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Senate

The Senate met at 11 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Almighty God, infinite sovereign Lord, our lawmakers face complex issues that challenge the best of human thoughts and actions. As You gave insight to King Solomon, impart wisdom to Your servants in the Senate. Help them to believe that You are real and relevant and a ready helper for all their challenges. May they recognize their need for divine intervention and develop the necessary humility to seek it. Lord, shower them with wisdom and strength far beyond their own to face these critical days. In their worries and cares, give them the joy of knowing You are with them. We pray in the Name of Him who is all wise, all powerful, and all loving. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK UDALL, led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 13, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, we will begin consideration of S. 1390, the Department of Defense authorization bill. At 4:30 today, the Senate will turn to executive session to consider the nomination of Robert Groves to be the Director of the Census and debate the nomination for 1 hour.

At 5:30 p.m., the Senate will proceed to a cloture vote on the nomination. Under an agreement reached last week, if cloture is invoked, all postcloture debate time will be yielded back and the Senate will immediately proceed to a vote on confirmation of the nomination. I expect that if cloture is invoked, the vote on confirmation would be a voice vote.

Upon disposition of the nomination, the Senate will resume consideration of the Department of Defense authorization bill. As previously announced, there will be no rollcall votes after 2:00 or so tomorrow afternoon.

HEALTH CARE AND THE SOTOMAYOR NOMINATION

Mr. REID. Mr. President, the coming weeks are a critical time, not just here in the Congress but in our country. This month we will work to stabilize our broken health care system and lower costs for the middle class. This

month we will also discuss, debate and, I am confident, ultimately confirm President Obama's outstanding nominee, Judge Sonia Sotomayor.

These goals require both sides to work together. I repeat. These goals require both sides to work together. Each will require all of us to work in good faith. If we are to do what our country needs us to do, we must work as partners, not partisans.

We have said all along we strongly prefer to fix health care as one collaborative body, not as two competing parties. I had a positive meeting with four senior Republican Senators about the road ahead for health care, and it is health care reform we talked about. We finished the meeting and there was a general agreement we needed health care reform, and it should be done on a bipartisan basis, not resort to what we call reconciliation, which requires only a simple majority.

I appreciate very much the commitment of those four Republicans to getting this done. I look forward to more Republicans showing the same commitment.

The Finance and HELP Committee chairmen are working tirelessly to mark up the health care bills. Our goal remains the same. We would like to see those bills on the floor in July. I hope our Republican colleagues will work with us to achieve that goal.

Just as our commitment to a bipartisan plan has not changed, neither have our principles about that plan: lowering skyrocketing costs, and bringing stability and security back to health care. We are committed to passing a plan that protects what works and fixes what is broken. A plan that ensures that if you like the coverage you have, you can keep it.

We will make sure people can still choose their own doctors, hospitals, and health plans. Americans need affordable health care they can count on. Too many families live just one illness or one accident or one pink slip away

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



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from financial ruin. The cost of inaction is too great and the status quo is no longer an option. The status quo simply is not something we need to look to.

On another subject, today is a historic day in America. Right now, they are having opening statements in the Senate Judiciary Committee, Democrats and Republicans, regarding Sonia Sotomayor. She will, later today, testify before that committee as President Obama's nominee for the highest Court in our country. As we all know, she is the first Hispanic American to do so.

Judge Sotomayor has a wide range of experience, not just in the legal world but in the real world. Her understanding of the law is grounded not only in theory but also in practice. Her record and qualifications are tremendous. She has worked at almost every level of our judicial system—as a prosecutor, as a litigator, a trial court judge, and appellate judge.

That is the exact type of experience we need on the Supreme Court. When she is confirmed, she will bring to the bench more judicial experience than any sitting Justice had when they joined the Court.

Judge Sotomayor has been nominated by both Democratic and Republican Presidents. She has been confirmed twice by the Senate with strong bipartisan support. Her record is well known and well respected. We are committed to ensuring that she has a rigorous and reasonable confirmation hearing. We expect both sides to ask tough questions and we expect both the questions and their answers to be fair and honest before she is confirmed.

RECOGNITION OF THE MINORITY LEADER

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

SOTOMAYOR CONFIRMATION HEARINGS

Mr. McCONNELL. Mr. President, today the Senate Judiciary Committee will begin its hearings on the nomination of Judge Sonia Sotomayor to be an Associate Justice on the U.S. Supreme Court. The consideration of a Supreme Court nominee is always a historic event. Since our Nation's founding, only 110 people have served on the High Court, and 10 of those were nominated by George Washington. There are few duties more consequential for a Member of the U.S. Senate than to vote on a Supreme Court nominee.

This particular nominee comes before the Judiciary Committee with a compelling life story. Like so many other Americans before her, Judge Sotomayor has overcome great adversity. In this, she has reaffirmed once again that ours is a nation in which one's willingness to work hard and

apply one's talents are the principal requirements for success. And yet, as we begin these hearings, it is important to remind ourselves that our obligation as Senators under the Constitution's advice and consent clause requires us to do more than confirm someone to a lifetime position on our Nation's highest court based on their life story. Rather, it requires us to determine whether he or she will be able to fulfill the requirements of the oath taken by all Federal judges, that they will, "administer justice without respect to persons, and do equal right to the poor and to the rich, and that [they] will faithfully and impartially discharge and perform all the duties incumbent upon [them] under the Constitution and laws of the United States."

The emphasis here is on the equal treatment of everyone, without respect to person, status, or belief, that everyone in America can expect that when they enter a courtroom, they will not be treated any differently than anyone else. That is what justice is, after all. And that is what Americans expect of our judicial system, equality under the law.

Now, President Obama has made it abundantly clear, as a Senator, as a candidate for President, and now as President, that he has a somewhat different requirement for his appointees to the Federal bench. He has repeatedly emphasized that his "criterion" for a federal judge is their ability to "empathize" with certain groups. That is a great standard, if you are a member of one of those specific groups. It is not so great, though, if you are not. So it might be useful to consider some of the groups who have found themselves on the short end of the "empathy" standard.

First, there are those who rely on the first amendment's right to engage in political speech. Then there are those Americans who want to lawfully exercise their right to bear arms under the second amendment. Next, those who want protection under the fifth amendment's requirement that private property cannot be taken for a public purpose without just compensation, and that it should not be taken for another person's preferred private use at all. Also, there are those who want protection from unfair employment practices under the 14th amendment's guarantee of the equal protection of the law.

I mention these specific groups because Judge Sotomayor has had to handle cases in each of these areas. And looking at her record, it appears the President has nominated just the kind of judge he said he would, someone who appears to have "empathy" for certain groups who appear before her, but not for others.

As I discussed last week, Judge Sotomayor kicked out of court the claims of New Haven, CT, firefighters who had been denied promotions because some minority firefighters had not performed as well as a group of mostly White firefighters on a race-

neutral exam. The Supreme Court reversed her decision in this matter, her third reversal just this term, with all nine justices finding that she misapplied the law. Her treatment of this case, the Ricci case, has been criticized across the political spectrum as "perfunctory" and "peculiar," and it called into question whether her dismissive handling of the firefighters' important claims was unduly influenced by her past advocacy in the area of employment preferences and quotas.

I also spoke last week about provocative comments Judge Sotomayor had made about campaign speech, including her claim that merely donating money to a candidate is akin to bribery. It is her prerogative to make such statements, as provocative as they may be. But it is not her prerogative as a judge to fail to follow clear Supreme Court precedent in favor of her political beliefs. Yet when she had the chance to vote on whether to correct a clear failure to follow Supreme Court precedent by her circuit in this very area of the law, she voted against doing so. Ultimately, the Supreme Court, in an opinion authored by Justice Breyer, corrected this error by her circuit on the grounds that it had failed to follow precedent.

There are other areas of concern.

Judge Sotomayor also brushed aside a person's claim that their private property had been taken in violation of the fifth amendment's "takings clause." As in the Ricci case, her panel kicked the plaintiffs' claims out of court in an unsigned, unpublished, summary order, giving them only a brief, one paragraph explanation as to why. Moreover, in the course of doing so, she dramatically expanded the Supreme Court's controversial 2005 decision in *Kelo v. New London*. In *Kelo*, the Supreme Court broadened the meaning of "public purpose" that allows the government to take someone's private property. Judge Sotomayor, in the case of *Didden v. Village of Port Chester*, broadened the government's power even further.

Her panel's ruling in *Didden* now makes it easier for a person's private property to be taken for the purpose of conferring a private benefit on another private party. This result is at odds with both the plain language of the fifth amendment's takings clause, and with the Supreme Court's statements in *Kelo*. And, as in Ricci, she did it without providing a thorough analysis of the law. Her panel devoted just one paragraph to analyzing the plaintiffs' important Fifth Amendment claims. It is no wonder then that property law expert Professor Ilya Somin at George Mason University Law School called it "one of the worst property rights decisions in recent years." Professor Richard Epstein at the University of Chicago College of Law called it not only "wrong" and "ill thought out," but "about as naked an abuse of government power as could be imagined."

There is more. Judge Sotomayor has twice ruled that the second amendment

is not a fundamental right and thus does not protect Americans from actions by states and localities that prevent them from lawfully exercising their ability to bear arms. As with the Ricci and Didden cases, Judge Sotomayor gave the losing party's claims in these cases short shrift and did not thoroughly explain her analysis. In one case, she disposed of the party's second amendment claim in a mere one-sentence footnote. In the other case, which was argued after the Supreme Court's seminal second amendment decision in *District of Columbia v. Heller*, she gave this important precedent cursory treatment, devoting only one paragraph in an unsigned opinion to this important issue, which is unusual for a case of this significance.

The losing parties in these cases might not have belonged to the groups that the President had in mind when he was articulating his "empathy" standard. But they certainly underscore the hazards of such a standard. They had important constitutional claims, and they deserved to have their claims treated seriously and adjudicated fairly under the law, regardless of what Judge Sotomayor's personal and political agendas might be. Yet it strikes me that the losing parties in these cases did not in fact get the fair treatment they deserved.

Indeed, taken together, these cases strongly suggest a pattern of unequal treatment in Judge Sotomayor's judicial record, particularly in high-profile cases. This pattern is particularly disturbing in light of Judge Sotomayor's numerous comments about her view of the role of a judge, such as questioning a judge's ability to be impartial "even in most cases," asserting that appellate courts "are where policy is made," and concluding that her experiences and views affect the facts that she "chooses to see" in deciding cases.

Republicans take very seriously our obligation to review anyone who is nominated to a lifetime position on our Nation's highest court. That is why Senators have taken time to review Judge Sotomayor's record to make sure she has the same basic qualities we look for in any Federal judge: superb legal ability, personal integrity, sound temperament, and, most importantly, a commitment to read the law evenhandedly. At the beginning of this process, I noted that some of Judge Sotomayor's past statements and decisions raised concerns. As we begin the confirmation hearings, those concerns have only multiplied.

Boiled down, my concern is this: that Judge Sotomayor's record suggests a history of allowing her personal and political beliefs to seep into her judgments on the bench, which has repeatedly resulted in unequal treatment for those who stand before her.

But that is what these hearings are all about: giving nominees an opportunity to address the concerns that Senators might have about a nominee's record. In this case, the list is long.

So we welcome Judge Sotomayor as she comes before the Judiciary Committee today. And we look forward to a full and thorough hearing on her record and her views.

I yield the floor.

RESERVATION OF LEADER TIME

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, on behalf of the Armed Services Committee, I am pleased to bring S. 1390, the National Defense Authorization Act for Fiscal Year 2010, to the Senate floor. This bill will fully fund the year 2010 budget request of \$680 billion for national security activities in the Department of Defense and the Department of Energy.

The Senate Armed Services Committee has a long tradition of setting aside partisanship and working together in the interest of the national defense. This year follows that tradition. I am pleased that S. 1390 was reported to the Senate on a unanimous 26-to-nothing vote of the committee. This vote stands as a testament of the common commitment of all of our Members to supporting our men and women in uniform. I particularly thank Senator MCCAIN, our ranking minority member, for his strong support throughout the committee process and, of course, for the dedication he has shown to national defense throughout his Senate career.

Earlier this year, the Armed Services Committee reported out the Weapons Systems Acquisition Reform Act of 2009 with similar bipartisan support. In less than 2 months, we were able to get the bill passed by the Senate, complete conference with the House, and have the President sign it into law. It is my hope that we will be able to move with similar dispatch on the bill now before us.

This bill contains many important provisions that will improve the quality of life of our men and women in uniform, provide needed support and assistance to our troops on the battlefields in Iraq and Afghanistan, make the investments we need to meet the challenges of the 21st century, and re-

quire needed reforms in the management of the Department of Defense.

First and foremost, the bill before us continues the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world. For example, the bill contains provisions that would, first, authorize a 3.4-percent across-the-board pay raise for all uniformed military personnel, and that represents half a percent more than the budget request and the annual rate of inflation. The bill authorizes a 30,000 increase in the Army's Active-Duty end strength during fiscal years 2011 and 2012 in order to increase dwell time and reduce the stress created by repeated deployments. The bill authorizes payment of over 25 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by Active-Duty and Reserve military personnel. We increase the authorization for the Homeowners' Assistance Program by \$350 million in order to provide relief to homeowners in the Armed Forces who are required to relocate because of base closures or change of station orders. And we increase the maximum amount of supplemental subsistence allowance from \$500 to \$1,100 per month to ensure that servicemembers and their families do not have to be dependent on food stamps.

The bill also includes important funding and authorities needed to provide our troops the equipment and support they will continue to need as long as they remain on the battlefields in Iraq and Afghanistan. For example, the bill contains provisions that would provide \$6.7 billion for the Mine Resistant Ambush Protected, MRAP, vehicle fund, including an increase of \$1.2 billion above the President's budget request for MRAP all-terrain vehicles which will be deployed in Afghanistan. The bill fully funds the President's budget request for U.S. Special Operations Command and adds \$131 million for unfunded requirements identified by the commander of Special Operations Command. The bill provides full funding for the Joint Improvised Explosive Device Defeat Organization to continue the development and deployment of technologies to defeat these attacks. And we provide nearly \$7.5 billion to train and equip the Afghan National Army and the Afghan National Police so they can carry more of the burden of defending their own country against the Taliban.

The bill would also implement most of the budget recommendations made by the Secretary of Defense to terminate troubled programs and apply the savings to higher priority activities of the Department. For example, the bill will terminate the Air Force Combat Search and Rescue-X helicopter program, CSAR-X. It will terminate the VH-71 Presidential helicopter. It would cancel and restructure the manned ground vehicle portion of the Army's

Future Combat System Program. It would stop the growth of the Army brigade combat teams, the BCTs, at 45 instead of 48, while maintaining the planned increase in end strength. It would end production of the C-17 Program. It would terminate the Multiple Kill Vehicle Program, cancel the kinetic energy interceptor, cancel the second airborne laser prototype aircraft, and it would authorize \$900 million of additional funding in the budget request to field more theater missile defense systems, the Terminal High Altitude Area Defense, the THAAD, and the standard missile-3 interceptors, and converting additional AEGIS ships for missile defense to defend our forward-deployed forces and allies against the many short- and medium-range missiles held by countries such as North Korea and Iran.

The bill supports the decision of Secretary Gates to stop deployment of the ground-based interceptors at 30 missiles and to focus on improving the capability of this system to be more reliable and effective than the current system against the limited threat of long-range missiles.

The bill also supports the decision to continue production of those ground-based interceptors that are on contract and to use them as test missiles and as spares. By fielding the most modern version of the interceptor, using modern silos and conducting operationally realistic testing with the additional missiles instead of putting them in silos, the system will provide, in Secretary Gates' words, a "robust capability" that is "fully adequate to protect us against a North Korean threat for a number of years." According to testimony to the committee, the Joint Chiefs of Staff and the combatant commanders agreed that their highest priority for the GMD—ground missile defense—system was to have 30 interceptors with improved reliability, availability, and effectiveness. The bill before us again supports Secretary Gates' decision to field that improved capability.

I am disappointed that the committee voted on a very close vote not to terminate the F-22 aircraft production program, as requested by the Secretary of Defense and as supported by the Joint Chiefs of Staff. I plan to join with Senator MCCAIN in seeking to overturn that decision during floor consideration of this bill.

Finally, the bill contains a number of provisions that will help improve the management of the Department of Defense and other Federal agencies. For example, the bill contains provisions that would, first, improve Department of Defense financial management by requiring the Department to engage in business process reengineering before acquiring new information technology systems and to submit regular reports on its progress toward auditable financial statements.

Second, it requires the Department of Defense to develop a comprehensive

plan to address longstanding problems in its inventory management systems which lead it to acquire and store hundreds of millions of dollars worth of unneeded items.

Third, it places a moratorium on public-private competitions under OMB circular A-76 until the Department complies with an existing statutory requirement to develop information needed to manage its service contractors, plan for its civilian employee workforce, and identify functions that would be subject to public-private competition.

Fourth, we would authorize the Secretary to establish a new defense civilian leadership program to help recruit, train, and retain highly qualified civilian employees to help lead the Department of Defense over the next 20 years.

A very important provision in this bill is section 1031, which would address the problems that exist with military commissions. The military commissions provisions we have in law today do not provide basic guarantees of fairness identified by our Supreme Court. The existing provisions place a cloud, therefore, over military commissions and have led some to conclude that the use of military commissions can never be fair, credible, or consistent with our basic principles of justice.

Earlier this year, the President stated that military commissions can be reformed to meet basic standards of fairness needed for them to play a legitimate role in prosecuting violations of the law of war. In his May 21, 2009, speech at the National Archives, President Obama stated that:

Military commissions have a history in the United States dating back to George Washington and the Revolutionary War. They are an appropriate venue for trying detainees for violations of the laws of war. They allow for the protection of sensitive sources and methods of intelligence-gathering; they allow for the safety and security of participants; and for the presentation of evidence gathered from the battlefield that cannot always be effectively presented in federal courts.

The President continued:

... Instead of using the flawed commissions of the last seven years, my administration is bringing our commissions in line with the rule of law. ... [W]e will make our military commissions a more credible and effective means of administering justice, and I will work with Congress and members of both parties, as well as legal authorities across the political spectrum, on legislation to ensure that these commissions are fair, legitimate, and effective.

We agree with the President, and section 1031 reflects our determination to reform the commissions. In its 2006 decision in the Hamdan case, the Supreme Court held that Common Article 3 of the Geneva Conventions requires that the trial of detainees for violations of the law of war be conducted in a manner consistent with the procedures applicable in trials by courts-martial and that any deviation from those procedures be justified by "evident practical need." The Supreme Court said that the "uniformity principle is not an inflexible one; it does

not preclude all departures from the procedures dictated for use by courts martial. But any departure must be tailored to the exigency that necessitates it." That is the standard the Armed Services Committee has tried to apply in adopting the procedures for military commissions that we have included in our bill.

This new language addresses a long series of problems with the procedures currently in law. For example, relative to the admissibility of coerced testimony, the provision in our bill would eliminate the double standard in existing law under which coerced statements are admissible if they were obtained prior to December 30, 2005. They would be inadmissible regardless of when the coercion occurred. Relative to the use of hearsay evidence, the provision in our bill would eliminate the extraordinary language in the existing law which places the burden on detainees to prove that hearsay evidence introduced against them is not reliable and probative. Relative to the issue of access to classified evidence and exculpatory evidence, the provision in our bill would eliminate the unique procedures and requirements which have hampered the ability of defense teams to obtain information and which have led to so much litigation. We would substitute more established procedures based on the Uniform Code of Military Justice, the UCMJ, with modest changes to ensure that the government cannot be required to disclose classified information to unauthorized persons.

Even if we are able to enact new legislation that successfully addresses the problems in existing law, we will have a ways to go to restore public confidence in military commissions and the justice they produce. However, we will not be able to restore confidence in military commissions at all unless we first substitute new procedures and language to address the problems with the existing statute.

As of today, we have almost 130,000 U.S. soldiers, sailors, airmen, and marines on the ground in Iraq. Over the course of the next fiscal year, we will undertake the difficult task of drawing down these Iraqi numbers while maintaining security and stability on the ground. At the same time, we have increased our forces in Afghanistan, with close to 60,000 troops engaged in increasingly active combat and combat support operations, and more are on the way.

While there are many issues where there may not be a consensus, we all know—and there is a consensus on this—that we must provide our troops the support they need as long as they remain in harm's way. Senate action on the National Defense Authorization Act for fiscal year 2010 will improve the quality of life for our men and women in uniform. It will give them the tools they need to remain the most effective fighting force in the world. And very importantly, it will send an important

message that we, as a nation, stand behind them and are deeply grateful for their service.

So we look forward to working with colleagues to pass this important legislation. Again, I thank Senator MCCAIN for all he and his staff have done to bring this bill to the floor.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Chairman LEVIN, and I share his gratitude in thanking our subcommittee chairmen and ranking members who contributed so much to writing this bill. They held numerous hearings on many important issues, and I thank them all for their hard work. And they were ably assisted by our extremely competent committee staff. Bringing this bill to the floor each year is a tremendous undertaking, and it would not be possible without the hard work of our outstanding professional staff who ensure that the process goes smoothly.

I also extend my special thanks to Chairman LEVIN, with whom I have worked for many years now. I commend him on his leadership, grace, and integrity in shepherding this bill. It is not easy managing the competing interests, views, and opinions of 26 Senators, but Chairman LEVIN does an outstanding job at ensuring we all feel heard and understood, even if we do not always agree. I continue to admire his steadfast dedication to the committee's long tradition of bipartisan cooperation.

Chairman LEVIN, you are a friend and great colleague, and I appreciate your support in both regards.

Consistent with the longstanding, bipartisan practice of the Armed Services Committee, this bill reflects our committee's continued strong support for the brave men and women of the U.S. Armed Forces. It is, for the most part, an excellent bill, and I believe the committee has made informed decisions regarding the authorization of over \$680 billion in base and overseas contingency operations funding for fiscal year 2010. To a great extent, it reflects the priorities laid out by the Secretary of Defense and the administration. It also reflects his decision to end troubled programs and focus our limited resources on today's threats and the lessons we have learned after more than 8 years of war.

While the provisions in the bill demonstrate our commitment to provide our soldiers, sailors, airmen, and marines the very best available equipment, training, and support in order to provide them with the best possible tools to undertake their missions, I believe we can and should improve the bill in certain respects, and I will offer amendments during our floor debate to do so.

The bill takes care of our men and women in uniform and their families by providing military members with a 3.4-percent pay raise. It expands care for wounded warriors, supports fami-

lies, and improves military health care. It fully funds the growth of the Army and Marine Corps. Indeed, it authorizes further growth of the Army should that be necessary to sustain our combat operations and further reduce the strain on our forces.

The bill retains a balanced capability to deter aggression by increasing intelligence, surveillance, and reconnaissance capabilities, investing in tactical aircraft and ships, and accelerating the purchase of mine-resistant all-terrain vehicles for our troops in Afghanistan.

This bill acknowledges that the United States has a vital national security interest in ensuring that Afghanistan does not once again become a safe haven for terrorists. It supports a comprehensive counterinsurgency strategy that is adequately resourced and funded by Congress based on identified needs to date and calls on the President to provide our U.S. military commanders with the military forces they require in order to succeed.

In Iraq, the committee ensures that the Congress will support the President's plan to redeploy combat forces while providing our commanders the flexibility to hold hard-fought security gains and ensure the safety of our forces.

One of the toughest issues this committee has taken a leading role in—both in past years and in this bill—is detainee policy. Since 2005, this committee has developed legislation on detainee matters—sometimes in cooperation with the White House and sometimes over its strong objections—because it is critical to our national security and the preservation of our democratic principles.

This bill makes changes to the Military Commissions Act of 2006. We have all—Senator LEVIN, Senator GRAHAM, and others—worked closely together to address some of these difficult issues.

We have not resolved all of the challenges military commissions and other aspects of detainee policy present, but I believe we have made substantial progress that will strengthen the military commissions system during appellate review, provide a careful balance between protection of national security and American values, and allow the trials to move forward with greater efficiency toward a just and fair result.

The committee also had a healthy debate on the future of missile defense and our strategic deterrence capabilities. I welcome and share President Obama's aspirations, hope for a nuclear-free world. However, I believe we must also be prudent and practical in our reductions and remain vigilant about the global proliferation of advanced missile and nuclear technology. While recently much of our national defense posture supports combating terrorists, we cannot grow complacent to the danger that rogue nations such as North Korea and Iran pose to us—whether it is missile launches within range of Hawaii or transferring weapons to Hezbollah or Hamas.

We must strengthen our commitment to enforcing the Non-Proliferation Treaty and the existing inspections regime. We must lead an international effort to interdict and prevent the world's most dangerous weapons from getting into the hands of the world's worst actors. I know there are varying views on the future of missile defense and our long-term strategic force posture, and I look forward to those debates.

The bipartisan nature of our committee allows for candid discussion, lively debate, and, at times, disagreement. In that spirit, there are some items in the bill I do not support and were not in the President's budget request, such as continuation of the F-22 aircraft production line, funding for the Joint Strike Fighter alternate engine, and earmarks totaling approximately \$6.4 billion. I was disappointed that, in spite of a veto threat from the White House, our committee chose to add \$1.75 billion for seven F-22 aircraft and at least \$439 million for an alternate engine for the Joint Strike Fighter. Neither the President nor the Pentagon asked for F-22s or the alternate engine in the budget request, nor were they part of the Service's Unfunded Priority List. Secretary Gates has consistently opposed the need for additional F-22 aircraft and has indicated on a number of occasions that additional F-22 aircraft are not required to meet potential threats posed by near-term adversaries. I strongly support Secretary Gates' decision to end the F-22 production line at 187 aircraft and his commitment—and the President's commitment—to building a fifth-generation tactical fighter capability by focusing on the timely delivery of the F-35 Joint Strike Fighter to the Air Force, Navy, and Marines.

I look forward to lively debates on these and other important issues over the next few days.

I want to make very clear to my colleagues, the reason Senator LEVIN and I support the administration's and Secretary Gates' proposal to terminate at 187 the F-22 fighter aircraft is not because we believe we are going to leave the Nation undefended. We need the next-generation F-35 Joint Strike Fighter. Our armed services are counting on them. We want to increase funding for the F-35 Joint Strike Fighter, an aircraft and weapon system that in the view of many experts—including my view—would be far more capable of meeting the emerging threats of the future. So I want my colleagues to understand this debate is not just about cutting a weapon system or bringing to an end, frankly, the line of a fighter aircraft; it is bringing to the end the line of one fighter aircraft and moving forward with another generation—for all three services, a very capable weapons system, one that meets the threats of the 21st century.

So I think it is important that we look at the argument that will come forward about jobs created or jobs lost.

There will be jobs created, but the rationale for defense weapons systems should never be the creation of jobs. It should only be about the best way to defend this Nation in a very dangerous world.

So it is my understanding it is the wish of the chairman—and I join him—that the first amendment for debate will be the administration proposal to finish the F-22 aircraft production line, saving some \$1.75 billion. So I look forward to that debate. I look forward to my colleagues coming to the floor who would oppose that amendment. I hope my colleagues understand we would like to get this done this week, if possible.

One more comment about the F-22 and the alternate engine for the Joint Strike Fighter: The President of the United States, I am told, and the Secretary of Defense have made it very clear a veto is very likely if the Congress does not act to end production of the F-22 line. I would strongly recommend the President of the United States go ahead and veto this bill if the F-22 is included. At some point, with unemployment at 9.5 percent, with people not being able to stay in their jobs, with health care being less available and less affordable in America, we cannot afford to spend \$1.7 billion additional taxpayer dollars for a system that can be replaced by a more capable weapons system and one that can defend our Nation with greater efficiency and less cost.

So I believe, frankly, there is more at stake than just whether we adopt the Levin-McCain amendment to terminate production of the F-22 as originally scheduled. I think this is a much larger issue, and I hope my colleagues understand the importance of it. I hope, if the Levin-McCain amendment is defeated—I hope it is not because I believe Senator LEVIN and I can make a convincing argument on behalf of the administration and the Secretary of Defense—but if it is, that there be no doubt that the President of the United States would veto this bill.

I say that with great reluctance. I say it with almost a sense of deep regret because there are so many things in this bill that are important to the defense of our Nation, whether it be the care and pay raises and hospitalization and care of our wounded warriors, along with many other issues. But at some point this Congress and this Nation have to exercise the fiscal discipline the economic crisis we are in today demands.

I again wish to thank Senator LEVIN for the long and close relationship and work we have done together. Sometimes we have had very spirited but very informative discussions, and I know those will continue as we address this very important legislation before the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD material in support of my remarks.

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

JULY 8, 2009.

DEAR SENATOR, The undersigned groups urge you to eliminate funding for seven unneeded F-22 Raptor fighter jets from the National Defense Authorization Act of 2010.

The addition of these F-22s demonstrates not only wasteful spending that serves parochial interests but irresponsible, smoke and mirrors budgeting. Just as our national security strategy is based upon anticipating probable threats, our defense budget must also rely upon realistic sources of future income.

We are particularly concerned by recent media reports indicating that funding for the F-22 will rely on anticipated savings from defense procurement reform, even though the Congressional Budget Office has said there is no basis for determining these savings. Other sources report that the money will also take hundreds of millions from operations and maintenance accounts, a common budgeting gimmick that directly impacts our soldiers in the field.

Additionally, we are dismayed by proposals to pay for F-22s by taking \$146 million from the Joint Strike Fighter's management reserve fund. This fund, which has historically experienced shortfalls, is needed to address any unexpected issues in the program, and removing money may disrupt the Joint Strike Fighter's development. Both the Secretary of Defense and the Secretary of the Air Force have stressed that the Joint Strike Fighter program is critical to our national security, and both support ending F-22 procurement at 187 planes.

In a June 24 Statement of Administration Policy, the President's advisers said they would be forced to recommend a veto if the National Defense Authorization Act includes advance procurement of the F-22 or spending that would seriously disrupt the Joint Strike Fighter program. Procurement of additional F-22s does not serve our national security needs and jeopardizes the Department of Defense's higher priorities. We ask you to take a stand against wasteful and irresponsible spending and support amendments that will delete this funding from the 2010 defense authorization bill.

DANIELLE BRIAN,
Project On Government Oversight.

RYAN ALEXANDER,
Taxpayers for Common Sense.

PROJECT ON GOVERNMENT OVERSIGHT,
Washington, DC, July 9, 2009.

HARRY REID,
Majority Leader, U.S. Senate, Hart Senate Office Bldg, Washington, DC.

MITCH MCCONNELL,
Minority Leader, U.S. Senate, Russell Senate Office Building, Washington, DC.

CARL LEVIN,
Chairman, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

JOHN MCCAIN,
Ranking Member, Senate Armed Services Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATORS, The Project On Government Oversight (POGO) is writing to express our serious concerns about the integrity of the process to add seven unneeded F-22s to the Senate's version of the National Defense Authorization Act of 2010.

Numerous congressional hearings and press reports have demonstrated that Air Force leadership supports Defense Secretary Robert Gates' decision to end production of the

F-22 at 187 aircraft. But it appears that even after Air Force leadership informed Senator SAXBY CHAMBLISS (R-GA) of their support of the Secretary's decision to end production of the F-22, the Senator continued to pursue funding for the program—made in Marietta, Georgia—by soliciting a request from Air National Guard Director Lieutenant General Harry M. Wyatt III, which the Director not surprisingly provided.

