen. Norton Schwartz have publicly said they would prefer to move on. The plane is not in the Defense Department's proposed budget for fiscal 2010 (which begins in October). It's not even on the Air Force's list of unfunded requests, which consists of items excluded from the budget for which it would nevertheless like funding—a wish list of sorts.

Why are congressional committees willing to override the military and civilian leadership of the Pentagon on the F-22? The latest in a string of arguments offered by proponents in Congress is the need to protect our industrial base—as if our technical capacity to develop and produce fighter planes is in immediate, grave danger. This argument overlooks the fact that the Obama administration's fiscal 2010 budget includes 28 F-35 Joint Strike Fighters—planes better suited for air-to-ground combat.

Moreover, as has been noted by the chairman of the Joint Chiefs of Staff, Adm. Mike Mullen, the era of producing manned aircraft is coming to an end. Mullen correctly points out that there will be a shift toward unmanned aircraft.

The F-22 is not an isolated case of unnecessary congressional equipment purchases. Congress has added \$2.7 billion to the 2009 supplemental budget to buy more C-17 and C-130 aircraft—planes neither requested nor needed by the Defense Department. It also added \$600 million to the 2010 budget for an unneeded alternate engine for the F-35, which will mean buying 50 fewer aircraft.

An administration policy statement issued on June 24 said the president's senior advisers would recommend a veto of a bill containing funding for more F-22s. If the entire Congress approves either of the armed services committees' recommendations on the F-22, President Obama should indeed veto the bill. Only then will Congress get the message that in this era of exploding national debt, we cannot waste billions on unnecessary military equipment.

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

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

The assistant legislative clerk proceeded to call the roll.

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

AMENDMENT NO. 1469

Mr. LEVIN. Mr. President, on behalf of myself and Senator MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. MCCAIN, proposes an amendment numbered 1469.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike \$1,750,000,000 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)

At the end of subtitle A of title I, add the following:

SEC. 106. ELIMINATION OF F-22A AIRCRAFT PROCUREMENT FUNDING.

(a) ELIMINATION OF FUNDING.—The amount authorized to be appropriated by section 103(1) for procurement for the Air Force for aircraft procurement is hereby decreased by \$1,750,000,000, with the amount of the decrease to be derived from amounts available for F-22A aircraft procurement.

(b) RESTORED FUNDING.—

(1) OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by \$350,000,000.

(2) OPERATION AND MAINTENANCE, NAVY.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by \$100,000,000.

(3) OPERATION AND MAINTENANCE, AIR FORCE.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby increased by \$250,000,000.

(4) OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities is hereby increased by \$150,000,000.

(5) MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421(a)(1) for military personnel is hereby increased by \$400,000,000.

(6) DIVISION A AND DIVISION B GENERALLY.—In addition to the amounts specified in paragraphs (1) through (5), the total amount authorized to be appropriated for the Department of Defense by divisions A and B is hereby increased by \$500,000,000.

Mr. LEVIN. Mr. President, this amendment is the F-22 amendment, which would delete the \$1.75 billion in the bill that was added in a very close vote in the Armed Services Committee, with strong opposition of the administration.

I may say that this is not the first administration that has attempted to end the F-22 line. President Bush also attempted to end this line at 183 planes.

Unless my friend from Arizona wants to speak, I will ask unanimous consent that the Senate recess until 1 p.m.

Mr. MCCAIN. No, I will not speak.

RECESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m.

There being no objection, the Senate, at 12:01 p.m., recessed until 1 p.m. and reassembled when called to order by the Presiding Officer (Mrs. HAGAN).

The PRESIDING OFFICER. The Senator from Michigan.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—Continued

AMENDMENT NO. 1469

Mr. LEVIN. Madam President, the pending amendment Senator MCCAIN and I have offered would strike the \$1.75 billion that was added to the bill by a very close vote in committee to purchase additional F-22 aircraft that the military does not want, that the Secretary of Defense does not want, that the Chairman of the Joint Chiefs and all the Joint Chiefs do not want, that President Bush did not want, that the prior Chairman of the Joint Chiefs did not want, and they all say the same thing: The expenditure of these funds jeopardizes other programs which are important, and they provide aircraft we do not need.

These are fairly powerful statements from our leaders, both civilian and military leaders, in this country. I hope the Senate will heed them and reverse the action that was taken on a very close vote in the Armed Services Committee.

We received a few minutes ago a letter from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. A letter is on its way also from the President. When I get that letter, I will, of course, read the President's letter. But for the time being, let me start with the letter we have received from the Chairman of the Joint Chiefs, as well as the Secretary of Defense, because it is succinct. It is to the point. It states the case for not adding additional F-22s as well as anything I have seen.

Dear Senators Levin and McCain: We are writing to express our strong objection to the provisions in the Fiscal Year 2010 National Defense Authorization Act allocating \$1.75 billion for seven additional F-22s. I believe it is critically important to complete the F-22 buy at 187—the program of record since 2005, plus four additional aircraft.

There is no doubt that the F-22 is an important capability for our Nation's defense. To meet future scenarios, however, the Department of Defense has determined that 187 aircraft are sufficient, especially considering the future roles of Unmanned Aerial Systems and the significant number of 5th generation Stealth F-35s coming on-line in our combat air portfolio.

It is important to note that the F-35 is a half generation newer aircraft than the F-22, and more capable in a number of areas such as electronic warfare and combating enemy air defenses. To sustain U.S. overall air dominance, the Department's plan is to buy roughly 500 F-35s over the next five years and more than 2,400 over the life of the program.

Furthermore, under this plan, the U.S. by 2020 is projected to have some 2,500 manned fighter aircraft. Almost 1,100 of them will be 5th generation F-35s and F-22s. China, by contrast, is expected to have only slightly more than half as many manned fighter aircraft by 2010, none of them 5th generation.

The F-22 program proposed in the President's budget reflects the judgment of two different Presidents, two different Secretaries of Defense, three chairmen of the Joint Chiefs of Staff, and the current secretary and chief of staff of the Air Force.

If the Air Force is forced to buy additional F-22s beyond what has been requested, it will

come at the expense of other Air Force and Department of Defense priorities—and require deferring capabilities in areas we believe are much more critical for our Nation's defense.

The letter concludes with the following very pointed paragraph:

For all these reasons, we strongly believe that the time has come to close the F-22 production line. If the Congress sends legislation to the President that requires the acquisition of additional F-22 aircraft beyond Fiscal Year 2009, the Secretary of Defense will strongly recommend he veto it.

It is signed by Secretary of Defense Gates and the Chairman of the Joint Chiefs of Staff Mullen.

The determination of the Department of Defense to end the production of the F-22 is not new. Secretary Rumsfeld, President Bush, as well as the current President and Secretary of Defense and Chairman of the Joint Chiefs, are recommending the same thing. We have testimony on the record at the Armed Services Committee from the Chairman of the Joint Chiefs and the Vice Chairman of the Joint Chiefs, both urging us strongly to end the production of the F-22.

Let me read, first, Secretary Gates's testimony on May 14 of this year:

... [T]he fact is that the F-22 is not going to be the only aircraft in the TACAIR arsenal, and it does not include the fact that, for example, we are going to be building, ramping up to 48 Reapers unmanned aerial vehicles in this budget.

The F-35, he said, is critically important to take into account.

... and the fact is that based on the information given to me before these hearings, the first training squadron for the F-35 at Eglin Air Force Base is on track for 2011. The additional money for the F-35 in this budget is to provide for a more robust developmental and test program over the next few years to ensure that the program does stay on the anticipated budget.

You can say irrespective of previous administrations, but the fact remains two Presidents, two Secretaries of Defense, and three Chairmen of the Joint Chiefs of Staff have supported the 183 build when you look at the entire TACAIR inventory of the United States.

And when you look at potential threats, for example, in 2020, the United States will have 2,700 TACAIR. . . .

The Vice Chairman of the Joint Chiefs, General Cartwright, just a few days ago, on July 9, told the Senate Armed Services Committee the following:

I was probably one of the more vocal and ardent supporters for the termination of the F-22 production. The reason's twofold. First, there is a study in the Joint Staff that we just completed and partnered with the Air Force on that, number one, said that proliferating within the United States military fifth-generation fighters to all three services was going to be more significant than having them based solidly in just one service, because of the way we deploy and because of the diversity of our deployments.

Point number two is, in the production of the F-35 Joint Strike Fighter, the first aircraft variant will support the Air Force replacement of their F-16s and F-15s. It is a very capable aircraft. It is 10 years newer—

He is referring here to the F-35—

It is 10 years newer in advancement in avionics and capabilities in comparison to the F-22. It is a better, more rounded, capable fighter.

He goes on relative to point No. 2:

... the second variant is the variant that goes to the Marine Corps. The Marine Corps made a conscious decision to forgo buying the F-18E/F in order to wait for the F-35. So the F-35 variant that has the VSTOL capability, which goes to the Marine Corps, is number two coming off the line. And the third variant coming off the line is the Navy variant, the carrier-suitable variant.

Another thing that weighed heavily, and certainly my calculus, was the input of the combatant commanders. And one of the highest issues of concern from the combatant commanders is our ability to conduct electronic warfare. That electronic warfare is carried on board the F-18. And so looking at the lines we would have in hot production, number one priority was to get fifth-generation fighters to all of the services; number two priority was to ensure that we had a hot-production line in case there was a problem; and number three was to have that hot-production line producing the F-18 Gs which support the electronic-warfare fight.

General Cartwright concluded:

So those issues stacked up to a solid position . . . that it was time to terminate the F-22. It is a good airplane. It is a fifth-generation fighter. But we needed to proliferate those fifth-generation fighters to all of the services. And we need to ensure that we were capable of continuing to produce aircraft for the electronic-warfare capability. And that was the F-18. In the F-18 we can also produce front-line fighters that are more than capable of addressing any threat that we'll face for the next five to 10 years.

The letter to which I referred from President Obama has now been received. I know Senator McCain has received a similar letter. I will read the one I have just received:

Dear Senator Levin: I share with you a deep commitment to protecting our Nation and the men and women who serve it in the Armed Forces. Your leadership on national security is unrivaled, and I value your counsel on these matters.

It is with this in mind that I am writing to you about S. 1390, the Senate Armed Services Committee-reported National Defense Authorization Act for Fiscal Year 2010, and in particular to convey my strong support for terminating procurement of additional F-22 fighter aircraft when the current multiyear procurement contract ends. As Secretary Gates and the military leadership have determined, we do not need these planes. That is why I will veto any bill that supports acquisition of F-22s beyond the 187 already funded by Congress.

In December 2004, the Department of Defense determined that 183 F-22s would be sufficient to meet its military needs. This determination was not made casually. The Department conducted several analyses which support this position based on the length and type of wars that the Department thinks it might have to fight in the future, and an estimate of the future capabilities of likely adversaries. To continue to procure additional F-22s would be to waste valuable resources that should be more usefully employed to provide our troops with the weapons that they actually do need.

He concludes:

I urge you to approve our request to end the production of the F-22.

This is no longer a simple recommendation of the President's staff

that they would make to the President should we add additional F-22s. This is now clear. It is crystal clear, and there is no way a President of the United States can say more directly than President Obama has said this afternoon that he will veto any bill that supports acquisition of F-22s beyond the 187 already funded by Congress. That should clear the air on a very important issue, and that is would the President veto this bill if it contained the extra F-22s the military doesn't want or wouldn't he. That speculation is no longer out there. It is now resolved, and it ought to be resolved in our minds, and we ought to realize then that those who support the added F-22s are supporting a provision which, if it is included, will result in the veto of a bill which is critically important to the men and women of our military and to their missions and operations in Iraq and Afghanistan.

Madam President, not only does the amendment which was adopted by the committee on a very close vote add planes which our uniform—our military—and civilian leaders do not want, and say we do not need, but the amendment also pays for these additional F-22s in the following ways:

No. 1, it cuts operation and maintenance. No. 2, it cuts civilian pay funds that need to be available. No. 3, it also reduces the balances that have to be kept available for military personnel. And No. 4, it assumes that there are going to be near-term savings in fiscal year 2010 from the acquisition reform legislation that we recently adopted and the business process reengineering provision that is in the bill that was adopted by the Armed Services Committee.