The Director's request flies directly in the face of the overarching strategic needs expressed by the Secretary of Defense and repeated by the Vice Chairman of the Joint Chiefs of Staff as recently as this morning.

Beyond the appalling nature of this solicitation, POGO is concerned by the "Additional Views of Senator Chambliss" section of the National Defense Authorization Act for Fiscal Year 2010 that encourages the Air Force to position F-22s in Massachusetts, California, Oregon, Louisiana, Florida, Alaska, and Hawaii. It appears that the specificity of this request may have been a politically motivated decision to garner support from the Senators and Governors of these states.

National security spending should be based solely upon strategic needs. Parochial interests have no place in our national defense. Both the Secretary of Defense and Air Force leadership have made it clear that continued procurement of the F-22 does not support our national security. To sell our national security as part of a horse-trade calls the integrity of Congress's procurement process into question.

We would welcome an opportunity to share our concerns. Sincerely,

DANIELLE BRIAN.

[From the Philadelphia Inquirer, July 9, 2009]

A JET EVEN THE MILITARY DOESN'T WANT
(By Lawrence Korb and Krisila Benson)

Congress decided to end production of the costly F-22 Raptor fighter jet at 187 planes after a debate on the 2009 supplemental war budget last month. But the very next day, the House Armed Services Committee stripped \$369 million for environmental cleanup from the fiscal 2010 budget to fund an additional 12 F-22s. The Senate Armed Services Committee went a step further, providing \$1.75 billion for seven more F-22s without clearly identifying the source of funds.

The F-22 costs nearly \$150 million per plane—twice what was projected at the outset of the program. Factoring in development costs, the price tag increases to about \$350 million per plane for the current fleet of 187.

It may look as if the House Armed Services Committee has added "only" \$369 million. But given that it would provide funds for 12 additional F-22s, each with a price tag of \$150 million (excluding development costs), the real cost to American taxpayers would be about \$2 billion.

The F-22 is the most capable air-to-air fighter in the Air Force inventory. Yet it has only limited air-to-ground attack capabilities, which makes it unsuitable for today's counter-insurgency operations. In fact, the F-22 has never been used in either Iraq or Afghanistan. It was designed to fight next-generation Soviet fighters that never materialized, and, as Defense Secretary Robert Gates has noted, it is nearly useless for irregular warfare.

The F-22 has no known enemy. It is the most advanced fighter plane in the world, and there are no other planes that could threaten its supremacy in air-to-air combat. The United States already has 187 F-22s on hand or on order—a silver-bullet force that is more than adequate to deal with any likely

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

United States. So they are a “2010 census partner”—an official census partner given this delineation by the U.S. Census Bureau. There was a very full report on this by the Wall Street Journal just last month, in June of this year. I have very serious concerns about this.

As did Senator SHELBY, I wrote the administration asking for assurances that ACORN would have no role whatsoever in the Census. I believe Senator SHELBY originally wrote his letter in March. I sent my letter in early June. Today we have gotten absolutely no response.

Let me remind my colleagues why this should be a very serious concern for all of us. And we don't have to look far in terms of history to understand these concerns; the last election cycle will do. In May 2009, Nevada filed charges against ACORN. The complaint includes 26 counts of voter fraud and 13 counts for compensating those registering voters, both felonies. From July 27 through October 2 of 2008, ACORN in Nevada also provided additional compensation under a bonus program called Blackjack or 21-Plus that was based on the total number of voters a person registered. A canvasser who brought in 21 or more completed voter registration forms per shift would be paid a bonus of \$5.

There are other serious complaints that have been made against ACORN. In March 2008, an ACORN worker in Pennsylvania was sentenced for making 29 phony voter registration forms. In 2007, Washington State filed felony charges against several paid ACORN employees and supervisors for more than 1,700 fraudulent voter registrations.

I think it is fair to say the American public does have strong concerns about ACORN because of this long history of voter registration and voter fraud. So why should this organization be signed up as an official 2010 census partner to do exactly the sort of activity of listing people, signing up people as they did fraudulently with regard to voter registration?

Again, this is very worrisome. What is even more worrisome is that for months, these clear concerns have been brought before the Obama administration, and the administration has done absolutely nothing to dispel these very deep and very legitimate concerns. Again, my colleague, Senator SHELBY, who will be speaking in a moment, sent his letter in March of this year outlining these strong concerns, asking the administration to state categorically that ACORN would have nothing to do with the census. I sent a similar followup letter in June of this year. To date, we have gotten no response.

As it stands now, we are going to sign up ACORN to do exactly the sort of activity they have done over and over and over again fraudulently, illegally, with regard to voter registration. It is outrageous when so much is on the line with this next very important census.

For these reasons, I will strongly oppose this cloture vote for the census nominee. I continue to urge the administration to assure us that ACORN will have nothing to do with the process, after they have built up a long and storied record, unfortunately, of fraud with regard to similar activity in terms of voter registration.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I rise with concern regarding the nomination of Mr. Robert Groves to serve as Director of the Census. I have some of the same concerns my colleague from Louisiana has.

Conducting the census is a vital constitutional obligation. Under the U.S. Constitution, the country conducts a census every 10 years to determine apportionment to Congress. Article I, section 2 of the Constitution mandates “enumeration” to determine the allocation of seats for each State in the U.S. House of Representatives, as the Chair well knows. By extension, the census also determines the composition of the electoral college which chooses the President of the United States. The information collected from the census has a significant impact on the distribution of political power in this country.

The results of this process are a major factor in deciding where congressional district lines are drawn within each State. Through redistricting, political parties can maximize their own party's clout, while minimizing the opposition. If the census were politicized, the party in control could arguably perpetuate its hold on political power.

The results of the census are also enormously important in another way—the allocation of Federal funds. Theoretically, if the census were to become politicized, the political party controlling the census process could disproportionately steer Federal funding to areas dominated by its own Members through a skewing of census numbers. This could shift billions of Federal dollars for roads, schools, and hospitals over the next 10 years from some parts of the country to others because of the population-driven financing formula.

The census is vastly important and must proceed in as reliable and accurate a manner as possible.

On March 20 of this year, I wrote to President Obama regarding reports that the Association of Community Organizations for Reform Now known as ACORN—that is what they go by—has signed as a national partner with the U.S. Census Bureau to assist with recruiting temporary census workers. I wish to say this again because it was disturbing to me: On March 20, I wrote to President Obama regarding reports that the Association of Community Organizations for Reform Now—ACORN—had signed as a national partner with the U.S. Census Bureau to assist the

census with recruiting temporary Census workers. That letter remains unanswered.

I cannot support the nomination of Mr. Groves when the administration he works for would partner with such a questionable organization as ACORN.

Further, I am dismayed that Mr. Groves, the nominee to head the U.S. Census Bureau, would not denounce ACORN's role in the census. Let me tell my colleagues a little about ACORN, as I understand it.

ACORN has had numerous allegations of fraud which should raise great concern about the accuracy of the data it would provide to the census. For example, Washington State filed felony charges in 2007 against several paid ACORN employees and supervisors for falsifying 1,700 fraudulent voter registration cards. An ACORN worker in the State of Pennsylvania was sentenced in 2008 for fabricating 29 falsified voter registration forms. In Ohio, in 2004, a worker for one affiliate of ACORN was given crack cocaine in exchange for fraudulent registrations that included underaged as well as dead voters. ACORN has been implicated in similar voter registration schemes around the country, and its activities were frequently questioned throughout the 2008 Presidential election.

I believe the census must be non-partisan. It must be totally above reproach. It must be honest. We cannot allow a biased, politically active organization to take any type of official role in the process, let alone recruit workers for the census. While overcounting here and undercounting there, manipulation could take place solely for political gain. Using ACORN to mobilize hundreds of thousands of temporary workers can surely lead to abuses for those who want to gain political advantage, as we saw with the voter registration issues in past elections.

The laws that govern voter fraud were not enough to dissuade those with the intent to throw an election. It is doubtful the laws governing fraud in the census will be any more effective against such deceitful intents.

The people of this Nation deserve a census that is conducted in a fair and accurate manner, using the best methods to determine the outcome, and that is free from political tampering. Given ACORN's history and political connections, the U.S. Census Bureau should not partner with an organization that has systemic problems with both accuracy and legitimacy.

While I cannot support Mr. Groves' nomination, I hope he will carefully review this issue and terminate ACORN's role in the 2010 census. It would be a big first step for him. We must not let the census become a blatant political tool in this country.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, this is not about ACORN. ACORN is not going to be hired or out there recruiting folks to go door-to-door to do the

enumeration for the census. ACORN isn't going to be out there getting any money or grants. In fact, no Census Bureau partners are receiving money or grants, and ACORN is no exception. As the Census Bureau has reiterated, ACORN is actually one of thousands of organizations whose purpose in this whole matter is to try to encourage people to respond to the census. That is what they are about, trying to make sure people respond to the census.

Right here is a copy of the Constitution that lays out one of the few responsibilities we have as a Federal Government. It is actually spelled out in the Constitution and says we are expected to do this. Every 10 years, we are supposed to conduct the census. It says we are supposed to count everybody. We are supposed to count everybody. Just as a ship needs a good captain, a school needs a good principal, the country needs a good President, the Census Bureau needs a good Director.

We have been 7 months without a Census Bureau Director. The Census Bureau is supposed to turn a light switch on next April 1 and do the census. It is a big deal. Hundreds of thousands of people are involved, years of effort, in making sure we count everybody as closely or as nearly as we can and in a cost-effective way. It is a constitutional requirement.

Gary Locke, Governor of Washington, was nominated to be Secretary of Commerce, and the census falls within the Commerce Department. I ran into him the day after, I think, his name was put out for nominee from Commerce, and I said: I have three things I want you to think about: (1) the Census Bureau Director; (2) the Census Bureau Director; and (3) the Census Bureau Director. I told him: We don't have anybody, and if you have any names of folks you think would be good, let us have them.

Ironically, a week or so later, I held a subcommittee hearing focused on the census, getting ready for April of 2010—without a Bureau Director. We had before us that day folks who were involved in the census in 1970, 1980, 1990, and 2000. At the end of the hearing, I said we need somebody really good to run this operation. Dr. Murdock had been the Census Bureau Director the previous year. He was only with us for a year, but I said we need somebody that good or even better. I said: By the close of this week, I want each of you to give me one or two names of who you think would be a terrific Director for the Census Bureau. Guess whose name I got back from almost every one of the witnesses. Robert Groves.

Dr. Groves, in my view, is an inspired choice for this position. His extensive expertise in statistics, social research and survey methodology, and the administration of large-scale surveys makes him ideally suited for this position. He served once as the Associate Director for the Census Bureau, I think about 10 years ago. Dr. Groves knows

how it operates. He has been involved in the census. He knows what the employees need, and he will be able to successfully implement the census and other programs. Those experiences have prepared him extraordinarily well to lead the census at a time when rapid changes are occurring.

He elevated the University of Michigan's survey research organization. I am an Ohio State undergraduate, and I am raising the flag and promoting a fellow from Michigan, so you know he has to be good for me to do that. I said to my colleagues on this floor that we are lucky to have somebody this good and willing at this late stage to lead us into doing a great job on the census. Numerous Federal and State agencies and policymakers have sought his expertise on survey design and response.

Dr. Groves has been accessible to Senators and our staffs throughout this process. Requests to meet with Dr. Groves were extended to every member of the Homeland Security and Governmental Affairs Committee in the Senate. He also met with every Senator, as far as I know, who requested a meeting, regardless of committee assignment. Dr. Groves received two questions for the record after his hearing. They were answered within hours—not days or weeks—of the hearing's end. Every Senator who agreed to meet with Dr. Groves, Republican and Democrat alike, decided to support him.

Dr. Groves—or whoever will be our next Census Bureau Director, and I hope it will be he—will undoubtedly face a host of operational and management challenges as we move closer to the 2010 census. I am confident he is extraordinarily well equipped to understand the agency's inner workings, to lead his staff, and to be a national spokesman for the 2010 census and the agency's other equally ongoing survey programs.

Somewhere here, I have some questions that were asked of him at our hearing. Let's see if I can find one of them. I know this has been mentioned on the floor.

I see Senator COLLINS, who is the ranking Republican on the committee. I think it might have been Senator COLLINS who actually questioned Dr. Groves about sampling and whether we are going to just sample as opposed to actually counting people and making sure things are right. The Census Bureau has been very clear that it will not adjust the 2010 census counts. The plans and designs for the 2010 census have been in place for nearly a decade. The operations are already underway. The Bureau began to address canvassing this spring, which is finding out all of the addresses—not necessarily who lives there but the addresses—and try to automate that. The Secretary of Commerce reiterated that sampling is not included in the design for the 2010 census. It couldn't be even if we wanted it to be. At this late stage of the game, not only do we not want it to be, but it couldn't be.

As to what 2020 will bring or need, it is too early to tell. First, until we know how we are going to perform in 2010, what works best, and where we can improve, we cannot begin to dictate the design of the 2020 census; neither should we attempt to prescribe for the future in the Congress and in the scientific community that which we cannot, frankly, foresee.

How much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 7 minutes.

Mr. CARPER. I will reserve the remainder of my time. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Madam President, I rise in support of the nomination of Dr. Robert Groves to be the next Director of the Census Bureau. Our committee, the Homeland Security and Governmental Affairs Committee, scrutinized this nominee very carefully. First, I wish to give some background on why it is so critical that we have a well-qualified individual heading the Census Bureau as quickly as possible and then talk to my colleagues about why I believe Dr. Groves is, indeed, the right person for that critical position.

With the 2010 census fast approaching, the Director of the Census Bureau will need to quickly take action to ensure an accurate, actual enumeration of all those residing in the United States, as set forth and required by our Constitution.

The decennial census is a complex and extensive operation. The information collected has significant impact on the distribution of political power because, after all, it governs the allocation of seats in the House of Representatives and it also affects the allocation of more than \$300 billion in Federal resources. With so much at stake, it is essential that the results of the census be accurate, objective, credible, and free from even the appearance of political influence.

The Census Bureau, unfortunately, faces significant operational and organizational challenges. Bureau officials acknowledged in 2008 that they were experiencing critical problems in the management and testing of key information technology systems.

Due to the leadership and investigative work of Senator CARPER and Senator COBURN, our committee held numerous hearings looking at the failed procurements of the Census Bureau. Believe me, it has not been a pretty picture. These problems have resulted in a dramatic increase in the cost of the 2010 census, and it is particularly alarming in this day and age of technology that millions of dollars invested by the Census Bureau in handheld computers have gone to waste. The Bureau,

in fact, has once again returned to the use of paper and pencil to gather important data. Isn't that extraordinary in this day and age? It is clear there are woefully inadequate and wasteful procurement practices and even gross mismanagement at the Bureau. We simply cannot afford to waste time and money on critical programs that do not produce results, particularly when it comes to a constitutionally mandated task such as the census.

The next Director of the Census Bureau must take steps right now to address the current shortcomings and to prepare for the current and future census challenges. He will be responsible for ensuring that the Bureau fulfills its mission in accordance with the U.S. Constitution, without undue political influence and with careful management of taxpayer dollars.

I have concluded that Dr. Groves is superbly well qualified for this important position. That is why our committee unanimously voted, by a voice vote, to confirm him. Our committee spans the political spectrum, and all of us felt Dr. Groves was well qualified for this critical position.

Madam President, personally, I have had the opportunity to meet with Dr. Groves, to scrutinize his qualifications and background, and to question him intensely about the issues that have caused a few of my colleagues concern. I say to my colleagues, look at the hearing record, look at Dr. Groves' responses. I pressed him, as Senator CARPER has pointed out, about the need to conduct the census free of any political influence, and I specifically asked him about the use of sampling for the 2010 census and the 2020 census. Dr. Groves not only committed to keeping politics out of the population count but also said he would resign and actively work to stop any action to improperly influence the census for political gain. He further stated, under oath, that he had no intention of seeking an adjustment of either the 2010 census or the 2020 census.

Let me read from the committee transcript because I, too, am very concerned about this problem. There were some initial indications that this White House might, in fact, be looking to influence the census in an improper way. That is why I wanted to get Dr. Groves on the record, under oath, on this important issue.

Here is what I asked him:

Dr. Groves, would you be prepared to resign if you were asked or pressured to do something or take some action to satisfy a political concern?

Doctor Groves responded to me:

More than that, Senator. If I resign, I promise you today that after I resign, I would be active in stopping the abuse from outside the system.

In other words, Dr. Groves told me that if political pressure were put on him, he would not only resign, he would go public and he would lead the fight to protect the census from undue political influence. He committed to a transparent census process, stating:

Sunshine, doing one's work in an open environment, having an ongoing dialog with all of the stakeholders is one way to insulate the Census Bureau from that political partisanship.

He went on to add:

Transparency is a very powerful antidote to attempts for partisan influence.

What could be clearer than that? Here we have a nominee who has pledged that he would resign if political influence were brought to bear on his office. I don't know what more you could ask, and this is the commitment given at a public hearing, under oath, as well as privately to me when we met in my office.

Let me go on to the second issue that has been raised. Again, an important issue. I agree with my colleagues on my side of the aisle who have been concerned about whether sampling would be used rather than the actual count mandated by the Constitution. On this issue of sampling, I asked Dr. Groves:

Will you advocate for the statistical adjustment or use of sampling for the 2010 census?

Dr. Groves's response:

No, Senator.

That is an unqualified response: "No, Senator."

I then asked him a further question: "Will you advocate for the statistical adjustment of the 2020 census," since, after all, maybe there is not time to adjust the 2010 census to have sampling or a statistical adjustment, given how close we are to the 2010 census. So I asked him about the 2020 census.

Dr. Groves's response:

I have no plans to do that for 2020.

Dr. Groves's record of service and leadership and scientific research spans the academic, government, and private sectors, both within the United States and internationally. As the director of the University of Michigan Survey Research Center, a very well-known prestigious research center; as the former director of the Joint Program in Service Methodology; and the former associate director of Statistical Design Standards and Methodology at the Census Bureau, he is considered to be one of a half dozen most highly regarded service research experts in the world.

He is extraordinarily well qualified. He is not a political person. He is a scientist, a researcher, a statistician. That is why it is not surprising that Dr. Groves's nomination has received strong support from a number of organizations, including the American Statistical Association. I will concede, I did not know that such an organization existed prior to this nominee. But they have endorsed him, as well as some, perhaps, groups better known to us, such as the U.S. Conference of Mayors, the National League of Cities, and the Population Reference Bureau.

But here is what is more telling. Six former Census Directors from both Democratic and Republican administrations have also endorsed Mr. Groves's nomination. Six from both

parties, from both sides of the aisle, from Democratic and Republican administrations. This is a testament to the respect that Dr. Groves's peers have for his work.

Dr. Groves has the leadership and professional experience that is needed to lead the Bureau through the 2010 census to plan for the 2020 census and to direct the Bureau's other vital programs. I would be the first to be here in opposition if I believed he was going to use sampling or if I believed he was going to be susceptible to political pressure. There is nothing in the record or in his testimony that suggests that.

I, therefore, urge my colleagues to support this nomination and to let us get on with the critical work that needs to be done at this Bureau which, regrettably, has been so poorly managed in the last few years.

I look forward to working with Dr. Groves. I urge our colleagues to support his nomination.

Mr. CARDIN. Madam President, I rise today to express my support for the nomination of Robert M. Groves to serve as the Director of the U.S. Bureau of the Census. I believe that he is extremely qualified to serve in this position. Dr. Groves is highly recognized by the academic community for his extraordinary work in survey methodology. He has previously held positions at the Census Bureau, including Associate Director and visiting researcher. His extensive academic and professional background makes him well suited for the responsibilities and challenges he will face as U.S. Census Director.

As the year 2010 draws near, the Census Bureau is preparing to conduct the 23rd census of the United States. This national decennial census, as mandated by our Constitution, will yield results that will affect each and every citizen. The census serves to determine the apportionment of legislative seats, the distribution of Federal funding, and it provides important data as to what community resources are needed and how these resources should be allocated. Additionally, census data can offer a better understanding of the changing dynamics of our country. Thus, it is imperative that the census count be accurate. The Census Bureau must be led by a Director who understands the challenges presented by this daunting task. Mr. Groves is ready to face these challenges with the help of a comprehensive technology strategy and a dedicated workforce.

I am proud to say that many members of this dedicated staff are based at the U.S. Census Bureau Headquarters in Suitland, MD. Since 1942, the U.S. Census Bureau has been headquartered in Suitland. Currently, approximately 4,300 individuals are employed there, working hard to ensure that we have the data necessary to make important decisions affecting the lives of all Americans. I commend each of them for their valuable work.

Coordinating the census is a herculean task. To compile socio-economic

data on each and every individual in this country is a daunting, mind-boggling task. The timeliness, relevancy, and quality of the data collected and services provided by the men and women at the Census Bureau Headquarters with Dr. Groves at the helm will ensure the successful completion of the upcoming decennial census and the future of the Census Bureau.

I am pleased to support the nomination of Robert M. Groves as Director of the U.S. Census Bureau and encourage my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Ms. COLLINS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 3 minutes.

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

Mr. LEVIN. Madam President, I am very pleased to support the nomination of Bob Groves to be Director of the U.S. Census Bureau. Dr. Groves is not just a well-qualified candidate; he may be the best qualified candidate ever nominated for this position.

Dr. Groves has been endorsed by many scientific and professional associations, including the American Statistical Association, the American Sociological Association, and the Council of American Survey Research Organizations. He has also been endorsed by six former Directors of the U.S. Census Bureau who were appointed by both Republican and Democratic Presidents.

I ask unanimous consent to have printed in the RECORD a letter of endorsement.

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

THE CENSUS PROJECT,
Washington, DC, April 14, 2009.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: We, the undersigned former Directors of the U.S. Census Bureau who are familiar with the career of Robert M. Groves, want to endorse his nomination as the next Director and urge his speedy confirmation.

It is a plus that Dr. Groves has had experience at the Census Bureau, where he was brought in to reinvigorate the Statistical Methods Division. He built a strong research team who did much of the early research for improving the 2000 census. He came to the Census Bureau under the condition that the Bureau would provide positions in his division for him to recruit a small number of research specialists from academic institutions, other federal statistical agencies, and from within the Census Bureau for his team. Everyone he asked to join that team considered it a career plus to join him.

Dr. Groves is a nonpartisan, academic researcher who has focused much of his re-

search on non-response to household surveys and survey error, has published three of the most-cited textbooks and numerous journal articles on survey research, and has mentored many graduate students who now staff most of the major academic and private sector survey organizations in the field. As Director of the University of Michigan's prestigious Survey Research Center/Institute of Social Research, he is one of the half dozen most highly regarded survey research methodologists not only in the United States but in the world.

As you know, time is short, and his speedy confirmation can help achieve a 2010 census that is as accurate as possible.

Sincerely,

CHARLES LOUIS KINCANNON
(2002–2008);

KENNETH PREWITT
(1998–2001);

MARTHA FARNSWORTH
RICHE
(1994–1998);

BARBARA EVERITT BRYANT
(1989–1993);

JOHN G. KEANE
(1984–1989);

VINCENT BARABBA
(1973–1976; 1979–1981).

Mr. LEVIN. In 2001, Dr. Groves was elected by his peers to lead the Institute for Social Research and the Survey Research Center at the University of Michigan. This is the largest academic-based research institute of its kind in the world. It has educated many of our Nation's scientific leaders in the field of survey statistics. We sometimes talk about peer review. Well, he has been peer reviewed, and he was selected by his peers to lead that prestigious institution.

Dr. Groves is a longtime Michigan resident. He has been part of the University of Michigan community since he began his master's studies in Ann Arbor in 1970. He graduated summa cum laude from Dartmouth College with a degree in sociology and earned master's degrees in statistics and sociology and a doctorate in sociology from the University of Michigan.

He is truly a highly respected expert in survey methodology and statistics, and he will bring greatly needed leadership to the Census Bureau as it continues to prepare for and execute the 2010 census. Dr. Groves deserves the overwhelming support of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CARPER. Madam President, I think we are going to vote in about 12 minutes or so, but I just wanted to reiterate a couple of things that have been said.

First of all, our Constitution doesn't talk about a lot of the things we do to run our government in this country, but one of the things it talks about at some length is the census. It says to do

it every 10 years. We have tried to do that and do it well. It has gotten more difficult. We have a lot more people, and far flung. We have a lot more people to count next year than we did 10 years ago. People have concerns about privacy, and folks in this country speak a lot of different languages, just like they did when the first census was done.

We are going to use technology. We are not going to use the technology we ought to. We need a Director who understands that and is in a position to make sure the technology we do plan to use in 2010 we use well, and when 2020 rolls around, we will use it a whole lot more effectively.

It would be great to have a Census Director who was well schooled, well educated in doing the kind of work that is called on in conducting a census—counting large numbers of people. This fellow's credentials are superb. It would be great if we had someone who had actually worked at a high level in the census and demonstrated by his work his ability to run a large organization. He has done that, and at the University of Michigan he has headed up a very large organization of some of the smartest people in this country who work on these sorts of issues and has done so, from everyone we have heard, with great aplomb and great ability.

As I said earlier, at the hearing I conducted several months ago with some of our colleagues on the Homeland Security and Governmental Affairs Committee, we reached out to people who have run the census in the last 30 or 40 years. We asked some of these folks to tell us who they thought would be good, and virtually everyone who has been involved in the census in a high leadership position has said not only would we be lucky to get a fellow with Dr. Groves's reputation, his leadership and ability, but we would be lucky to have somebody with this kind of experience.

For me, and I know for my colleagues, an important issue is what is the character and the integrity of the person taking this position. I think it was Senator COLLINS who asked the question: If you believe political influence is being used in the conduct of the 2010 census, would you be willing to look into resigning as a form of protest against any kind of political involvement?

And he said: Not only would I be willing to resign, I will resign. I would use whatever ability I could to bring to light the kind of behavior that led to my resignation, to discredit that behavior, and make it clear that is what I think we should not do, and that, literally, that behavior caused me to resign as the Census Director.

I think it would be great if we had somebody who is interested in this job, willing to do the job, is well qualified, and who was willing to meet with anybody who wanted to meet with him whether they were on the committee of

jurisdiction—Homeland Security and Governmental Affairs—or not; whether they were a Democrat or not. To my knowledge, he has met with all of us who wanted to spend time with him.

The last thing I would say—and one of the things I found so refreshing—is that he is not a political guy. This is someone who is a scientist. He is a statistician. He is good at leading a large organization. He gets this stuff. He enjoys this stuff. How lucky we are to get someone who wants to take on this challenge for us in our Nation's history.

For these reasons and others that Senator COLLINS and I have mentioned, he deserves our support. I hope in 10 minutes or so, when we have the opportunity to vote, we will vote for him in very large, overwhelming numbers.

Madam President, how much time remains on our side?

The PRESIDING OFFICER. Twenty seconds remain.

Mr. CARPER. Madam President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Robert M. Groves, of Michigan, to be Director of the Census.

Harry Reid, John D. Rockefeller, IV, Christopher J. Dodd, Arlen Specter, Richard J. Durbin, Mark Begich, Mark Udall, Michael F. Bennet, Jeff Bingaman, Robert P. Casey, Jr., Frank R. Lautenberg, Blanche L. Lincoln, Tom Udall, Bill Nelson, Byron L. Dorgan, Claire McCaskill, Kirsten E. Gillibrand.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Robert M. Groves, of Michigan, to be Director of the Census, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the

Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from South Carolina (Mr. DEMINT), the Senator from Texas (Mrs. HUTCHISON), the Senator from Indiana (Mr. LUGAR), and the Senator from Ohio (Mr. VOINOVICH).

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

The yeas and nays resulted—yeas 76, nays 15, as follows:

[Rollcall Vote No. 230 Ex.]

YEAS—76

Akaka	Franken	McConnell
Alexander	Gillibrand	Menendez
Baucus	Graham	Merkley
Bayh	Grassley	Mikulski
Begich	Gregg	Murkowski
Bennet	Hagan	Murray
Bingaman	Harkin	Nelson (NE)
Bond	Hatch	Nelson (FL)
Boxer	Inhofe	Pryor
Brown	Inouye	Reed
Burr	Johanns	Reid
Burriss	Johnson	Sanders
Cantwell	Kaufman	Schumer
Cardin	Kerry	Shaheen
Carper	Klobuchar	Kohl
Casey	Kohl	Snowe
Coburn	Kyl	Specter
Cochran	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Udall (CO)
Corker	Levin	Udall (NM)
Dodd	Lieberman	Warner
Dorgan	Lincoln	Webb
Durbin	Martinez	Whitehouse
Feingold	McCain	Wyden
Feinstein	McCaskill	

NAYS—15

Barrasso	Crapo	Roberts
Brownback	Ensign	Sessions
Bunning	Enzi	Shelby
Chambliss	Isakson	Vitter
Cornyn	Risch	Wicker

NOT VOTING—9

Bennett	Hutchison	Rockefeller
Byrd	Kennedy	Stabenow
DeMint	Lugar	Voinovich

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 15. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, all postcloture time is yielded back. The question is on agreeing to the confirmation of the nominee.

The nomination was confirmed.

Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Ms. STABENOW. Madam President, I was necessarily absent for tonight's vote on the nomination of Robert M. Groves, of Michigan, to be Director of the Bureau of the Census at the Department of Commerce. I was in Michigan attending an event with the Secretary of Agriculture. Had I been present for the vote on this nomination, I would have voted in favor of both the motion to invoke cloture and on confirmation of the nomination.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010—Continued

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. DODD. Madam President, I rise this evening to express my opposition to the Levin-McCain amendment which would cut short the production of the F-22 fighter. I understand my position on this puts me at odds with our President, President Obama, as well as the chairman and ranking member of the Senate Armed Services Committee, both fine public servants for whom I have a tremendous amount of respect and with whom I have worked on numerous occasions, and I look forward to doing so in the future once we get beyond this.

I also think I have a duty to stand up for an airplane built by constituents of mine. I wouldn't make the case strictly on job loss in an individual State. That is not a legitimate argument to make to 99 of my colleagues from around the country. If we made the case that job losses would occur in our own respective districts or States, obviously it would lead to chaos and we wouldn't have a situation like that.

My argument in support of this F-22 goes far beyond the potential job losses in my State, although that is not insignificant. Some 2,000 jobs could be lost potentially in Connecticut. More important than the job loss, as important as that is, is the potential loss of the industrial base that is absolutely critical to maintaining the ability to produce the superior engines that we historically have been able to produce at the Pratt & Whitney Division of United Technologies, a corporation in my home State. The work being done by machinists and engineers and technicians in my State and others all across the country not only produce quality work but also make a significant difference in saving lives and in giving us the superior ability to deal with potential threats that our Nation faces. That has been a hallmark of every generation that has come before us, not to achieve parity with potential adversaries but to be in a superior position to potential adversaries.

So let me begin with my concerns over this amendment's potential impact on our national security. Since the advent of modern warfare, military strategists have sought the highest

ground on the battlefield to gain technical advantage. In the age of the fighter jet, that means commanding the skies. In a modern era, air superiority has become a cornerstone of American strategy. The F-22 is the reason we can lay claim to this superiority at this critical time. It is a fast plane, reaching speeds of mach 1.5 in 90 seconds. That is without thrusters. It is stealthy. It also has the ability to engage targets before it can be detected. It is highly equipped with advanced intelligence, surveillance, and reconnaissance tools.

As an instrument of air superiority, the F-22 Raptor is unmatched by any foreign competitor, including the much heralded MiG-29, the Russian-built MiG-29 flown by various militaries around the world.

I am going to point to this particular chart I have, which is rather difficult to read even from where the Presiding Officer is, given it is a map, obviously, of the world, and there are a series of color-coded dots on this map. Let me explain what the dots are, and then I will explain what we are looking at in existing technologies in the fourth generation of development of aircraft technology and what is being done on a fifth generation by nation states, particularly the Russians and the Chinese.

The countries in red on this chart indicate those nations that already operate or have ordered fourth generation fighters, and there are a number of countries around the world in that category. The yellow coded areas are expected to order by the year 2010, these fourth generation fighters. You get an idea in the Middle East, some of the North African States, and some out in the Far East as well. The red dots themselves operate or have ordered advanced surface-to-air missiles. Again, this is critical technology that has the capacity to take out our aircraft. Then the yellow dots, the round dots, they are ordering or are considering advanced surface-to-air missiles.

So we get some idea of what is occurring.

This over here: Air dominance is not guaranteed, is the point I wanted to make with this chart. According to the information on this map sanctioned by the Air Force, there are Russian-made aircraft known as SU-27s, which have air-to-air capability, more of the dogfight kind of capability. Those planes are operated already by Algeria, Belarus, China, Eritrea, Ethiopia, India, Indonesia, Kazakhstan, Malaysia, Mexico, Russia, the Ukraine, Uzbekistan, Venezuela, and Vietnam. And then there is the MiG-29, which is both an air-to-air and an air-to-ground fighter. It is also a Russian-built aircraft, and is capable of challenging our current fleet of F-15s and F-16s. The MiG-29 is operated by the militaries of Algeria, Armenia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Cuba, Eritrea, Hungary, India, Iran, Kazakhstan, Malaysia, Myanmar, North Korea, Peru, Poland, Russia, Serbia, Slovakia,

Sudan, Syria, Turkmenistan, Ukraine, Uzbekistan, and Yemen. Again, widespread globally, that air-to-ground capability and air-to-air capability.

Today, there is a fifth generation being developed that will be highly competitive with the F-22 and the F-35. That fifth generation fighter is currently being developed by Russia and China to challenge the F-22 and the F-35. So that gives us some sense of where we are today. These are very sophisticated aircraft operating today. The surface-to-air missiles are very sophisticated and in countries today that can take out, in fact, our existing technology in many areas.

Of course, the fifth generation is what we are talking about being ready for the midpart of this century. Our air superiority has not gone unnoticed by others in many ways, as identified by this map. All the countries in red, as I have pointed out, have an air capability comparable to the MiG. That means they are all on a par with our current aircraft technology; specifically, the F-15 and F-16 fighters known as the fourth generation of jets.

So our F-15 and F-16 are very competent, very good, and they are on parity—they are not superior but on parity—with these aircraft.

To give my colleagues some idea of what I mean by the comparison of generations, an exercise was conducted in January 2007, in which the F-22 was matched up against the F-15 and F/A-18, to demonstrate how each aircraft would fare in actual dogfights with one another. The F-22 in comparative battles beat the F-15 and F/A-18, 144 to 0—144 to 0—to give my colleagues an idea of how much more superior the F-22 can be in command of the airspace as opposed to what is comparable to the F-15 today. So the F-22 is a very important piece of technology when it comes to regaining the superior capabilities that are absolutely essential.

According to the Air Force, what is more, this map shows that 30 nations are at parity with or exceeding the capabilities of the F-15 and F-16, and that puts our missions and the lives of our pilots at risk. On top of that, Russia and China are currently both developing their own fifth generation of fighter to counter the F-22 and the F-35. There are a dozen nations around the world, marked by these red dots, that are today operating surface-to-air missile launchers capable of shooting down the F-15 Strike Eagles that the F-22 would replace.

The yellow dots indicate other countries considering the purchase of such weapons, and I pointed those out as well.

Our current fourth generation fighter jets are vulnerable to these threats because they don't have the stealth technology found in the F-22. Regrettably, we witnessed this danger during Operation Desert Storm when 37 of our non-stealthy aircraft were shot down and 40 more were damaged, and an early stealth fighter, the F-117, as well as

the F-16, were brought down during the 1999 Kosovo operations by rudimentary Serbian surface-to-air missiles. These are risks that we shouldn't have to take and don't have to take. These are risks we don't have to force upon our pilots. These are risks that are entirely preventable if we arm ourselves with the next generation, and that is why the F-22 is so critically important.

If this amendment is being offered to strike and eliminate the F-22, then we cannot guarantee America's continuing air dominance. Our allies will not always look like those we faced in Afghanistan in 2001 or Iraq in 2003, enemies whose air defenses were in tatters. We do not always choose when and where our battles are going to be fought. We must be prepared and we must retain our competitive edge for the sake of our national security and the lives, obviously, of our troops.

If the pending amendment is approved, our F-22 fleet will be limited to 187 aircraft. According to military officials, such a figure is simply not enough to address the current capabilities of our military's competitors.

I have a letter dated June 9 of this year from GEN John Corley who is currently in charge of Air Combat Command for the Air Force. In this letter he reiterated his perception. I think my colleagues will understand as well that when we have a general serving in charge of air combat and command missions for the Air Force who disagrees with the Secretary of Defense in a public way, we get some idea of the depth of feeling that occurs with a matter like this.

Let me quote:

At Air Combat Command, we have held the need for 381 F-22s. . . . In my opinion, a fleet of 187 F-22s puts execution of our current national security strategy at high risk in the near to mid term. To my knowledge, there are no studies that demonstrate 187 F-22s are adequate to support our national military strategy. Air Combat Command analysis, done in concert with Headquarters Air Force, shows a moderate risk force can be obtained with an F-22 fleet of approximately 250 aircraft.

General Corley, responsible for the aircraft readiness of the U.S. Air Force, says we will incur moderate risk with even 250 aircraft, and the command needs 381 aircraft to be fully capable. Yet we insist on giving them only 187.

That is deeply troubling. I think we owe to it our troops to give them what they need to protect our Nation as well.

Our security also depends on a robust manufacturing base, and the proposed amendment could be devastating to our critical aerospace industrial capabilities.

If this amendment we are talking about passes, the F-22 assembly will halt at 2011, and fighter jet production lines will run down until 2014, when the F-35 manufacturing begins in earnest.

What does this mean for the aerospace industry in this Nation?

In Connecticut, we are blessed to have a large contingent of skilled aerospace workers who keep our country safe and produce, of course, magnificent engines. They are highly skilled engineers, machinists, and technicians and, on average, they are in their mid to late forties. They may retire, obviously, they may pack up and relocate, they may leave the trade entirely; but they won't sit idle for 3 years. Our Nation cannot afford to lose them.

That is represented by this area here on the chart. To lay these people off and then to once again rehire them—in many cases, they will be in their midfifties—is unrealistic. That synergy that is critically important is going to be lost.

The Commission on the Future of the U.S. Aerospace Industry recently recommended “that the Nation immediately reverse the decline in and promote the growth of a scientifically and technologically trained U.S. aerospace workforce . . .” adding that “the breakdown of America’s intellectual and industrial capacity is a threat to national security and our capability to continue as a world leader.”

The Commission also stated that resolving the crisis will require government, industry, labor, and academia to work together to reverse this trend.

I am afraid this amendment does the opposite of what we are being warned to try to stop. According to the Aerospace Industry Association, the industry faces impending retirements and a shortage of trained technical graduates, a situation already expected to worsen within the decade.

Some companies address this issue by outsourcing work around the globe. In aerospace and defense, however, security requirements dictate that most design work on military systems must be done by U.S. citizens. Thus, the need for U.S.-developed technical talent is particularly acute if we want to ensure a world-class aerospace workforce ready to lead in a global economy of the 21st century.

On this chart, this is the F-22 production, which ends in 2011, marked by this point here. This is the F-35 production, which begins in 2014. This gap represents hundreds of jobs at Pratt & Whitney—as many as 2,000 in Connecticut—and it represents tens of thousands of jobs across the nation. You can take those numbers—and I cannot speak for other places around the Nation, but you end up with that kind of loss in an economy that our people are already struggling with. That is not the only argument that I make, but we ought to keep people working on a new defense system. The most important issue is our national security. You ought to understand that even if you decide to ramp up F-35 production after 2014, because F-22 production will prematurely end under this amendment, you will lose a workforce that is critical, and it gets harder and harder to reconstitute.

In fact, the Defense Department recognized this gap years ago. In the 2006

Quadrennial Defense Review, published by the military to identify the needs and strategy of our Armed Forces, they stated that F-22 production should be extended “through fiscal year 2010 with a multiyear acquisition contract, to ensure the Department does not have a gap in fifth generation stealth capabilities.”

That is a direct quote from the Quadrennial Defense review report in 2006.

The military identified in 2006, the most recent published report of this type, that our Nation would suffer a loss in aerospace manufacturing capabilities if fighter production doesn't have a seamless transition.

Yet, for some reason, we find ourselves in the very position the military had, only 3 years ago, realized we should avoid.

In addition to our national security and the readiness of our aerospace production industry, this amendment would have a negative impact on jobs. Our unemployment rate is at 9.5 percent, and we continue to face the worst economic conditions in decades.

That is why the administration and this Congress have taken unprecedented steps to put Americans back to work. It is why the government has stepped in to save critical manufacturing sectors, such as the domestic automobile industry.

This amendment suggests that the same government doesn't believe our tactical aircraft manufacturing sector warrants similar treatment.

In my State, where the impact of the Recovery Act is just beginning to be felt, the success of this amendment would be a devastating blow. I am determined to do everything I can to see that we can avoid it. I don't want to see America's aerospace workers—among the finest workers in the world—remain under assault.

Allow me to introduce two such workers, Frank Lentini and Rocco Marone. They are workers at the Pratt & Whitney plant in Middletown, CT, which manufactures the engine for the F-22. They are both engine test mechanics.

In this picture, the two of them are preparing an F-22 engine for testing by attaching instrumentation used to collect data as the engine goes through a series of computerized tests. The highly advanced nature of this engine requires countless hours of testing and retesting, inspection and reinspection, to ensure that when it is shipped to the assembly plant, it operates flawlessly.

These workers understand that a mistake on their part could cost the lives of our American forces. That is why it is so important that these gentlemen have years of experience to ensure that only the best quality engines are put on these aircraft.

These are the same workers who will build the F-35 Joint Strike Fighter's engine—but only if the F-22 production is allowed to continue for the next 4 years.

Frank, the one in the blue shirt, has worked in the Middletown plant for 31

years, starting on the assembly line, finally rising to his current job on the test line for the plant's most advanced engine, the F-22. He is married, with two sons, ages 17 and 12, whom he hopes to send off to college.

The prospect of cutting the F-22 production makes him worry every day about his sons' futures, not only about whether he will be able to send them to college but also whether there will be any jobs for the next generation of children in Connecticut's aerospace industry.

Rocco Marone—known as Rocky—has worked at the Pratt & Whitney engine facility in Middletown for 34 years. Like Frank, he is an engine test mechanic. He trains and works with the younger mechanics and imparts his experience to them, both from his time on the assembly line and working in the test cell.

It is workers such as these two men at the Middletown plant in Middletown CT—with a combined 65 years, taking that knowledge they have acquired and building the finest engines in the world for the past 80 years—the plant has. It is these seasoned workers who, by training the next generation, will ensure that the trade secrets of engine building are never lost. This amendment puts all of that at risk.

As I mentioned, if the F-22 is canceled in 2011 at 187 aircraft—the numbers we are now talking about—then these two individuals and tens of thousands of others in our country will face very difficult odds. These highly skilled, quality control experts will be left wondering what lies ahead for them and their families. Will they retain their jobs? How many of their colleagues will be signing on to the unemployment rolls? What other opportunities exist for workers with such highly refined but specialized skill sets?

If we end the F-22 before 2014, we will all be wondering something as well: When these gentlemen walk out the door, and take decades of experience and skills with them, will we ever get them back again?

I urge my colleagues to reject the amendment being offered by the chairman and ranking member of the Armed Services Committee. I have tremendous respect for both these individuals, but I think it is important not just on a parochial basis—I couldn't stand here and ask my colleagues merely to vote for this program because of jobs in my State. I also want them to understand what happens to people. This isn't just numbers we are talk about. There are lives, skill sets, and there is a valuable resource at risk when we cast our votes on whether to continue this program and allow for that seamless transition that will maintain the superiority and effectiveness necessary for our aircraft in the 21st century.

On the chart I showed you of these nations around the world—others are not sitting idly by. They are developing surface-to-air missiles and the

fifth generation of fighters to challenge us. We find ourselves in a situation where we might be taking a backseat at a time when I think we can least afford it. This is not inexpensive to do this. Senator CHAMBLISS provided an offset in committee for the cost of continuing this program until 2014. That is an important consideration.

I respect the members of the committee who wrestle with these issues. I wished to share with my colleagues this information, and particularly what it means in a State such as mine that has an 80-year history of producing these terrific engines, and workers such as the two individuals I have introduced to you this evening, whose talents and abilities we will potentially lose as a result of this decision. It is one of great importance to our country, to our national security, and to the people who provide the wonderful skill sets that give us these remarkable engines.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, I ask unanimous consent that I be recognized for up to 5 minutes and that Senator THUNE be recognized immediately thereafter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ISAKSON. Madam President, I rise to affirm everything the Senator from Connecticut said. He made an articulate, detailed case for the F-22, in opposition to the amendment. I commend him.

I wish to add three thoughts, three good reasons, for the F-22 and not to adopt the amendment: No. 1, when the U.S. Air Force wrote the RFP for the weapon system of the 21st century to replace three existing, aging aircraft, the F-22 met and exceeded every single part of the RFP. No. 2, for those who say the cost is some \$2,000 an hour more for maintenance, you have to quantify that. Look what you are buying. You are buying stealth technology that exists nowhere else in the world and the ability to deliver munitions and leave without ever having been seen. Most recently, in Alaska, the F-22, in a mock battle, destroyed 144 aircraft before it lost its first one.

Lastly, and most importantly, while it may not be the plane exactly for Afghanistan and Iraq today, what about North Korea? What about Iran? What about what happened to us in the Balkans in the late 1990s, when President Clinton deployed our air strength to put together what was a terrible situation? We must be prepared for whatever will come in the 21st century. If there is anything we have learned, you cannot underestimate what may come. I commend the Senator for his articulate statement and affirm everything he said in support of not adopting the amendment and to continue to purchase the F-22 beyond the 187 currently being capped—or asked to be capped at.

I commend the Senator for his remarks.

Mr. DODD. I thank the Senator. That number of 144, I suspect people won't believe that number, but that is a real number. Pilots don't always necessarily comment on these matters. I am told by those who have been interviewed, pilots who fly the F-22 use superlatives to describe that aircraft they have never used about any other aircraft, including the ability to reach the speed of Mach 1.5 in 90 seconds, the stealthy quality, the maneuverability, and the agility exceeds anything else that exists anywhere else in the world.

There is a generation coming along in nations with whom we have pretty good relationships, but we can never predict what is going to happen. We have seen what happened with the SU-27 and the MiG 29, where those are widely disseminated worldwide now. They pose a parity with the aircraft we have. We need to have that superior quality.

I thank my colleague.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank, first of all, my friend from South Dakota for yielding to me for just a moment. He was to be next recognized. This will take just a moment.

We have been attempting to work out a unanimous consent agreement so we could first vote tomorrow. That was not convenient for a number of Senators. We then tried to work out a unanimous consent agreement for first thing on Wednesday morning to vote on the Levin-McCain amendment. We have so far been unsuccessful in getting that agreement. We will continue to work tomorrow to see if we cannot get such an agreement. In the meantime, that is where it stands.

Again, I thank my friend from South Dakota for yielding.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for not more than 10 minutes each.

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

The Senator from Georgia.

TRIBUTE TO EMILY COX

Mr. ISAKSON. Mr. President, I wish to pause for a second and tell everybody in the Senate that on the 1st day of August of this coming month, in Waynesboro, GA, there is going to be birthday party for a 96-year-old lady, Emily Cox. She is not just another 96-year-old lady.

Emily Cox was the mother of Jackson Elliot Cox, my best friend in college. When he graduated from college, he left to join the U.S. Marine Corps, went through OCS, went to Vietnam,

and he died on behalf of his country. Miss Emily was saddened, obviously, by the tragedy, as was her husband Sidney.

When Alex Crumbley, myself, and Pierre Howard went to be at the wake and to wait for the body to return and to try to soothe Miss Emily, she soothed us for the loss of our best friend. Since that day, Miss Emily Cox has traveled our State on behalf of veterans, on behalf of the U.S. Marine Corps, and on behalf of our country. She is a living legend in Georgia for her sweetness, for her strength, for her love of country, and for her sacrifice.

While I will not be able to be in Waynesboro, GA, on August 1 to celebrate her 96th birthday, from the floor of the Senate, I send her my greetings and my thanks. She has been a rock for me, a rock for her community.

Miss Emily, we love you, and happy birthday.

The PRESIDING OFFICER. The Senator from South Dakota.

CAP-AND-TRADE LEGISLATION

Mr. THUNE. Mr. President, this week we work on the Defense authorization bill. As a member of the Armed Services Committee, that is something in which I have a keen interest. Many of the discussions you heard already and we will hear throughout the course of the week will deal fundamentally with our Nation's national security interests, making sure we continue to fund our troops at the appropriate level; making sure, in terms of pay and benefits, recruiting and retaining the finest men and women in uniform in the world, that they have the very best of technology to use when it comes to doing their jobs. You already heard a discussion about some of those various technologies, platforms—the F-22s and F-35s. I am very interested in the next generation of bombers and the importance of having long-range strike capability so we are able to continue to penetrate some of the more sophisticated air defense systems that are being developed by our adversaries and potential adversaries around the world. It is a great debate to have. It is one we have annually. I look forward to engaging in some of the discussions on these very important and critical national security issues.

I wish to speak this evening to some of the things going on on the domestic front. I always believe if we do not get national security right, the rest is conversation, which is why this Defense authorization bill is so important. But when we do get past the Defense authorization bill, I think we have a couple of big, epic battles that are going to be waged in the Senate coming up perhaps this month; if not, I suggest certainly in the fall. One deals with a bill that passed the House a little over a week ago now, the cap-and-trade legislation. The other deals with the issue of health care reform, which is one-sixth of America's economy. We are

talking about an enormous amount of money that is spent in this country every single year on health care.

There is legislation that is moving through the House, and there are discussions in the Senate. The markup has been going on several days now in the Health, Education, Labor, and Pensions Committee in the Senate to report out a health care reform bill that at some point will come to the floor of the Senate and be debated. But these are huge issues of consequence for the American people.

I think the American people need to be engaged. What struck me about the debate that was held in the House of Representatives a couple of weeks ago—which, incidentally, the cap-and-trade legislation passed in the House of Representatives by a 219-to-212 margin. It was hurried through. It was done very quickly. It was a 1,200-some page bill. There was a 309-page amendment that was offered on the floor. I submit that very few, if any, Members of the House of Representatives had an opportunity to read the entire bill, let alone the amendment that was offered to it. It moved very quickly. And this has dramatic consequences for the American economy.

When you start talking about a cap-and-trade bill that will impose essentially what is a tax on carbon that supposedly is directed at polluters but ultimately is going to be paid by consumers in this country, it is very clear that this is going to drive up the cost of energy in this country, whether that is electricity, whether that is fuels, whether that is natural gas, home heating oil. All those things the American people use every single day in their daily lives, they are going to see the costs go up. You can talk about how much, and we have lots of varying estimates about what it would cost. The CBO recently came out with an estimate—and this was highly touted by proponents of the legislation—that it was only going to cost each household \$175 a year. CBO also said that in the year 2020, the average cost on a per-household basis would be considerably higher than that; that it would be \$890 per household in 2020, with the top quintile paying an average of \$1,380.

After some generous assumptions about the enormous government-run wealth redistribution scheme that would be conducted via auction and the free allowances, the CBO came back to this number of \$175 per household on average, with the middle quintile facing the highest net cost of \$340. However, the figure is only the budgetary cost per household, not a comprehensive economic analysis, and moreover it examines only 1 year of the program, a year that CBO optimistically assumes is relatively low cost and after the expensive transition years. As a result, CBO's estimate really only captures some of the cost of cap and trade, as the report acknowledges. But even at that, the CBO average estimate gross cost by 2020 is \$890 additional per

household per year in energy costs and with the top quintile paying an average of \$1,380.

What is interesting about that is that study did not take into consideration different regions of the country or different demographic groups, different sectors of the economy, different income brackets. All of those are issues that have not been contemplated fully to date and what some of these impacts would make.

I suggest there are going to be significant regional disparities because there are going to be certain areas of the country that are going to pay much more in additional power costs than other parts of the country. I think the transition is going to be particularly difficult for those areas of the country that are employed in industry, such as coal, or living in areas that produce coal or rely heavily on coal-fired power for their electricity generation, and the costs are going to be borne much more significantly by those areas of the country. So the regional differences are going to be especially dramatic when it comes to the electricity sector of the economy. I suggest places such as my home area of South Dakota and the upper Midwest are going to disproportionately pay way more of this burden than are other parts of the country.

A lot of this data, a lot of this information has yet to make it out into the hands of the American people. When the American people find out what is actually happening here in Washington with this cap-and-trade proposal, they get very exercised about it, as I think most Members of Congress found out during the Fourth of July holidays. They went out and traveled across their respective States. They heard, I suspect, what I did—that people are very upset about the notion that we are going to see energy costs go up significantly and they are going to be paying the bill. They have not, I don't think, determined at this point that there is any benefit they are going to derive from it.

The argument is going to be made by proponents of the legislation that this is going to be a good thing because we are going to see significant reductions in CO₂ emissions and therefore that is good for the global climate. Frankly, as we heard last week at the G-8 meeting, there are other countries around the world that do not have a real concern about doing anything quickly, and they have no intention of following the lead of the United States in that regard. As a consequence, we are not going to see anywhere close to the reductions that have been promised. So we have what is pretty clearly a minimal environmental benefit as a result of a gargantuan cost increase—tax, if you will—on the American economy in the form of higher energy costs.

I submit that the cap-and-trade legislation is going to have a profound impact on the economy, and it is something that should not be hurried

through. I hope the Senate, if and when it comes to the floor—frankly, I hope it doesn't because I don't think right now this is an issue that ought to be occupying the time of the Senate when we are trying to get the economy growing again. We are talking about with this cap-and-trade legislation actually putting a new tax on the American economy at a time when we ought to be trying to get small businesses invested again, reducing the overall tax and regulatory burden they face, and trying to create jobs and expand the economy, rather than putting a new crushing mandate, top-down, heavy-handed bureaucratic mandate, cap-and-trade program on top of an economy that is already struggling and, as we saw last week, unemployment rates now topping 9.5 percent, perhaps going higher before it is all said and done.

What is interesting to me is there does not seem to be any debate that this is going to raise energy costs. When people get into this argument, it is not a question of if, it is a question of how much.

There are even some on the House side—Representative JOHN DINGELL, for many years the chairman of the Energy and Commerce Committee in the House of Representatives, said:

Cap and trade is a tax and it's a great big one.

Representative CHARLIE RANGEL said:

Whether you call it a tax, every one agrees that it is going to increase the cost to the consumer.

I could go on and on. Secretary Geithner. The President himself, when he talked about this particular idea, indicated that costs would necessarily skyrocket. So there is no question but this is going to increase costs to the American consumer. At a time when we can least afford it and at a time when we are trying to get our economy on a pathway of recovery, we ought to be lessening the burden on Americans, not increasing it.

There is a better way. If we look at some of the alternatives that are out there, to me it makes more sense if you can incentivize a certain type of investment as opposed to trying to mandate some regulatory regime. That is a much better way of doing business.

If we want to do something legislatively when it comes to lowering the cost of energy in this country, we ought to focus on reducing emissions by lowering the cost of renewables, by aggressively investing in research and supporting an increased role for types of power that have not been used in this country. We are way underutilizing nuclear power. France gets 80 percent of its electricity from nuclear power. In the United States, we are about 20 percent. We can do better than that. There is no reason the United States cannot be a leader when it comes to clean green energy. One of the things we need to do is build more nuclear plants. That is one of the items on our agenda that we would like to see as part of an energy bill.

I also think there are things we can do in investing in non-carbon-emitting types of technology. I come from a part of the country where we have vast amounts of wind. Some people argue South Dakota is the Saudi Arabia of wind. If we can figure out a way to harness that wind energy, I think we are going to see an increase in economic activity in the upper Midwest. South Dakota would be a great place for that. I hope we can see more investment in wind. We need to make sure we are providing the necessary and appropriate incentives and policy incentives for investment in wind energy.

Solar is something, obviously, where we have a lot of room to grow. Conservation, carbon storage, infusion—all kinds of technologies that are carbon-free sources of energy. But I believe the way we get more of those is to incentivize investments in those areas. It seems to me that would be a much preferable outcome and, frankly, one in which we could get our global partners a lot more interested in and participating in. In fact, it has been suggested—Bjorn Lomborg suggested countries around the world devote a portion of their GDP to these types of non-carbon-emitting energy technologies in research and investing in those so that the burdens are shared equally. I would suggest every country might do it a little differently.

If I were going to put a plan together like that for South Dakota, I would make it very wind heavy. Other parts of the country might make it nuclear heavy. There are clean green renewable sources of energy available in this country, but trying to impose a heavy tax that will be paid by the American consumer ultimately, to me, seems like a wrongheaded approach, especially at a time when the economy is struggling.

HEALTH CARE REFORM

Mr. THUNE. I think that sort of segues into the other big issue, the big epic battles we are going to face in the Congress, and that is what to do to reform our health care system so that we can make the cost more affordable for American families and consumers. I don't think anybody argues that we don't need to reform our health care system; that there aren't things we can do better, more efficiently, more cost effectively.

I certainly would not for a minute suggest—as some have suggested about Republicans—that Republicans in the Senate don't want to do anything. We all believe we need to do something. We all believe there is much that can be done that will help improve coverage and lower costs for people in this country. But it can be done in a way that doesn't turn everything over—the keys of the health care system—to the Federal Government.

Much of what we are seeing right now in terms of the plans that are moving through the Congress is that

the House of Representatives will pass a bill, perhaps first, which will come over to the Senate. What is being debated—at least at the committee level in the Senate—consists of what they call a public plan option which, in effect, is a government plan. It is a—I would characterize it—government takeover of the health care system in this country because when the government goes into competition with the private sector, I think it will be very difficult for the private sector to compete.

There are many, obviously, already competing plans out there. In fact, George Will noted there are 1,300 entities offering health care plans in this country. Another one isn't going to change that. But the larger problem we have when the Federal Government gets into competition with private business is that the Federal Government becomes not a competitor but a predator. I think the government plan is not going to compete with the private market, but rather it will destroy the private market. A lot of studies bear that out.

If you look at the independent estimates—and in fact the Lewin Group studied this very carefully—they suggest that nearly 6 out of 10 Americans with private coverage, or about 118 million Americans, would lose their current health care coverage and be forced into a government-run health care plan. In fact, John Shields of the Lewin Group said:

If we created this public plan which is priced so much lower than private insurance, that will draw a lot of people in. Then you will wake up one morning and say: Wow, there is only one payer.

Essentially, what would happen, Mr. President, in my view, is we would see the private companies that are offering insurance, or small businesses that are offering coverage to their employees who would say: I can't compete with the Federal Government. I am just going to have all my employees move over into the government-run program. So that essentially, by default, we would see this government takeover of our health care system, and the government plan would become the plan in the country. Eventually, over time, I would argue, it would evolve into a single-payer system.

We are talking about one-sixth of the American economy. Certainly there are shortcomings in our current way of doing things. When we spend 17 percent or one-sixth of our entire GDP on health care, the assumption is that we are not spending enough money on health care. It is probably that we are not spending it wisely enough or not spending it smarter. We have lots of ideas about how to spend smarter that don't involve putting another \$1 trillion or \$2 trillion in tax burden on Americans in order to pay for this new system or, perhaps even worse yet, borrowing it from future generations, which is what we have been doing routinely around here for the past several

months to fund many of these new initiatives. But those are both bad solutions.

A \$1 trillion tax or upwards of that, depending on which estimate we look at, up to \$2 trillion in additional cost for the plan that is being proposed by Democrats in the House and the Senate—we have to finance it somehow. It is going to be paid for. It is either going to be paid for in the form of higher taxes on the American economy or borrowing from future generations, neither of which, in my view, is an option we ought to pursue.

On the other hand, we ought to look at how we can make the current system—the 17 percent of our economy or the \$2.5 trillion we spend annually on health care—more efficient and more effective. How can we emphasize wellness? How can we emphasize prevention? How can we allow individuals and small businesses to join larger groups to get the benefit of group purchasing power and buying in volume? How can we create competition by allowing people to buy across State lines? How do we get the cost of defensive medicine down by reforming our medical malpractice laws so the doctors aren't in fear of being sued or in fear of liability, overutilizing and therefore practicing defensive medicine, which has been suggested by the Health and Human Services Department in a study they did in 2003.

If we put it in today's dollars, it suggests we could save about \$180 billion a year in health care costs by doing something about medical malpractice reform.

So these are all things that we are for. We have lots of ideas about how to improve health care in this country or improve at least the delivery of health care and drive down the cost of health care but do it in a way that doesn't impede upon that important relationship between a physician and a patient; in a way that prevents the government from imposing itself into that situation and the government then making a decision about which procedures are going to be covered, how much is going to be paid for each procedure, and essentially becoming the decider when it comes to health care in this country.

We think the decisions that are made with respect to people's health care ought to be made by patients, by providers, and not having the government dictating and getting in the way of that basic fundamental relationship.

The CBO has said about the Kennedy-Dodd bill, which is the only one we know of right now that is moving its way through the committee process and that is currently being marked up, the government plan was not projected to have premiums lower than those charged by private insurance plans. But how, then, is the government going to offer any benefit?

The government plan is going to be, in my view, redundant to what is already out there unless it comes in and tries to undercut private insurance,

which would put private insurance options out of business and force, as I said before, many small businesses offering coverage to push those employees into the government-run program.

So, Mr. President, these are both, just as I said before, in terms of size, scope, scale, and magnitude, enormous issues in terms of our domestic economy, and we shouldn't be hurrying these issues through. There is some suggestion that the health care bill, as it comes over from the House, might be returned to the floor of the Senate, put on the floor under rule XIV, and an attempt made to get it passed before the August recess. That is not the way to conduct the business of the Senate. That is not the way to deal with one-sixth of the American economy. It is not the way, certainly, to deal with something as complex as the American health care system.

To allow the government takeover of that system, it seems to me, is something most Americans, if they were aware was happening, would not be for. I think the survey numbers bear that out. I think, as is true with cap and trade, the more the American people are engaged in this debate, the more they hear about it, the more objections they are going to have to the government takeover of health care in this country.