Each of those places cannot afford those cuts. We are talking here about operations and maintenance. This is the readiness accounts of our Armed Forces. These are the pay accounts of our Armed Forces. And in the case of at least one of the four sources, the assumption is unwarranted that we are going to make savings this year from the acquisition reform legislation, the very focus of which was to make changes in acquisition reform in the short term, which may actually cost us money to save money—significant money—in the long term. But there is no assessment I know of that says we are going to make savings in 2010 from our acquisition reform legislation.

As the Presiding Officer knows, because she was a strong supporter of this acquisition reform, as were all of us on the Armed Services Committee, we believed very strongly that we had to make these changes in the way in which we acquire equipment and weapons. Senator McCain has been fighting this battle for as long as I can remember—change these acquisition reform procedures—and I have been involved for about as long as I can remember as well in these efforts. The Armed Services Committee put a lot of energy in the acquisition reform that we adopted

unanimously and was ultimately passed and signed by the President. But to say we can't make savings this year in no way knocks the importance of that acquisition reform or minimizes the importance of that acquisition reform. The fact is, as we said at the time, there are going to be major savings, we believe, from that reform, but they are not going to come in the short term. They are surely not coming in 2010. Yet the amendment which added the F-22s made an assumption that there are going to be savings in 2010 from the acquisition reform legislation.

Let me spend a minute on some of the other sources of funds for the F-22, unobligated balances for operations and maintenance—O&M. We already reduced by \$100 million the funds in those accounts, and we did so consistent with the report and assessment of the Government Accountability Office. So we acted in a way that would not affect readiness, would not affect O&M, and we had the guidance there of the Government Accountability Office. But what the amendment did that added the F-22s is reduced by \$700 million more those O&M accounts.

The original bill we adopted avoided cutting O&M funds from the Army and from the Marines because readiness rates across the board have continued to suffer after several years in combat. Yet half of the reduction made by the amendment which added the F-22s was assessed against O&M Army. It is a dangerous thing to do. It is an unwise thing to do.

We also now face an increase in the price of oil—an increase above what the accounts assumed would be the cost of energy. So we have an additional challenge to those O&M accounts which would be made far more difficult and those reductions far more problematic in that regard as well.

Another source of funds which was used to add the F-22s was in the civilian pay accounts. Civilian pay had already been reduced by almost \$400 million in the Air Force, and we did that consistent with, again, the assessments of the Government Accountability Office. Further, civilian pay reductions of \$150 million to help fund the F-22s can have a negative effect on readiness, and we simply cannot take that risk. Also, that cut does not take into effect the likely additional civilian pay raise that we will have to absorb in these budgets if, as is likely, using historical acts, Congress increases the civilian pay raise to match the increased military pay raise.

Deep cuts in funds available for civilian pay will have that effect, but also these cuts will undermine the Secretary's efforts and our efforts to hire significant numbers of new employees for the acquisition workforce, it is going to set back our effort to implement acquisition reform, and it is going to cost us a lot more money in the long run.

Another source of the money for the additional F-22s came from the mili-

tary personnel accounts. Our bill already has taken \$400 million in unobligated balances from the military personnel accounts in order to pay for additional personnel pay and benefits, and we did that, again, in line with the recommendation of the Government Accountability Office. The Department's top line, so called, for military personnel was intact until the committee adopted the F-22 increase amendment. And if we reduce military personnel accounts for nonpersonnel matters, it is going to result in a military personnel authorization that is less than was requested, and it is going to hinder the Department's ability to execute its military personnel funding in the year 2010. That is going to be particularly problematic this year, because the Army and Marine Corps have moved their increased end strengths to the base budget. They did that because we urged them to do that.

So the cost of personnel continues to rise, and yet one of the sources of the funding for the F-22 increase came from that very military personnel account.

There is another impact of the amendment—which was barely adopted in the Armed Services Committee—and that is it is going to cause the Department of Defense to cut back in so-called nondirect pay areas, such as bonuses or other personnel support measures, which could have a very significant impact—a negative impact—on the long-term management of the all-volunteer force. It is very likely that the Department will then have to either seek a reprogramming during the next fiscal year to cover personnel costs or they may even have to file a supplemental request.

We have worked hard as a Congress to get the administration—any administration, as we tried during the Bush years and we try again during the Obama years—to make sure that its budget request is solid; that it will not require reprogramming; that it will not require a supplemental request. With this amendment—which was again adopted by just two votes in the Armed Services Committee—we are jeopardizing that longstanding effort on the part of Congress to make sure that the budget request of the administration in fact is a realistic request when it comes to the various accounts. And particularly this year, as the Army and Marine Corps have moved their increased end strengths to the base budget, as we have pressed them to do for many years, it is a mistake for us to be taking funds from that account.

I have talked about acquisition reform and the fact that the amendment which was adopted in committee assumed savings from acquisition reform. I have pointed out, and will not repeat, that while the acquisition reform, strongly supported obviously by our committee and by the Congress, is likely to result in major savings, it cannot be assumed to produce savings in the short term.

I hope this body is going to adopt the Levin-McCain amendment. Two administrations now have made an effort to end the F-22 line. This is not a partisan issue. This is a Republican and a Democratic administration that have made this effort. Our top civilian leaders and our top uniform leaders are unanimous. The Secretary of Defense, Chairman of the Joint Chiefs, Vice Chairman of the Joint Chiefs have joined in supporting the President's request, just as they did President Bush's determination to end the F-22 line. We have to make some choices in this budget and in other budgets, and this is a choice which our military is urging us to make.

We all know the effect that this has on jobs in many of our States, and that varies from State to State, but probably a majority of our States will have some jobs impacted by a termination of the F-22 line. But we cannot continue to produce weapon systems forever. They have a purpose. They have a mission. And those missions and those purposes can be carried out by 187 F-22s. That is not me speaking as Chairman of the Armed Services Committee, that is not Senator MCCAIN speaking as the ranking Republican on the Armed Services Committee, that is both of us saying that we must make difficult choices and we have to build the systems we need. The F-35 is a system which all of the services need. It cuts across the services. It has greater capabilities in electronics than does the F-22. It is a half of a generation advance on the F-22. This is not to minimize the importance of the F-22. We have and will have 187 in our inventory. While not minimizing the importance of the F-22, it points out how important it is that we modernize, and in order to do that—and that means the F-35—we have to at some point say we have enough F-22s. We tried it last year. We could not succeed last year. But this year, not only does the President oppose the increase, as did President Bush, President Obama has now said in writing today that he will veto a bill that contains the unneeded F-22s.

Our men and women in the military deserve a defense authorization bill. This has a pay increase even larger than that requested. It has benefits that are essential. It has bonuses and other programs to help recruitment and retention. It helps our families. It modernizes our weapon systems. At some point, we have to acknowledge that a weapon system production, extremely valuable, has come to a logical end and that it is time to then pick up its continuity with a different plane, a different weapon system which will benefit our military and support the men and women in uniform.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank Senator LEVIN for his eloquent statement and comments concerning this amendment. I thank him for his leadership on it.

I have been for many years engaged in the Senate consideration of the Defense authorization bill. This is probably one of the most interesting—I think my colleague will agree—because we are beginning with a measure that, if not passed, will result in a veto by the President of the United States of America.

I appreciate this letter the President of the United States sent to Senator LEVIN and to me and to the entire Senate. I appreciate the President's courage because right now the votes are not there. Right now I think my friend from Michigan would agree the votes are not there to pass this amendment.

What the President has said, not only do we need to stop the production of the F-22, of which we have already constructed 187, but we need to do business differently. We need to have a change in the way we do business in order to save the taxpayers billions of dollars spent unnecessarily. So this will be kind of an interesting moment in the history of a new Presidency and a new administration and, frankly, an old Secretary of Defense. I say "old" in the respect that he obviously covers both administrations. I do not know of a Secretary of Defense who has had more appreciation and admiration from both sides of the aisle than Secretary Gates. I appreciate very much Secretary Gates' letter, also, where he describes in some detail, as does the Chairman of the Joint Chiefs, why we need to have this amendment passed to remove the additional F-22s. I want to emphasize "additional."

I wish to pay special appreciation to President Obama for taking a very courageous step in making it very clear, as he says:

As Secretary Gates and the military leadership have determined, we do not need these planes. That is why I will veto any acquisition of F-22s beyond the 187 already funded by Congress.

The statement is very clear. I appreciate it. I hope it has a significant impact on my colleagues on both sides of the aisle.

Again, my appreciation to President Obama and my appreciation to the Chairman of the Joint Chiefs of Staff, as well as the Secretary of Defense, who lay out in more detail why it is that we need to eliminate this unneeded \$1.75 billion for seven additional F-22s.

I emphasize to my colleagues that these funds will go to the acquisition of the F-35, the Joint Strike Fighter, which when produced will provide a careful balance between the air superiority provided by the F-22 and the other capabilities of the Joint Strike Fighter, which is also badly needed. This argument is not about the capability of the F-22, although that will be brought to the floor and I intend to talk a little bit about many of the difficulties the F-22 has had. But I would also like to point out that the F-22 has never flown in Iraq or Afghanistan. That is a remarkable statement. It has

been in production since December 2005. We are in July of 2009, and the F-22 has yet to fly in combat in the two wars in which we are engaged. It has been plagued with some significant maintenance problems, not to mention dramatic cost overruns.

This is not an argument about whether the F-22 is an important capability for our Nation's defense. It is. The question is, When do we stop buying them?

I quote from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff letter:

It is important to note that the F-35 is a half generation newer aircraft than the F-22, and more capable in a number of areas such as electronic warfare and combating enemy air defenses. To sustain U.S. overall air dominance, the Department's plan is to buy roughly 500 F-35s over the next five years and more than 2,400 over the life of the program.

So I think arguments that may be made on the floor that somehow we are curtailing or inhibiting the ability of the U.S. Air Force to carry out its responsibilities to defend this Nation are contradicted at least by the views of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Chief of Staff of the Air Force, and literally every other individual or position that is involved in this debate.

The Secretary of Defense goes on to say:

Furthermore, under this plan the United States by 2020 is projected to have some 2,500 manned fighter aircraft. Almost 1,100 of them will be fifth generation F-35s and F-22s.

There is going to be a lot of debate and discussion about China and its emerging capabilities.

The Secretary of Defense goes on to say:

China, by contrast, is expected to have only slightly more than half as many manned fighter aircraft by 2020, none of them fifth generation.

I am concerned about the rising military capabilities of China. They are increasing their naval and maritime capabilities. They are increasing the efficiency of their army and their entire overall inventories, and it is of great concern. But with the combination of the F-35 and the F-22, we will clearly have a significant advantage over the Chinese for some period of time. That is not to in any way denigrate the long-term aspect of the Chinese military buildup. But in the short term, this is the best way to make sure we maintain complete superiority with a mixture of the F-35 and the F-22.

The Secretary goes on to say:

The F-22 program proposed in the President's budget reflects the judgment of two different Presidents, two different Secretaries of Defense, three chairmen of the Joint Chiefs of Staff, and the current secretary and chief of staff of the Air Force.

My colleagues are going to come to the floor and say the Chairman of the Air National Guard says we need additional F-22s. We do not disregard that opinion, but we do weigh that opinion

as opposed to the opinion and judgment of the individuals whom I just cited.

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

There is no free lunch. There is no free \$1.75 billion. There is no free money. Here we are with a projected \$1.8 trillion deficit, a decrease overall in some defense areas that is coming sooner or later, and we cannot afford a \$1.75 billion procurement that is not absolutely needed.

Again, I wish to state very clearly, F-22 is a good airplane. The fact that it has not flown in Iraq or Afghanistan is telling, and some of the issues I will mention later on are telling. But this is not an attack on the F-22. What it is is an assessment of the Nation's national security needs and what we need in its inventory to maintain our superiority over all other nations and meet various threats ranging from radical Islamic extremism to the conventional capabilities of a rising power in the east.

Again, I wish to say thanks for the great leadership of our Secretary of Defense and Admiral Mullen, the Chairman of the Joint Chiefs of Staff, and the importance they place on this amendment.

I would like to refer my colleagues to an article that appeared last Friday in the Washington Post. It was entitled "Premier U.S. Fighter Jet Has Major Shortcomings."

I ask unanimous consent to have this article printed in the RECORD.