So these are both issues which need to be done thoughtfully and carefully and, frankly, they shouldn't be rushed out of here. We shouldn't be trying to pass health care out of the Senate before the August break. We shouldn't be talking about doing cap and trade—although I think that is now being pushed back into the fall.

These both have huge impacts on America's economy and get at the heart of the issue of how we are going to retain and create new jobs and expand our economy. These are very consequential issues and shouldn't be rushed. So I hope the Senate will take its time. I hope it will allow for full debate and that we will have an opportunity to put some of our ideas out there, some of the alternatives we think, in fact, would improve health care in this country and make it more affordable for more Americans.

Mr. President, I yield the floor.

GROWTH ACT OF 2009

Mr. DURBIN. Mr. President, today I come to the floor to urge my colleagues to join me in addressing challenges facing women in the developing world. Senator HUTCHISON and I introduced the GROWTH Act to focus U.S. developmental assistance and strengthen the role of women in developing countries.

Families, particularly in the developing world, would not survive were it not for the critical contributions of women. Rural women produce 50 percent of the world's total food, 60–80 percent of the food in the developing world, and most of the staples, such as

rice, wheat, and maize, that provide up to 90 percent of the rural poor's food intake.

Yet these women often bear the brunt of economic, legal, and social inequality.

For example, because of the inequality in inheritance laws or the lack of enforcement of such laws, women are often dispossessed of their property when their husbands die. In fact, even though they overwhelmingly tend the fields and produce the food that keep their families alive, women in the developing world own less than 15 percent of land and in many African countries less than 1 percent.

Economic, legal, and social inequalities have had a measureable impact on the ability of women in the developing world to earn an adequate living and support their families. The statistics are sobering—women make up 60 percent of the world's working poor, 70 percent of the hungry, and 67 percent of the illiterate.

Thus, improving the economic conditions of women is key to improving economic conditions in the developing world. Even more importantly, improving the economic conditions of women is key to the future of the children in these countries.

Study after study shows that women in developing countries are more likely to use their income for food, health care and education for their children. As a result, greater economic opportunities for women means that their babies are more likely to survive infancy, their children, especially their daughters, are more likely to attend school, and their families are more likely to eat nutritious meals.

One way to improve economic opportunity is to expand women's access to microcredit programs. Microcredit is an economically viable model of extending very small loans, at competitive interest rates, to the very poor. These loans allow the recipients, who are overwhelmingly women, to open or expand businesses and often allow them to lift their family out of poverty.

When you talk about microcredit, you must talk about Dr. Muhammad Yunus. Dr. Yunus is the recognized developer of the microcredit model. In 1976, he launched what has become a global movement to create economic and social development from below with a loan of just \$27 from his own pockets to 42 crafts persons in a small village in Bangladesh. Today, the Grameen Bank, which he founded to carry out his work, operates in more than 84,000 villages and has provided more than \$8 billion in low-interest loans to nearly 8 million people.

Over the past 30 years, his microcredit model has changed millions of lives, directly and indirectly positively affecting the lives of as many as 155 million people.

In 2006, Dr. Yunus was awarded the Nobel Peace prize for developing this microcredit model.

The award of the Noble Peace Prize to Dr. Yunus recognized that lasting peace and prosperity cannot be achieved unless large numbers of the world's poor have the means to break out of poverty.

Earlier this year, Senator BENNETT and I offered the Dr. Muhammad Yunus Gold Medal Act, S. 864, to honor Dr. Yunus's efforts. I thank my 59 colleagues who have already agreed to cosponsor S. 864 and urge the rest of my colleagues to do the same.

Today I also urge my colleagues to support S. 1425, the Global Resources and Opportunities for Women to Thrive, or GROWTH, Act of 2009. Senator HUTCHISON and I offered the GROWTH Act on July 9 to expand on Dr. Yunus's microcredit model and focus U.S. developmental assistance on tackling many of the obstacles to economic empowerment of women in the developing world.

The GROWTH Act would not only empower women by giving them the financial tools to start and grow their own businesses, it would create broader opportunities through educational, legal, and community building programs.

The GROWTH Act is comprehensive legislation that, among other efforts, increases women's ability to start and develop businesses through enhanced microfinance, microenterprise loans, and related financial tools. It also supports various efforts to enhance women's land and property rights, and increases women's employment opportunities and improves working conditions for women through education, skills training, and advocacy programs.

The GROWTH Act is an important step forward in attacking the underlying economic inequalities in the developing world that hold women back from their full potential.

I thank Senator HUTCHISON for again joining me in offering the GROWTH Act, as well as Senators COLLINS, LANDRIEU, SHAHEEN, GILLIBRAND, SANDERS, CASEY, WHITEHOUSE, and JOHNSON for joining the effort as cosponsors. I urge the rest of my colleagues to empower women in the developing world by supporting S. 1425.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

MATTHEW SHEPARD HATE CRIMES PREVENTION ACT

● Mr. KENNEDY. Mr. President, I urge my colleagues on both sides of the aisle to join in supporting the Matthew Shepard Hate Crimes Prevention Act.

We need to pass this bill without further delay. The House passed a hate crimes bill with a vote of 249 to 175 in April. President Obama has repeatedly stated that he supports swift enactment of hate crimes legislation. The Department of Justice has expressed a need to strengthen our Federal hate crimes law. And, over 300 law enforcement, religious, civil rights, and community organizations have stated their

support for this act. We need to make certain that every American is protected from hate crimes. No one should be a victim of violence because of who they are.

In fact, hate crimes are domestic terrorism. Like all terrorist acts, they seek to bring fear to whole communities through violence on a few. We have committed ourselves to protecting our country from terrorists that strike from abroad, so we must make the same commitment to protecting Americans from homegrown terrorism.

Only weeks ago, a small distance from this Capitol, James von Brunn, a formerly convicted criminal and a known anti-Semite, entered the DC Holocaust Memorial Museum and began firing a rifle. During the attack, von Brunn shot and killed security guard Stephen Johns. As tragic as this incident was, the heroism of Stephen Johns, and the heroism of other members of the museum's security team, prevented von Brunn from conducting a violent massacre of innocent men, women, and children. Von Brunn planned a hate crime, an act of domestic terrorism. Our society recognizes that such a crime cannot be tolerated. Attacks like these send shockwaves through American communities and must be prosecuted as terrorizing crimes.

The original hate crime statute, enacted in 1968, criminalized violent acts based on a victim's race, color, religion, or national origin. Over the past 40 years, we have learned from experience that hate crime perpetrators often target communities unprotected by the original statute. This amendment strengthens that statute to protect victims targeted with violence because of their gender, their sexual orientation, their gender identity, or their disability.

In Boston on August 24, 2008, Jonathan Howard and three friends were viciously attacked by four men while walking home from a Boston nightclub. The assault began when a Honda pulled up beside the victims. The four men in the vehicle began yelling obscenities and homophobic slurs at the group. The perpetrators told Howard to die and repeatedly kicked his head into the pavement. After the event, Howard stated that "the type of assault that we encountered was completely random, unprovoked, and unforgivable." This type of attack was just as much a hate crime as the attack by James von Brunn, and it needs to be recognized as a Federal hate crime.

The victims did nothing to provoke their attack. They did not deserve to be the subjects of violence. No member of the LGBT community should be terrified to walk down the street for fear of hateful violence. Hate crimes perpetrators must not be allowed to place our communities in fear.

On May 11, the Boston Globe reported that the historic election of President Barack Obama spurred a wave of hate

crime violence. The article cites a study by the Southern Poverty Law Center that shows the number of White extremist groups in the United States has increased by nearly 50 percent since 2000, and that White extremist activity has sharply increased over the past several months.

Last November 5, following the election of President Barack Obama, four men rampaged across Staten Island, assaulting African Americans in response to President Obama's victory. The attackers beat a 17-year-old boy with a pipe. They physically assaulted another man to the ground, verbally harassed individuals suspected of voting for President Obama, and slammed into a man with a car because they mistakenly believed he was African American. None of these victims were known to their attackers. None of these victims could have prevented the attacks. The victims were terrorized because their attackers wanted to send a violent message of hate to the African American community.

Last July 12, in Shenandoah, PA, Luis Ramirez, a 25-year-old Mexican and father of two, was beaten by several drunken students from the local high school. Authorities said the teenagers yelled ethnic slurs as they punched and kicked Mr. Ramirez, causing him to lose consciousness and begin to foam at the mouth. As a result of the attack, Mr. Ramirez died 2 days later. During the attack, one of the assailants reportedly yelled, "tell your . . . Mexican friends to get . . . out of Shenandoah . . ." According to Pennsylvania Governor Rendell, "Luis Ramirez was targeted, beaten, and killed because he was Mexican." Yet after a jury trial in State court, the killers were acquitted of the most serious charges and convicted of simple assault—yes, simple assault.

As the result of this case, the Justice Department is currently investigating civil rights violations with one hand tied behind their back. Because the incident occurred while the victim was walking by a park, and because walking by a park may not be considered a "federally protected activity," the Justice Department is not able to fully investigate and prosecute this crime. This legislation closes the flagrant loophole that prevents prosecution of a hate crime when a victim is not engaged in a federally protected activity. It provides that hate crime perpetrators may be prosecuted, regardless of where their victim was or what they were doing when he or she was attacked.

In addition, this bill authorizes the Justice Department to make grants to State, local, and tribal authorities to combat, investigate, and prosecute hate crimes more effectively. During these times of economic crisis, State and local authorities are cash-strapped to deal with costly hate crime incidents. Investigations tend to be expensive. They require considerable law enforcement effort and extensive use of

grand juries. To ease the extraordinary costs and complexity of such cases, the bill authorizes \$5 million in Justice Department grants to State, local, and tribal law enforcement officials who have incurred extraordinary expenses associated with investigating and prosecuting hate crimes.

The legislation also authorizes the Justice Department to make grants for State, local, and tribal programs that combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes. With hate crimes against Latinos on the rise, and hate crimes against LGBT individuals on the rise, we must ensure that our State and local law enforcement authorities have all the tools and resources they need to combat, investigate, and prosecute hate crimes.

I am proud to take this opportunity to recognize the work of the Boston Police Department as the only major police department to incorporate hate crimes training into its mandatory training program. Unfortunately, many police departments around the country do not have the resources necessary to provide such training. This bill specifically authorizes the Justice Department to allocate funds for training so that other police departments may follow the example set by the Boston PD.

Violent attacks based on race, color, religion, national origin, gender, sexual orientation, gender identity, or disability deserve to be criminalized by Federal law. Our Nation must show that it will not permit these communities to be terrorized—one victim at a time.

For the past 10 years, the Senate and the House of Representatives have each passed this legislation on multiple occasions—only to face political setbacks that have prevented the measure from being enacted. Now, we must finish the job and send this legislation to the President for his signature. By doing so, Congress will be reflecting the will of the American people. We will be sending a strong message that hate crime violence will not be tolerated—and that every citizen deserves Federal protection against such crimes.

Religious leaders across the country support the amendment. As my colleagues know, the Golden Rule is recognized as one of the deepest principles in virtually every religious tradition. It is the simple principle that we ought to treat others as we ourselves would like to be treated. In the book of Matthew, chapter 7, Jesus says, "So whatever you wish that others would do to you, do also to them, for this is the Law and the Prophets." This amendment embodies the Golden Rule by extending protection to individuals in communities that are vulnerable to violence fueled by hatred.

Religious leader, Pastor Joel C. Hunter, has said, "I would think that

the followers of Jesus would be first in line to protect any group from hate crimes . . . This bill protects both the rights of conservative religious people to voice passionately their interpretations of their scriptures and protects their fellow citizens from physical attack.”

Many religious groups have expressed their support for the bill, including the Episcopal Church, the Evangelical Lutheran Church of America, the Interfaith Alliance, the Presbyterian Church, the United Synagogue of Conservative Judaism, the United Methodist Church, and the Congress of National Black Churches.

Over 10 years have passed since the Matthew Shepard Hate Crimes Prevention Act was first introduced in the Senate. Over 10 years have passed since Matthew Shepard was robbed, pistol whipped, tortured, tied to a fence, and left to die because he was gay. I commend Matthew's mother, Judy Shepard, for her years of inspiring advocacy that have brought us to this moment. Now is the time for the Senate to vote and show that we will not allow domestic terrorism to tear apart the fabric of our Nation and take the lives of innocent Americans. I urge my colleagues in the Senate to follow their hearts and minds and vote in favor of this legislation.●

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY SUB- COMMITTEES

Mr. HARKIN. Mr. President, the Committee on Agriculture, Nutrition, and Forestry has adopted subcommittees for the 111th Congress. On behalf of myself and Senator CHAMBLISS, I ask unanimous consent that a copy of the subcommittees be printed in the RECORD.

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

UNITED STATES SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY SUBCOMMITTEE ASSIGNMENTS—111TH CONGRESS

Subcommittee on Rural Revitalization, Conservation, Forestry and Credit: Rural economic revitalization and quality of life; rural job and business growth; rural electrification, telecommunications and utilities; conservation, protection and stewardship of natural resources; state, local and private forests and general forestry; agricultural and rural credit.

Sen. Lincoln, Chair; Sen. Leahy; Sen. Stabenow; Sen. Nelson; Sen. Casey; Sen. Bennet.

Republican Designee, Ranking; Sen. Cochran; Sen. McConnell; Sen. Grassley; Sen. Thune.

Subcommittee on Energy, Science and Technology: Renewable energy production and energy efficiency improvement on farms and ranches and in rural communities; food and agricultural research, education, economics and extension; innovation in the use of agricultural commodities and materials.

Sen. Stabenow, Chair; Sen. Conrad; Sen. Nelson; Sen. Brown; Sen. Klobuchar; Sen. Bennet; Sen. Gillibrand.

Sen. Thune, Ranking; Sen. Lugar; Sen. Roberts; Sen. Johanns; Sen. Grassley; Republican Designee.

Subcommittee on Hunger, Nutrition, and Family Farms: Domestic and international nutrition and food assistance and hunger prevention; school and child nutrition programs; local and healthy food initiatives; futures, options and derivatives; pesticides; and general legislation.

Sen. Brown, Chair; Sen. Leahy; Sen. Baucus; Sen. Lincoln; Sen. Stabenow; Sen. Casey; Sen. Klobuchar; Sen. Bennet; Sen. Gillibrand.

Sen. Lugar, Ranking; Sen. Cochran; Sen. McConnell; Republican Designee.

Subcommittee on Production, Income Protection and Price Support: Production of agricultural crops, commodities and products; farm and ranch income protection and assistance; commodity price support programs; insurance and risk protection; fresh water food production.

Sen. Casey Chair; Sen. Leahy; Sen. Conrad; Sen. Baucus; Sen. Lincoln; Sen. Brown.

Sen. Roberts, Ranking; Sen. Cochran; Sen. Johanns; Sen. Grassley; Sen. Thune.

Subcommittee on Domestic and Foreign Marketing, Inspection, and Plant & Animal Health: Agricultural trade; foreign market development; domestic marketing and product promotion; marketing orders and regulation of agricultural markets and animal welfare; inspection and certification of plants, animals and products; plant and animal diseases and health protection.

Sen. Gillibrand, Chair; Sen. Conrad; Sen. Baucus; Sen. Nelson; Sen. Klobuchar.

Sen. Johanns, Ranking; Sen. Lugar; Sen. McConnell; Sen. Roberts.

COMMENDING PETER ROGOFF

Mrs. MURRAY. Mr. President, I would like to take a moment to recognize a very special member of my staff who has recently been confirmed by the Senate to take on a critical role in the Obama administration.

Peter Rogoff has served on the Appropriations Committee staff for the last 22 years and he has been the committee's senior transportation adviser for the majority of those years. For the past 9 years, as I have served as either chairman or ranking member of the Transportation Appropriations Subcommittee, I have had the opportunity to work closely with Peter.

Peter has been a trusted adviser to me and a dedicated public servant to the constituents of both my home State of Washington and the constituents of every member of the subcommittee. I know that Peter's drive, knowledge, and experience will be an outstanding asset to President Obama and Transportation Secretary LaHood's team.

Peter and I have worked together through many challenges over the years, none greater than the events of September 11 and the transportation security issues that we were confronted with after. Peter's efforts weren't just limited to aviation security but also included initiatives to strengthen security in passenger rail, transit systems, our ports and all the systems that connect them. During those difficult times, Peter's understanding of our transportation safety systems was fully evident.

It is a knowledge that comes with experience. And not just the kind of expe-

rience you gain from studying policy at your desk, although I can attest that Peter has done a lot of that. It is the kind of experience you get from traveling out to accident sites, talking with inspectors, meeting with families, and working hands-on to ensure that we are taking steps to ensure that accidents are not repeated.

In the time that I have worked with Peter, he has regularly traveled across the country to participate in aviation, rail and ship inspections, and he has voluntarily gone to many accident sites. The expertise gained from these experiences has served this Congress and our country well in some very critical situations.

In fact, I still remember clearly the evening 2 years ago when we all watched in horror as the 1-35 bridge collapsed in Minneapolis. Immediately after that tragedy, I dispatched Peter to accompany Senator KLOBUCHAR to the scene, because I knew that he could help her identify the core issues and how the Federal Government could help.

Now I know that as FTA Administrator, Peter will face a set of wide-ranging challenges. But I also know that he has the transit know-how to hit the ground running. Peter will bring over two decades of working knowledge on financing, building, and safeguarding our country's transit systems.

I thank Peter for the guidance, enthusiasm, and expertise he has shown in the years he has led my efforts on addressing our country's transportation, housing and urban development needs. I also wish him luck as he takes on this tremendous responsibility and opportunity.

While his departure represents a big loss for our Appropriations Committee and my appropriations subcommittee, I respect and commend President Obama's decision to put Peter's expertise to work on addressing our country's transit future.

COMMENDING CAPTAIN B. HARL ROMINE JR.

Mrs. HUTCHISON. Mr. President, on behalf of myself and Senators SNOWE, ENSIGN, DEMINT, THUNE, WICKER, ISAKSON, VITTER, BROWNBACK, MARTINEZ, and JOHANNS, we would like to thank Captain Harl Romine for his service to the Nation and the U.S. Coast Guard.

Captain Romine has a long and distinguished career with the Coast Guard. From his enrollment in the U.S. Coast Guard Academy through his retirement later this month, Captain Romine has spent the better part of the last three decades serving his countrymen and protecting our Nation in the U.S. Coast Guard. During his service in the Coast Guard Captain Romine has exhibited the best characteristics of a Coast Guard officer: a deep dedication to duty, unsurpassed professionalism,

superior technical and operational expertise, and compassion as a pilot, leader, mentor, and friend.

Captain Romine has a distinguished career that is worthy of recognition by this Senate. Harl Romine—the son of a career Coast Guard officer—attended high school in Chantilly, VA, and graduated from the U.S. Coast Guard Academy in 1985 with a bachelor of science degree in government. Immediately following graduation he joined the fleet and served as a deck watch officer, law enforcement boarding officer, and weapons officer aboard the U.S. Coast Guard Cutter CHEROKEE. Upon completing his tour on the CHEROKEE, Captain Romine attended Navy Flight School to begin his career as a Coast Guard aviator a role in which he would truly distinguish himself. Upon receiving his “wings of gold” at flight school in Pensacola, Captain Romine began a career of service that would take him from the warm waters of the Gulf of Mexico to frigid seas of the Gulf of Alaska.

His first aviation assignment was to the Coast Guard’s largest and busiest air station—Air Station Clearwater, FL, where he served as a duty standing pilot in the HH-3F “Pelican” helicopter performing a wide range of missions in the Atlantic and Caribbean regions, including Search and Rescue and drug enforcement operations.

In 1991 he was assigned to Air Station Kodiak where he continued to fly the HH-3F and then transitioned to the HH-60J “Jayhawk.” Four years later, he was transferred to Coast Guard Group Astoria, OR, where he served as the administration officer, supervising the administrative and personnel support for over 300 Coast Guard personnel.

In 1998, Captain Romine was assigned as the HH-60J standardization branch chief at the Coast Guard’s Aviation Training Center in Mobile, AL. The young pilots trained under the tutelage of Captain Romine were a large part of the impressive Coast Guard Team that performed so heroically in the aftermath of Hurricanes Katrina and Rita.

In 2001, Captain Romine qualified in the HC-130H “Hercules” and returned to the operations officer for Coast Guard Air Station Kodiak. During this tour he maintained a qualification in both the HH-60J “Jayhawk” and the HC-130 “Hercules” airframes and has the unique distinction of standing duty in both airframes during the same week and successfully executing a search and rescue case in both airframes during that week.

In 2004, Captain Romine received the ultimate honor and demonstration of the Coast Guard’s trust in his abilities, when he received orders to serve as the commanding officer of Coast Guard Air Station Sitka, AK.

At the heart of his career of distinguished service is commitment to rescuing those in distress. Over his career Captain Romine has personally flown,

coordinated or supervised over 800 search and rescue cases resulting in over 600 lives saved. When Americans watch with pride as an orange helicopter plucks shipwrecked mariners from an icy sea or pulls stranded men and women off of roof tops in a flooded city, they should all know that it is men and women like Harl Romine who are piloting the aircraft risking their lives to save someone else’s.

Captain Romine’s service has not gone unrecognized by his commanders. For his distinguished and heroic service, he has been awarded the Meritorious Service Medal, the Air Medal, four Coast Guard Commendation Medals and three Coast Guard Achievement Medals.

Finally, for the last 3 years, Captain Romine has distinguished himself while serving as a Coast Guard fellow on the Senate Commerce Committee’s Oceans, Atmosphere, Fisheries and Coast Guard Subcommittee. With the same technical expertise and devotion to duty demonstrated throughout his career as an aviator, Captain Romine earned the respect of all who have worked with him and has been an invaluable member of the Commerce Committee staff and will be sorely missed.

On July 17, Captain Romine will be retiring from the Coast Guard and will be bringing his impressive and distinguished career in the Coast Guard to an end. We would be remiss if we did not thank his family for “loaning” Harl to the Coast Guard for so many years. Life in the Coast Guard places great stress on families as well as servicemen. We want to thank Harl’s wife Laura, and his sons Hank, Carson, and Sonny for all the sacrifices they have made.

Throughout his service to our Nation, whether standing the watch, teaching the next generation of pilots who now stand the watch, or commanding those who protected our Nation’s mariners, Captain Romine has upheld the highest traditions of the Coast Guard. We would like to take this opportunity to personally commend Captain Romine for his service to our Nation, the Coast Guard and the Senate and thank him for all he has done in service to his country.

ADDITIONAL STATEMENTS

REMEMBERING MAJOR GENERAL ROGER W. GILBERT

• Mr. GRASSLEY. Mr. President, today I wish to honor the life of Major General Roger W. Gilbert who passed away on June 13, 2009 in Lenexa, KS. I would like to express my condolences to Major General Gilbert’s family, in particular his wife of 58 years, Ruthie, his two daughters Carol and Marilee, his three granddaughters Brooke, Britni, and Allison, and his sister Beverly. They are in my thoughts and prayers.

Major General Gilbert led an honorable and extensive career which began upon his enlistment in the Army Air Corps in 1943 while he was a student at Drake University. After his pilot training, he courageously took two combat tours in Europe during World War II. He flew 50 missions in B-17s and Mosquitoes and upon his accomplishment he was awarded with the Distinguished Flying Cross, the Air Medal with five clusters and five battle stars.

In 1946, he joined the Air National Guard and flew another 50 combat missions in B-26 bombers during the Korean war. He then became squadron and later on wing commander of the Air Guard units and accumulated 7,200 hours of pilot time, 4,000 of which were served as a jet pilot. Major General Gilbert amassed a large amount of medals throughout his service career, including the Legion of Merit with one oak leaf cluster and another 38 awards.

Major General Gilbert retired from his career of 42 years of service in the Air Force and Air Guard. He previously was the adjutant general of the Iowa National Guard, as well as the former commander of the 132nd Fighter Wing of the Iowa National Guard, which was given three national recognitions as being an outstanding unit of the Air Force. After retirement, he spent his time hunting, skeet shooting, and taking his golden retriever, Major, out to the field.

The career of Major General Gilbert was a distinguished one and his 42-year commitment to serving the people of the United States and the State of Iowa is worthy of much admiration and honor. I am grateful for his service and pay tribute to his patriotism. ●

REMEMBERING JACK EBERSPACHER

• Mr. JOHANNIS. Mr. President, today I wish to pay tribute to a leader in American agriculture.

Jack Eberspacher, president and chief executive officer of the Agricultural Retailers Association, passed away on July 5, 2009, in Reston, VA. He had been courageously fighting cancer since April.

Jack was a dynamic leader and was admired throughout the industry as a strong and effective advocate for agriculture.

Jack was born in Seward, NE, in 1954. He earned an animal science degree at the University of Nebraska and completed coursework toward a master’s degree in business administration at Texas Tech University.

After several years working in various agribusiness positions throughout the United States, Jack was named the chief executive officer of the National Grain Sorghum Producers Association in 1989. His colleagues there remember him as a creative man who loved pushing the envelope and emphasizing new ideas. He focused the Association’s efforts on the needs of the producers and bringing stakeholders together.

In 1998, Jack accepted a new challenge as the chief executive officer of the National Association of Wheat Growers in Washington, DC. With his leadership, the association achieved a positive financial turnaround.

In 2001, Jack was appointed president and chief executive officer of the Agricultural Retailers Association, where he served until his death. He worked tirelessly to build the association into a strong voice for agricultural retailers and distributors in the Nation's Capital.

Jack was an active member of the Bennett Roundtable of the Farm Foundation of Chicago, Illinois, and recipient of the Alpha Gamma Rho Fraternity Brother of the Century Award. He also served as a member of the Bush-Cheney Agricultural Transition Team.

Jack is survived by his wife Jinger and their two children Sam and Maggie; his parents Max and Lois Eberspacher; his sister and brother, as well as nieces, nephews, relatives and friends.

I am personally thankful for his contributions and service to American agriculture. His legacy will be remembered, and he will truly be missed by many. My prayers are with his family during this difficult time.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

At 1:08 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3081. An act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3081. An act making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 3082. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. KERRY:

S. 1444. A bill to amend title 38, United States Code, to clarify the meaning of "combat with the enemy" for purposes of service-connection of disabilities; to the Committee on Veterans' Affairs.

By Mr. KERRY (for himself and Mr. LUGAR) (by request):

S.J. Res. 18. A joint resolution relating to the approval of the proposed agreement for nuclear cooperation between the United States and the United Arab Emirates; to the Committee on Foreign Relations for not to exceed 45 days pursuant to 42 U.S.C. 2159.

ADDITIONAL COSPONSORS

S. 229

At the request of Mrs. BOXER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 266

At the request of Mr. NELSON of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 266, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices.

S. 428

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 599

At the request of Mr. CARPER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 599, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection

activities caused by any certain diseases is the result of the performance of such employee's duty.

S. 662

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

S. 696

At the request of Mr. CARDIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 714

At the request of Mr. WEBB, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 714, a bill to establish the National Criminal Justice Commission.

S. 718

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 730

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 755

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 755, a bill to amend the Public Health Service Act to authorize the Director of the National Cancer Institute to make grants for the discovery and validation of biomarkers for use in risk stratification for, and the early detection and screening of, ovarian cancer.

S. 777

At the request of Mr. BROWN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 777, a bill to promote industry growth and competitiveness and to improve worker training, retention, and advancement, and for other purposes.

S. 779

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 779, a bill to amend titles 23 and 49, United States Code, to modify provisions relating to the length and weight limitations for vehicles operating on Federal-aid highways, and for other purposes.

S. 832

At the request of Mr. NELSON of Florida, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 846

At the request of Mr. DURBIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 850

At the request of Mr. KERRY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 883

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

S. 908

At the request of Mr. BAYH, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 951

At the request of Mr. NELSON of Florida, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 951, a bill to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk on the moon; Edwin E. "Buzz" Aldrin Jr., the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and, the first American to orbit the Earth, John Herschel Glenn Jr.

S. 1065

At the request of Mr. BROWBACK, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1065, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1158

At the request of Ms. STABENOW, the name of the Senator from Washington (Ms. MURRAY) was added as a cosponsor of S. 1158, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 1163

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1163, a bill to add 1 member with aviation safety expertise to the Federal Aviation Administration Management Advisory Council.

S. 1217

At the request of Ms. STABENOW, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1217, a bill to amend title XIX of the Social Security Act to improve and protect rehabilitative services and case management services provided under Medicaid to improve the health and welfare of the nation's most vulnerable seniors and children.

S. 1283

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1283, a bill to require persons that operate Internet websites that sell airline tickets to disclose to the purchaser of each ticket the air carrier that operates each segment of the flight, and for other purposes.

S. 1301

At the request of Mr. MENENDEZ, the name of the Senator from Nebraska

(Mr. JOHANNIS) was added as a cosponsor of S. 1301, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1337

At the request of Mr. AKAKA, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 1337, a bill to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas.

S. 1374

At the request of Mr. BROWN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1374, a bill to amend the Worker Adjustment and Retraining Notification Act to minimize the adverse effects of employment dislocation, and for other purposes.

S. 1375

At the request of Mr. ROBERTS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1375, a bill to amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

S. 1415

At the request of Mr. SCHUMER, the names of the Senator from Illinois (Mr. BURRIS) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S.J. RES. 17

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

At the request of Mrs. FEINSTEIN, the names of the Senator from Colorado (Mr. BENNETT), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S.J. Res. 17, supra.

S. RES. 200

At the request of Mr. UDALL of Colorado, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 200, a resolution designating September 12, 2009, as "National Childhood Cancer Awareness Day".

S. RES. 210

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 1444. A bill to amend title 38, United States Code, to clarify the meaning of "combat with the enemy" for purposes of service-connection of disabilities; to the Committee on Veterans' Affairs.

Mr. KERRY. Mr. President, in order to reduce a 400,000 case backlog in disability claims, I am introducing legislation to make it easier for our veterans to enroll in Department of Veteran Affairs', VA, disability programs. Specifically, the Compensation Owed for Mental Health Based on Activities in Theater Post-Traumatic Stress Disorder Act or COMBAT PTSD Act will change the definition of "combat with the enemy" so veterans can more easily be enrolled in PTSD programs.

It has become apparent that the nature of modern warfare is vastly different than it was in previous generations. In the past veterans were confronted with an identifiable enemy, on a battlefield that was much more easily discernible. This is no longer the case forcing our military to adapt to the changes of the battlefield. They have done so admirably—their ability to shift from a force designed to deliver quick decisive blows to a full spectrum force has been extremely impressive. Every American can agree that the men and women in uniform today deserve nothing but the best resources available to them.

Unfortunately, when our veterans return home they too often find a wait of approximately six months for their claims to the VA to be filed. This is unacceptable. It most certainly does not reflect the level of sacrifice and commitment that they have given to this nation. I know we can do better.

During previous conflicts the definition of "combat with the enemy" was simply determined by an individual's appearance on the front lines. However, today's battlefields may not include a front line as they have in past conflicts. We are using a 20th century model to diagnose and treat individuals returning from a 21st century conflict.

My legislation reflects these changes in conflict to ensure that our men and women in the military gain access to VA programs as soon as possible. It changes the VA's definition of "combat with the enemy" to include those that have served in a theater of operations, or in combat against a hostile force during a period of hostilities. This will more accurately reflect the current face of conflict.

President Obama's recent increase in the number of VA claim processors is

certainly a good start, but those of us in Congress need to do our part to support this effort. With nearly 400,000 claims unprocessed it is time that we expedite this process. The men and women who have served honorably in our Nation's military who need our help cannot return to a bureaucratic maze.

I ask all my colleagues to support this legislation.

By Mr. KERRY (for himself and Mr. LUGAR) (by request):

S.J. Res. 18. A joint resolution relating to the approval of the proposed agreement for nuclear cooperation between the United States and the United Arab Emirates; to the Committee on Foreign Relations for not to exceed 45 days pursuant to 42 U.S.C. 2159.

Mr. KERRY. Mr. President, today Senator LUGAR and I introduce, by request, a joint resolution of approval of the proposed agreement for peaceful nuclear cooperation between the United States and the United Arab Emirates, which the President transmitted to Congress on May 21, 2009, pursuant to section 123b. and 123d. of the Atomic Energy Act of 1954, as amended. Pursuant to Section 130i.(2) of that Act, the majority and minority leaders have designated Senator LUGAR and me to introduce this joint resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1469. Mr. LEVIN (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

SA 1470. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1471. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1472. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1473. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1474. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1475. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1476. Mr. REID (for himself, Mr. CRAPO, Mr. MERKLEY, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1477. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1478. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1479. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1480. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1481. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1482. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1483. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1484. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1485. Mr. LEAHY (for himself, Mr. BINGAMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1486. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1487. Mrs. LINCOLN (for herself, Mr. CORNYN, Ms. LANDRIEU, Mr. RISCH, Mr. ROCKEFELLER, Mr. WYDEN, Mrs. HAGAN, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1488. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1489. Mr. BROWNBACK (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1490. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1491. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1492. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1493. Mr. GREGG (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1494. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1495. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1496. Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1497. Mr. INHOFE (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1498. Mr. INHOFE (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1499. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, *supra*; which was ordered to lie on the table.

SA 1500. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1390, *supra*; which was ordered to lie on the table.

SA 1501. Mr. BOND (for himself, Mr. LEAHY, Mr. PRYOR, and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill S. 1390, *supra*; which was ordered to lie on the table.

SA 1502. Mr. REID (for Mr. COBURN (for himself and Mr. FEINGOLD)) proposed an amendment to the bill S. 1233, to reauthorize and improve the SBIR and STTR programs and for other purposes.

SA 1503. Mr. NELSON, of Florida (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1504. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 1390, *supra*; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1469. Mr. LEVIN (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; as follows:

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 para-

graphs (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.

SA 1470. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, between lines 7 and 8, insert the following:

SEC. 125. REPEAL OF REQUIREMENT TO MAINTAIN CERTAIN C-130E AIRCRAFT.

Section 134 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 31) is amended—

(1) in subsection (b), by striking “specified in subsection (d)” and inserting “specified in subsection (c)”;

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

SA 1471. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ RELEASE OF REVERSIONARY INTEREST.

The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled “An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas”, approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which is comprised of 40.515 acres of land to be acquired by the United States of America and 40.513 acres to be acquired by the City of North Little Rock, Arkansas, and lies in sections 6, 8, and 9 of township 2 North, Range 12 West, Pulaski County, Arkansas.

SA 1472. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title II, add the following:

SEC. 252. MODIFICATION OF REPORTING REQUIREMENT FOR DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

Section 246 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 2358 note) is amended by striking subsection (e) and inserting the following new subsection (e):

“(e) **REPORTS.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the National Science and Technology Council information on the program that covers the information described in paragraphs (1) through (5) of section 2(d) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(d)) to be included in the annual report submitted by the Council under that section.”.

SA 1473. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, lines 7 through 9, strike “for the National Nuclear Security Administration or for defense environmental cleanup”.

SA 1474. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 125. AC-130 GUNSHIPS.

(a) **REPORT ON REDUCTION IN SERVICE LIFE IN CONNECTION WITH ACCELERATED DEPLOYMENT.**—Not later than December 31, 2009, the Secretary of the Air Force shall submit to the congressional defense committees an assessment of the reduction in the service life of AC-130 gunships of the Air Force as a result of the accelerated deployments of such gunships that are anticipated during the seven- to ten-year period beginning with the date of the enactment of this Act, assuming that operating tempo continues at a rate per year of the average of their operating rate for the last five years.

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

(1) An estimate by series of the maintenance costs for the AC-130 gunships during the period described in subsection (a), including any major airframe and engine overhauls of such aircraft anticipated during that period.

(2) A description by series of the age, serviceability, and capabilities of the armament systems of the AC-130 gunships.

(3) An estimate by series of the costs of modernizing the armament systems of the AC-130 gunships to achieve any necessary capability improvements.

(4) A description by series of the age and capabilities of the electronic warfare systems of the AC-130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(5) A description by series of the age of the avionics systems of the AC-130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(6) An estimate of the costs of replacing the AC-130 gunships with AC-130J gunships, including—

(A) a description of the time required for the replacement of every AC-130 gunship with an AC-130J gunship; and

(B) a comparative analysis of the costs of operation of AC-130 gunships by series, including costs of operation, maintenance, and personnel, with the anticipated costs of operation of AC-130J gunships.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SA 1475. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VII, add the following:

SEC. 724. PRESCRIPTION OF ANTIDEPRESSANTS FOR TROOPS SERVING IN IRAQ AND AFGHANISTAN.

(a) REPORT.—

(1) IN GENERAL.—Not later than June 30, 2010, and annually thereafter until June 30, 2015, the Secretary of Defense shall submit to Congress a report on the prescription of antidepressants and drugs to treat anxiety for troops serving in Iraq and Afghanistan.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan since January 1, 2005, who have been prescribed antidepressants or drugs to treat anxiety, including psychotropic drugs such as Selective Serotonin Reuptake Inhibitors (SSRIs); and

(B) the policies and patient management practices of the Department of Defense with respect to the prescription of such drugs.

(b) NATIONAL INSTITUTE OF MENTAL HEALTH STUDY.—

(1) STUDY.—The National Institute of Mental Health shall conduct a study on the potential relationship between the increased number of suicides and attempted suicides by members of the Armed Forces and the increased number of antidepressants, drugs to treat anxiety, other psychotropics, and other behavior modifying prescription medications being prescribed, including any combination or interactions of such prescriptions. The Department of Defense shall immediately make available to the National Institute of Mental Health all data necessary to complete the study.

(2) REPORT ON FINDINGS.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the findings of the study conducted pursuant to paragraph (1).

SA 1476. Mr. REID (for himself, Mr. CRAPO, Mr. MERKLEY, and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXIII, add the following:

SEC. 23. CONVEYANCE TO INDIAN TRIBES OF CERTAIN HOUSING UNITS.

(a) DEFINITIONS.—In this section:

(1) EXECUTIVE DIRECTOR.—The term “Executive Director” means the Executive Director of Walking Shield, Inc.

(2) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe included on the list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1).

(b) REQUESTS FOR CONVEYANCE.—

(1) IN GENERAL.—The Executive Director may submit to the Secretary of the Air Force, on behalf of any Indian tribe located in the State of Idaho, Nevada, North Dakota, Oregon, South Dakota, Montana, or Minnesota, a request for conveyance of any relocatable military housing unit located at Grand Forks Air Force Base, Minot Air Force Base, Malmstrom Air Force Base, Ellsworth Air Force Base, or Mountain Home Air Force Base.

(2) CONFLICTS.—The Executive Director shall resolve any conflict among requests of Indian tribes for housing units described in paragraph (1) before submitting a request to the Secretary of the Air Force under this subsection.

(c) CONVEYANCE BY SECRETARY.—Notwithstanding any other provision of law, on receipt of a request under subsection (c)(1), the Secretary of the Air Force may convey to the Indian tribe that is the subject of the request, at no cost to the Air Force and without consideration, any relocatable military housing unit described in subsection (c)(1) that, as determined by the Secretary, is in excess of the needs of the military.

SA 1477. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. ____ . MODIFICATION OF OFFSET AGAINST COMBAT-RELATED SPECIAL COMPENSATION FOR CHAPTER 61 DISABILITY RETIREES.

Section 1413a(b)(3) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking “shall be reduced” and all that follows through “exceeds” and inserting “may not, when combined with the amount of retirement pay payable to the retiree after any reduction under sections 5304 and 5305 of title 38, cause the total of such combination to exceed”; and

(2) in subparagraph (B), by striking “shall be reduced” and all that follows through “exceeds” and inserting “may not, when combined with the amount of retirement pay payable to the retiree after any reduction under sections 5304 and 5305 of title 38, cause the total of such combination to exceed”.

SA 1478. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal

year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 652. PHASED EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS’ DISABILITY COMPENSATION.

(a) PHASED EXPANSION.—Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

“(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

“(1) PAYMENT OF BOTH REQUIRED.—

“(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans’ disability compensation for a qualifying service-connected disability (in this section referred to as a ‘qualified retiree’) is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

“(B) GENERAL APPLICABILITY OF PHASE-IN OF FULL CONCURRENT RECEIPT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree under this subsection is subject to subsection (c).

“(C) EXCEPTION FROM PHASE-IN FOR 100 PERCENT DISABLED RETIREES.—Payment of retired pay under this subsection is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following:

“(i) A qualified retiree receiving veterans’ disability compensation for a disability rated as 100 percent.

“(ii) A qualified retiree receiving veterans’ disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

“(D) EXCEPTION FROM PHASE-IN FOR CERTAIN CHAPTER 61 RETIREES.—Subject to subsection (b), on or after January 1, 2010, payment of retired pay under this subsection is not subject to subsection (c) in the case of a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

“(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—In this section, the term ‘qualifying service-connected disability’ means the following:

“(A) In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

“(B) In the case of a member or former member receiving retired pay under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 or computed under section 12732 of this title, a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (and is effective on or after the date specified in the applicable clause):

“(i) January 1, 2010, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent.

“(ii) January 1, 2011, rated 80 percent or 70 percent.

“(iii) January 1, 2012, rated 60 percent or 50 percent.

“(C) In the case of a member or former member receiving retired pay under chapter 61 regardless of years of service, a service-connected disability or combination of service-connected disabilities that is rated by

the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (and is effective on or after the date specified in the applicable clause):

“(i) January 1, 2013, rated 40 percent or 30 percent.

“(ii) January 1, 2014, any rating.”.

(b) CONFORMING SPECIAL RULE MODIFICATION.—Subsection (b) of such section is amended to read as follows:

“(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

“(1) GENERAL RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(2) SPECIAL RULE FOR RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—The retired pay of a member retired under chapter 61 of this title with less than 20 years of creditable service otherwise creditable under section 1405 or computed under section 12732 of this title, is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.”.

(c) CONFORMING AMENDMENT.—Subsection (c) of such section is amended by striking “the second sentence of”.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 1414. Concurrent receipt of retired pay and veterans' disability compensation”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item related to section 1414 and inserting the following new item:

“1414. Concurrent receipt of retired pay and veterans' disability compensation.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010.

SA 1479. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . DESIGNATION OF OVERPAYMENTS TO SUPPORT RESERVISTS AND NATIONAL GUARD MEMBERS.

(a) DESIGNATION.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

“PART IX—DESIGNATION OF OVERPAYMENTS TO RESERVE INCOME REPLACEMENT PROGRAM

“Sec. 6097. Designation.

“SEC. 6097. DESIGNATION.

“(a) IN GENERAL.—In the case of an individual, with respect to each taxpayer's re-

turn for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that a specified portion (not less than \$5) of any overpayment of tax for such taxable year be paid over to the Reserve Income Replacement Program (RIRP) under section 910 of title 37, United States Code.

“(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made in such manner as the Secretary prescribes by regulations except that such designation shall be made either on the first page of the return or on the page bearing the taxpayer's signature.

“(c) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under subsection (a) shall be treated as—

“(1) being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed, and

“(2) a contribution made by such taxpayer on such date to the United States.”.

(b) TRANSFERS TO RESERVE INCOME REPLACEMENT PROGRAM.—The Secretary of the Treasury shall, from time to time, transfer to the Reserve Income Replacement Program (RIRP) under section 910 of title 37, United States Code, the amounts designated under section 6097 of the Internal Revenue Code of 1986, under regulations jointly prescribed by the Secretary of the Treasury and the Secretary of Defense.

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART IX. DESIGNATION OF OVERPAYMENTS TO RESERVE INCOME REPLACEMENT PROGRAM”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SA 1480. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XXXI, add the following:

SEC. 3136. SENSE OF CONGRESS AND REPORT ON EXPANDING THE MISSION OF THE NEVADA TEST SITE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Nevada Test Site of the National Nuclear Security Administration can play an effective and essential role in developing and demonstrating—

(A) innovative and effective methods for treaty verification and the detection of nuclear weapons and other materials; and

(B) related threat reduction technologies; and

(2) the Administrator for Nuclear Security should expand the mission of the Nevada Test Site to carry out the role described in paragraph (1), including by—

(A) fully utilizing the inherent capabilities and uniquely secure location of the Site;

(B) continuing to support the Nation's nuclear weapons program and other national security programs; and

(C) renaming the Site to reflect the expanded mission of the Site.

(b) REPORT ON EXPANDED MISSION FOR THE NEVADA TEST SITE.—Not later than one year after the date of the enactment of this Act, the Administrator for Nuclear Security shall submit to the congressional defense committees a plan for improving the infrastructure of the Nevada Test Site of the National Nuclear Security Administration—

(1) to fulfill the expanded mission of the Site described in subsection (a); and

(2) to make the Site available to support the threat reduction programs of the entire national security community, including threat reduction programs of the National Nuclear Security Administration, the Defense Threat Reduction Agency, the Department of Homeland Security, and other agencies as appropriate.

SA 1481. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON AIR AMERICA.

(a) DEFINITIONS.—In this section:

(1) AIR AMERICA.—The term “Air America” means Air America, Incorporated.

(2) ASSOCIATED COMPANY.—The term “associated company” means any entity associated with, predecessor to, or subsidiary to Air America, including Air Asia Company Limited, CAT Incorporated, Civil Air Transport Company Limited, and the Pacific Division of Southern Air Transport during the period when such an entity was owned and controlled by the United States Government.

(b) REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such citizens prior to 1977 as employees of Air America or an associated company during a period when Air America or the associated company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(2) REPORT ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) The history of Air America and the associated companies prior to 1977, including a description of—

(i) the relationship between Air American and the associated companies and the Central Intelligence Agency or any other element of the United States Government;

(ii) the workforce of Air America and the associated companies;

(iii) the missions performed by Air America, the associated companies, and their employees for the United States; and

(iv) the casualties suffered by employees of Air America and the associated companies in the course of their employment.

(B) A description of—

(i) the retirement benefits contracted for or promised to the employees of Air America and the associated companies prior to 1977;

(ii) the contributions made by such employees for such benefits;

(iii) the retirement benefits actually paid such employees;

(iv) the entitlement of such employees to the payment of future retirement benefits; and

(v) the likelihood that such employees will receive any future retirement benefits.

(C) An assessment of the difference between—

(i) the retirement benefits that former employees of Air America and the associated companies have received or will receive by virtue of their employment with Air America and the associated companies; and

(ii) the retirement benefits that such employees would have received or be eligible to receive if such employment was deemed to be employment by the United States Government and their service during such employment was credited as Federal service for the purpose of Federal retirement benefits.

(D)(i) Any recommendations regarding the advisability of legislative action to treat such employment as Federal service for the purpose of Federal retirement benefits in light of the relationship between Air America and the associated companies and the United States Government and the services and sacrifices of such employees to and for the United States.

(ii) If legislative action is considered advisable under clause (i), a proposal for such action and an assessment of its costs.

(E) The opinions of the Director of the Central Intelligence Agency, if any, on any matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(3) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by paragraph (1).

(4) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

SA 1482. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, between lines 18 and 19, insert the following:

SEC. 342. PLAN FOR MANAGING VEGETATIVE EN-CROACHMENT AT TRAINING RANGES.

Section 366(a)(5) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 10 U.S.C. 113 note) is amended—

(1) by striking “(5) At the same time” and inserting “(5)(A) At the same time”; and

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

“(B) Beginning with the report submitted to Congress at the same time as the President submits the budget for fiscal year 2011, the report required under this subsection shall include the following:

“(i) The results of a service-wide survey of vegetative encroachment at training ranges, including a description of the extent of loss of training range acreage to vegetation encroachment and the types of vegetation involved at each training range.

“(ii) A plan for managing vegetative encroachment at each training range that is negatively impacted by such encroachment.

“(iii) A detailed description of funding data and budgetary resources necessary to carry out the plan developed pursuant to clause (ii).”.

SA 1483. Mr. BURRIS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, add the following:

SEC. ____ . STUDY ON PROVIDING DISLOCATION ALLOWANCES TO MEMBERS OF THE UNIFORMED SERVICES FOR ORDERS FROM LAST DUTY STATION.

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study on the feasibility and advisability of providing dislocation allowances under section 407 of title 37, United States Code, to members of the uniformed services described in subsection (a)(2) of such section when a member is ordered from the member's last duty station to the member's home.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study required by subsection (a).

SA 1484. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title X, add the following:

SEC. ____ . SIGNAGE.

(a) SHORT TITLE.—This section may be cited as the “Axe the Stimulus Plaques Act”.

(b) PROHIBITION.—Notwithstanding any other provision of law, none of the funds made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) may be used for physical signage to indicate that a project is being funded by that Act.

SA 1485. Mr. LEAHY (for himself, Mr. BINGAMAN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, between lines 8 and 9, insert the following:

SEC. 1232. PROVIDING ASSISTANCE TO CIVILIANS FOR LOSSES INCIDENT TO COMBAT ACTIVITIES OF THE ARMED FORCES IN OVERSEAS CONTINGENCY OPERATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) All armed conflicts result in civilian casualties. While the United States military makes extensive efforts to minimize civilian casualties, civilians continue to be injured or killed, and to suffer property damage, during United States combat activities in overseas contingency operations.

(2) Civilians harmed as a result of United States combat activities may suffer injury and loss that continues long after the incident. Their capacity to provide for their family or to live a fulfilling life may be severely limited. They may also harbor resentment and anger towards the United States and its military personnel when no recognition or assistance is promptly provided for their loss.

(3) In most armed conflicts since Vietnam, the United States Armed Forces has carried out programs to provide payments to civilians harmed by United States military personnel in combat operations. Military lawyers and commanders have consistently recognized the need to assist victims in rebuilding their lives and communities. Military strategists have also recognized the need to compensate or provide assistance to such victims in order to win the hearts and minds of the people, promote stability, and enhance the safety of United States personnel.

(4) Such programs implemented by the United States with respect to its combat operations have been ad hoc, hastily formulated, and applied differently in each operational setting, limiting their effectiveness and producing inconsistent and inequitable results for civilian victims. Each ad hoc program has also limited the capabilities of United States military officers to provide victims with adequate compensation.

(5) A uniform assistance program is needed in overseas contingency operations. Such a program would provide the United States Armed Forces the authority and discretion to offer civilians harmed with equitable and prompt assistance, without the problems of improvised efforts by local military commanders and their legal advisors.

(6) In the event such a program is considered to be appropriate by the United States Armed Forces, victims would receive an amount commensurate with their losses suffered as a result of United States combat operations, as determined pursuant to regulations formulated by the Department of Defense and based on an assessment of cultural appropriateness and prevailing economic conditions.

(7) A uniform assistance program would help to promote and maintain friendly relations with civilian populations in combat zones, thereby helping the United States Armed Forces to successfully complete its mission and demonstrating that the United States is a compassionate Nation that highly values innocent life.

(b) DETERMINATION OF ASSISTANCE.—

(1) IN GENERAL.—To promote and maintain friendly relations through the prompt administration of assistance to civilian casualties, the Secretary concerned, or an officer or employee designated by the Secretary, may appoint, under such regulations as the Secretary may prescribe, local military commanders to provide monetary assistance in an amount commensurate with the loss suffered for—

(A) damage to, or loss of, real property of the inhabitant, including damage or loss incident to use and occupancy;

(B) damage to, or loss of, personal property of any inhabitant of a foreign country; or

(C) personal injury to, or death of, any inhabitant of a foreign country; if the damage, loss, personal injury, or death occurs outside the United States, or the Commonwealths or possessions, and is

caused by, or is otherwise incident to, combat activities in foreign contingency operations of the Armed Forces under the local military commander's command, or is caused by a member thereof or by a civilian employee of the military department concerned or the Coast Guard, as the case may be. A commander will provide assistance under regulations of the Department of Defense.

(2) **CONDITIONS.**—Assistance authorized by this section may be allowed only if—

(A) an application therefor is presented within two years after the occurrence of the incident concerned;

(B) the applicant is determined by the local military commander to be friendly to the United States;

(C) the incident results directly or indirectly from an act of the Armed Forces in combat, an act of the Armed Forces indirectly related to combat, or an act of the Armed Forces occurring while preparing for, going to, or returning from a combat mission; and

(D) the incident does not arise directly from action by an enemy, unless the local military commander determines that it in the best military interest to offer assistance in such case.

(c) **TERMS OF ASSISTANCE.**—Except as provided in subsection (d), no assistance may be paid under this section unless the amount tendered is accepted by the applicant in full satisfaction.

(d) **TYPE OF ASSISTANCE.**—Satisfaction under this section shall be made through payment in local currency when possible. However, satisfaction under this section may be made through the provision of services or in-kind compensation if such satisfaction is considered appropriate by the legal advisor and the local military commander concerned and accepted by the claimant.

(e) **LEGAL ADVICE REQUIREMENT.**—Local military commanders shall receive legal advice before authorizing assistance. The legal advisor, under regulations of the Department of Defense, shall determine whether the applicant for assistance is properly an applicant, whether the facts support the provision of assistance, and what amount is commensurate with the loss suffered. The legal advisor shall then make a recommendation to the local military commander who will determine if assistance is to be provided.

(f) **CONSIDERATION OF APPLICATIONS.**—Any application appropriately made for assistance resulting from United States military operations will be considered on the merits. If assistance is not offered or provided to an applicant, documentation of the denial shall be maintained by the Department of Defense. The applicant shall be informed of any decision made by a commander in a timely manner.

(g) **DESIGNATION OF ASSISTANCE PROVIDERS.**—The Secretary of Defense may designate any local military commander appointed under subsection (a) to provide assistance for damage, loss, injury, or death caused by a civilian employee of the Department of Defense other than an employee of a military department. Payments under this subsection shall be made from appropriations as provided by law.

(h) **TREATMENT OF OTHER COMPENSATION RECEIVED.**—In the event compensation for damage, loss, injury, or death covered by this section is received through a separate program operated by the United States Government, receipt of compensation in such amount may be considered by the legal advisor or commander determining the appropriate assistance under subsection (a).

(i) **REPORTING.**—

(1) **RECORDS OF APPLICATIONS FOR ASSISTANCE.**—A written record of any assistance offered or denied will be kept by the local commander and on a timely basis submitted to the appropriate office in the Department of Defense as determined by the Secretary of Defense.

(2) **BIENNIAL REPORT.**—The Secretary of Defense shall report to Congress on a biennial basis the efficacy of the civilian assistance program, including the number of cases considered, amounts offered, and any necessary adjustments.

SA 1486. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 537. ADDITIONAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) **ADDITIONAL ASSISTANCE FOR SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPARTMENT STUDENTS.**—

(1) **ADDITIONAL AMOUNT.**—The amount available under section 531(a) is hereby increased by \$10,000,000.

(2) **OFFSET.**—The amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for Defense-wide activities is hereby reduced by \$10,000,000.

(b) **CLARIFICATION OF AGENCIES ELIGIBLE FOR ASSISTANCE.**—Section 572(a)(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3271; 20 U.S.C. 7703b) is amended by adding at the end the following new sentence: "An eligible local educational agency under this subsection includes a local educational agency described in section 8002(i)(2) of such Act (20 U.S.C. 7702(i)(2))."

SA 1487. Mrs. LINCOLN (for herself, Mr. CORNYN, Ms. LANDRIEU, Mr. RISCH, Mr. ROCKEFELLER, Mr. WYDEN, Mrs. HAGAN, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 573. MODIFICATION OF DEPARTMENT OF DEFENSE SHARE OF EXPENSES UNDER NATIONAL GUARD YOUTH CHALLENGE PROGRAM.

(a) **MODIFICATION.**—Section 509(d)(1) of title 32, United States Code, is amended by striking "may not exceed" and all that follows and inserting "may not exceed the amount as follows:

"(A) In the case of a State program of the Program in either of its first two years of operation, an amount equal to 100 percent of the costs of operating the State program in that fiscal year.

"(B) In the case of any other State program of the Program, an amount equal to 75 percent of the costs of operating the State program in that fiscal year."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2009, and shall apply with respect to fiscal years beginning on or after that date.

SA 1488. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 9 and 10, insert the following:

(H) The extent to which the options referred to in paragraph (2) would improve the quality of education available for students with special needs, including students with learning disabilities and gifted students.

SA 1489. Mr. BROWNBACK (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 479, between lines 18 and 19, insert the following:

SEC. 1222. REPORT ON MILITARY POWER OF IRAN.

(a) **ANNUAL REPORT.**—Not later than March 1, 2010, and annually thereafter, the Secretary of Defense shall submit to the appropriate congressional committees a report, in both classified and unclassified form, on the current and future military strategy of the Islamic Republic of Iran. The report shall address the current and probable future course of military developments on the Army, Air Force, Navy, and Revolutionary Guard Corps of the Government of Iran, and the tenets and probable development of the grand strategy, security strategy, military strategy, and military organizations and operational concepts of the Government of Iran.

(b) **MATTERS TO BE INCLUDED.**—The report required under subsection (a) shall include the following elements:

(1) As assessment of the grand strategy, security strategy, and military strategy of the Government of Iran, including the following:

(A) The goals of the grand strategy, security strategy, and military strategy.

(B) Trends in the strategies that would be designed to establish Iran as the leading power in the Middle East and to enhance the influence of Iran in other regions of the world.

(C) The security situation in the Persian Gulf and the Levant.

(D) Iranian strategy regarding other countries in the region, including Israel, Lebanon, Syria, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

(2) An assessment of the capabilities of the conventional forces of the Government of Iran, including the following:

(A) The size, location, and capabilities of the conventional forces.

(B) A detailed analysis of the conventional forces of the Government of Iran facing United States forces in the region and other

countries in the region, including Israel, Lebanon, Syria, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

(C) Major developments in Iranian military doctrine.

(D) An estimate of the funding provided for each branch of the conventional forces of the Government of Iran.

(3) An assessment of the unconventional forces of the Government of Iran, including the following:

(A) The size and capability of special operations units, including the Iranian Revolutionary Guard Corps-Quds Force.

(B) The types and amount of support provided to groups designated by the United States as terrorist organizations, including Hezbollah, Hamas, and the Special Groups in Iraq, in particular those forces as having been assessed as to be willing to carry out terrorist operations on behalf of Iran or in response to a military attack by another country on Iran.

(C) A detailed analysis of the unconventional forces of the Government of Iran facing United States forces in the region and other countries in the region, including Israel, Lebanon, Syria, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

(D) An estimate of the amount of funds spent by the Government of Iran to develop and support special operations forces and terrorist groups.

(4) An assessment of the capabilities of the Government of Iran related to nuclear and missile forces, including the following:

(A) A summary of nuclear capabilities and developments in the preceding year, including the location of major facilities believed to be involved in a nuclear weapons program.

(B) A summary of the capabilities of the strategic missile forces of the Government of Iran, including the size of the strategic missile arsenal and the locations of missile launch sites.

(C) A summary of the capabilities of the short range and cruise missile forces of the Government of Iran, including the size and locations of the short range and cruise missile arsenal.

(D) A detailed analysis of the strategic missile forces of the Government of Iran facing United States forces in the region and other countries in the region, including Israel, Lebanon, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

(E) A detailed analysis of the short range and cruise missile forces of the Government of Iran facing United States forces in the region and other countries in the region, including Israel, Lebanon, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

(F) An estimate of the amount of funding expended by the Government of Iran on programs to develop a capability to build nuclear weapons or to enhance strategic missile, short range, and cruise missile capabilities of the Government of Iran.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(2) CONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term “conventional forces of the Government of Iran”—

(A) means military forces of the Islamic Republic of Iran designed to conduct operations on sea, air, or land, other than Iran’s unconventional forces and Iran’s strategic missile forces; and

(B) includes Iran’s Army, Iran’s Air Force, Iran’s Navy, and elements of the Iranian Revolutionary Guard Corps, other than the Iranian Revolutionary Guard Corps-Quds Force.

(3) STRATEGIC MISSILE FORCES OF THE GOVERNMENT OF IRAN.—The term “strategic missile forces of the Government of Iran” means those elements of the military forces of the Islamic Republic of Iran that employ missiles capable of flights in excess of 500 kilometers.

(4) UNCONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term “unconventional forces of the Government of Iran”—

(A) means forces of the Islamic Republic of Iran that carry out missions typically associated with special operations forces; and

(B) includes—

(i) the Iranian Revolutionary Guard Corps-Quds Force; and

(ii) any organization that—

(I) has been designated a terrorist organization by the United States;

(II) receives assistance from the Government of Iran; and

(III)(aa) is assessed as being willing in some or all cases of carrying out attacks on behalf of the Government of Iran; or

(bb) is assessed as likely to carry out attacks in response to a military attack by another country on Iran.

SA 1490. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. SENSE OF CONGRESS ON MANNED AIRBORNE IRREGULAR WARFARE PLATFORMS.

It is the sense of Congress that the Secretary of Defense, with regard to the development of manned airborne irregular warfare platforms, should—

(1) coordinate across the military services, including the National Guard and Reserves, the requirements, concept development, demonstration, and platform development; and

(2) be informed by the on-going Air National Guard AT-6B demonstration program.

SA 1491. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 552, line 25, strike “installations; and” and all that follows through page 553, line 6, and insert the following: “installations;

(2) to comprehensively assess the needs and degree of Federal assistance to communities

to effectively implement the various initiatives of the Department of Defense while aiding communities to either recover quickly from closures or to accommodate growth associated with troop influxes; and

(3) that the methods of property disposal, including public benefit transfers, economic development conveyances at cost and no cost, negotiated sales, other conveyances, and public sales are equally assessed and decided with consideration to the needs of affected communities.

SA 1492. Mr. BARRASSO (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, F.E. WARREN AIR FORCE BASE, CHEYENNE, WYOMING.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey to the County of Laramie, Wyoming (in this section referred to as the “County”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 73 acres along the southeastern boundary of F.E. Warren Air Force Base, Cheyenne, Wyoming, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property for healthcare facilities.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration, whether by cash payment, in-kind consideration as described under paragraph (2), or a combination thereof, in an amount that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(2) IN-KIND CONSIDERATION.—In-kind consideration provided by the County under paragraph (1) may include the acquisition, construction, provision, improvement, maintenance, repair, or restoration (including environmental restoration), or combination thereof, of any facilities or infrastructure relating to the security of F.E. Warren Air Force Base, that the Secretary considers acceptable.

(3) RELATION TO OTHER LAWS.—Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities or infrastructure received by the United States as in-kind consideration under paragraph (2).