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

[From the Washington Post]

PREMIER U.S. FIGHTER JET HAS MAJOR SHORTCOMINGS

(By R. Jeffrey Smith)

The United States' top fighter jet, the Lockheed Martin F-22, has recently required more than 30 hours of maintenance for every hour in the skies, pushing its hourly cost of flying to more than \$44,000, a far higher figure than for the warplane it replaces, confidential Pentagon test results show.

The aircraft's radar-absorbing metallic skin is the principal cause of its maintenance troubles, with unexpected shortcomings—such as vulnerability to rain and other abrasion—challenging Air Force and contractor technicians since the mid-1990s, according to Pentagon officials, internal documents and a former engineer.

While most 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, 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 flown over Iraq or Afghanistan.

Sensitive information about troubles with the nation's foremost air-defense fighter is emerging in the midst of a fight between the Obama administration and the Democrat-controlled Congress over whether the program should be halted next year at 187

planes, far short of what the Air Force and the F-22's contractors around the country had anticipated.

"It is a disgrace that you can fly a plane [an average of] only 1.7 hours before it gets a critical failure" that jeopardizes success of the aircraft's mission, said a Defense Department critic of the plane who is not authorized to speak on the record. Other skeptics inside the Pentagon note that the planes, designed 30 years ago to combat a Cold War adversary, have cost an average of \$350 million apiece and say they are not a priority in the age of small wars and terrorist threats.

But other defense officials—reflecting sharp divisions inside the Pentagon about the wisdom of ending one of the largest arms programs in U.S. history—emphasize the plane's unsurpassed flying abilities, express renewed optimism that the troubles will abate and say the plane is worth the unexpected costs.

Notes by the House and Senate armed services committees last month to spend \$369 million to \$1.75 billion more to keep the F-22 production line open were propelled by mixed messages from the Air Force—including a quiet campaign for the plane that includes snazzy new Lockheed videos for key lawmakers—and intense political support from states where the F-22's components are made. The full House ratified the vote on June 25, and the Senate is scheduled to begin consideration of F-22 spending Monday.

After deciding to cancel the program, Defense Secretary Robert M. Gates called the \$65 billion fleet a "niche silver-bullet solution" to a major aerial war threat that remains distant. He described the House's decision as "a big problem" and has promised to urge President Obama to veto the military spending bill if the full Senate retains F-22 funding.

The administration's position is supported by military reform groups that have long criticized what they consider to be poor procurement practices surrounding the F-22, and by former senior Pentagon officials such as Thomas Christie, the top weapons testing expert from 2001 to 2005. Christie says that because of the plane's huge costs, the Air Force lacks money to modernize its other forces adequately and has "embarked on what we used to call unilateral disarmament."

David G. Ahern, a senior Pentagon procurement official who helps oversee the F-22 program, said in an interview that "I think we've executed very well," and attributed its troubles mostly to the challenge of meeting ambitious goals with unstable funding.

A spokeswoman for Lockheed added that the F-22 has "unmatched capabilities, sustainability and affordability" and that any problems are being resolved in close coordination with the Air Force.

Designed during the early 1980s to ensure long-term American military dominance of the skies, the F-22 was conceived to win dogfights with advanced Soviet fighters that Russia is still trying to develop.

Lt. Gen. Harry M. Wyatt III, director of the Air National Guard, said in a letter this week to Sen. Saxby Chambliss (R-Ga.) that he likes the F-22 because its speed and electronics enable it to handle "a full spectrum of threats" that current defensive aircraft "are not capable of addressing."

"There is really no comparison to the F-22," said Air Force Maj. David Skalicky, a 32-year-old former F-15 pilot who now shows off the F-22's impressive maneuverability at air shows. Citing the critical help provided by its computers in flying radical angles of attack and tight turns, he said "it is one of the easiest planes to fly, from the pilot's perspective."

Its troubles have been detailed in dozens of Government Accountability Office reports

and Pentagon audits. But Pierre Sprey, a key designer in the 1970s and 1980s of the F-16 and A-10 warplanes, said that from the beginning, the Air Force designed it to be "too big to fail, that is, to be cancellation-proof."

Lockheed farmed out more than 1,000 subcontracts to vendors in more than 40 states, and Sprey—now a prominent critic of the plane—said that by the time skeptics "could point out the failed tests, the combat flaws, and the exploding costs, most congressmen were already defending their subcontractors' revenues."

John Hamre, the Pentagon's comptroller from 1993 to 1997, says the department approved the plane with a budget it knew was too low because projecting the real costs would have been politically unpalatable on Capitol Hill.

"We knew that the F-22 was going to cost more than the Air Force thought it was going to cost and we budgeted the lower number, and I was there," Hamre told the Senate Armed Services Committee in April. "I'm not proud of it," Hamre added in a recent interview.

When limited production began in 2001, the plane was "substantially behind its plan to achieve reliability goals," the GAO said in a report the following year. Structural problems that turned up in subsequent testing forced retrofits to the frame and changes in the fuel flow. Computer flaws, combined with defective software diagnostics, forced the frequent retesting of millions of lines of code, said two Defense officials with access to internal reports.

Skin problems—often requiring re-gluing small surfaces that can take more than a day to dry—helped force more frequent and time-consuming repairs, according to the confidential data drawn from tests conducted by the Pentagon's independent Office of Operational Test and Evaluation between 2004 and 2008.

Over the four-year period, the F-22's average maintenance time per hour of flight grew from 20 hours to 34, with skin repairs accounting for more than half of that time—and more than half the hourly flying costs—last year, according to the test and evaluation office.

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.

Darrol Olsen, a specialist in stealth coatings who worked at Lockheed's testing laboratory in Marietta, Ga., from 1995 to 1999, said the current troubles are unsurprising. In a lawsuit filed under seal in 2007, he charged the company with violating the False Claims Act for ordering and using coatings that it knew were defective while hiding the failings from the Air Force.

He has cited a July 1998 report that said test results "yield the same problems as documented previously" in the skin's quality and durability, and another in December that year saying, "Baseline coatings failed." A Lockheed briefing that September assured the Air Force that the effort was "meeting requirements with optimized products."

"When I got into this thing . . . I could not believe the compromises" made by Lockheed to meet the Air Force's request for quick results, said Olsen, who had a top-secret clearance. "I suggested we go to the Air Force and tell them we had some difficulties . . . and they would not do that. I was squashed. I knew from the get-go that this material was bad, that this correcting it in the field was never going to work."

Olsen, who said Lockheed fired him over a medical leave, heard from colleagues as recently as 2005 that problems persisted with coatings and radar absorbing materials in

the plane's skin, including what one described as vulnerability to rain. Invited to join his lawsuit, the Justice Department filed a court notice last month saying it was not doing so "at this time"—a term that means it is still investigating the matter, according to a department spokesman.

Ahern said the Pentagon could not comment on the allegations. Lockheed spokeswoman Mary Jo Polidore said that "the issues raised in the complaint are at least 10 years old," and that the plane meets or exceeds requirements established by the Air Force. "We deny Mr. Olsen's allegations and will vigorously defend this matter."

There have been other legal complications. In late 2005, Boeing learned of defects in titanium booms connecting the wings to the plane, which the company, in a subsequent lawsuit against its supplier, said posed the risk of "catastrophic loss of the aircraft." But rather than shut down the production line—an act that would have incurred large Air Force penalties—Boeing reached an accord with the Air Force to resolve the problem through increased inspections over the life of the fleet, with expenses to be mostly paid by the Air Force.

Sprey said engineers who worked on it told him that because of Lockheed's use of hundreds of subcontractors, quality control was so poor that workers had to create a "shim line" at the Georgia plant where they retooled badly designed or poorly manufactured components. "Each plane wound up with all these hand-fitted parts that caused huge fits in maintenance," he said. "They were not interchangeable."

Polidore confirmed that some early parts required modifications but denied that such a shim line existed and said "our supplier base is the best in the industry."

The plane's million-dollar radar-absorbing canopy has also caused problems, with a stuck hatch imprisoning a pilot for hours in 2006 and engineers unable to extend the canopy's lifespan beyond about 18 months of flying time. It delaminates, "loses its strength and finish," said an official privy to Air Force data.

In the interview, Ahern and Air Force Gen. C.D. Moore confirmed that canopy visibility has been declining more rapidly than expected, with brown spots and peeling forcing \$120,000 refurbishments at 331 hours of flying time, on average, instead of the stipulated 800 hours.

There has been some gradual progress. At the plane's first operational flight test in September 2004, it fully met two of 22 key requirements and had a total of 351 deficiencies; in 2006, it fully met five; in 2008, when squadrons were deployed at six U.S. bases, it fully met seven.

"It flunked on suitability measures—availability, reliability, and maintenance," said Christie about the first of those tests. "There was no consequence. It did not faze anybody who was in the decision loop" for approving the plane's full production. This outcome was hardly unique, Christie adds. During his tenure in the job from 2001 to 2005, "16 or 17 major weapons systems flunked" during initial operational tests, and "not one was stopped as a result."

"I don't accept that this is still early in the program," Christie said, explaining that he does not recall a plane with such a low capability to fulfill its mission due to maintenance problems at this point in its tenure as the F-22. The Pentagon said 64 percent of the fleet is currently "mission capable." After four years of rigorous testing and operations, "the trends are not good," he added.

Pentagon officials respond that measuring hourly flying costs for aircraft fleets that have not reached 100,000 flying hours is problematic, because sorties become more frequent after that point; Ahern also said some

improvements have been made since the 2008 testing, and added: "We're going to get better." He said the F-22s are on track to meet all of what the Air Force calls its KPP—key performance parameters—by next year.

But last Nov. 20, John J. Young Jr., who was then undersecretary of defense and Ahern's boss, said that officials continue to struggle with the F-22's skin. "There's clearly work that needs to be done there to make that airplane both capable and affordable to operate," he said.

When Gates decided this spring to spend \$785 million on four more planes and then end production of the F-22, he also kept alive an \$8 billion improvement effort. 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.

The cancellation decision got public support from the Air Force's top two civilian and military leaders, who said the F-22 was not a top priority in a constrained budget. But the leaders' message was muddled in a June 9 letter from Air Combat Cmdr. John D. W. Corley to Chambliss that said halting production would put "execution of our current national military strategy at high risk in the near to mid-term." The right size for the fleet, he said, is 381.

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. The Air Force has declined to discuss the cause, but a classified internal accident report completed the following month states that the plane flew into the ground after poorly executing a high-speed run with its weapons-bay doors open, according to three government officials familiar with its contents. The Lockheed test pilot died.

Several sources said the flight was part of a bid to make the F-22 relevant to current conflicts by giving it a capability to conduct precision bombing raids, not just aerial dogfights. The Air Force is still probing who should be held accountable for the accident.

Mr. McCAIN. I will quote in part from this article, which I think is worthy of my colleagues' examination. It is by Mr. R. Jeffrey Smith, a person who is widely respected on defense issues. He says:

The United States' top fighter jet, the Lockheed Martin F-22, has recently required more than 30 hours of maintenance for every hour in the skies, pushing its hourly cost of flying to more than \$44,000, a far higher figure than for the warplane it replaces, confidential Pentagon test results show.

It goes on to talk about some of the problems it has experienced. It goes on to say:

While most 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, 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 flown over Iraq or Afghanistan.

I point out that the cost per aircraft is around \$350 million, depending on how you calculate it. We have a \$350 million airplane investment by the taxpayers of America that has never been flown over Iraq or Afghanistan, the two conflicts in which we are engaged. We know for a fact that much older aircraft—the A-10, the F-18,

many of the older aircraft are flying routine missions, plus our newest kinds of technology in drone and predator aircraft.

Sensitive information about troubles with the nation's foremost air-defense fighter is emerging in the midst of a fight between the Obama administration and the Democrat-controlled Congress—

I point out to my colleagues, the Democrat-controlled Congress—

over whether the program should be halted next year at 187 planes, far short of what the Air Force and the F-22's contractors around the country had anticipated.

There are divisions over in the Pentagon.

It says:

Votes by the House and Senate armed services committees last month to spend \$369 million to \$1.75 billion more to keep the F-22 production line open were propelled by mixed messages from the Air Force—including a quiet campaign for the plane that includes snazzy new Lockheed videos for lawmakers—

I do not think that the chairman or I received the snazzy new Lockheed video—

and intense political support for States where the F-22's components are made. The full House ratified the vote on June 25, and the Senate is scheduled to begin consideration.

After deciding to cancel the program, Defense Secretary Robert Gates called the \$65 billion fleet a "niche" silver-bullet solution to a major aerial war threat that remains distant. He described the House's decision as "a big problem," and has promised to urge President Obama to veto the bill.

The administration's position is supported by military reform groups.

In the article it talks about pilots who have flown the aircraft who talk about its impressive capability. I do not disagree with those assessments at all. Its troubles have been detailed in dozens of Government Accountability Office reports and Pentagon audits. But Pierre Sprey, a key designer in the 1970s and 1980s of the F-16 and A-10 warplanes, said that from the beginning, the Air Force designed it to be "too big to fail, that is, to be cancellation proof."

Lockheed farmed out more than 1,000 subcontracts to vendors in more than 40 States. I would like to repeat that. Lockheed farmed out more than 1,000 subcontracts to vendors in more than 40 States. And Sprey, now a prominent critic of the plane, said that by the time skeptics "could point out the failed tests, the combat flaws, and the exploding costs, most Congressmen were already defending their contractors' revenues."

John Hamre—this is an individual known to all of us—a very capable individual, who was on the Senate Armed Service Committee staff and served in previous administrations, was the Pentagon Comptroller from 1993 to 1997. He says the Department approved the plane with a budget it knew was too low because projecting the real costs would have been politically unpalatable on Capitol Hill.

We knew that the F-22 was going to cost more than the Air Force thought it was

going to cost and we budgeted the lower number, and I was there [Hamre told the Senate Armed Services committee in April.]

"I am not proud of it," Hamre added in a recent interview, which I think is a mark of the quality of the individual, that he admits he made a mistake, as we all do from some time to another.

So I do not want to quote and spend too much time on this article because it is a long one. But it is an important item for our colleagues to consider when we consider the vote on this amendment.

The cancellation decision got public support from the Air Force's top two civilian and military leaders who said the F-22 was not a top priority in a constrained budget. But the leaders' message was muddled in a June 9 letter from Air Combat Commander John D. W. Corley to Chambliss [that is Senator Chambliss, the Senator from Georgia] that said halting production would put "execution of our national military strategy at high risk in the near to mid-term." The right size of the fleet, he said, is 381.

So it is enough to say that given our overall joint capability to obtain air superiority, stopping the F-22 at 187 fighters is vital to achieving the correct balance.

I have discussed already the importance of a fifth-generation aircraft. I discussed earlier the importance of us making these tough decisions. Not irrelevant to this debate is the view of the Vice Chairman of the Joint Chiefs of Staff, General Cartwright. He is a Marine General aviator. He is the Vice Chairman of the Joint Chiefs of Staff, and he serves as the Chairman of the Joint Chiefs' most senior adviser on joint operational requirements.

In recent testimony before the Armed Services Committee, General Cartwright outlined why, in his best military judgment, the F-22 program should be terminated. He said:

Looking at the lines in hot production, the number one priority was to get fifth generation fighters to all of the services. Number two priority was to ensure that we had a hot production line in case there was a problem. And, number three, was to have that hot production line producing F-18Gs, which support the electronic warfare fight.

In General Cartwright's view:

Those issues stacked up to a solid position that it was time to terminate the F-22. It is a good airplane. It is a fifth-generation fighter. But we needed to proliferate those fifth-generation fighters to all of the services, and we needed to ensure that we were capable of continuing to produce aircraft for the electronic warfare capability. In the F-18, we can also produce front-line fighters that are more capable of addressing any threat that we'll face for the next 5 to 10 years.

Interesting comment. He is saying, in the F-18, we can also produce frontline fighters that are more capable of addressing any threat we will face for the next 5 to 10 years.

In any case, let me clear up the record on some discussions about the risk the Air Force is taking on by ending the F-22 line at 187 aircraft. References to some of that discussion appear to have been taken out of context. The Air Force's acceptance of risk by

discontinuing the program needs to be understood in the context of the Air Force's overall combat Air Force restructure plan, a plan that is intended to bridge the Air Force's current fleet to the predominantly fifth-generation force of the future. Basically, that plan works by restructuring the Air Force's current fleet of fighters now and directing the results and savings to fund modifying newer or more reliable fighters in the legacy fleet, weapons procurement, and joint enablers.

Under this 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. As you can imagine, the effectiveness of the plan depends on a lot of moving parts, perhaps most importantly stopping the F-22 program at 187 fighters now.

While some short-term risks in the Air Force's fighter force may arise from stopping the program at 187 aircraft, the Combat Air Force Restructure Plan is designed to accept that risk to ensure a more capable fleet in the long term. I believe this strategy is sound and needs the support of this body. Please do not be deluded by references to risk associated with ending the F-22 program.

Given the strength of the reasons cited by the National Command Authority, the best professional military advice by the Chairman and Vice Chairman of the Joint Chiefs of Staff, and the considered recommendations of the service Secretaries, I can find no good reason why I should replace their judgment on this critical national defense issue with my own and call for funding for the continuation of the F-22 program. I, respectfully, suggest the Members of this body do the same and support the amendment under consideration.

I understand where votes are. I understand that right now, probably this morning, anyway, and I hope that the very forceful letter by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff and the very strong letter from the President of the United States will move my colleagues in support of this amendment.

But I have no illusions about the influence of the military industrial complex in this town. Long ago, President Eisenhower, when he left office—probably the most noted military leader or certainly one of the most noted military leaders ever to occupy the White House—warned America about the military industrial complex and the power and the increasing influence he saw that military industrial complex having over the decisionmaking made in the Congress and in the administration and in the funding of different programs and the expenditure of the taxpayers' hard-earned dollars.

We are at a very interesting moment, if not a seminal one, in the history of this administration. If we accept the threat of the President of the United States to veto and overcome the indi-

vidual concerns, I think it will be a great step forward to providing the taxpayer with a far better usage of their hard-earned dollars.

These are difficult and terrible economic times for America. We cannot afford business as usual. We cannot afford to continue to purchase weapons systems that are not absolutely vital to this Nation's security. I would point out, again, and maybe it is not appropriate to keep mentioning, this plane has never been flown over Iraq or Afghanistan. It is never part of the two wars we have been in. It is a good airplane. It will probably be important, the 187 of them we are procuring, to the security of the Nation.

But to continue production and procurement at some \$350 million a copy, when in the judgment of the people we give the responsibility to make the judgment in the strongest possible terms have told us: We need to move on to another aircraft. We need the Joint Strike Fighter, and we do not need any more of the F-22 aircraft, it is a very interesting time. I look forward to the debate and vote on this amendment as soon as possible. I respect the views of my colleagues who feel very strongly that we need to continue the production of this aircraft. But I think it is wrong. I hope we can have an enlightened and respected debate on this issue.

I understand the passion that some of my colleagues have about it and the importance it is to jobs in their States and communities. I would point out, again, defending this Nation and expenditures of the taxpayers' dollars for its defense should not be based on jobs. It should be based on our national security needs. There are not unlimited amounts of money.

I wish to thank my colleague, the distinguished chairman again. I am sure that both those letters have been included in the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first, let me thank Senator MCCAIN for his strong and very powerful statement about this amendment. I cannot remember a President ever saying in advance that if a specific provision in the Defense bill is included, he will veto it. Now, there may be such precedent. But this is what the stakes are here now. This is whether we are going to be supporting a bill that has essential provisions in it for the men and women of the military, including a significant pay raise and other important benefits, including support for our wounded warriors, including support for weapons systems they need.

I would hope that even those Senators who have indicated they would support the additional F-22s might reconsider their position in terms of what is involved in this bill for our men and women, given the President's statement that he will veto this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WARNER.) Without objection, it is so ordered.

Mr. MCCAIN. I ask unanimous consent to engage in a colloquy with my colleague, the distinguished chairman.

Can I ask the distinguished chairman what he thinks is going to be the situation as regarding the disposition of this amendment?

Mr. LEVIN. I thank my friend from Arizona. The answer is, it will depend, I guess, on how many people wish to speak either in support of our amendment or in opposition to it and how long they want to speak. I do not have yet an indication of that.

Mr. MCCAIN. Could I say to my friend, the distinguished chairman, from our past experience, there will be at least a couple hundred pending other amendments. I do not mean to diminish the importance of this one. But I would hope we could spend whatever time in debate that anyone might want to talk about the amendment today and into tomorrow and at least have a target to have a final disposition on this amendment tomorrow, since we will have many other amendments. Would that be the desire of the chairman?

Mr. LEVIN. I would be a little more optimistic even in the question. I am optimistic, and I would hope we would have a vote on this amendment by noon tomorrow.

I understand there will not be votes in the afternoon as previously agreed to. I hope prior to noon tomorrow we can have a vote on our amendment.

Mr. MCCAIN. Mr. President, we encourage colleagues to come to the Senate floor so we can debate this important amendment.

Mr. LEVIN. There are two or three things for which we hope our colleagues will come to the Chamber: One is to speak on this amendment; secondly, to speak generally about the bill. We have a number of colleagues on the committee who have worked so hard on this bill who do want to speak on it. I hope they will do that this afternoon. Third, we can begin to receive amendments that we might want to consider during this week. I hope we can finish this bill this week. That may be an optimistic goal, but it would be achievable if everybody cooperates and brings to us and our staffs amendments they are thinking about offering.

Mr. MCCAIN. I thank the chairman. I hope all colleagues will bring their amendments as well as debate on the pending amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

HEALTH CARE REFORM

Mr. WICKER. Mr. President, as more and more Americans become familiar with the details of the Democrats' proposal for a Washington takeover of the health care system, the wheels are beginning to fall off, and for good reason. It is no longer just the Republicans who are sounding the alarm. It is Independents and centrist Democrats who are showing genuine concern. We still do not have a good answer about the cost of the two major Senate proposals—one from the Finance Committee and the other from the HELP Committee—but we do know they will be enormously expensive once they are finally scored. There is also the House proposal from Speaker PELOSI and Chairman WAXMAN which is believed to cost \$1 trillion over a 10-year period.

One great aspect of a representative democracy is elected officials still listen to the people who sent them here. Even Senators with 6-year terms go back to their respective States often and have their fingers on the pulse of public opinion. What they heard over the recent Independence Day break was alarm over the amount of money the Federal Government is spending in such a short period and over the monstrous debt we are incurring. We also heard from the voters. We heard from taxpayers that they are concerned over the direction health care legislation is heading.

A recent CNN poll found that a broad majority of Americans have concluded that their health care costs would go up, not down, under the Democrats' plan. The poll found that 54 percent say their medical insurance costs will increase if the Democratic plan is adopted, while only 17 percent of Americans believe their costs will decrease. Only one out of five said their family would be better off if the Democrats' reforms are enacted.

This lack of enthusiasm for the Democrats' plan is not just driven by partisan opposition. A recent Rasmussen survey found skepticism high among independent voters, with a plurality, some 39 percent of those not affiliated with either party, strongly opposed to the Democrats' plan.

I want health care reform enacted this year. As a matter of fact, I wanted health care reform enacted in the last Congress. But I want a plan that is closer to President Obama's campaign promise of last year, one that allows Americans to keep their insurance plans, if they are satisfied with them, and one that actually saves money for the American economy.

Last year candidate Obama stated that the United States is spending too much money on medical care. He vowed to put forth a plan to save money. I want to see that proposal. I want to see a proposal that would save

money, not one that would spend another \$1, \$2, or \$3 trillion we don't have and for which we will have to borrow from our grandchildren and great-grandchildren.

I hope my colleagues on the other side of the aisle will not characterize these legitimate concerns as scare tactics. The figures that have the Americans frightened were ones published from the Congressional Budget Office, not from some right-of-center think tank in Washington. In addition, suggestions about how to pay for this gigantic scheme for a Federal takeover are just as troubling.

The Kennedy bill, for example, includes a \$58 billion tax on workers that would be imposed to create a government insurance program for long-term care. The bill also includes an additional \$36 billion in penalties on individuals for not purchasing a government-approved health coverage policy. Another \$52 billion would come from new taxes on employers. The House is considering a \$540 billion proposal to put a 1- to 3-percent surtax on small businesses. There are also plans to tax beverages that contain sugar and proposals to place payroll taxes on capital gains earnings.

All of these tax increases would come during a recession and would still not be enough. There would have to be hundreds of billions of dollars in cuts to the Medicare Program. In essence, to finance this scheme we will have to agree to tax workers and job creators and to cut benefits for senior citizens.