(4) NOTICE TO CONGRESS.—The Secretary shall provide written notification to the congressional defense committees of the types and value of consideration provided the United States under paragraph (1).

(5) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(ii) of such subsection.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the County is not using the property conveyed under subsection (a) in accordance with the purpose of

the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) **RELEASE OF REVERSIONARY INTEREST.**—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) F.E. Warren Air Force Base, Cheyenne Wyoming, is no longer being used for Department of Defense activities; or

(B) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(d) **PAYMENT OF COSTS OF CONVEYANCE.**—

(1) **PAYMENT REQUIRED.**—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of in-kind consideration under paragraph (b), including survey costs, appraisal costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of in-kind consideration. If amounts are received from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) **TREATMENT OF AMOUNTS RECEIVED.**—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance and implementing the receipt of in-kind consideration. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) **DESCRIPTION OF REAL PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 1493. Mr. GREGG (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 553, between lines 15 and 16, insert the following:

SEC. 2707. RELOCATION OF UNITS FROM PAUL DOBLE ARMY RESERVE CENTER, PORTSMOUTH, NEW HAMPSHIRE.

With respect to the closure of the Paul Doble Army Reserve Center in Portsmouth, New Hampshire, and the relocation of units to a new reserve center and associated training and maintenance facilities, the new reserve center and associated training and

maintenance facilities may be located adjacent to or in the vicinity of Pease Air National Guard Base, New Hampshire.

SA 1494. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON CRITERIA FOR SELECTION OF STRATEGIC EMBARKATION PORTS AND SHIP LAYBERTHING LOCATIONS.

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Transportation Command shall submit to the congressional defense committees a report with criteria for the selection of strategic embarkation ports and ship layberthing locations.

(b) **DEVELOPMENT OF CRITERIA.**—The criteria included in the report required under subsection (a) shall—

(1) prioritize the facilitation of strategic deployment and reduction of combatant commander force closure timelines;

(2) take into account—

(A) time required to crew, activate, and sail sealift vessels to embarkation ports;

(B) distance and travel times for the forces from assigned installation to embarkation ports;

(C) availability of adequate infrastructure to transport forces from assigned installation to embarkation ports; and

(D) time required to move forces from embarkation ports to likely areas of force deployment around the world; and

(3) inform the selection of strategic embarkation ports and the procurement of ship layberthing services.

SA 1495. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, insert the following:

SEC. 2832. LAND CONVEYANCE, LACKLAND AIR FORCE BASE, TEXAS.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Air Force may convey to an eligible entity, all right, title, and interest of the United States to not more than 250 acres of real property and associated easements and improvements on Lackland Air Force Base, Texas, in exchange for real property adjacent to or near the installation for the purpose of relocating and consolidating Air Force tenants located on the former Kelly Air Force Base, Texas, onto the main portion of Lackland Air Force Base.

(b) **CONDITION OF CONVEYANCE.**—The conveyance under subsection (a) shall be subject to the condition that the eligible entity accept the real property in its condition at the time of the conveyance, commonly known as conveyance “as is” and not subject to the requirements for covenants in deed under sec-

tion 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)).

(c) **ELIGIBLE ENTITIES.**—A conveyance under this section may be made to the City of San Antonio, Texas, or an organization or agency chartered or sponsored by the local or State government.

(d) **CONSIDERATION.**—As consideration for the conveyance under subsection (a), the eligible entity shall provide the Air Force with real property or real property improvements, or a combination of both, of equal value, as determined by the Secretary. If the fair market value of the real property or real property improvements, or combination thereof, is less than the fair market value of the real property to be conveyed by the Air Force, the eligible entity shall provide cash payment to the Air Force, or provide Lackland Air Force Base with in-kind consideration of an amount equal to the difference in the fair market values. Any cash payment received by the Air Force for the conveyance authorized by subsection (a) shall be deposited in the special account described in section 2667(e) of title 10, United States Code, and shall be available to the Secretary for the same uses and subject to the same limitations as provided in that section.

(e) **PAYMENT OF COSTS OF CONVEYANCE.**—

(1) **IN GENERAL.**—The Secretary may require the eligible entity to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyances under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyances. If amounts are collected from the eligible entity in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the eligible entity.

(2) **TREATMENT OF AMOUNTS RECEIVED.**—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(f) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 1496. Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, add the following:

SEC. 2832. LAND CONVEYANCE, ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA.

(a) **CHANGE IN RECIPIENT UNDER EXISTING AUTHORITY.**—

(1) IN GENERAL.—Section 2863(a) of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 2010), as amended by section 2865(a) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-435), is further amended by striking “West River Foundation for Economic and Community Development, Sturgis, South Dakota (in this section referred to as the ‘Foundation’)” and inserting “South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this section referred to as the ‘Authority’)”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2863 of the Military Construction Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 2010), as amended by section 2865(b) of the Military Construction Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-435), is further amended—

(A) by striking “Foundation” each place it appears in subsections (c) and (e) and inserting “Authority”;

(B) in subsection (b)(1)—

(i) in subparagraph (B), by striking “137.56 acres” and inserting “120.70 acres”; and

(ii) by striking subparagraphs (C), (D), and (E).

(b) NEW CONVEYANCE AUTHORITY.—

(1) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the South Dakota Ellsworth Development Authority, Pierre, South Dakota (in this subsection referred to as the “Authority”), all right, title, and interest of the United States in and to the parcels of real property located at Ellsworth Air Force Base, South Dakota, referred to in paragraph (2).

(2) COVERED PROPERTY.—The real property referred to in paragraph (1) is the following:

(A) A parcel of real property, together with any improvements thereon, consisting of approximately 2.37 acres and comprising the 11000 West Communications Annex.

(B) A parcel of real property, together with any improvements thereon, consisting of approximately 6.643 acres and comprising the South Nike Education Annex.

(3) CONDITION.—As a condition of the conveyance under this subsection, the Authority, and any person or entity to which the Authority transfers the property, shall comply in the use of the property with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study.

(4) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under paragraph (1) is not being used in compliance with the applicable provisions of the Ellsworth Air Force Base Air Installation Compatible Use Zone Study, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this paragraph shall be made on the record after an opportunity for a hearing.

(5) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be exchanged under this subsection shall be determined by surveys satisfactory to the Secretary.

(6) PAYMENT OF COSTS OF CONVEYANCES.—

(A) PAYMENT REQUIRED.—The Secretary shall require the Authority to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under this subsection, including survey costs related to the conveyance. If amounts are

collected from the Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Authority.

(B) TREATMENT OF AMOUNTS RECEIVED.—Amounts received under subparagraph (A) as reimbursement for costs incurred by the Secretary to carry out the conveyance under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(7) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

SA 1497. Mr. INHOFE (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. MODIFICATION OF STATE RESPONSIBILITIES.

(a) IN GENERAL.—Section 102(a)(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1(a)(1)) is amended by inserting “by ensuring that absentee ballots are sent to such voters not later than 45 days before the deadline of such State for receiving absentee ballots in order to be counted in the election for Federal office” before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections for Federal office held on or after November 1, 2010.

SA 1498. Mr. INHOFE (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 358, strike lines 17 through 21 and insert the following:

“(C) the accused pleads guilty or was convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

“(D) if the accused was convicted by a military commission, all members present at the time the vote was taken concurred in the sentence of death.

SA 1499. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department

of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, before line 1, insert the following:

SEC. 524. AIR FORCE ACADEMY ATHLETIC ASSOCIATION.

(a) IN GENERAL.—Chapter 903 of title 10, United States Code, is amended by inserting after section 9361 the following new section:

“§ 9362. Air Force Academy athletic programs support

“(a) ESTABLISHMENT AUTHORIZED.—

“(1) IN GENERAL.—The Secretary of the Air Force may, in accordance with the laws of the State of incorporation, establish a corporation to support the athletic programs of the Academy (in this section referred to as the ‘corporation’). All stock of the corporation shall be owned by the United States and held in the name of and voted by the Secretary of the Air Force.

“(2) PURPOSE.—The corporation shall operate exclusively for charitable, educational, and civic purposes to support the athletic programs of the Academy.

“(b) CORPORATE ORGANIZATION.—The corporation shall be organized and operated—

“(1) as a nonprofit corporation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(2) in accordance with this section; and

“(3) pursuant to the laws of the State of incorporation, its articles of incorporation, and its bylaws.

“(c) CORPORATE BOARD OF DIRECTORS.—

“(1) COMPENSATION.—The members of the board of directors shall serve without compensation, except for reasonable travel and other related expenses for attendance at meetings.

“(2) AIR FORCE PERSONNEL.—The Secretary of the Air Force may authorize military and civilian personnel of the Air Force under section 1033 of this title to serve, in their official capacities, as members of the board of directors, but such personnel shall not hold more than one third of the directorships.

“(d) TRANSFER FROM NONAPPROPRIATED FUND OPERATION.—The Secretary of the Air Force may, subject to the acceptance of the corporation, transfer to the corporation all title to and ownership of the assets and liabilities of the Air Force nonappropriated fund instrumentality whose functions include providing support for the athletic programs of the Academy, including bank accounts and financial reserves in its accounts, equipment, supplies, and other personal property, but excluding any interest in real property.

“(e) ACCEPTANCE OF GIFTS.—The Secretary of the Air Force may accept from the corporation funds, supplies, and services for the support of cadets and Academy personnel during their participation in, or in support of, Academy or corporate events related to the Academy athletic programs.

“(f) LEASING.—The Secretary of the Air Force may, in accordance with section 2667 of this title, lease real and personal property to the corporation for purposes related to the Academy athletic programs. Money rentals received from any such lease may be retained and spent by the Secretary to support athletic programs of the Academy.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9361 the following new item:

“9362. Air Force Academy athletic programs support.”

SA 1500. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 428, between lines 21 and 22, insert the following:

(3) A sample of military whistleblower reprisal appeals (as selected by the Comptroller General for the purposes of this section) heard by the Boards for the Correction of Military Records referred to in section 1552 of title 10, United States Code, of each military department.

SA 1501. Mr. BOND (for himself, Mr. LEAHY, Mr. PRYOR, and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX, add the following:

Subtitle E—National Guard Empowerment and State-National Defense Integration

SEC. 941. SHORT TITLE.

This subtitle may be cited as the “National Guard Empowerment and State-National Defense Integration Act of 2009”.

SEC. 942. EXPANDED AUTHORITY OF THE CHIEF OF THE NATIONAL GUARD BUREAU.

(a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—

(1) IN GENERAL.—Section 151(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(7) The Chief of the National Guard Bureau.”

(2) CONFORMING AMENDMENT.—Section 10502 of such title is amended—

(A) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

“(d) MEMBER OF JOINT CHIEFS OF STAFF.—The Chief of the National Guard Bureau shall perform the duties prescribed for him or her as a member of the Joint Chiefs of Staff under section 151 of this title.”

(b) ANNUAL REPORT TO CONGRESS ON VALIDATED REQUIREMENTS.—Section 10504 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) ANNUAL REPORT ON VALIDATED REQUIREMENTS.—Not later than December 31 each year, the Chief of the National Guard Bureau shall submit to Congress a report on the following:

“(1) The requirements validated under section 10503a(b)(1) of this title during the preceding fiscal year.

“(2) The requirements referred to in paragraph (1) for which funding is to be requested in the next budget for a fiscal year under section 10544 of this title.

“(3) The requirements referred to in paragraph (1) for which funding will not be requested in the next budget for a fiscal year under section 10544 of this title.”

SEC. 943. EXPANDED FUNCTIONS OF THE NATIONAL GUARD BUREAU.

(a) MILITARY ASSISTANCE FOR CIVIL AUTHORITIES.—Chapter 1011 of title 10, United

States Code, is amended by inserting after section 10503 the following new section:

“§ 10503a. Functions of National Guard Bureau: military assistance to civil authorities

“(a) IDENTIFICATION OF ADDITIONAL NECESSARY ASSISTANCE.—The Chief of the National Guard Bureau shall—

“(1) identify gaps between Federal and State military capabilities to prepare for and respond to emergencies; and

“(2) make recommendations to the Secretary of Defense on programs and activities of the National Guard for military assistance to civil authorities to address such gaps.

“(b) SCOPE OF RESPONSIBILITIES.—In meeting the requirements of subsection (a), the Chief of the National Guard Bureau shall, in coordination with the adjutants general of the States, have responsibilities as follows:

“(1) To validate the requirements of the several States and territories with respect to military assistance to civil authorities.

“(2) To develop doctrine and training requirements relating to the provision of military assistance to civil authorities.

“(3) To acquire equipment, materiel, and other supplies and services for the provision of military assistance to civil authorities.

“(4) To assist the Secretary of Defense in preparing the budget required under section 10544 of this title.

“(5) To administer amounts provided the National Guard for the provision of military assistance to civil authorities.

“(6) To carry out any other responsibility relating to the provision of military assistance to civil authorities as the Secretary of Defense shall specify.

“(c) ASSISTANCE.—The Chairman of the Joint Chiefs of Staff shall assist the Chief of the National Guard Bureau in carrying out activities under this section.

“(d) CONSULTATION.—(1) The Chief of the National Guard Bureau shall carry out activities under this section through and utilizing an integrated planning process established by the Chief of the National Guard Bureau for purposes of this subsection. The planning process may be known as the ‘National Guard Bureau Strategic Integrated Planning Process’.

“(2)(A) Under the integrated planning process established under paragraph (1)—

“(i) the planning committee described in subparagraph (B) shall develop and submit to the planning directorate described in subparagraph (C) plans and proposals on such matters under the planning process as the Chief of the National Guard Bureau shall designate for purposes of this subsection; and

“(ii) the planning directorate shall review and make recommendations to the Chief of the National Guard Bureau on the plans and proposals submitted to the planning directorate under clause (i).

“(B) The planning committee described in this subparagraph is a planning committee (to be known as the ‘State Strategic Integrated Planning Committee’) composed of the adjutant general of each of the several States, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and the District of Columbia.

“(C) The planning directorate described in this subparagraph is a planning directorate (to be known as the ‘Federal Strategic Integrated Planning Directorate’) composed of the following (as designated by the Secretary of Defense for purposes of this subsection):

“(i) A major general of the Army National Guard.

“(ii) A major general of the Air National Guard.

“(iii) A major general of the regular Army.

“(iv) A major general of the regular Air Force.

“(v) A major general (other than a major general under clauses (iii) and (iv)) of the United States Northern Command.

“(vi) The Vice Chief of the National Guard Bureau.

“(vii) Seven adjutants general from the planning committee under paragraph (B).”

(b) BUDGETING FOR TRAINING AND EQUIPMENT AND MILITARY CONSTRUCTION FOR MILITARY ASSISTANCE TO CIVIL AUTHORITIES AND OTHER DOMESTIC MISSIONS.—Chapter 1013 of such title is amended by adding at the end the following new section:

“§ 10544. National Guard training and equipment and military construction: budget for military assistance to civil authorities and for other domestic operations

“(a) IN GENERAL.—The budget justification documents materials submitted to Congress in support of the budget of the President for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) shall specify separate amounts for the National Guard for purposes of military assistance to civil authorities and for other domestic operations during such fiscal year as follows:

“(1) Amounts for training and equipment, including critical dual-use equipment.

“(2) Amounts for military construction, including critical dual-use capital construction.

“(b) SCOPE OF FUNDING.—The amounts specified under subsection (a) for a fiscal year shall be sufficient for purposes as follows:

“(1) The development and implementation of doctrine and training requirements applicable to the assistance and operations described in subsection (a) for such fiscal year.

“(2) The acquisition of equipment, materiel, and other supplies and services necessary for the provision of such assistance and such operations in such fiscal year.”

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 1011 of such title is amended by inserting after the item relating to section 10503 the following new item:

“10503a. Functions of National Guard Bureau: military assistance to civil authorities.”

(2) The table of sections at the beginning of chapter 1013 of such title is amended by adding at the end the following new item:

“10544. National Guard training and equipment and military construction: budget for military assistance to civil authorities and for other domestic operations.”

SEC. 944. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU.

(a) REESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 1011 of title 10, United States Code, is amended—

(A) by redesignating section 10505 as section 10505a; and

(B) by inserting after section 10504 the following new section 10505:

“§ 10505. Vice Chief of the National Guard Bureau

“(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

“(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

“(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

“(C) are in a grade above the grade of colonel.

“(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

“(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

“(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

“(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

“(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

“(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1011 of such title is amended by striking the item relating to section 10505 and inserting the following new items:

“10505. Vice Chief of the National Guard Bureau.

“10505a. Director of the Joint Staff of the National Guard Bureau.”.

(b) CONFORMING AMENDMENT.—Section 10506(a)(1) of such title is amended by striking “and the Director of the Joint Staff of the National Guard Bureau” and inserting “, the Vice Chief of the National Guard Bureau, and the Director of the Joint Staff of the National Guard Bureau”.

SEC. 945. STATE CONTROL OF FEDERAL MILITARY FORCES ENGAGED IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS.

(a) IN GENERAL.—Part I of subtitle A of title 10, United States Code, is amended by inserting after chapter 15 the following new chapter:

“CHAPTER 16—CONTROL OF THE ARMED FORCES IN ACTIVITIES WITHIN THE STATES AND POSSESSIONS

“Sec.

“341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities.

“§341. Tactical control of the armed forces engaged in activities within the States and possessions: emergency response activities

“(a) IN GENERAL.—The Secretary of Defense shall prescribe in regulations policies and procedures to assure that tactical control of the armed forces on active duty within a State or possession is vested in the governor of the State or possession, as the case may be, when such forces are engaged in a domestic operation, including emergency response, within such State or possession.

“(b) DISCHARGE THROUGH JOINT FORCE HEADQUARTERS.—The policies and procedures required under subsection (a) shall provide for the discharge of tactical control by the governor of a State or possession as described in that subsection through the Joint Force Headquarters of the National Guard in the State or possession, as the case may be, acting through the officer of the National Guard in command of the Headquarters.

“(c) POSSESSIONS DEFINED.—Notwithstanding any provision of section 101(a) of this title, in this section, the term ‘possessions’ means the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.”.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 10, United States Code, and at the beginning of part I of subtitle A of such title, are each amended by inserting after the item relating to chapter 15 the following new item:

“16. Control of the Armed Forces in Activities Within the States and Possessions 341”.

SEC. 946. FISCAL YEAR 2010 FUNDING FOR THE NATIONAL GUARD FOR CERTAIN DOMESTIC ACTIVITIES.

(a) CONTINUITY OF OPERATIONS, CONTINUITY OF GOVERNMENT, AND CONSEQUENCE MANAGEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, \$11,000,000.

(B) For National Guard Personnel, Air Force, \$3,500,000.

(C) For Operation and Maintenance, Army National Guard, \$11,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in training and operations with respect to continuity of operations, continuity of government, and consequence management in connection with response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(b) DOMESTIC OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense, \$300,000,000 for Operation and Maintenance, Defense-wide.

(2) AVAILABILITY.—The amount authorized to be appropriated by paragraph (1) shall be available for the Army National Guard and the Air National Guard for emergency preparedness and response activities of the National Guard while in State status under title 32, United States Code.

(3) TRANSFER.—Amounts under the amount authorized to be appropriated by paragraph (1) shall be available for transfer to accounts for National Guard Personnel, Army, and National Guard Personnel, Air Force, for purposes of the pay and allowances of members of the National Guard in conducting activities described in paragraph (2).

(c) JOINT OPERATIONS COORDINATION CENTERS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2010 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, \$28,000,000.

(B) For National Guard Personnel, Air Force, \$7,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in continuously staffing a Joint Operations Coordination Center (JOCC) in the Joint Forces Headquarters of the National Guard in each State and Territory for command and control and activation of forces in response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(d) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by subsections (a), (b), and (c) for the purposes set forth in such subsections are in addition to any other amounts authorized to be appropriated for fiscal year 2010 for the Department of Defense for such purposes.

SEC. 947. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SEC. 948. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of

Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) **COMMANDER OF AIR FORCE NORTH COMMAND.**—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) **SENSE OF CONGRESS.**—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

SA 1502. Mr. REID (for Mr. COBURN (for himself and Mr. FEINGOLD)) proposed an amendment to the bill S. 1233, to reauthorize and improve the SBIR and STTR programs and for other purposes; as follows:

On page 61, line 20, strike “2023” and insert “2017”.

On page 61, line 23, strike “2023” and insert “2017”.

At the end, add the following:

SEC. 402. PRIORITIES FOR CERTAIN RESEARCH INITIATIVES.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(hh) **RESEARCH INITIATIVES.**—To the extent that such projects relate to the mission of the Federal agency, each Federal agency participating in the SBIR program or STTR program shall encourage the submission of applications for support of projects relating to security, energy, transportation, or improving the security and quality of the water supply of the United States to such program.”

(b) **SUNSET.**—Effective October 1, 2014, section 9(hh) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 403. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ii) **ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.**—

“(1) **DEVELOPMENT OF METRICS.**—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

“(C) include factors relating to the economic impact of the programs.

“(2) **EVALUATION.**—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) **REPORT.**—

“(A) **IN GENERAL.**—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

“(B) **PUBLIC AVAILABILITY OF REPORT.**—The head of each Federal agency described in

paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) **DEFINITION.**—In this paragraph, the term “appropriate committees of Congress” means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.”

SEC. 404. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(j) **COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.**—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”

SA 1503. Mr. NELSON of Florida (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 419, strike line 10 and all that follows through page 420, line 2, and insert the following:

(a) **IN GENERAL.**—Section 2281(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “the Secretary of Defense” and inserting “the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing.”; and

(B) by striking “the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives” and inserting “Congress”; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

“(2) In preparing each report required under paragraph (1), the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall consult with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security.”

SA 1504. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 524. MODIFICATION OF BASIS FOR ANNUAL ADJUSTMENTS IN AMOUNTS OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) **IN GENERAL.**—Section 16131(b)(2) of title 10, United States Code, is amended by strik-

ing “equal to” and all that follows and inserting “not less than the percentage by which—

“(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2009, and shall apply to adjustments in amounts of educational assistance for members of the Selected Reserve that are made for fiscal years beginning on or after that date.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCHUMER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, July 15, 2009, at 9:30 a.m. to conduct a markup of S. 1415, the Military and Overseas Voter Empowerment Act.

For further information regarding this hearing, please contact Jean Bordewich at the Rules and Administration Committee, 202-224-6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Monday, July 13, 2009, at 2 p.m. in room 325 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 13, 2009, at 10 a.m., in room SH-216 of the Hart Senate Office Building, to conduct a hearing on the nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States.

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

PRIVILEGES OF THE FLOOR

Mr. MCCAIN. I ask unanimous consent that LCDR Ryan Farris, Mr. Yariv Pierce, and Mr. Stratton Kirton be granted the privileges of the floor for the remainder of the week on the behalf of Senator NELSON of Florida.

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

Mr. LEAHY. Mr. President, on behalf of Senator DODD, I ask unanimous consent the military fellow in his office, CPT Lindsay George, be granted the

privilege of the floor for the remainder of this legislation session.

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

Mr. LEAHY. Mr. President, on behalf of the majority leader, I ask unanimous consent that LTC Joseph J. Martin, a U.S. Army Special Forces officer currently serving as his military legislative fellow this year, be granted the privilege of the floor for the duration of S. 1390, the National Defense Authorization Act for fiscal year 2010.

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

Mr. CARPER. Madam President, on behalf of Senator BOXER, I ask unanimous consent that Mara Boggs, an Army fellow with the office of Senator BOXER be granted the privilege of the floor during consideration of S. 1390, the defense authorization bill.

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

SBIR/STTR REAUTHORIZATION ACT OF 2009

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 94, S. 1233.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1233) to reauthorize and improve the SBIR and STTR programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business and Entrepreneurship, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “SBIR/STTR Reauthorization Act of 2009”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

- Sec. 101. Extension of termination dates.
- Sec. 102. Status of the Office of Technology.
- Sec. 103. SBIR allocation increase.
- Sec. 104. STTR allocation increase.
- Sec. 105. SBIR and STTR award levels.
- Sec. 106. Agency and program collaboration.
- Sec. 107. Elimination of Phase II invitations.
- Sec. 108. Majority-venture investments in SBIR firms.
- Sec. 109. SBIR and STTR special acquisition preference.
- Sec. 110. Collaborating with Federal laboratories and research and development centers.
- Sec. 111. Notice requirement.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

- Sec. 201. Rural and State outreach.
- Sec. 202. SBIR-STEM Workforce Development Grant Pilot Program.
- Sec. 203. Technical assistance for awardees.
- Sec. 204. Commercialization program at Department of Defense.
- Sec. 205. Commercialization Pilot Program for civilian agencies.

Sec. 206. Nanotechnology initiative.

Sec. 207. Accelerating cures.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.

Sec. 302. Data collection from agencies for SBIR.

Sec. 303. Data collection from agencies for STTR.

Sec. 304. Public database.

Sec. 305. Government database.

Sec. 306. Accuracy in funding base calculations.

Sec. 307. Continued evaluation by the National Academy of Sciences.

Sec. 308. Technology insertion reporting requirements.

Sec. 309. Intellectual property protections.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms “extramural budget”, “Federal agency”, “Small Business Innovation Research Program”, “SBIR”, “Small Business Technology Transfer Program”, and “STTR” have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term “small business concern” has the same meaning as under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2008” and inserting “2023”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2009” and inserting “2023”.

SEC. 102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

“(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

“(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

“(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.”.

SEC. 103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Each” and inserting “Except as provided in paragraph (2)(C), each”;

(B) in subparagraph (B), by striking “and” at the end; and

(C) by striking subparagraph (C) and inserting the following:

“(C) not less than 2.5 percent of such budget in each of fiscal years 2009 and 2010;

“(D) not less than 2.6 percent of such budget in fiscal year 2011;

“(E) not less than 2.7 percent of such budget in fiscal year 2012;

“(F) not less than 2.8 percent of such budget in fiscal year 2013;

“(G) not less than 2.9 percent of such budget in fiscal year 2014;

“(H) not less than 3.0 percent of such budget in fiscal year 2015;

“(I) not less than 3.1 percent of such budget in fiscal year 2016;

“(J) not less than 3.2 percent of such budget in fiscal year 2017;

“(K) not less than 3.3 percent of such budget in fiscal year 2018;

“(L) not less than 3.4 percent of such budget in fiscal year 2019; and

“(M) not less than 3.5 percent of such budget in fiscal year 2020 and each fiscal year thereafter.”; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking “A Federal agency” and inserting the following:

“(A) IN GENERAL.—A Federal agency”; and

(C) by adding at the end the following:

“(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

“(i) may not be used for new Phase I or Phase II awards; and

“(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.”.

SEC. 104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking “thereafter.” and inserting “through fiscal year 2010;”; and

(3) by adding at the end the following:

“(iii) 0.4 percent for fiscal years 2011 and 2012;

“(iv) 0.5 percent for fiscal years 2013 and 2014; and

“(v) 0.6 percent for fiscal year 2015 and each fiscal year thereafter.”.

SEC. 105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(c) TRIENNIAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking “5 years” and inserting “3 years”; and

(B) by striking “and programmatic considerations”; and

(2) in subsection (p)(2)(B)(ix) by striking “greater or lesser amounts to be awarded at the discretion of the awarding agency,” and inserting “an adjustment for inflation of such amounts once every 3 years.”.

(d) LIMITATION ON CERTAIN AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(aa) LIMITATION ON CERTAIN AWARDS.—

“(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds

the award guidelines established under this section by more than 50 percent.

“(2) MAINTAINANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

“(A) the amount of each award;

“(B) a justification for exceeding the award amount;

“(C) the identity and location of each award recipient; and

“(D) whether a recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital companies.

“(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.”.

SEC. 106. AGENCY AND PROGRAM COLLABORATION.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(bb) SUBSEQUENT PHASES.—

“(1) AGENCY COLLABORATION.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

“(2) SBIR AND STTR COLLABORATION.—A small business concern which received an award under this section under the SBIR program or the STTR program may receive an award under this section for a subsequent phase in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).”.

SEC. 107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking “to further” and inserting: “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further”;

(2) in paragraph (6)(B), by striking “to further develop proposed ideas to” and inserting “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 638) is amended—

(1) in section 9—

(A) in subsection (e)—

(i) in paragraph (8), by striking “and” at the end;

(ii) in paragraph (9)—

(I) by striking “the second or the third phase” and inserting “Phase II or Phase III”; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(10) the term ‘Phase I’ means—

“(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

“(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

“(11) the term ‘Phase II’ means—

“(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

“(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

“(12) the term ‘Phase III’ means—

“(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

“(B) with respect to the STTR program, the third phase described in paragraph (6)(C).”;

(B) in subsection (f)—

(i) in paragraph (1)(B), by striking “phase two” and inserting “Phase II”;

(ii) in paragraph (2)—

(I) in subparagraph (B)—

(aa) by striking “the third phase” each place it appears and inserting “Phase III”; and

(bb) by striking “the second phase” and inserting “Phase II”;

(II) in subparagraph (D)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”;

(III) in subparagraph (F), by striking “the third phase” and inserting “Phase III”;

(IV) in subparagraph (G)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(V) in subparagraph (H)—

(aa) by striking “the first phase” and inserting “Phase I”;

(bb) by striking “second phase” each place it appears and inserting “Phase II”; and

(cc) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”;

(bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”;

(cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”;

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”;

(C) in subsection (k)—

(i) by striking “first phase” each place it appears and inserting “Phase I”; and

(ii) by striking “second phase” each place it appears and inserting “Phase II”;

(D) in subsection (l)(2)—

(i) by striking “the first phase” and inserting “Phase I”; and

(ii) by striking “the second phase” and inserting “Phase II”;

(E) in subsection (o)(13)—

(i) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and

(ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”;

(F) in subsection (p)—

(i) in paragraph (2)(B)—

(I) in clause (vi)—

(aa) by striking “the second phase” and inserting “Phase II”; and

(bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

(aa) by striking “the first phase” and inserting “Phase I”; and

(bb) by striking “the second phase” and inserting “Phase II”; and

(iii) in paragraph (3)—

(I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;

(II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”;

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

(G) in subsection (q)(3)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and

(II) by striking “first phase” and inserting “Phase I”; and

(ii) in subparagraph (B)—

(I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and

(II) by striking “second phase” and inserting “Phase II”;

(H) in subsection (r)—

(i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;

(ii) in paragraph (1)—

(I) in the first sentence—

(aa) by striking “for the second phase” and inserting “for Phase II”;

(bb) by striking “third phase” and inserting “Phase III”;

(cc) by striking “second phase period” and inserting “Phase II period”; and

(II) in the second sentence—

(aa) by striking “second phase” and inserting “Phase II”; and

(bb) by striking “third phase” and inserting “Phase III”; and

(iii) in paragraph (2), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”;

(2) in section 34—

(A) in subsection (c)(2)(B)(ii), by striking “first phase and second phase SBIR awards” and inserting “Phase I and Phase II SBIR awards (as defined in section 9(e))”; and

(B) in subsection (e)(2)(A)—

(i) in clause (i), by striking “first phase awards” and all that follows and inserting “Phase I awards (as defined in section 9(e));”;

(ii) by striking “first phase” each place it appears and inserting “Phase I”; and

(3) in section 35(c)(2)(B)(vii), by striking “third phase” and inserting “Phase III”.