Two opinion pieces from the Washington Post last Friday provide clear evidence of honest concerns over the way the Democratic legislation is heading. In its own editorial, the Washington Post, hardly a rightwing publication, noted discouraging developments on Capitol Hill. Among other things, the Washington Post expressed disagreement over the Democrats' continued insistence on a public option. The editorial went on to say:

Restructuring the health care system is risky enough that the Democrats would be wise not to try to accomplish it entirely on their own.

This is sound advice from a leading newspaper that endorsed Senator Obama when he was running for President last year.

In another op-ed on the same topic, columnist Michael Kinsley points out:

People, even liberals, are starting to get unnerved by the cost of all this.

He cites two risks for health care reform. One is that it would not pass and an opportunity will be lost. The second is that if it passes, it would not work. I ask my colleagues: If we pass a \$1 trillion or \$3 trillion plan that does not work, how will we ever reverse that mistake? How will we ever get the genie back in the bottle?

Mr. Kinsley rightly urges the President to slow things down on health care reform in order to get it right. Then Mr. Kinsley goes on to suggest that the President not try for a total

overhaul of health care but, instead, seek smaller successes or low-hanging fruit. He advocates medical malpractice reform, outcomes research, and eliminating paperwork and waste as a starting position. I believe such an approach is sound and could be on the President's desk by the end of September.

When Michael Kinsley and the Washington Post editorial board begin asking advocates of an enormous Washington takeover to pause and reflect, it is time for all Americans—from the left, from the right, and from the political center—to sit up and take notice.

The good news from these developments is this: We now have a better opportunity for health care reform that does not break the bank. I hope the congressional leadership will go back to the drawing board and write a targeted bill that addresses the real problems, such as coverage for the uninsured.

Congress should listen to Michael Kinsley. Congress should listen to the Washington Post editorial board and the growing chorus of concerns and develop a plan that makes health care more portable, more affordable, and more accessible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

Mr. MCCONNELL. Mr. President, last week and again this morning, my good friend, the majority leader, came to the floor and said he wants to work with Republicans on health care reform. I welcome his comments. As a step in that direction, I would point out one of the major concerns Americans have about health care reform is the pricetag.

Last week, we learned the Federal deficit is now more than \$1 trillion so far this year for the first time in our Nation's history. To give people an idea of how dramatically the Federal deficit has grown in just the last several months, I would note the current deficit for this year is \$800 billion more than it was at this point last year—\$800 billion more than at this point last year. So the need for fiscal discipline could not be greater than at the current moment. Yet all the Democratic proposals we are hearing on health care would only increase our Nation's already staggering debt without even addressing the full extent of the problems we all agree should be addressed as part of a comprehensive reform. Americans do, indeed, want health care reform, but they don't want to see their

children and their grandchildren buried deeper and deeper in debt without even solving the problem.

Every proposal we have seen would cost a fortune by any standard. Even worse, some of these estimates are totally misleading. In some cases 10-year estimates are based on proposals that wouldn't even go into effect for 4 years. In other words, what is being sold as a 10-year cost would actually cost that much over 6 years.

We also know from our experience with Medicare that cost estimates on health care often prove to be wildly inaccurate. When Medicare Part A was enacted in 1965, it was projected that in 1990 it would spend \$9.1 billion on hospital services and related administration. As it turned out, spending in 1990 totaled almost \$67 billion, more than seven times the original prediction.

Today, Medicare is already paying out more than it is taking in and will soon go bankrupt. So if history is any guide, the actual cost of reform could be far greater than the estimates we are getting now—estimates that are already giving Americans serious sticker shock.

Also troubling are some of the proposals we have heard to pay for these so-called reforms. The advocates of government-run health care have been searching frantically for a way to cover costs, and they seem to have settled on two groups: the elderly and small business owners in the form of Medicare cuts and higher taxes.

As for Medicare, it is my view any savings from Medicare should be used to strengthen and protect Medicare, not fund another government-run system that is all but certain to have the same fiscal problems down the road Medicare does. Raiding one insolvent government-run program to create another is not reform; it is using an outdated model to solve a problem that will require a fresh approach and new ideas.

As for higher taxes, advocates of the government takeover of health care have set their sights on small business owners to help pay for the proposals. It should go without saying that this is precisely the wrong approach in the middle of a recession. Small businesses are the engine of our economy, and they have created approximately two-thirds of all new jobs in the last decade. At a time when the unemployment rate is approaching 10 percent, we need to help small businesses not hurt them. Yet according to news reports, Democrats in Congress are considering doing just that.

In recent congressional testimony, the President of the National Federation of Independent Business said some of these proposals could destroy more than 1.5 million jobs. Aside from killing jobs, these so-called reforms could actually cause millions to end up with worse care than they already have, and they could come at a higher cost to individuals and families in the form of higher premiums.

Some have also proposed raising income taxes and limiting tax deductions for charitable giving. Others are reportedly considering an increase on the employee Medicare tax which would take money out of the paychecks of American workers, a new national sales tax, and taxes on soda and juice boxes. These proposals would hit low-income Americans especially hard. All of these are bad ideas, but it is unlikely they would cover the long-term cost of the proposal we have seen so far in any event. The rest would simply be added to the national debt.

In his comments last week, the majority leader said health care reform is not a partisan issue. That is why some of us have for weeks put forward ideas that should be pretty easy for everybody to support, such as reforming medical malpractice laws to get rid of junk lawsuits, encouraging wellness and prevention programs such as the programs that help people quit smoking or overcome obesity that have been shown to cut costs, and increasing competition in the private market.

Americans would like for the two parties to work together to reform health care—to cut costs without sacrificing the things Americans like about our current health care system. Embracing the ideas I have mentioned and finding responsible ways to pay for health care reform is an obvious and commonsense place to start.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. BROWN. Mr. President, this week, the Health, Education, Labor, Pension Committee is planning to finish marking up our health care reform legislation. A vital part of this legislation is ensuring that Americans have access to affordable generic versions of brandname biologic drugs. These medicines are crucial to those suffering from Parkinson's, from multiple sclerosis, from arthritis, from diabetes, from cancer, and from all kinds of debilitating and deadly diseases. Yet for countless Americans, these drugs are simply too expensive.

More than 190,000 new cases of breast cancer will be diagnosed in American women in 2009. To treat these cases using the biologic drug Herceptin costs approximately \$48,000 a year. That is almost \$1,000 a week to treat breast cancer with this drug. Each year, more than 1.3 million Americans are afflicted with rheumatoid arthritis. To treat these cases using the brandname

biologic drug Remicade costs more than \$20,000 a year. And here is another number. Between 350,000 and 500,000 people in the United States suffer from multiple sclerosis. To treat these cases using brandname biologic drugs, either Avonex or Betaseron, costs more than \$24,000 a year.

To put these numbers in perspective, the average annual household income in my State of Ohio—whether you live in Dayton, in Cleveland, in Akron, Cincinnati, or Youngstown—is \$46,000. For far too long, Ohioans such as Jerrold, from Miami County, have had to choose between paying for their medication or their mortgage.

Jerrold, who served in the Marines, had to retire early because he was experiencing severe seizures. Soon after, his wife had to retire early because she was diagnosed with leukemia and was battling other medical problems. Between the expensive medications needed to treat their conditions, Jerrold and his wife were forced to put their house up for sale. Jerrold wrote to me saying he didn't expect his golden years would be losing his home because of unaffordable health care costs.

Health care reform must include an FDA approval process for generic biologics comparable to the process that ensures access to traditional generic drugs. Remember that only 15 years ago the most effective, best known cancer drug was a chemical drug, with ingredients that were not considered live ingredients, but was a chemical drug known as Taxol. Taxol cost about \$4,000 a year. We thought that was outrageously expensive. But because of Hatch-Waxman, because of the generic approval process, because we can bring generic drugs to market, we have been able to get those costs under control.

But \$4,000 for a drug for cancer only 15 years ago—Taxol—today, a drug for cancer costs upwards of \$40,000, and there is no Hatch-Waxman, there is no generic process, there is no road to keep those prices in check. The companies that make those drugs can charge whatever they want.

Absent that generic process, there is no free market exerting downward pressure on biologic prices, so prices remain high for families such as Kimberly's, also from Miami County. Kimberly wrote to me explaining how her brother depends on Remicade infusions every 6 to 8 weeks to treat ulcerative colitis. The annual cost of Remicade can top \$31,000 a year. Again, there is no competition, there is no generic equivalent allowed to be developed under U.S. law. Kimberly is worried if her parents lose their insurance her brother will no longer be able to get his infusions and his conditions would not be covered by a new insurer.

Biotechnology is a high-risk and high-cost business, but we cannot give companies open-ended protection from generic competition. With no protection from generics, pharmaceutical companies have enjoyed profits of the tens of billions of dollars after they recoup their R&D costs.

I say absolutely they should recoup their R&D costs. They should have a generous profit for the risks they undertook and the investment they made and even for the opportunity costs of their investment. But when you look at the kind of returns they are making, the number of years they can continue to charge these high prices, what good is it to develop these wonderful drugs, these wonderful biologic drugs, if people such as Kimberly and Jerrold and others can't afford them?

If you divide the total R&D budget of a typical biotech by the number of biotechs that actually make it to market—the number of biologics that make it to market, the R&D cost per successful drug is about \$1.2 billion. That counts all the drugs including the ones that do not make it to market, including the ones that are failures, including the ones where the research is dead end—\$1.2 billion.

The top biologic companies are able to make up their costs in as little as a year and a half and go on to make profits worth billions, year after year—after decade, for that matter—because there is no generic path. There is no path to follow in biologics.

Why should there be—under the proposals of some people in this body—why should there be a 13-year monopoly period, as some of my colleagues want? That is a good question. President Obama has said 7 years is enough and the FTC has directly stated that 12 years or more of exclusivity would—counterintuitively, perhaps—actually harm new innovation by discouraging biotechs from searching for new sources of revenue. Why should they, when they are raking in dollars from their current monopolies, giving them exclusivity for far more years than either the FTC or the President or the AARP or the bipartisan legislation sponsored by Senators MARTINEZ, VITTER, SCHUMER and me—why should these companies, with that kind of long exclusivity period, even bother to do innovation? That is what the FTC says. That is clearly true.

AARP says 12 years, much less 13 years, is too long. Insurance companies say it, patient advocates say it, disease groups say it, major consumer groups say it—that 12 years is much too long. The only group advocating for 12 years or greater is, no surprise, the drug industry.

With their army of lobbyists and their deep pockets that produce spectacular campaign contributions, the drug industry is all over Capitol Hill, trying to convince Members of Congress that drug companies are different from other companies. The drug companies want us to believe that they deserve something special, they deserve decades-long monopolies for their products. No one else has that in the entire consumer market, even if those monopolies leave patients without access to the lifesaving medicines.

I might add that much of the research that these companies have done,

much of the research they build upon, is taxpayer funded through the National Institutes of Health.

I know in the State of the Presiding Officer, as in mine, there are all kinds of NIH dollars spent by startup companies, by universities, by people developing spectacular drugs. That is a good thing. But, understand, taxpayer money goes into a lot of this at the beginning. Taxpayers at least deserve competitive prices after the product has been developed.

A biotech industry group called the Biotech Industry Association, a lobbying group, spent nearly \$2 million in the first quarter alone lobbying on this issue that prevents generic drugs from making their way to people in Gallipolis and Zanesville and Springfield and Xenia and Findlay and Lima, OH. The drug industry is a profit-making enterprise, of course. It is going to lobby Congress to do whatever is in the drug industry's best interests, of course. There is no reason to believe it would selflessly advocate for patients. It never has, it never will. It is all about the bottom line, which it should be. It is their responsibility to argue for the bottom line. It is their responsibility to maximize profits. But it is our responsibility in this institution—in the House of Representatives, in the Senate—it is our responsibility to bring in competition to restrain costs so that through competition—not through rules but through competition—American consumers have the opportunity to buy these drugs that our tax dollars helped to develop.

I want to tell you about a letter I received recently from one of my constituents. A registered nurse from Cleveland, Mary, wrote to me that she works with families who often must decide between visiting a doctor and buying their child's medication to manage seizures or other diseases. Mary is a nurse, as I said. Mary writes that drug costs keep many parents from doing what they know is right. Safe and effective generic biologic drugs will bring billions of dollars of savings to consumers, the health care community, and to our economy.