SEC. 108. MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(cc) MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.—

“(1) AUTHORITY AND DETERMINATION.—

“(A) IN GENERAL.—Upon a written determination provided not later than 30 days in advance to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives—

“(i) the Director of the National Institutes of Health may award not more than 18 percent of the SBIR funds of the National Institutes of Health allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns; and

“(ii) the head of any other Federal agency participating in the SBIR program may award not more than 8 percent of the SBIR funds of the Federal agency allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are majority owned by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns.

“(B) DETERMINATION.—A written determination made under subparagraph (A) shall explain how the use of the authority under that subparagraph will induce additional venture capital funding of small business innovations, substantially contribute to the mission of the funding Federal agency, demonstrate a need for public research, and otherwise fulfill the capital

needs of small business concerns for additional financing for the SBIR project.

“(2) **QUALIFICATION REQUIREMENTS.**—The Administrator shall establish requirements relating to the affiliation by small business concerns with venture capital companies, which may not exclude a United States small business concern from participation in the program under paragraph (1) on the basis that the small business concern is owned in majority part by, or controlled by, more than 1 United States venture capital company, so long as no single venture capital company owns more than 49 percent of the small business concern.

“(3) **REGISTRATION.**—A small business concern that is majority owned and controlled by multiple venture capital companies and qualified for participation in the program authorized under paragraph (1) shall—

“(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

“(B) indicate whether the small business concern is registered under subparagraph (A) in any SBIR proposal.

“(4) **COMPLIANCE.**—A Federal agency described in paragraph (1) shall collect data regarding the number and dollar amounts of phase I, phase II, and all other categories of awards under the SBIR program, and the Administrator shall report on the data and the compliance of each such Federal agency with the maximum amounts under paragraph (1) as part of the annual report by the Administration under subsection (b)(7).

“(5) **ENFORCEMENT.**—If a Federal agency awards more than the amount authorized under paragraph (1) for a purpose described in paragraph (1), the amount awarded in excess of the amount authorized under paragraph (1) shall be transferred to the funds for general SBIR programs from the non-SBIR research and development funds of the Federal agency within 60 days of the date on which the Federal agency awarded more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).”

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(t) **VENTURE CAPITAL COMPANY.**—In this Act, the term ‘venture capital company’ means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).”

(c) **ASSISTANCE FOR DETERMINING AFFILIATION.**—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR website of the Administration)—

(1) a clear explanation of the SBIR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(2) contact information for officers or employees of the Administration who—

(A) upon request, shall review an issue relating to the rules described in paragraph (1); and

(B) shall respond to a request under subparagraph (A) not later than 20 business days after the date on which the request is received.

SEC. 109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

“(4) **PHASE III AWARDS.**—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”

SEC. 110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(dd) **COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.**—

“(1) **AUTHORIZATION.**—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

“(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

“(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

“(2) **PROHIBITION.**—No Federal agency shall—

“(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

“(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

“(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

“(3) **IMPLEMENTATION.**—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

“(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

“(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.”

SEC. 111. NOTICE REQUIREMENT.

The head of any Federal agency involved in a case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program or the STTR program shall provide timely notice, as determined by the Administrator, of the case or controversy to the Administrator.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. RURAL AND STATE OUTREACH.

(a) **OUTREACH.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

“(s) **OUTREACH.**—

“(1) **DEFINITION OF ELIGIBLE STATE.**—In this subsection, the term ‘eligible State’ means a State—

“(A) for which the total value of contracts awarded to the State under this section during the most recent fiscal year for which data is available was less than \$5,000,000; and

“(B) that certifies to the Administrator that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

“(2) **PROGRAM AUTHORITY.**—Of amounts made available to carry out this section for each of

fiscal years 2010 through 2014, the Administrator may expend with eligible States not more than \$5,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

“(3) **AMOUNT OF ASSISTANCE.**—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

“(A) shall be equal to not more than 50 percent of the total amount of matching funds from non-Federal sources provided by the State; and

“(B) shall not exceed \$100,000.

“(4) **USE OF ASSISTANCE.**—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

“(A) the establishment of quantifiable performance goals, including goals relating to—

“(i) the number of program awards under this section made to small business concerns in the State; and

“(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

“(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

“(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.”

(b) **FEDERAL AND STATE PROGRAM EXTENSION.**—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking “2001 through 2005” each place it appears and inserting “2010 through 2014”; and

(2) in subsection (i), by striking “2005” and inserting “2014”.

(c) **MATCHING REQUIREMENTS.**—Section 34(e)(2) of the Small Business Act (15 U.S.C. 657d(e)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “50 cents” and inserting “35 cents”; and

(B) in clause (iii), by striking “75 cents” and inserting “50 cents”; and

(2) in subparagraph (B), by striking “50 cents” and inserting “35 cents”; and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(4) by inserting after subparagraph (B) the following:

“(C) **RURAL AREAS.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in a rural area.

“(ii) **ENHANCED RURAL AWARDS.**—For a recipient located in a rural area that is located in a State described in subparagraph (A)(i), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in the rural area.

“(iii) **DEFINITION OF RURAL AREA.**—In this subparagraph, the term ‘rural area’ has the meaning given that term in section 1393(a)(2) of the Internal Revenue Code of 1986.”

SEC. 202. SBIR-STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) **PILOT PROGRAM ESTABLISHED.**—From amounts made available to carry out this section, the Administrator shall establish a SBIR-

STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as “STEM college students”), by providing a SBIR bonus grant.

(b) **ELIGIBLE ENTITIES DEFINED.**—In this section the term “eligible entity” means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) **AWARDS.**—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than \$10,000 per year.

(d) **EVALUATION.**—Following the fourth year of funding under this section, the Administrator shall submit a report to Congress on the results of the SBIR–STEM Workforce Development Grant Pilot Program.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$1,000,000 for fiscal year 2011;
- (2) \$1,000,000 for fiscal year 2012;
- (3) \$1,000,000 for fiscal year 2013;
- (4) \$1,000,000 for fiscal year 2014; and
- (5) \$1,000,000 for fiscal year 2015.

SEC. 203. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q)(3) of the Small Business Act (15 U.S.C. 638(q)(3)) is amended—

(1) in subparagraph (A), by striking “\$4,000” and inserting “\$5,000”;

(2) in subparagraph (B)—
(A) by striking “, with funds available from their SBIR awards,”; and

(B) by striking “\$4,000 per year” and inserting “\$5,000 per year, which shall be in addition to the amount of the recipient’s award”; and

(3) by adding at the end the following:

“(C) **FLEXIBILITY.**—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

“(D) **LIMITATION.**—A Federal agency may not—

“(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

“(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.”.

SEC. 204. COMMERCIALIZATION PROGRAM AT DEPARTMENT OF DEFENSE.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking “PILOT”;

(2) by striking “Pilot” each place that term appears;

(3) in paragraph (1)—

(A) by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”; and

(B) by adding at the end the following: “The authority to create and administer a Commercialization Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).”;

(4) in paragraph (2), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(5) in paragraph (4), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(6) by striking paragraph (6);

(7) by redesignating paragraph (5) as paragraph (7); and

(8) by inserting after paragraph (4) the following:

“(5) **INSERTION INCENTIVES.**—For any contract with a value of not less than \$100,000,000, the Secretary of Defense is authorized to—

“(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

“(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

“(6) **GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.**—The Secretary of Defense shall—

“(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

“(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

“(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Program and efforts to transition these technologies into programs of record or fielded systems.”.

SEC. 205. COMMERCIALIZATION PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ee) **PILOT PROGRAM.**—

“(1) **AUTHORIZATION.**—The head of each covered Federal agency may set aside not more than 10 percent of the SBIR and STTR funds of such agency for further technology development, testing, and evaluation of SBIR and STTR Phase II technologies.

“(2) **APPLICATION BY FEDERAL AGENCY.**—

“(A) **IN GENERAL.**—A covered Federal agency may not establish a pilot program unless such agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

“(B) **DETERMINATION.**—The Administrator shall—

“(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

“(ii) publish the determination in the Federal Register; and

“(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(3) **MAXIMUM AMOUNT OF AWARD.**—The head of a Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

“(4) **MATCHING.**—The head of a Federal agency may not make an award under a pilot program for SBIR or STTR Phase II technology

that will be acquired by the Federal Government unless new private, Federal non-SBIR, or Federal non-STTR funding that at least matches the award from the Federal agency is provided for the SBIR or STTR Phase II technology.

“(5) **ELIGIBILITY FOR AWARD.**—The head of a Federal agency may make an award under a pilot program to any applicant that is eligible to receive a Phase III award related to technology developed in Phase II of an SBIR or STTR project.

“(6) **REGISTRATION.**—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

“(7) **TERMINATION.**—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

“(8) **DEFINITIONS.**—In this section—

“(A) the term “covered Federal agency”—

“(i) means a Federal agency participating in the SBIR program or the STTR program; and

“(ii) does not include the Department of Defense; and

“(B) the term “pilot program” means the program established under paragraph (1).”.

SEC. 206. NANOTECHNOLOGY INITIATIVE.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ff) **NANOTECHNOLOGY INITIATIVE.**—Each Federal agency participating in the SBIR or STTR program shall encourage the submission of applications for support of nanotechnology related projects to such program.”.

(b) **SUNSET.**—Effective October 1, 2014, subsection (ff) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 207. ACCELERATING CURES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

“**SEC. 44. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**

“(a) **NIH CURES PILOT.**—

“(1) **ESTABLISHMENT.**—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the “advisory board”) to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the “NIH”) institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

“(2) **MEMBERSHIP.**—

“(A) **IN GENERAL.**—The advisory board shall consist of—

“(i) the Director of the NIH;

“(ii) the Director of the SBIR program of the NIH;

“(iii) senior NIH agency managers, selected by the Director of NIH;

“(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

“(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

“(B) **NUMBER OF MEMBERS.**—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

“(C) **EQUAL REPRESENTATION.**—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

“(b) **ADDRESSING DATA GAPS.**—In order to enhance the evidence-base guiding SBIR program

decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled 'An Assessment of the Small Business Innovation Research Program at the NIH'.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

“(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

“(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

“(e) SBIR GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall place an emphasis on applications that identify products and services that may enhance the development of cures and therapies.

“(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

“(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 6 months.

“(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).

“(g) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009.”

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking “STTR programs, including the data” and inserting the following: “STTR programs, including—

“(A) the data”;

(B) by striking “(g)(10), (o)(9), and (o)(15), the number” and all that follows through “under each of the SBIR and STTR programs, and a description” and inserting the following: “(g)(8) and (o)(9); and

“(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority owned and controlled by multiple venture capital firms) under each of the SBIR and STTR programs;

“(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

“(D) general information about the implementation and compliance with the allocation of funds required under subsection (cc) for firms majority owned and controlled by multiple venture capital firms under each of the SBIR and STTR programs;

“(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives filed by the Administrator with Federal agencies; and

“(F) a description”; and

(2) by inserting after paragraph (7) the following:

“(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;”.

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(3) by inserting after paragraph (7) the following:

“(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the awardee has received as of the date of the award; and

“(II) the amount of additional capital that the awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State described in subsection (u)(3); and

“(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;”;

(4) in paragraph (10), as so redesignated, by adding “and” at the end.

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (9) and inserting the following:

“(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program out-

puts and outcomes, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an applicant or awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

“(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

“(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;”;

(2) in paragraph (14), by adding “and” at the end;

(3) by striking paragraph (15); and

(4) by redesignating paragraph (16) as paragraph (15).

SEC. 304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

“(i) has venture capital and, if so, whether the small business concern is registered as majority owned and controlled by multiple venture capital companies as required under subsection (cc)(3);

“(ii) is owned by a woman or has a woman as a principal investigator;

“(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(iv) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

“(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

SEC. 305. GOVERNMENT DATABASE.

Section 9(k)(2) of the Small Business Act (15 U.S.C. 638(k)(2)) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following:

“(C) includes, for each awardee—

“(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

“(ii) whether the awardee has venture capital, and, if so—

“(I) the amount of venture capital as of the date of the award;

“(II) the percentage of ownership of the awardee held by a venture capital firm, including whether the awardee is majority owned and controlled by multiple venture capital firms; and

“(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

“(iii) the names and locations of any affiliates of the awardee;

“(iv) the number of employees of the awardee;

“(v) the number of employees of the affiliates of the awardee; and

“(vi) the names of, and the percentage of ownership of the awardee held by—

“(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

“(II) any person that is not an individual and is not organized under the laws of a State or the United States.”; and

(3) in subparagraph (D), as so redesignated—

(A) in clause (ii), by striking “and” at the end; and

(B) by adding at the end, the following:

“(iv) whether the applicant was majority owned and controlled by multiple venture capital firms; and

“(v) the number of employees of the applicant.”.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term “applicable period” means—

(1) for the first report submitted under this section, the period beginning on October 1, 2000,

and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

“(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a study described in subsection (a)(1) and make recommendations described in subsection (a)(2) not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter.

“(2) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).”.

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(gg) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

“(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

“(2) the name of the small business concern or individual receiving the Phase III award; and

“(3) the dollar amount of the Phase III award.”.

SEC. 309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

Ms. LANDRIEU. Mr. President, I ask my colleagues to support passage of S. 1233, the SBIR/STTR Reauthorization Act of 2009, with an amendment from Dr. COBURN and Senator FEINGOLD.

This legislation is important because it reauthorizes two extremely successful programs—the Small Business Innovation Research and Small Business Technology Transfer programs—otherwise known as SBIR and STTR. These programs foster partnerships between small businesses and the Federal Government to develop cutting-edge products and technologies important to our country. The bill makes improvements to these programs that will allow them to work better for small businesses, while contributing to our economy, fulfilling the priority research needs of the Nation, and expanding and diversifying our military’s supply base.

The SBIR program expires on July 31, 2009, so time is of the essence for Congress to pass this legislation and get it to President Obama’s desk. While we need to act fast, we have not acted in haste. We have given these programs full deliberation with numerous hearings, roundtables, and meetings since 2006, including a hearing on July 12, 2006, a roundtable on August 1, 2007, a roundtable on October 18, 2007, and a roundtable on June 4, 2009. We have also reviewed the nine studies by the National Research Council, and studies by the Government Accountability Office, on the SBIR program since it was last authorized in 2000 to help guide the committee in drafting not only this bill, S. 1233, but also the SBIR and STTR reauthorization bills that the committee adopted unanimously in the 109th Congress, S. 3778, and in the 110th Congress, S. 3362.

The SBIR and STTR programs are two of the very few Federal programs that tap into the scientific and technical community found in America’s small businesses. As I noted earlier, these programs foster government-industry partnerships by making competitive awards to firms with the best scientific proposals in response to the research needs of our agencies and by helping to move technologies from the lab to the marketplace or from the lab to insertion in a government program or system.

The SBIR program was designed in 1982 to harness the innovative capacity of America’s small businesses to meet the needs of our Federal agencies and

to help grow small, high-tech firms that, in turn, grow local economies all across the Nation. The STTR program was originally created as a pilot program in 1992 to stimulate partnerships between small businesses and nonprofit research institutions, such as universities like LSU and Louisiana Tech.

Since their inception, both programs have exceeded all expectations, playing an unprecedented role in stimulating technological innovation, in allowing small business to meet Federal research and development needs, and in providing seed capital for small business to develop ideas until they are able to attract outside investment.

The SBIR program has awarded more than \$24 billion to more than 100,000 projects since it started. Recipients of SBIR and STTR awards have produced more than 85,000 patents and have generated millions of well-paying jobs across all 50 States. Both programs have garnered high praise from well-respected sources, and governments around the world are increasingly adopting SBIR-type programs to encourage innovation in their countries.

In drafting this bill, we had many policy goals and interests to balance. We wanted to improve the diversity of the programs, geographically and otherwise, so that more States and individuals could participate in Federal research and development for our country. We also wanted to maintain a fair playing field so true small businesses could continue to compete for this very small percent of the overall Federal R&D budget. We wanted to encourage exploration of high-risk, cutting-edge research. These goals, along with many others, were taken into consideration in forging this bill. We made a number of important compromises in this legislation—and the result is a fair bill that will maintain the strength of these programs.

To keep these innovation programs strong, the bill reauthorizes the programs for 8 years, as reflected in the amendment by Dr. COBURN, instead of 14 years as adopted by the committee; increases the SBIR program allocation by 1 percent, from 2.5 to 3.5 percent, at all agencies, including the NIH, spread out over 10 years; increases the STTR program allocation from .3 percent to .6 percent spread out over 6 years; makes firms majority owned and controlled by multiple venture capital firms eligible for up to 18 percent of the SBIR funds at NIH and up to 8 percent of the funds at the other agencies; and increases the award guidelines for SBIR and STTR awards from \$100,000 to \$150,000 for Phase I and from \$750,000 to \$1 million for Phase II.

The bill also reauthorizes and enhances the Federal and State Technology Partnership Program, or FAST Program, that was created by Senator BOND in 2000, and the Rural Outreach Program, programs that have been very effective in States such as Louisiana and Missouri in increasing the participation of small business in Fed-

eral research and development and the start-up of high-tech firms; strengthens the Office of Technology at the SBA so that it has the authority and resources to carry out its duty to oversee the SBIR and STTR programs across the government; streamlines and improves data collection and reporting requirements for the SBIR and STTR programs, including developing metrics for annual evaluations by each participating agency, as reflected in the amendment by Dr. COBURN; helps SBIR and STTR companies move their technologies across the “valley of death” between the lab and the marketplace and into products and technologies for the agencies; and addresses “jumbo” awards, those awards that have greatly exceeded the \$100,000 and \$750,000 guidelines for Phase I and Phase II and cut out other businesses.

Reauthorizing these programs will ensure that small businesses continue to play a part in our Federal research and development. Currently, small businesses receive only about 4 percent of Federal research and development dollars despite the fact that they employ nearly 40 percent of America’s scientists and engineers, produce more than 14 times more patents than large businesses and universities, and produce patents that are of higher quality and are more than twice as likely to be cited. This legislation will help maintain and improve the role of small businesses in our Federal research and development.

The SBIR and STTR programs have spurred so many amazing technologies. I would just like to share a few of them with you here today. Among the technologies pioneered by SBIR-funded small businesses are a machine that uses lasers and computer cameras to sort and inspect bullets at a much finer level than the human eye can manage, the technology that creates the “invisible” condensation trail of the B-2 bomber, a therapeutic drug to treat chronic inflammatory disease, and a nerve gas protection system.

With regard to the bullet sorting technology, developed by CyberNet Systems, a small, women-owned business located in Ann Arbor, MI, and currently in use in Iraq and Afghanistan, that SBIR technology is estimated to have saved taxpayers more than \$300 million. Those are real cost savings and tangible technological improvement.

In Louisiana, one company that has had great success in recent years is Network Foundation Technologies, known as NiFTy. I visited this company in Ruston, LA, a rural part of the State, in August 2008 and was extremely impressed. NiFTy used an SBIR grant from the National Science Foundation to develop technology that permits live streaming video over the Internet without using large amounts of bandwidth. They have been particularly successful bringing sporting events live over the Internet. NiFTy has grown to more than 40 employees,

many drawn from the ranks of the Louisiana Tech science and engineering programs. These are new, high-paying jobs that have been a strong asset to north Louisiana’s economy.

SBIR is a program that helps spur technology research and innovation in areas you would not normally think of as high-tech corridors. Folks think of California or Massachusetts, but not our growing high-tech corridor in rural north Louisiana. LA Tech, UL-Monroe, Grambling University, LSU-Shreveport, and Centenary College are all in that corridor. For those who don’t know, Ruston is between Monroe and Shreveport, and LA Tech helps attract good companies because we have good scientists and engineers. With SBIR and STTR, those entrepreneurs started a company.

It is stories such as these that make the SBIR and STTR programs so special to the economic and technological growth of this country. I want to once again thank all those involved for their hard work on this legislation, particularly our ranking member, Senator SNOWE, and her staff, as well as Senator LEVIN and his staff on the Committee on Armed Services, Senator DURBIN and his Appropriations staff, and Dr. COBURN and Senator FEINGOLD on the final amendment to the bill. It is my hope that we can now pass this bill in the Senate and work expeditiously with the House to get a bill on President Obama’s desk before July 31.

Mr. REID. Mr. President, Senators COBURN and FEINGOLD have an amendment at the desk, and I ask unanimous consent for its consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table; that the committee-reported substitute, as amended, be agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read a third time.

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

The amendment (No. 1502) was agreed to, as follows:

On page 61, line 20, strike “2023” and insert “2017”.

On page 61, line 23, strike “2023” and insert “2017”.

At the end, add the following:

SEC. 402. PRIORITIES FOR CERTAIN RESEARCH INITIATIVES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(hh) RESEARCH INITIATIVES.—To the extent that such projects relate to the mission of the Federal agency, each Federal agency participating in the SBIR program or STTR program shall encourage the submission of applications for support of projects relating to security, energy, transportation, or improving the security and quality of the water supply of the United States to such program.”.

(b) SUNSET.—Effective October 1, 2014, section 9(hh) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 403. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ii) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

“(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness, and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

“(C) include factors relating to the economic impact of the programs.

“(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) REPORT.—

“(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

“(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) DEFINITION.—In this paragraph, the term ‘appropriate committees of Congress’ means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.”

SEC. 404. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(jj) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1233), as amended, was ordered to be engrossed for a third reading, and was read the third time.

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to H.R. 2965, the House companion, which is at the desk; that all after the enacting clause be stricken and the text of S. 1233, as amended, be inserted in lieu thereof; the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table; that upon passage of H.R. 2965, S. 1233 be returned to the calendar, with no intervening action or debate.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 2965), as amended, was passed, as follows:

H.R. 2965

Resolved, That the bill from the House of Representatives (H.R. 2965) entitled “An Act to amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “SBIR/STTR Reauthorization Act of 2009”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.

Sec. 102. Status of the Office of Technology.

Sec. 103. SBIR allocation increase.

Sec. 104. STTR allocation increase.

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Sec. 109. SBIR and STTR special acquisition preference.

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TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

Sec. 201. Rural and State outreach.

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Sec. 203. Technical assistance for awardees.

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TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements.

Sec. 302. Data collection from agencies for SBIR.

Sec. 303. Data collection from agencies for STTR.

Sec. 304. Public database.

Sec. 305. Government database.

Sec. 306. Accuracy in funding base calculations.

Sec. 307. Continued evaluation by the National Academy of Sciences.

Sec. 308. Technology insertion reporting requirements.

Sec. 309. Intellectual property protections.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

Sec. 402. Priorities for certain research initiatives.

Sec. 403. Report on SBIR and STTR program goals.

Sec. 404. Competitive selection procedures for SBIR and STTR programs.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms “extramural budget”, “Federal agency”, “Small Business Innovation Research Program”, “SBIR”, “Small Business Technology Transfer Program”, and “STTR” have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term “small business concern” has the same meaning as under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2008” and inserting “2017”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2009” and inserting “2017”.

SEC. 102. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”;

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

“(10) to maintain an Office of Technology to carry out the responsibilities of the Administration under this section, which shall be—

“(A) headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

“(B) independent from the Office of Government Contracting of the Administration and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.”

SEC. 103. SBIR ALLOCATION INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Each” and inserting “Except as provided in paragraph (2)(C), each”;

(B) in subparagraph (B), by striking “and” at the end; and

(C) by striking subparagraph (C) and inserting the following:

“(C) not less than 2.5 percent of such budget in each of fiscal years 2009 and 2010;

“(D) not less than 2.6 percent of such budget in fiscal year 2011;

“(E) not less than 2.7 percent of such budget in fiscal year 2012;

“(F) not less than 2.8 percent of such budget in fiscal year 2013;

“(G) not less than 2.9 percent of such budget in fiscal year 2014;

“(H) not less than 3.0 percent of such budget in fiscal year 2015;

“(I) not less than 3.1 percent of such budget in fiscal year 2016;

“(J) not less than 3.2 percent of such budget in fiscal year 2017;

“(K) not less than 3.3 percent of such budget in fiscal year 2018;

“(L) not less than 3.4 percent of such budget in fiscal year 2019; and

“(M) not less than 3.5 percent of such budget in fiscal year 2020 and each fiscal year thereafter;”; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking “A Federal agency” and inserting the following:

“(A) IN GENERAL.—A Federal agency”; and

(C) by adding at the end the following:

“(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the percentage of the extramural budget in excess of 2.5 percent required to be expended with small business concerns under subparagraphs (D) through (M) of paragraph (1)—

“(i) may not be used for new Phase I or Phase II awards; and

“(ii) shall be used for activities that further the readiness levels of technologies developed under Phase II awards, including conducting testing and evaluation to promote the transition of such technologies into commercial or defense products, or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.”.

SEC. 104. STTR ALLOCATION INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

- (1) in clause (i), by striking “and” at the end;
- (2) in clause (ii), by striking “thereafter.” and inserting “through fiscal year 2010;”; and
- (3) by adding at the end the following:
 - “(iii) 0.4 percent for fiscal years 2011 and 2012;
 - “(iv) 0.5 percent for fiscal years 2013 and 2014; and
 - “(v) 0.6 percent for fiscal year 2015 and each fiscal year thereafter.”.

“(v) 0.6 percent for fiscal year 2015 and each fiscal year thereafter.”.

SEC. 105. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

- (1) by striking “\$100,000” and inserting “\$150,000”; and
- (2) by striking “\$750,000” and inserting “\$1,000,000”.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

- (1) by striking “\$100,000” and inserting “\$150,000”; and
- (2) by striking “\$750,000” and inserting “\$1,000,000”.

(c) TRIENNIAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

- (1) in subsection (j)(2)(D)—
 - (A) by striking “5 years” and inserting “3 years”; and
 - (B) by striking “and programmatic considerations”; and

(2) in subsection (p)(2)(B)(ix) by striking “greater or lesser amounts to be awarded at the discretion of the awarding agency,” and inserting “an adjustment for inflation of such amounts once every 3 years;”.

(d) LIMITATION ON CERTAIN AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

“(aa) LIMITATION ON CERTAIN AWARDS.—

“(1) LIMITATION.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

“(2) MAINTENANCE OF INFORMATION.—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

“(A) the amount of each award;

“(B) a justification for exceeding the award amount;

“(C) the identity and location of each award recipient; and

“(D) whether a recipient has received any venture capital investment and, if so, whether the recipient is majority-owned and controlled by multiple venture capital companies.

“(3) REPORTS.—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.”.

SEC. 106. AGENCY AND PROGRAM COLLABORATION.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(bb) SUBSEQUENT PHASES.—

“(1) AGENCY COLLABORATION.—A small business concern that received an award from a

Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

“(2) SBIR AND STTR COLLABORATION.—A small business concern which received an award under this section under the SBIR program or the STTR program may receive an award under this section for a subsequent phase in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).”.

SEC. 107. ELIMINATION OF PHASE II INVITATIONS.

(a) IN GENERAL.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking “to further” and inserting: “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further”; and

(2) in paragraph (6)(B), by striking “to further develop proposed ideas to” and inserting “which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for the second phase, that will further develop proposals that”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 638) is amended—

(1) in section 9—

(A) in subsection (e)—

- (i) in paragraph (8), by striking “and” at the end;
- (ii) in paragraph (9)—
 - (I) by striking “the second or the third phase” and inserting “Phase II or Phase III”; and
 - (II) by striking the period at the end and inserting a semicolon; and

(ii) by adding at the end the following:

- “(10) the term ‘Phase I’ means—
 - “(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and
 - “(B) with respect to the STTR program, the first phase described in paragraph (6)(A);
- “(11) the term ‘Phase II’ means—
 - “(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and
 - “(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and
- “(12) the term ‘Phase III’ means—
 - “(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and
 - “(B) with respect to the STTR program, the third phase described in paragraph (6)(C).”;

(B) in subsection (j)—

- (i) in paragraph (1)(B), by striking “phase two” and inserting “Phase II”;
 - (ii) in paragraph (2)—
 - (I) in subparagraph (B)—
 - (aa) by striking “the third phase” each place it appears and inserting “Phase III”; and
 - (bb) by striking “the second phase” and inserting “Phase II”;
 - (II) in subparagraph (D)—
 - (aa) by striking “the first phase” and inserting “Phase I”; and
 - (bb) by striking “the second phase” and inserting “Phase II”;
 - (III) in subparagraph (F), by striking “the third phase” and inserting “Phase III”;
 - (IV) in subparagraph (G)—
 - (aa) by striking “the first phase” and inserting “Phase I”; and
 - (bb) by striking “the second phase” and inserting “Phase II”; and
 - (V) in subparagraph (H)—
 - (aa) by striking “the first phase” and inserting “Phase I”;
 - (bb) by striking “second phase” each place it appears and inserting “Phase II”; and
 - (cc) by striking “third phase” and inserting “Phase III”; and

(ii) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and
 - (III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;
 - (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B)—

- (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

- (aa) by striking “the first phase” and inserting “Phase I”; and
- (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”;

- (2) in section 34—
 - (A) in subsection (c)(2)(B)(ii), by striking “first phase and second phase SBIR awards” and inserting “Phase I and Phase II SBIR awards (as defined in section 9(e))”; and
 - (B) in subsection (e)(2)(A)—
 - (i) in clause (i), by striking “first phase awards” and all that follows and inserting

(iii) in paragraph (3)—

- (I) in subparagraph (A)—
 - (aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”;
- (bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and
- (cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”;

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”;

(C) in subsection (k)—

- (i) by striking “first phase” each place it appears and inserting “Phase I”; and
- (ii) by striking “second phase” each place it appears and inserting “Phase II”; and

(ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”;

- (i) in paragraph (2), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”;

- (2) in section 34—
 - (A) in subsection (c)(2)(B)(ii), by striking “first phase and second phase SBIR awards” and inserting “Phase I and Phase II SBIR awards (as defined in section 9(e))”; and
 - (B) in subsection (e)(2)(A)—
 - (i) in clause (i), by striking “first phase awards” and all that follows and inserting

(I) in subparagraph (A)—

- (aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”;

- (bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and
- (cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”;

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”;

(C) in subsection (k)—

- (i) by striking “first phase” each place it appears and inserting “Phase I”; and
- (ii) by striking “second phase” each place it appears and inserting “Phase II”; and

(ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”;

- (i) in paragraph (2), by striking “third phase” and inserting “Phase III”; and

(I) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”;

- (2) in section 34—
 - (A) in subsection (c)(2)(B)(ii), by striking “first phase and second phase SBIR awards” and inserting “Phase I and Phase II SBIR awards (as defined in section 9(e))”; and
 - (B) in subsection (e)(2)(A)—
 - (i) in clause (i), by striking “first phase awards” and all that follows and inserting

(iii) in paragraph (3)—

- (I) in subparagraph (A)—
 - (aa) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”;
- (bb) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and
- (cc) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”;

(II) in subparagraph (B), by striking “second phase” and inserting “Phase II”;

(C) in subsection (k)—

- (i) by striking “first phase” each place it appears and inserting “Phase I”; and
- (ii) by striking “second phase” each place it appears and inserting “Phase II”;

(D) in subsection (l)(2)—

- (i) by striking “the first phase” and inserting “Phase I”; and
- (ii) by striking “the second phase” and inserting “Phase II”;

(E) in subsection (o)(13)—

- (i) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and
- (ii) in subparagraph (C), by striking “third phase” and inserting “Phase III”;

(F) in subsection (p)—

- (i) in paragraph (2)(B)—
 - (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and
 - (II) in clause (ix)—
 - (aa) by striking “the first phase” and inserting “Phase I”; and
 - (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B), by striking “third phase” and inserting “Phase III”;

- (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

- (aa) by striking “the first phase” and inserting “Phase I”; and
- (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B), by striking “third phase” and inserting “Phase III”;

- (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

- (aa) by striking “the first phase” and inserting “Phase I”; and
- (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B), by striking “third phase” and inserting “Phase III”;

- (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

- (aa) by striking “the first phase” and inserting “Phase I”; and
- (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “Phase II period”; and
 - (II) in the second sentence—
 - (aa) by striking “second phase” and inserting “Phase II”; and
 - (bb) by striking “third phase” and inserting “Phase III”; and

(i) in paragraph (2)(B), by striking “third phase” and inserting “Phase III”;

- (I) in clause (vi)—
 - (aa) by striking “the second phase” and inserting “Phase II”; and
 - (bb) by striking “the third phase” and inserting “Phase III”; and

(II) in clause (ix)—

- (aa) by striking “the first phase” and inserting “Phase I”; and
- (bb) by striking “the second phase” and inserting “Phase II”; and

(II) in paragraph (3)—

- (I) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and

(III) by striking “the third phase (as described in subsection (e)(6)(A))” and inserting “Phase III”;

- (G) in subsection (q)(3)—
 - (i) in subparagraph (A)—
 - (I) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (II) by striking “first phase” and inserting “Phase I”; and
 - (ii) in subparagraph (B)—
 - (I) in the subparagraph heading, by striking “SECOND PHASE” and inserting “PHASE II”; and
 - (II) by striking “second phase” and inserting “Phase II”;
 - (H) in subsection (r)—
 - (i) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (ii) in paragraph (1)—
 - (I) in the first sentence—
 - (aa) by striking “for the second phase” and inserting “for Phase II”;
 - (bb) by striking “third phase” and inserting “Phase II”; and
 - (cc) by striking “second phase period” and inserting “

“Phase I awards (as defined in section 9(e));” and

(ii) by striking “first phase” each place it appears and inserting “Phase I”; and

(3) in section 35(c)(2)(B)(vii), by striking “third phase” and inserting “Phase III”.