It will help Ohioans such as Brynna, from Cleveland, who wrote to me how, after being diagnosed with a rare immunological disorder, she lost her job and lost her insurance.

After receiving Social Security disability, Brynna had to rely on sample medications from her doctor—a doctor who obviously cared about her patient because Brynna cannot afford the expensive medications she needs to stay healthy and stay strong.

Get this. Brynna juggles her medications depending on which part of her immune system is the weakest and what she can afford.

Why should that happen? That only happens because this institution has abdicated its responsibility. The drug industry, of course, is going to maximize its profits. It is up to us—100 Members of the Senate, 435 Members of

the House of Representatives and President Obama to inject competition, to allow competition so these prices come down.

Of course it would be irresponsible not to pursue a safe and efficient path to generic versions of name-brand biologic drugs. It would be irresponsible to pursue a pathway that gives biologic manufacturers more than a decade of monopoly rights over a market that provides lifesaving products to American patients.

That is how high the stakes are. Every year we give to highly profitable drug companies inflates taxpayer costs for health care, causes businesses struggling with paying for health care for their employees more onerous, burdensome costs, and prevents Americans from obtaining medicines that can treat disabling and life-threatening conditions.

We must not kowtow to the drug industry. We can and we must stand up for patients. We must and we have an opportunity to do what is right on the follow-on biologics issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering S. 1390.

Mr. LEAHY. Mr. President, moments ago I left the Judiciary Committee hearing room where we are considering the nomination of Judge Sotomayor to be an Associate Justice on the Supreme Court. In considering this historic and well-qualified nominee, many Americans may believe our country has completely turned the corner in terms of equality and civil rights. While I certainly hope Judge Sotomayor's nomination will unite us as a nation, I am aware that there is a lot more that still has to be done to protect the civil rights of all Americans.

I plan to offer the Matthew Shepard Hate Crimes Prevention Act of 2009 as an amendment to the pending National Defense authorization bill. I thank Senator COLLINS, Senator SNOWE, and a number of other bipartisan cosponsors for their support. This measure has long been a priority bill for Senator TED KENNEDY. I commend him for his steadfast leadership over the last decade in working to expand our Federal hate crime laws.

The amendment I will offer aims to address the serious and growing problem of hate crimes. We all saw the recent event at the Holocaust Museum here in Washington which made it clear that these vicious crimes continue to haunt our country. This bipartisan legislation is carefully designed to help law enforcement most effectively respond to this problem. It has been stalled for far too long. The time to act is now.

The Matthew Shepard Hate Crimes Prevention Act has been pending for more than a decade and has actually

passed the Senate several times. Despite its long history in the Senate, and despite the fact that it is cosponsored by both Democratic and Republican Senators, it continues to draw the same tired, old attacks. Less than 2 years ago the Senate passed a hate crimes bill as an amendment to the Defense Authorization Act. It also passed the Senate in 2004, in 2000, and 1999.

Last month, at the request of the ranking Republican on the Judiciary Committee, Senator SESSIONS, and all Republican members of the committee, I chaired a hearing on this bill to assure that this legislation has been adequately discussed and considered, and to allow an opportunity to explore the minor changes that were made to the bill in this Congress.

It is no doubt a testament to the urgency of this legislation that the Attorney General of the United States returned to the Judiciary Committee to testify in support of the bill. I say it reflects the urgency of it because the Attorney General had been before the committee less than a week before in an oversight hearing. Normally we would not see him before the committee for another 6 to 10 months. Yet, he came back within 6 days so he could testify in support of this important legislation. I commend Attorney General Holder for that. We have also heard from State and local law enforcement organizations, all supportive of the measure, and our committee record includes support letters from dozens of leaders of the faith community and the civil rights community.

I agreed with Senator SESSIONS when he commented at the end of the hearing that it was a good hearing with a good exchange of views. We have now had more than enough process and consideration of this bill, and it is time to bring it to another Senate vote.

The hate crimes amendment will improve existing law by making it easier for Federal authorities to investigate and prosecute crimes of racial, ethnic, or religious violence. Victims will no longer have to engage in a narrow range of activities, such as serving as a juror, to be protected under Federal law. It also focuses the attention and resources of the Federal Government on the problem of crimes committed against people because of their sexual orientation, gender, gender identity, or disability, which is a long overdue protection. In addition, the hate crimes amendment will provide assistance and resources to State and local and tribal law enforcement to address hate crimes.

Last Congress this legislation was attached to the Department of Defense authorization bill and had the bipartisan support of 60 Senators, and I expect we will have even more support today.

President Obama supports the immediate passage of hate crime legislation. In his first few months in office, he has acted to ensure that Federal benefits are awarded more equitably, regardless

of sexual orientation. He has shown through his selection of a nominee for the Supreme Court that he understands the greatest talent and experience and the highest devotion to law exists across lines of gender and ethnicity. Unlike in previous years, our bipartisan hate crimes bill does not face a veto threat because we have a President who understands that crimes motivated by bias are particularly pernicious crimes that affect more than just their victims and those victims' families.

I know. In a previous career, I prosecuted crimes that were committed based solely or primarily on bias against the victims. It is a hateful, terrible thing. It is hateful to the victim, to the victim's family, the victim's friends.

Hate crimes instill fear in those who have no connection to the victim other than a shared characteristic such as race or sexual orientation. If you feel somebody with whom you share that connection may have been the victim of a hate crime, you may fear that you will be next.

For nearly 150 years, we have responded as a nation to deter and punish violent denials of civil rights by enacting Federal laws to protect the civil rights of all of our citizens. The Matthew Shepard Hate Crimes Prevention Act of 2009 continues that great and honorable tradition. That is why so many law enforcement—State and local, Federal—support this legislation. Adoption of this amendment will show, once again, that America values tolerance and protects all of its people. I urge the opponents of this measure to consider the message it sends when, year after year, we have been prevented from enacting this broadly supported legislation. The victims of hate deserve better, and those who fear they may be the next victim of a hate crime deserve better. So I hope all Senators will join me in support of this important amendment.

At the appropriate point, I will call up the amendment. I ask unanimous consent that the letters in support of this amendment from the Human Rights Campaign dated July 14, 2009, and the Leadership Conference on Civil Rights dated July 9, 2009, be printed in the RECORD. I also ask unanimous consent that the list of supporters for the legislation be printed in the RECORD.

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

HUMAN RIGHTS CAMPAIGN,
Washington, DC, July 14, 2009.

DEAR SENATOR: On behalf of the Human Rights Campaign and our more than 750,000 members and supporters nationwide, we are writing today to urge you to support the Leahy/Collins/Kennedy/Snowe Matthew Shepard Hate Crimes Prevention Act amendment to the Department of Defense Authorization Act for Fiscal Year 2010 (S. 1391) and to reject any secondary amendments. These will be key votes for the Human Rights Campaign.

The Matthew Shepard Hate Crimes Prevention Act has strong bipartisan support. On

April 29, 2009 the House of Representatives passed a virtually identical bill (H.R. 1913) by a vote of 249-175. The Senate has previously supported substantially similar legislation on four separate occasions by wide bipartisan margins, most recently as an amendment to the 2008 Department of Defense Authorization bill by a vote of 60 to 39. In addition to public opinion polling that consistently finds an overwhelming majority of Americans in support of such legislation, the Matthew Shepard Hate Crimes Prevention Act has the support of more than 300 law enforcement, civil rights, civic and religious organizations.

Since the Federal Bureau of Investigation (FBI) began collecting hate crimes statistics in 1991, reported bias-motivated crimes based on sexual orientation more than tripled; yet the federal government has no jurisdiction to assist states and localities in dealing with even the most violent hate crimes against lesbian, gay, bisexual and transgender Americans. The FBI's 2007 Uniform Crime Reports—the most recent year for which we have statistics—showed that reported violent crimes based on sexual orientation constituted 16.6 percent of all hate crimes in 2007, with 1,265 reported for the year.

By passing this common sense anti-hate crime measure, we would bring our nation's laws into the 21st century. The Matthew Shepard Hate Crimes Prevention Act is a logical extension of existing federal law. Since 1969, 18 U.S.C. §245 has permitted federal prosecution of a hate crime if the crime was motivated by bias based on race, religion, national origin, or color, and because the victim was exercising a "federally protected right" (e.g. voting, attending school, etc.). After forty years, it has become clear that the statute needs to be amended.

This bill adds actual or perceived sexual orientation, gender, disability and gender-identity to the list of covered categories and removes the federally protected activity requirement, thus bringing a much needed comprehensiveness to federal law. Removing the outdated intent requirement, would untie the federal government's hands and allow them to partner with state and local officials in combating serious hate crimes that involve death and bodily injury.

We urge you to vote for this historic piece of legislation. For more information, please contact Allison Herwitz, Legislative Director, or David Stacy, Senior Public Policy Advocate. Thank you.

Sincerely,

JOE SOLMONESE,
President.

LEADERSHIP CONFERENCE ON CIVIL
RIGHTS,

Washington, DC, July 9, 2009.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, with more than 200 member organizations, we thank you for your support and leadership of the Matthew Shepard Hate Crimes Prevention Act (S. 909) (HCPA) and applaud your commitment to pass it before the August recess.

LCCR appreciates your continued support for this bill, and we are grateful for Senator Levin's willingness to allow an attempt to attach HCPA to the Department of Defense (DOD) Authorization, and for Senator Leahy's leadership in offering the amendment on

the Senate floor. As you know, due to pressure from outside of the Senate, we have tried but failed to find an appropriate vehicle on which to attach the HCPA. We recognize and appreciate that the DOD Authorization bill is the best and only option to ensure passage before the August recess.

We know that you understand well the importance of S. 909. The testimony of Attorney General Holder at the Senate Judiciary Hearing on June 25th, indicating the administration's strong support for this bill, is an encouraging reminder that after eleven years of efforts, we will finally be able to pass the law necessary to protect victims of violent, bias-motivated attacks. The HCPA would enhance the federal response to hate crime violence by covering all violent crimes based on race, color, religion, or national origin. In addition, the HCPA would permit federal involvement in the prosecution of bias-motivated crimes based on the victim's gender, gender identity, sexual orientation, or disability. This expansion is critical in order to protect Americans from this most egregious form of discrimination.

While LCCR recognizes that bigotry cannot be legislated out of existence, a forceful, moral response to hate violence is required of us all. This legislation passed the House of Representatives with a strong bipartisan majority (249-175) and has the support of more than 300 law enforcement, civil rights, civic, and religious organizations. We know that you strongly believe, as we do, that Congress must do everything possible to empower the federal government to assist in local hate crime prosecutions and, where appropriate, expand existing federal authority to permit a wider range of investigations and prosecutions. We sincerely appreciate your efforts and leadership in making this happen.

Please contact Rob Randhava, LCCR Counsel, Lisa Bornstein, LCCR Senior Counsel, or Nancy Zirkin with any questions. Thank you again for your support and leadership.

Sincerely,

WADE HENDERSON,
President & CEO.
NANCY ZIRKIN,
Executive Vice President.

SUPPORT LETTER LIST

9to5 Bay Area (CA); 9to5 Colorado; 9to5 Milwaukee; 9to5 National Association of Working Women; A. Philip Randolph Institute; AAMR—American Association on Mental Retardation; AAPD—American Association of People with Disabilities; ACLU—American Civil Liberties Union; AFL-CIO Department of Civil, Human and Women's Rights; African American Ministers in Action; African-American Women's Clergy Association; Agudath Israel; AIDS National Interfaith Network; Alexander Graham Bell Association for the Deaf and Hard of Hearing (AG Bell); Alliance for Rehabilitation Counseling; Alliance of Baptists; American Association for Affirmative Action; American Association of People with Disabilities (AAPD); American Association of University Women; American Association on Health and Disability.

American Association on Intellectual and Developmental Disabilities (AAIDD); American Citizens for Justice; American Conference of Cantors; American Council of the Blind; American Counseling Association; American Dance Therapy Association; American Diabetes Association; American Ethical Union, Washington Office; American Federation of Government Employees; American Federation of Musicians; American Federation of State, County, and Municipal Employees, AFL-CIO; American Federation of Teachers, AFL-CIO; American Foundation

for the Blind; American Islamic Congress; American Jewish Committee; American Jewish Congress; American Medical Association; American Medical Rehabilitation Providers Association (AMRPA); American Music Therapy Association; American Network of Community Options and Resources (ANCOR).

American Nurses Association; American Occupational Therapy Association (AOTA); American Psychological Association; American Rehabilitation Association; American Speech-Language Hearing Association; American Therapeutic Recreation Association; American Veterans Committee; American-Arab Anti-Discrimination Committee; American-Arab Discrimination Committee; Americans for Democratic Action; Amputee Coalition of America; AMRPA—American Rehabilitation Providers Association; ANCOR—American Network of Community Options and Resources; Anti-Defamation League; AOTA—American Occupational Therapy Association; Aplastic Anemia Foundation of America, Inc.; Arab American Institute; Arab-American Anti-Discrimination Committee; Asian American Justice Center; Asian American Legal Defense & Education Fund.

Asian Law Caucus; Asian Pacific American Labor Alliance; Asian Pacific American Legal Center; Association for Gender Equity Leadership in Education; ATAP—Association of Assistive Technology Act Programs; Atlanta 9 to 5; AUCD—Association of University Centers on Disabilities; Autism Society of America; Autistic Self Advocacy Network; AYUDA; B'Nai Brith International; Bazelon Center for Mental Health Law; Bi-Net; Brain Injury Association of America; Break the Cycle; Buddhist Peace Fellowship; Business and Professional Women, USA; Catholics for Free Choice; CCASA—Colorado Coalition Against Sexual Assault; Center for Community Change.

Center for Democratic Renewal; Center for the Study of Hate & Extremism; Center for Women Policy Studies; Central Conference of American Rabbis; Chinese American Citizens Alliance; Christian Church Capital Area; Church Women United; Coalition of Black Trade Unionists; Coalition of Labor Union Women; Communications Workers of America, AFL-CIO; Congress of National Black Churches; Consortium for Citizens with Disabilities; Consortium of Developmental Disabilities Councils; COPAA—Council of Parent Attorneys and Advocates; Council for Learning Disabilities; Council of State Administrators of Vocational Rehabilitation; Cuban American National Council; Democrats.com; Disability Policy Collaboration.

Disability Rights Education and Defense Fund; Disabled Action Committee; Disciples Justice Action Network; Disciples of Christ Advocacy Washington Network; Easter Seals; Epilepsy Foundation; Equal Partners in Faith; Equal Rights Advocates, Inc.; Evangelical Lutheran Church of America, Office for Government Affairs; Fair Employment Council of Greater Washington; Faith Trust Institute; Family Equality Council; Family Pride Coalition; Federal Law Enforcement Officers Association; Federally Employed Women; Feminist Majority; Friends Committee on National Legislation; Gay, Lesbian, and Straight Education Network; Gender Public Advocacy Coalition (GenderPAC); GenderWatchers.

General Board of Church & Society of the United Methodist Church; General Federation of Women's Clubs; Goodwill Industries International, Inc.; Hadassah, the Women's Zionist Organization of America; Helen Keller National Center; Higher Education Consortium for Special Education; Hindu American Foundation; Hispanic American Police

Command Officers Association; Hispanic National Law Enforcement Association; Human Rights Campaign; Human Rights First; Interfaith Alliance; Interfaith Coalition; International Association of Chiefs of Police; International Association of Jewish Lawyers and Jurists; International Association of Jewish Vocational Services; International Brotherhood of Police Officers; International Brotherhood of Teamsters; International Dyslexia Association; International Federation of Black Pride.

International Union of United Aerospace and Agricultural Implements; Islamic Society of North America; JAC—Joint Action Committee; Japanese American Citizens League; Jewish Council for Public Affairs; Jewish Labor Committee; Jewish Reconstructionist Federation; Jewish War Veterans of the USA; Jewish Women International; Justice for All; Labor Council for Latin American Advancement; Latino/a, Lesbian, Gay, Bisexual & Transgender Organization; Lawyers' Committee for Civil Rights Under Law; Leadership Conference of Civil Rights; League of Women Voters; LEAP—Leadership Education for Asian Pacifics, Inc.; Learning Disabilities Association of America; Legal Momentum; LGBT Community Centers; Log Cabin Republicans.

Los Angeles 9 to 5; LULAC—League of United Latin American Citizens; Major Cities Chiefs Association; MALDEF—Mexican American Legal Defense & Education Fund; MANA—A National Latina Organization; Maryland State Department of Education; Matthew Shepard Foundation; Mental Health America; Methodist Federation for Social Action; Metropolitan Community Churches; Moderator's Global Justice Team of Metropolitan Community Churches; Muslim Advocates; Muslim Public Affairs Council; NA'AMAT; NA'AMAT USA; NAACP; NAACP Legal Defense and Educational Fund, Inc.; NACDD—National Association of Councils on Developmental Disabilities; NAKASEC—National Korean American Service & Education Consortium, Inc; NALEO—National Association of Latino Elected and Appointed Officials.

NAMI—National Alliance on Mental Illness; National Abortion Federation; National Advocacy Center of the Sisters of the Good Shepherd; National Alliance of Faith and Justice; National Alliance of Postal and Federal Employees; National Asian Pacific American Bar Association; National Asian Pacific American Women's Forum; National Asian Peace Officers Association; National Association for Multicultural Education; National Association for the Education and Advancement of Cambodian, Laotian and Vietnamese Americans; National Association of Collegiate Women Athletics Administrators; National Association of Commissions for Women; National Association of County Behavioral Health and Developmental Disability Directors; National Association of Lesbian, Gay, Bisexual and Transgender Community Centers (on House Vote); National Association of People with AIDS; National Association of Private Schools for Exceptional Children; National Association of Rehabilitation Research and Training Centers; National Association of School Psychologists; National Association of Social Workers; National Association of State Head Injury Administrators.

National Association of the Deaf; National Black Justice Coalition; National Black Police Association; National Black Women's Health Project; National Center for Learning Disabilities; National Center for Lesbian Rights; National Center for Transgender Equality; National Center for Victims of Crime; National Center for Women & Policing; National Center on Domestic and Sexual Violence; National Coalition Against Domestic Violence; National Coalition for Asian

American Community Development; National Coalition of Anti-Violence Programs; National Coalition of Public Safety Officers; National Coalition on Deaf-Blindness; National Congress of American Indians; National Congress of Black Women; National Council of Churches of Christ in the USA; National Council of Jewish Women.

National Council of Women's Organizations; National Council on Independent Living; National District Attorneys Association; National Down Syndrome Congress; National Fragile X Foundation; National Latino Police Officers Association; National Organization for Women; National Organization of Black Law Enforcement Executives; National Organization of Social Security Claimants' Representatives; National Partnership for Women & Families; National Rehabilitation Association; National Women's Conference; National Women's Conference Committee; National Women's Law Center; NCAVP: National Coalition of Anti-Violence Programs; NCCJ—National Conference for Community and Justice; NCR—National Respite Coalition; NDRN—National Disability Rights Network; NDSS—National Down Syndrome Society; NETWORK: A National Catholic Social Justice Lobby.

NISH; North American Federation of Temple Youth; Northwest Women's Law Center; NSSTA—National Structured Settlement Trade Association; NWC—National Women's Committee; Organization of Chinese Americans; Police Executive Research Forum; Police Foundation; Presbyterian Church (USA), Washington Office; PVA—Paralyzed Veterans of America; Rabbinical Assembly; Religious Action Center; Religious Institute on Sexual Morality, Justice, and Healing; Research Institute for Independent Living; SAALT—South Asian Americans Leading Together; Sargent Shriver National Center on Poverty Law; School Social Work Association of America; SCORE—Sikh Council on Religion and Education; Spina Bifida Association; Catholic University of America; TASH; The Anti-defamation League; The Arc of the United States; The Episcopal Church; The Indian American Center for Political Awareness.

The Latino Coalition; The McAuley Institute; The Women's Institute for Freedom of the Press; Third Way, Religious Leaders; U.S. Conference of Mayors; Union for Reform Judaism; Unitarian Universalist Association; Unitarian Universalist Association of Congregations; United Cerebral Palsy; United Church of Christ, Justice and Witness Ministries; United Methodist Church, General Board of Church and Society; United Methodist Church, General Commission on Religion and Race; UNITED SIKHS; United Spinal Association; United Synagogue of Conservative Judaism; Washington Teachers Union; WID—World Institute on Disability; Women Employed; Women of Reform Judaism; Women's Alliance for Theology, Ethics and Ritual; Women's Law Center of Maryland, Inc.; WREI—Women's Research & Education Institute; YWCA USA.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to speak in favor of S. 1390. But before I do, let me thank Senator LEAHY for his leadership in introducing this anti-hate crime amendment. I am honored to be one of its cosponsors. I hope the Senate works its will and, in the interests of justice, adopts the amendment in due course.

As I said, I rise to support S. 1390, the National Defense Authorization Act for fiscal year 2010, the matter before the

Senate today and this week. I wish to begin by commending Chairman LEVIN, the chairman of our Senate Armed Services Committee, and Senator MCCAIN, the ranking Republican member, for their leadership and for the bipartisan example they have set in drafting and reporting out this bill.

This bill will keep our Nation safe and provide our troops with the support they deserve, and that is exactly what it ought to do. The bill will establish new programs to support the fiscal and mental well-being of our troops and their families. It will provide our fighting men and women a 3.4-percent increase in compensation. The fact is, nothing is more important than taking care of this extraordinary, gifted, brave generation of men and women who have volunteered to defend our country at a time of war.

I am also very pleased this bill will authorize the Secretary of Defense to grow the size of the Army in 2011 and 2012, a period when our soldiers will still be under stress, real stress, as the Army shifts its focus from operations in Iraq and Afghanistan but the overall level of deployment will probably rise. There is so much we can do to reduce the stress on those who serve us in the military and on their families. One critical thing we can do is to simply increase the number of men and women in uniform, particularly in the Army, because the more supply there is of troops, no matter what the demand, the amount of time every soldier can look forward to being back at base, back with families, not deployed in a battle zone, will decrease the stress they are under.

The additional troops—"end strength," as it is called in the vocabulary of this legislation—that are provided for in 2011 and 2012 will ease the strain on our soldiers who have already been asked to do so much on our behalf. I intend to work with my colleagues in the Senate this week to amend this bill to extend the application of the method to increase end strength from 547,000 to 577,000 so it can begin in the next fiscal year, the year 2010, because that is probably when it will be most needed, as we are reducing our presence in Iraq but in a slightly more accelerated way increasing our presence in Afghanistan.

Let me focus, if I may, on the parts of this legislation that have come out of our Airland Subcommittee of the Senate Armed Services Committee, a subcommittee which I have the honor of chairing.

I wish to start by thanking Senator JOHN THUNE for his service as ranking member of the subcommittee. It is a pleasure to work with Senator THUNE on behalf of our Army and Air Force and all involved in air and land programs. We work closely together in a completely bipartisan manner to carry out our responsibilities concerning the matters in the jurisdiction of our subcommittee.

The Airland Subcommittee has broad responsibility for policy oversight over

substantial parts of the Army and Air Force budgets but also, to a lesser extent, to a real extent, the Navy and the Marine Corps. So the subcommittee's portion of this year's National Defense Authorization Act is a large one. Our goal was direct: to promote and improve the current and, as best we can, the future readiness of our ground and air forces, while at the same time ensuring the most efficient and effective use of taxpayer dollars.

This year, the portion of the budget request falling under the Airland Subcommittee's jurisdiction included a total of \$71.1 billion. That is made up of \$55.4 billion in procurement and \$15.7 billion in all-important research and development. As it stands right now, the full committee's recommendation is a net addition to the President's budget request of \$2.9 billion to support activities under the Airland Subcommittee's jurisdiction.

In the past, the Armed Services Committee and the Senate have supported stability and funding levels as requested for Army readiness and modernization programs. This has been particularly true for the Army's Future Combat Systems, which has been the major modernization program of the Army.

However, the Army was forced to make some tough decisions in these tough budget times and decided in April to restructure the Future Combat Systems Program, including termination of that program. The Department has reoriented the Army modernization plans that have been in place for the last 6 years. That is the necessity the Army felt both for budgetary reasons and I believe for reasons of effectiveness. So the bill before us today supports the Department's decision, the Army's decision, with respect to the restructuring of the Future Combat Systems Program and recommends full funding for the "spin out" portions, the network portions of that program that will be carried forward.