SEC. 108. MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(cc) MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.—

“(1) AUTHORITY AND DETERMINATION.—“(A) IN GENERAL.—Upon a written determination provided not later than 30 days in advance to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives—

“(i) the Director of the National Institutes of Health may award not more than 18 percent of the SBIR funds of the National Institutes of Health allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns; and

“(ii) the head of any other Federal agency participating in the SBIR program may award not more than 8 percent of the SBIR funds of the Federal agency allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are majority owned by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns.

“(B) DETERMINATION.—A written determination made under subparagraph (A) shall explain how the use of the authority under that subparagraph will induce additional venture capital funding of small business innovations, substantially contribute to the mission of the funding Federal agency, demonstrate a need for public research, and otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

“(2) QUALIFICATION REQUIREMENTS.—The Administrator shall establish requirements relating to the affiliation by small business concerns with venture capital companies, which may not exclude a United States small business concern from participation in the program under paragraph (1) on the basis that the small business concern is owned in majority part by, or controlled by, more than 1 United States venture capital company, so long as no single venture capital company owns more than 49 percent of the small business concern.

“(3) REGISTRATION.—A small business concern that is majority owned and controlled by multiple venture capital companies and qualified for participation in the program authorized under paragraph (1) shall—

“(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

“(B) indicate whether the small business concern is registered under subparagraph (A) in any SBIR proposal.

“(4) COMPLIANCE.—A Federal agency described in paragraph (1) shall collect data regarding the number and dollar amounts of phase I, phase II, and all other categories of awards under the SBIR program, and the Administrator shall report on the data and the compliance of each such Federal agency with the maximum amounts under paragraph (1) as part of the annual report by the Administration under subsection (b)(7).

“(5) ENFORCEMENT.—If a Federal agency awards more than the amount authorized under paragraph (1) for a purpose described in paragraph (1), the amount awarded in excess of the amount authorized under paragraph (1) shall be transferred to the funds for general SBIR programs from the non-SBIR research and development funds of the Federal agency within 60 days of the date on which the Federal agency awarded more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(t) VENTURE CAPITAL COMPANY.—In this Act, the term ‘venture capital company’ means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).”.

(c) ASSISTANCE FOR DETERMINING AFFILIATION.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR website of the Administration)—

(1) a clear explanation of the SBIR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(2) contact information for officers or employees of the Administration who—

(A) upon request, shall review an issue relating to the rules described in paragraph (1); and

(B) shall respond to a request under subparagraph (A) not later than 20 business days after the date on which the request is received.

SEC. 109. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

“(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”.

SEC. 110. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(dd) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

“(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

“(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

“(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

“(2) PROHIBITION.—No Federal agency shall—

“(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

“(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

“(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

“(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

“(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

“(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.”.

SEC. 111. NOTICE REQUIREMENT.

The head of any Federal agency involved in a case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program or the STTR program shall provide timely notice, as determined by the Administrator, of the case or controversy to the Administrator.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. RURAL AND STATE OUTREACH.

(a) OUTREACH.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

“(s) OUTREACH.—

“(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term ‘eligible State’ means a State—

“(A) for which the total value of contracts awarded to the State under this section during the most recent fiscal year for which data is available was less than \$5,000,000; and

“(B) that certifies to the Administrator that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

“(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for each of fiscal years 2010 through 2014, the Administrator may expend with eligible States not more than \$5,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

“(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

“(A) shall be equal to not more than 50 percent of the total amount of matching funds from non-Federal sources provided by the State; and

“(B) shall not exceed \$100,000.

“(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

“(A) the establishment of quantifiable performance goals, including goals relating to—

“(i) the number of program awards under this section made to small business concerns in the State; and

“(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

“(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

“(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.”.

(b) FEDERAL AND STATE PROGRAM EXTENSION.—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking “2001 through 2005” each place it appears and inserting “2010 through 2014”; and

(2) in subsection (i), by striking “2005” and inserting “2014”.

(c) **MATCHING REQUIREMENTS.**—Section 34(e)(2) of the Small Business Act (15 U.S.C. 657d(e)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking “50 cents” and inserting “35 cents”; and

(B) in clause (iii), by striking “75 cents” and inserting “50 cents”;

(2) in subparagraph (B), by striking “50 cents” and inserting “35 cents”;

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(4) by inserting after subparagraph (B) the following:

“(C) **RURAL AREAS.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in a rural area.

“(ii) **ENHANCED RURAL AWARDS.**—For a recipient located in a rural area that is located in a State described in subparagraph (A)(i), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 15 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in the rural area.

“(iii) **DEFINITION OF RURAL AREA.**—In this subparagraph, the term “rural area” has the meaning given that term in section 1393(a)(2) of the Internal Revenue Code of 1986.”

SEC. 202. SBIR-STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) **PILOT PROGRAM ESTABLISHED.**—From amounts made available to carry out this section, the Administrator shall establish a SBIR-STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as “STEM college students”), by providing a SBIR bonus grant.

(b) **ELIGIBLE ENTITIES DEFINED.**—In this section the term “eligible entity” means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) **AWARDS.**—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than \$10,000 per year.

(d) **EVALUATION.**—Following the fourth year of funding under this section, the Administrator shall submit a report to Congress on the results of the SBIR-STEM Workforce Development Grant Pilot Program.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$1,000,000 for fiscal year 2011;
- (2) \$1,000,000 for fiscal year 2012;
- (3) \$1,000,000 for fiscal year 2013;
- (4) \$1,000,000 for fiscal year 2014; and
- (5) \$1,000,000 for fiscal year 2015.

SEC. 203. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q)(3) of the Small Business Act (15 U.S.C. 638(q)(3)) is amended—

(1) in subparagraph (A), by striking “\$4,000” and inserting “\$5,000”;

(2) in subparagraph (B)—

(A) by striking “, with funds available from their SBIR awards,”; and

(B) by striking “\$4,000 per year” and inserting “\$5,000 per year, which shall be in addition to the amount of the recipient’s award”; and

(3) by adding at the end the following:

“(C) **FLEXIBILITY.**—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

“(D) **LIMITATION.**—A Federal agency may not—

“(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

“(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.”

SEC. 204. COMMERCIALIZATION PROGRAM AT DEPARTMENT OF DEFENSE.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking “PILOT”;

(2) by striking “Pilot” each place that term appears;

(3) in paragraph (1)—

(A) by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”; and

(B) by adding at the end the following: “The authority to create and administer a Commercialization Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3136).”

(4) in paragraph (2), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(5) in paragraph (4), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(6) by striking paragraph (6);

(7) by redesignating paragraph (5) as paragraph (7); and

(8) by inserting after paragraph (4) the following:

“(5) **INSERTION INCENTIVES.**—For any contract with a value of not less than \$100,000,000, the Secretary of Defense is authorized to—

“(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

“(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

“(6) **GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.**—The Secretary of Defense shall—

“(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

“(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

“(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, and information on the ongoing status of projects funded through the Commercialization Program and efforts to transition these technologies into programs of record or fielded systems.”

SEC. 205. COMMERCIALIZATION PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ee) **PILOT PROGRAM.**—

“(1) **AUTHORIZATION.**—The head of each covered Federal agency may set aside not more than 10 percent of the SBIR and STTR funds of such agency for further technology development, testing, and evaluation of SBIR and STTR Phase II technologies.

“(2) **APPLICATION BY FEDERAL AGENCY.**—

“(A) **IN GENERAL.**—A covered Federal agency may not establish a pilot program unless such agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

“(B) **DETERMINATION.**—The Administrator shall—

“(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

“(ii) publish the determination in the Federal Register; and

“(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(3) **MAXIMUM AMOUNT OF AWARD.**—The head of a Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

“(4) **MATCHING.**—The head of a Federal agency may not make an award under a pilot program for SBIR or STTR Phase II technology that will be acquired by the Federal Government unless new private, Federal non-SBIR, or Federal non-STTR funding that at least matches the award from the Federal agency is provided for the SBIR or STTR Phase II technology.

“(5) **ELIGIBILITY FOR AWARD.**—The head of a Federal agency may make an award under a pilot program to any applicant that is eligible to receive a Phase III award related to technology developed in Phase II of an SBIR or STTR project.

“(6) **REGISTRATION.**—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

“(7) **TERMINATION.**—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.

“(8) **DEFINITIONS.**—In this section—

“(A) the term “covered Federal agency”—

“(i) means a Federal agency participating in the SBIR program or the STTR program; and

“(ii) does not include the Department of Defense; and

“(B) the term “pilot program” means the program established under paragraph (1).”

SEC. 206. NANOTECHNOLOGY INITIATIVE.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ff) **NANOTECHNOLOGY INITIATIVE.**—Each Federal agency participating in the SBIR or STTR program shall encourage the submission of applications for support of nanotechnology related projects to such program.”

(b) **SUNSET.**—Effective October 1, 2014, subsection (ff) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 207. ACCELERATING CURES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:
“SEC. 44. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

“(a) NIH CURES PILOT.—

“(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences (in this section referred to as the ‘advisory board’) to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of each of the National Institutes of Health (referred to in this section as the ‘NIH’) institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The advisory board shall consist of—

“(i) the Director of the NIH;

“(ii) the Director of the SBIR program of the NIH;

“(iii) senior NIH agency managers, selected by the Director of NIH;

“(iv) industry experts, selected by the Council of the National Academy of Sciences in consultation with the Associate Administrator for Technology of the Administration and the Director of the Office of Science and Technology Policy; and

“(v) owners or operators of small business concerns that have received an award under the SBIR program of the NIH, selected by the Associate Administrator for Technology of the Administration.

“(B) NUMBER OF MEMBERS.—The total number of members selected under clauses (iii), (iv), and (v) of subparagraph (A) shall not exceed 10.

“(C) EQUAL REPRESENTATION.—The total number of members of the advisory board selected under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall be equal to the number of members of the advisory board selected under subparagraph (A)(v).

“(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 report of the National Academies of Science entitled ‘An Assessment of the Small Business Innovation Research Program at the NIH’.

“(c) PILOT PROGRAM.—

“(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

“(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

“(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the advisory board on the activities of the SBIR program of the NIH under this section.

“(e) SBIR GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall place an emphasis on applications that identify products and services that may enhance the development of cures and therapies.

“(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The advisory board shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

“(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 6 months.

“(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot program under subsection (c) and to carry out subsection (e).

“(g) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009.”

TITLE III—OVERSIGHT AND EVALUATION
SEC. 301. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 102 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking “STTR programs, including the data” and inserting the following: “STTR programs, including—

“(A) the data”;

(B) by striking “(g)(10), (o)(9), and (o)(15), the number” and all that follows through “under each of the SBIR and STTR programs, and a description” and inserting the following: “(g)(8) and (o)(9); and

“(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority owned and controlled by multiple venture capital firms) under each of the SBIR and STTR programs;

“(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women and social or economically disadvantaged individuals under each of the SBIR and STTR programs;

“(D) general information about the implementation and compliance with the allocation of funds required under subsection (cc) for firms majority owned and controlled by multiple venture capital firms under each of the SBIR and STTR programs;

“(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives filed by the Administrator with Federal agencies; and

“(F) a description”; and

(2) by inserting after paragraph (7) the following:

“(8) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data;”

SEC. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(3) by inserting after paragraph (7) the following:

“(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the awardee has received as of the date of the award; and

“(II) the amount of additional capital that the awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State described in subsection (u)(3); and

“(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;” and

(4) in paragraph (10), as so redesignated, by adding “and” at the end.

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (9) and inserting the following:

“(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an applicant or awardee—

“(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

“(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

“(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s);

“(vi) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vii) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator; and

“(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount;”

(2) in paragraph (14), by adding “and” at the end;

(3) by striking paragraph (15); and

(4) by redesignating paragraph (16) as paragraph (15).

SEC. 304. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

“(i) has venture capital and, if so, whether the small business concern is registered as majority owned and controlled by multiple venture capital companies as required under subsection (cc)(3);

“(ii) is owned by a woman or has a woman as a principal investigator;

“(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(iv) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

“(v) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”

SEC. 305. GOVERNMENT DATABASE.

Section 9(k)(2) of the Small Business Act (15 U.S.C. 638(k)(2)) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following:

“(C) includes, for each awardee—

“(i) the name, size, location, and any identifying number assigned to the awardee by the Administrator;

“(ii) whether the awardee has venture capital, and, if so—

“(I) the amount of venture capital as of the date of the award;

“(II) the percentage of ownership of the awardee held by a venture capital firm, including whether the awardee is majority owned and controlled by multiple venture capital firms; and

“(III) the amount of additional capital that the awardee has invested in the SBIR technology, which information shall be collected on an annual basis;

“(iii) the names and locations of any affiliates of the awardee;

“(iv) the number of employees of the awardee;

“(v) the number of employees of the affiliates of the awardee; and

“(vi) the names of, and the percentage of ownership of the awardee held by—

“(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

“(II) any person that is not an individual and is not organized under the laws of a State or the United States;”

(3) in subparagraph (D), as so redesignated—

(A) in clause (ii), by striking “and” at the end; and

(B) by adding at the end, the following:

“(iv) whether the applicant was majority owned and controlled by multiple venture capital firms; and

“(v) the number of employees of the applicant;”

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 3

years thereafter, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraphs (B) and (C), and the determination made under subparagraph (D) of paragraph (1).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term “applicable period” means—

(1) for the first report submitted under this section, the period beginning on October 1, 2000, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 307. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

“(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a study described in subsection (a)(1) and make recommendations described in subsection (a)(2) not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter.

“(2) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2009, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).”

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(gg) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award made by the Federal agency—

“(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

“(2) the name of the small business concern or individual receiving the Phase III award; and

“(3) the dollar amount of the Phase III award.”

SEC. 309. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this Act and the amendments made by this Act.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

SEC. 402. PRIORITIES FOR CERTAIN RESEARCH INITIATIVES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(hh) RESEARCH INITIATIVES.—To the extent that such projects relate to the mission of the Federal agency, each Federal agency participating in the SBIR program or STTR program shall encourage the submission of applications for support of projects relating to security, energy, transportation, or improving the security and quality of the water supply of the United States to such program.”

(b) SUNSET.—Effective October 1, 2014, section 9(hh) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 403. REPORT ON SBIR AND STTR PROGRAM GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(ii) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

“(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness,

and the benefit to the people of the United States, of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

“(C) include factors relating to the economic impact of the programs.

“(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) REPORT.—

“(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

“(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) DEFINITION.—In this paragraph, the term ‘appropriate committees of Congress’ means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science and Technology of the House of Representatives.”.

SEC. 404. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

“(jj) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”.

ORDERS FOR TUESDAY, JULY 14, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, July 14; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and then there be a period for morning business of 1 hour, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half, with Senators permitted to speak for up to 10 minutes each; further, that following morning business, the Senate resume consideration of Calendar No. 89, S. 1390, the Department of Defense authorization bill; then I ask the Senate recess from 12:30 p.m. until 2:15 p.m. to allow for the weekly caucus luncheons.

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

ADJOURNMENT UNTIL 10 A.M., TUESDAY, JULY 14, 2009

Mr. REID. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 7:30 p.m., adjourned until Tuesday, July 14, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE INTERIOR

JONATHAN B. JARVIS, OF CALIFORNIA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE, VICE MARY AMELIA BOMAR, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

BRYAN HAYES SAMUELS, OF ILLINOIS, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE JOAN E. OHL, RESIGNED.

DEPARTMENT OF STATE

GLYN T. DAVIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

GLYN T. DAVIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

BRANDON T. GROVER

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

STEPHEN H. MONTALDI

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHARLES R. WHITSETT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DALLAS A. WINGATE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

HOLMES C. AITA
ANN BEHREND
STEPHANIE CALHOUNJAMISON
MYUNGSOOK CHO
SO E. CHOI
STEPHEN E. CLARY
KENNETH J. ERLEY
WILLIE R. FAISON
CRAIG M. GAYTON
MARRERO J. GONZALEZ
BRETT H. HENSON
TINA R. JONESFAISON
ADAM J. MCKISSOCK
NEIL E. MOREY
TODD E. PIENKOS
JASON C. STRANGE
MICHAEL S. TROUT
RYAN J. WANG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

JAYSON D. AYDELOTTE
DOUGLAS A. BADZIK
REGINALD L. BAKER
KEVIN P. BANKS
THERESA A. BENCHOFF
REONO BERTAGNOLLI
DANIEL F. BIGLEY
ROGER D. BROCKBANK
ADAM G. BUCHANAN
JEANETTE R. BURGESS
RICARDO M. BURGOS
MARK G. CARMICHAEL

AUTUMN H. CAYCEDO
MARIO CAYCEDO
MICHAEL N. CLEMENSHAW
MATTHEW A. CODY
MARC A. COOPER
RICARDO CORTEZ
JAMES V. CRAWFORD
REID E. CULTON
STEVEN J. CURRIER
BRIAN B. CUSHING
SCOTT R. DALTON
KEPLER A. DAVIS
MICHAEL D. DAVIS
ROBERT W. DAVIS
ALAN J. DEANGELO
RHONDA DEEN
JAMES A. DICKERSON II
MINH LUAN N. DOAN
MARTIN DOPERAK
MARTEN B. DUNCAN
ROBERT E. ECKART
JESS D. EDISON
HERBERT C. EIDT
ANTHONY R. ELIAS
BRYAN A. FISK
LISA M. FOGLEIA
SUSAN R. FONDY
DION L. FRANGA
ERIC R. FRIZZELLE
DAVID Y. GAITONDE
VINAYA A. GARDE
STEVEN J. GAYDOS
BABETTE GLISTERCARLSON
JOHN GODINO
RODNEY S. GONZALEZ
JENNIFER L. GOTKIN
SCOTT R. GRIFFITH
DAVID D. HAIGHT
KATRINA D. HALL
MOHAMAD I. HAQUE
MARIA R. HEMPHILL
DUANE R. HENNING
LANCE R. HOOVER
JOSEPH R. HSU
KERMIT D. HUEBNER
ANTHONY E. JOHNSON
CHRISTOPHER M. JOHNSON
JEREMIAH J. JOHNSON
DANIEL T. JOHNSON
DANIEL B. JUDD
ANDREW C. KIM
KEVIN M. KING
MICHAEL V. KRASNOKUTSKY
CRAIG S. LABUDA
MICHAEL T. LAKE
JAMES G. LAMPHEAR
CHRISTINE E. LANG
PETROS G. LEINONEN
CHRISTOPHER J. LETTIERI
JEFFREY A. LEVY
FELISA S. LEWIS
PETER A. LINDENBERG
YINCE LOH
JAMES H. LYNCH IV
ROBERT L. MABRY
MARSHALL J. MALINOWSKI
JAMES D. MANCUSO
BRYANT G. MARCHANT
LAWRENCE N. MASULLO
DOUGLAS MAUREP
JAMES R. MAXWELL, JR.
STEWART C. MCCARVER
CRAIG C. MCFARLAND
CRAIG H. MCHOOD
JOEL W. MCMASTERS
CHRISTOPHER D. MEDPELLIN
COLIN A. MEGHOO
CHRISTIAN J. MEKO
CECILLA P. MIKITA
SCOTT C. MORAN
MOHAMMAD NAEEM
CHRISTOPHER NEWTON
MARK W. NOLLER
SETH D. OBRIEN
MARK S. OCHOA
JOHN S. OH
ROBERT C. OH
ERIK C. OSBORN
BRETT D. OWENS
LAURA A. PACHA
MAUREEN M. PETERSEN
SCOTT M. PETERSEN
MICHAEL PIESMAN
MICHAEL W. PRICE
ROBERT C. PRICE
ELDEN R. RAND
JOSEPH W. REARDON
KYLE N. REMICK
THOMAS B. REPINE
JOEL C. REYNOLDS
TRAVIS E. RICHARDSON
STEPHEN S. ROBERTS
ERIK J. RUPARRI
JOHN D. SCHABER
CARRIE L. SCHMITT
RAFAEL A. SCHULZE
MICHAEL G. STANLEY
ANN M. STRAIGHT
TIMOTHY M. STRAIGHT
TING J. TAI
CHRISTOPHER E. TRUBROCK
SIMON H. TELIAN
ALEXANDER G. TRUESDELL
VU TRUONG
CREIGHTON C. TUBB
RICHARD L. URSONE
FRANK E. VALENTIN

WENDI M. WAITS
MATTHEW C. WAKEFIELD
BRENDAN M. WEISS
DEREK C. WHITAKER
JENNIFER S. WINK
ROBERT N. WOODMORRIS
GERALD E. YORK II
AMY L. YOUNG
D070684

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHNSON MING-YU LIU

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ROBERTO M. ABUBO
LUKE ARKINS
ELIZABETH K. DALTON
JAMES D. DANNELS, JR.
GARY B. FROST
BRIAN H. GAINES
THOMAS M. GOREY III
JON C. GRANT
JAMES B. HADLEY
CHARLES E. HARRISON
CHARLOTTE M. HURD
GLEN P. JACKSON
GREGORY J. KAYSER
LOWELL R. KURZ
THOMAS J. LALLY
DANIEL MCGUINNESS
ANDREW J. MCMENAMIN
DARYL PIERCE
ALONZA J. ROSS
KEITH J. ROWE
GEORGE R. SHARP
RICHARD S. SHERMAN
RICHARD E. SIMPSON
VINCENT E. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

TIMOTHY A. ANDERSON
BRADY A. BROWN
CHRISTY G. COWAN
DAMON B. DIXON
CLAUDE F. GAHARD, JR.
STEVEN MANCINI
DEXTER A. NEWTON
RONALD J. PIRET
JUSTIN M. REEVES
SEAN D. ROBINSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JACOB A. BAILEYDAYSTAR
MICHAEL K. BEIDLER
JOSE M. DELAFUENTE
ROBERT K. FEDERAL III
DANIEL C. HEDRICK
THOMAS H. KIERSTEAD IV
TONY S. W. PARK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

BROOK DEWALT
DOUGLAS GABOS
KIMBERLY S. MARKS
KENNETH C. MARSHALL
STEVEN J. MAVICA
PHILIP R. ROSI II
JASON P. SALATA
WENDY L. SNYDER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

SOWON S. AHN
STEVEN A. ATTENWEILER
ERIC G. BROOKS
ANDREW J. CHARLES
ROBERT F. HIGHT, JR.
ROBERT F. JOHNS
JEFFREY L. JOHNSON
ERIC E. LAHTI
KYLE L. LEESSE
JOHN B. MARKLEY
JEFFREY G. MAYBERRY
JOHN C. MYERS
KEVIN E. NELSON
MICHAEL P. OHARA
DAVID M. OVERCASH
CARLOS A. PLAZAS, JR.
PAUL A. POSTOLAKI
JEREMIAH J. RABITOR
PAUL S. ROSE
BRIAN K. ROWER

JAMES R. SANDERS
JAMES F. SCARCELLI
FRANK G. SCHLERETH III
JONATHAN E. SCHWARTZ
PETER N. SHEPARD
HENRY A. STEPHENSON
ROBERT A. WACHTEL
SETH A. WALTERS
CHAD D. WEST
DANIEL L. WHITEHURST
CRAIG M. WHITTINGHILL
SCOTT D. YOUNG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JASON B. BABCOCK
ALAN J. CHACE
JAMES C. COUDEYRAS
PATRICK A. COUNT
JOEL D. DAVIS
JOSEPH E. DUPRE
MICHAEL C. ELLIOT
CLARENCE FRANKLIN, JR.
ETHAN C. GIBSON
DAVID A. GLEESON
JOSHUA C. HANSEN
JENNA K. HAUSVIK
JAMES H. HENDERSONCOFFEY
CYNTHIA M. KEITH
FRED L. LINDY
SHAWN W. MCGINNIS
KRISTOPHER D. MICHAUD
KURTIS A. MOLE
DONOVAN I. OUBRE
CESAR G. RIOS, JR.
WILLIAM L. RODGERS III
DANIEL J. SANDER
TRISHA R. SNYDER
MICHAEL J. TODD
ALLISA M. WALKER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

BYRON V. T. ALEXANDER
MARK B. BAEHR
RANDALL W. BOSTICK
EMMA J. M. BROWN
JOAQUIN S. CORREIA
MICHAEL C. DEWALT
BLAKE D. EIKENBERRY
JAMES B. GATEAU
JODY H. GRADY
BOBBY L. HAND, JR.
DAMEN O. HOPFEINZ
JOHN C. JOHNSON, JR.
BRADLEY L. KINKEAD
EDWARD A. KRUK
MICHAEL D. LEBU
ADONIS R. MASON
RICKY MCIVER
SHAWN A. ROBERTS
JOSEPH ROTH
VINCENT S. TIONQUIAO
STEVEN M. WENDELIN
MARCIA L. ZIEMBA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JOHN A. BLOCKER
ERROL A. CAMPBELL, JR.
JOSEPH A. CASCIO
WILLIAM M. CRANE
CHRISTOPHER R. DESENA
JOHN E. DOUGHERTY IV
SCOTT DRAYTON
MATTHEW W. EDWARDS
KENNETH W. GRZYMALSKI
CHARLES N. HACKARD, JR.
TROY C. HICKS
THOMAS H. HOOVER
PATRICK L. MODLIN
MICHAEL M. PEREIRA
JEFFREY M. VICARIO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ANGEL BELLIDO
RICHARD A. BRAUNBECK III
JOSE R. CORDERO
THOMAS C. ENGLAND
ALLEN R. FORD
LOUIS P. GONCALVES
GRANT GORTON
ANTHONY K. JARAMILLO
WESLEY J. JOSHWAY
HUMPHRY G. LEE
STEVE PADRON
DAVID R. SCALF
BRET A. WASHBURN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

LEE G. BAIRD

ROBERT C. BANDY
ROBERT E. BEBERMEYER
VINCENT S. CHERNESKY
JOSEPH DITURI
KENNETH A. EBERT
ALLAN S. FELICIANO
GREGORY E. FENNELL
BALDOMERO GARCIA, JR.
JONATHAN C. GARCIA
DANIELLE N. GEORGE
BRIAN K. HARBISON
DAVID T. HART
VINCENT J. JANOWIAK
ERIC K. LIND
ERIK A. NESTERUK
CAREY M. PANTLING
JASON L. RHOADS
FRANCIS D. ROCHFORD
GREGORY D. ROSE
RONALD J. RUTAN
STEPHEN F. SARAR
TRACIE A. SEVERSON
NEIL G. SEXTON
PETER D. SMALL
JOHN D. STEVENS
STEVEN R. VONHEEDER
DWIGHT S. WARNOCK
GODFREY D. WEEKES
BRENT F. WEST
DOUGLAS L. WILLIAMS
ROBERT A. WOLF
DANIEL F. YOUGH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JERRY L. ALEXANDER, JR.
DOUGLAS L. BARNARD
JOHNNY E. BOWEN
AQUILLA J. CAUSEY
CLAY S. CHILSON
THAVEEPO DOUANGAPHAIVONG
MITZI A. ELLIS
JOHN M. GRAF
DAVID W. HILL
ANTHONY S. KAPUSCHANSKY
SABRA D. KOUNTZ
STORMI J. LOONEY
PATRICK S. MARTIN
HELEN M. MURPHY
LEE A. C. NEWTON
CYNTHIA A. RAMSEY
RENEE J. SQUIER
MARIA T. WILKE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

RYAN D. AARON
CHARLES S. ABBOT
ALAN C. ABER
RAFAEL A. ACEVEDO
DAVID C. ADAMS
JOHN R. ADAMS
ALLEN D. ADKINS
RAYMOND J. ALBARADO II
JOSEPH W. ALDEN
LUIS A. ALVAREZ
DAMON K. AMARAL
ALYSA L. AMBROSE
BRIAN P. ANDERSON
JON M. ANDERSON
MICHAEL S. ANSLEY
PETER L. ANTONACCI
DERICK S. ARMSTRONG
DEREK J. ATKINSON
SCOTT A. AVERY
DAVID N. BACK
CHRISTOPHER G. BAILEY
SHAWN T. BAILEY
VINCE W. BAKER
STEPHEN D. BALKA
WILLIAM J. BARD
ANTHONY C. BARNES
JOHN J. BARNETT
SEAN J. BARTLETT
DAVID H. BASSETT
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 PATRICK C. THIEN
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 MICHAEL L. WEELDREYER
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 DONALD D. WILLIAMS
 FLOYD M. WILLIAMS, JR.
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 MICHAEL B. J. YESUNAS
 RYAN M. YOST
 FORREST O. YOUNG
 TIMOTHY H. YOUNG
 JAMES A. YSLAS
 GLENN M. ZEIGLER
 DAVID G. ZOOK

CONFIRMATION

Executive nomination confirmed by
 the Senate, July 13, 2009:

DEPARTMENT OF COMMERCE

ROBERT M. GROVES, OF MICHIGAN, TO BE DIRECTOR OF
 THE CENSUS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO
 THE NOMINEE'S COMMITMENT TO RESPOND TO RE-
 QUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY
 CONSTITUTED COMMITTEE OF THE SENATE.