This is a remarkable application of modern technology to the battlefield. The history of warfare shows, generally speaking, that any developments, any technological advances that have occurred over history, from the first fires that were made, to the wheel, and on to the railroad, et cetera, have found their way—obviously the ability to fly—into military use. And so it is with the remarkable capability to communicate with one another, to use telecommunications, and the computer particularly, that has found its way into applications in combat which greatly expand the capabilities of our soldiers, each and every one of them, to see the battlefield beyond what they can see with their eyes and to conduct the most effective warfare on our behalf.

The bill also requires and recommends full funding for a new ground

combat vehicle research and development program, as the Secretary of Defense agreed the Army needs.

In addition, this bill will direct the Department to establish a development program for a next-generation, self-propelled howitzer to take advantage of technologies already matured as part of the Future Combat System non-line of sight cannon program.

In other words, what we are trying to do, in the aftermath of Secretary Gates' decision to terminate the series of programs under the Future Combat Systems Program, is to harvest technological advances that were made as part of those now terminated programs.

To support our forces in Afghanistan, this bill also recommends a large sum for an important purpose, \$6.7 billion for the Mine Resistant Ambush Protected vehicle fund, which is an increase of \$1.2 billion above the President's budget request for what is normally known as the MRAP—in this case, the MRAP all-terrain vehicles, a later version of the MRAPs, a more agile version of the MRAPs that have done so much to protect the lives and well-being of our soldiers in Iraq from the impact of IEDs and of bombs our enemies have set off. These MRAP ATVs will now be of tremendous assistance to the growing number of troops we are sending to Afghanistan. This is a version of the MRAP made particularly for our troops now fighting for us in Afghanistan.

In addition, in response to the Army Chief of Staff's unfunded priorities list, the bill also recommends adding \$179 million to procure additional Force XXI Battlefield Command Brigade and Below systems to enhance the operational effectiveness of small units fighting on our behalf in Afghanistan and Iraq.

When it comes to air power, the bill also recommends an additional \$560 million to buy FA-18E/F aircraft in fiscal year 2010 as originally planned in the program of record, rather than the nine aircraft requested by the President's budget. Our subcommittee believes these added aircraft are a sensible investment to make against a looming dangerous shortfall in our Nation's tactical aviation aircraft inventory. In other words, the new generation of tactical airfighters coming on will not be there early enough to help the Navy overcome the running out of the lifespan of the series of tactical aircraft they have now. That will put them way below what the Navy believes it needs in the years ahead.

The subcommittee has also recommended an additional \$1.75 billion to buy seven F-22A Raptor aircraft rather than terminating the production program as requested by the Department. This was a judgment made by the full committee when it received our subcommittee report. Although this was a hard decision, the continued production of the Raptor will guarantee that we have balanced combat air forces in

the future and support the transition between F-22A and the F-35 Joint Strike Fighter programs.

The bill also includes an additional \$20.4 million to support 12 additional Blackhawk A-to-L model conversions to accelerate modernization of the Army's Active and Reserve component fleets.

In the area of efficiencies, the bill recommends making adjustments or reductions as follows: a decrease of \$209.5 million for the C-130 Avionics Modernization Program because of the delays in beginning the production program and a decrease of \$90 million for the CSAR-X, the search and rescue helicopter program, because of the availability of prior year funds to cover fiscal year 2010 requirements.

There is one provision of this bill about which I myself have grave reservations. The full committee overturned the recommendation of our subcommittee that concerns the development of the alternate engine for the Joint Strike Fighter, a second engine for the Joint Strike Fighter. President Obama, as President Bush before him, concluded, after the competition was held, the one engine met the needs of our military for the Joint Strike Fighter Program without the additional cost required for a second engine development program.

The full committee overturned the judgment of the subcommittee and provided \$439 million in the coming fiscal year for the second engine. The President, incidentally, has singled out that engine as an example of one that he says "do[es] nothing to keep us safe" and has said if the second engine is included in the bill, he will consider vetoing the bill. I intend to work with my colleagues this week to hopefully remove the funding for the alternative engine and restore it to where it was intended, which was to fund the development of the Joint Strike Fighter and to pay for 10 UH-1Y helicopters, familiarly known as Hueys, that were cut to pay for this program that otherwise would go to the Marines. Both the Commandant of the Marine Corps and the Vice Chairman of Joint Chiefs of Staff have described this as critical for our Marines fighting in Afghanistan. They need those 10 Hueys.

Despite that one reservation, the legislation and funding in the bill would end the Airland Subcommittee's jurisdiction. Indeed, the bill in general strongly supports our Armed Forces in a time of war and supports the flexibility the Department, under Secretary Gates, has requested as it charts a path to military modernization. I praised Chairman LEVIN in his absence. I don't want to miss the opportunity to praise him in his presence, along with Senator MCCAIN, for the leadership both have brought to this committee and the extraordinary example of bipartisanship in the interest of national security that they together have demonstrated through their work on the committee.

There will be a lot of amendments and some will be controversial. But when it is all over and we come to adoption of the legislation, I hope, with confidence, that my colleagues on both sides of the aisle will give the National Defense Authorization Act for fiscal year 2010 the resounding bipartisan support it and our military deserve.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Michigan.

Mr. LEVIN. Madam President, let me thank Senator LIEBERMAN for all the work he has done on our committee, for coming to the Chamber and setting out the parts of the bill he not only strongly supports but had a great deal of effort he put forth, with colleagues on the committee, to make happen. We are grateful for that. He also indicated where the differences are so we can begin to focus on some of the amendments we will need to consider this week. I hope other colleagues will follow his lead and come to the floor to indicate where they may be wanting to offer amendments so we can make progress. We are waiting for those notifications, and we very much appreciate it.

I thank him.

I see Senator NELSON on the Senate floor. I know he will be recognized next. Senator NELSON has a very important subcommittee into which he has put a huge amount of time. He is an invaluable member of our committee.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I am happy to be here to support our committee work product. We had a full complement of hearings and briefings for the Members in a very complicated area: the strategic defense systems of our national defense policy. I have the privilege of chairing the Strategic Forces Subcommittee. I wish to give a few examples.

On the whole question of missile defense, which has been so controversial over the course of the last two and half decades, we had a good bit of consensus when we got down to the end. It is funded at the amount of the budget request by the President. We did a little bit of rearranging from what the President had recommended but stuck basically with the theory that we will have 44 ground-based interceptors, and 30 of them will be in the actual silos so that they will be reliable, available, and effective.

This has been a system where we are absolutely insisting that there is robust testing, testing not only of a missile that would be fired at an incoming threat but that there would be a volley of them, that there would be a missile that would shoot at a target. It would assess that target, and it would shoot a second missile at that target to make sure, if that were an inbound ICBM coming into the United States, that we would be sure we could hit it before it ever reached its target in the United States.

Part of this was, we adopted an amendment that would be part of the Quadrennial Defense Review and the Ballistic Missile Defense Review which are now both underway. It would give a detailed assessment of the ground-based midcourse defense system. That report would also require a detailed plan for how the Department of Defense is going to sustain the planned ground-based missile deployment capability. The Department would provide that assessment and the plan to Congress with the submission of next year's budget.

At the end of the day, what we are looking for is that we have a missile defense system that works and that we know it works in case some rogue state, such as North Korea or Iran, were to try to pull off an attack on the United States so we could knock that attack down.

We have a lot of other systems in place besides the ground-based interceptors. For example, we have our Aegis system of ships. We have the standard missile 3 that is land based that, on a lot of these threats coming, as I suggested, if it were from Iran or North Korea, we could get them in the boost phase of their threatening missile. But this missile defense system we are talking about, the ground-based interceptors in the silos in Alaska and California right now, this would get them in midcourse so that when an ICBM would be launched against us, if we did not get it in its initial phase, the boost phase, we would get it in its midcourse phase before it comes in to its terminal phase. The terminal phase would be the last part coming into the target.

We are going to have a layered system that is going to give us a lot of capability to protect ourselves in the future from anybody who wants to try to threaten us with an ICBM. That is a part of what we have done.

The Secretary of Defense has said he wants 44 of these missiles. We are planning for that. But at any one time, 30 of them would be in the silos in the ground, ready to go, knowing that if the balloon went up and that we had to strike, we would strike with accuracy and with redundancy in order to knock those threats out of the sky before they ever got to us.

In other strategic systems, we want to look at the bombers. We want to make sure we have the future technologies that, if it is the decision of the United States Government to develop a future bomber, in addition to what we have now, which is the B-52s, the B-1s, and the B-2s, we would have that capability by developing the technologies.

Part of our strategic systems are also our space systems; that is, the satellites in orbit that watch and listen in order to protect our national security. We have funded something called operationally responsive space. It includes funds for a new satellite which was not in the Air Force budget. It was on what they called their unfunded priority list.

Our recommendation is to develop that satellite, an ORS-1 satellite.

Then we are looking to the future to go out for competition on developing a next generation kind of satellite that would be a very small satellite that would be to observe but would be a lot more economical and quicker to launch. We want the Air Force to have space situational awareness information at all times, including from our commercial operators. We have a lot of commercial satellites up there. They take a lot of pictures. That is of a value to us in the government, to utilize those pictures in addition to the others we receive.

We also have added funding to look at a new low cost imaging satellite for future application. In our Strategic Forces Subcommittee we also deal in intelligence. We have asked the Department of Defense to look at some of these commercial imaging satellites to utilize that information, maybe even a new kind of commercial imaging satellite that would be capable and would give us information on how to disseminate that information.

We also, being concerned about the spread of nuclear weapons, have requested a report on the proliferation of nuclear weapons and materials. The Department of Energy is a part of our Strategic Forces Subcommittee. That is the part that is involved in weapons activity. We decided to increase their budget by \$106 million to a total of \$6.4 billion. It is focused on making sure that the stockpile we have is effective and that it is safe and that we continue the process, under the treaties, of dismantling.

There is a provision that directs the Department of Energy to carry out a stockpile life extension program, to do what I had said, which is to modernize and maintain the stockpile and to make it even safer, and to do all of that without testing. We have added additional funds for nuclear weapons laboratories to provide technical support and analysis to the intelligence community.

So there is another issue; that is, what we are going to do with some of the pensions at the Department of Energy contractor-operated sites. There is another real issue which we have addressed, which is what are we going to do with some of this nuclear waste—the waste from the weapons processing plants? And how do you go about making sure that waste is safe? And, ultimately, how is it disposed of?

So the Strategic Forces Subcommittee was quite active. It has been my privilege to work with the chairman of the committee, Senator LEVIN. What could have been a very contentious part of the Defense authorization bill ended up being where we got very wide and very considerable bipartisan support. It is my privilege to have been a part of that process.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, when the Senator from Florida says the subcommittee has been active, it is a true understatement. It has been extremely active. It has been very creative. It has operated on a bipartisan basis under Senator NELSON's leadership. It is a very challenging position he holds as that subcommittee chair because of the subject matter, and I wish to thank him and commend him for all the great work he does.

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

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

EXECUTIVE SESSION

NOMINATION OF ROBERT M. GROVES TO BE DIRECTOR OF THE CENSUS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Robert M. Groves, of Michigan, to be Director of the Census.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate prior to a vote on the motion to invoke cloture.

Who yields time?

The Senator from Louisiana is recognized.

Mr. VITTER. Madam President, I rise to oppose cloture on the nomination of Robert Groves to be Census Director.

As we all know, the 2010 Census is right around the corner. This is a very important process that should not be taken lightly. The census, of course, is an official count of the country's population mandated by the U.S. Constitution, and it is used to determine distribution of taxpayer money through grants and appropriations and the apportionment of the 435 seats in the House of Representatives.

Every U.S. household unit, including those occupied by noncitizens and illegal immigrants, must be counted. We must take every effort to make this a fair and accurate census that is not skewed in any way by political influence or using poor statistical material. With that in mind, I have very serious concerns about some of the administration's plans for the census, particularly with regard to ACORN, the Association of Community Organizations for Reform Now.

ACORN signed up in February 2009 to assist the U.S. Census Bureau as a national partner, and they signed up specifically to help recruit 1.4 million temporary workers needed to go door-to-door to count every person in the