either choice if we do nothing to address the problem of long-term debt. Regardless of the global threats we face, we will be forced to field a smaller and less capable force. The money will not be there.

When most Americans think about threats to our security, they come up with a standard list. But few people include our growing national debt. They should—because it is real and it is serious.

Based on current trends, it is quite possible to imagine some future Chairman of the Joint Chiefs of Staff walking into the Oval Office one day and informing the Commander in Chief that he has no choice: he can either protect the sealanes in the Persian Gulf or he can protect the sealanes in the Sea of Japan, but he cannot do both. On that day the United States of America will no longer be the guarantor of the international trading system, sea lines of communication, the security of our allies, or even our own independence.

All of this should matter to Members of the Senate. Americans trust our Nation's intelligence and uniformed personnel to protect them from distant threats. But it is incumbent upon the men and women of this body—those of us who control the purse strings—to make sure the Nation's resources are managed in a way that enables these forces to do their work. The men and women of the Senate must look beyond the narrow demands of a single political term in office or the next election to the long-term security of our Nation and, indeed, the world. No one else can protect the American people from the diminishment of power and capability that come with our dangerous and ever-increasing national debt.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS BRIAN L. GORHAM

Mr. McCONNELL. Madam President, with sadness I rise today to speak about a fallen warrior from my home State of Kentucky. On December 31, 2007, PFC Brian L. Gorham succumbed to injuries sustained earlier that month when an explosive device struck his vehicle while on patrol in Afghanistan.

Private First Class Gorham hailed from Woodburn, KY. He was 21 years old and was able to spend the last days of his life not halfway around the world but back in America—in a hospital in Fort Sam Houston, TX, to be precise—surrounded by his loving family.

For his bravery in uniform, Private First Class Gorham received several medals, awards, and decorations, including the Army Good Conduct Medal, the Purple Heart, and the Bronze Star Medal.

At Brian's funeral service in Franklin, KY, hundreds of people came to offer their sympathies to his family and friends. Brian's father, Toney Gorham, said:

It's hard to believe that so many people, a lot of them I don't know, walked up to me, shook my hand or patted me on the back, and told me, ''We're proud that your son fought for us and sacrificed for us.''

Maybe it is not so surprising if you know the dedication Brian put into everything he did from a very early age. Jack Wright, Brian's Sunday school teacher, remembers when Brian was a young middle school student who would participate in the two-hand touch football games that were played after Bible study services on Wednesday nights.

''Brian was never the biggest or fastest,'' Jack says, ''But no one put more effort into the game and no one enjoyed playing any better than Brian.''

That enthusiasm carried over when Brian joined the football team at Drakes Creek Middle School. Brian also liked basketball and baseball and could often find a pickup game with the neighborhood kids many nights after school.

In high school, Brian joined the Junior ROTC Program, and just like in those football games, he put his all into becoming the best. He succeeded by being in the first group to complete his ROTC Program's Leadership Academy.

That achievement was symbolized, on Brian's dress uniform, by a silver band around his right shoulder. Jack Wright remembers Brian would proudly wear his ROTC uniform to services at Woodburn Baptist Church for many years.

Brian still found time for fun, of course. He loved to fish, explore the caves near his house, and float down the creek in his friend's boat. One time Brian and some of his friends were racing go-carts and decided to hold a contest to see who could drive through a huge mud puddle and come out the muddiest.

This is one contest Brian's parents are probably glad he did not win. Another boy was so muddy that when his mom came to pick him up, she made him ride home in the trunk rather than on the seat.

Brian was close to his sister Brandie and his brother Henry. When they were kids, Brandie made Brian play dolls with her, although the easy-going Brian did not seem to mind. Henry was his big brother's little shadow. The two would watch wrestling together and act out the wrestling moves.

Henry remembers during one of his football games at school, both his parents were unable to attend. Henry was not doing so well until he heard his big brother Brian cheering him on from the sidelines. That gave him the extra confidence he needed.

Brian's mother Shirley also remembers a time when she and Toney went away for the weekend, and Brian called her to say he was cooking dinner for some friends and not to worry, they were sharing the cost. He said he would have food ready for them, too, when they got back.

So Shirley and Toney came home to find Brian had barbecued, and they sat down to a wonderful meal. It was not until the next day when Shirley realized Brian had emptied out the freezer, and there was nothing left in the house to cook.

Brian graduated from Greenwood High School in 2003, and after serving as commander of his school's Junior ROTC Program, he enlisted in the Army. He was assigned to Company D, 1st Battalion, 503rd Infantry Regiment, 173rd Airborne Brigade Combat Team, stationed in Vicenza, Italy.

Brian's family remembers how Brian loved what he was doing and took pride in his work. His mother Shirley was proud of her son's humanitarian work in uniform. In Afghanistan he distributed seeds to the Afghan farmers and helped provide security for the engineers to build roads and rebuild the country.

Madam President, we must keep Brian's family and friends in our thoughts as I recount his story for the Senate today. We are thinking of his mother and father, Shirley and Toney Gorham; his sister Brandie Dixon, and her husband Lawrence; his brother Henry; his maternal grandparents, Roger and Esther Bunch; his paternal grandmother, Neil Tabor; his aunt, Regina Peterson; and many other beloved family members and friends.

Madam President, Brian had a 1976 Chevy pickup that was passed down through the family. He called it Old Blue. He would often have a hard time starting it and had to wake up his sister to start it for him on some days.

When Brian was in the hospital in Texas, he told his father that he wanted the two of them to work on restoring Old Blue together. Brian did not get to finish that task. But Toney has the pickup in his garage now, and he promises to fulfill his son's wish.

Our country must also fulfill a promise to PFC Brian L. Gorham and forever honor his service. It is the least we can do after his tremendous sacrifice.

Madam President, 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 resume consideration of S. 1390, which the clerk will report.

The bill clerk read as follows:

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

Pending:

Kyl amendment No. 1760, to pursue United States objectives in bilateral arms control with the Russian Federation.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, we are now back on the bill, as the clerk has indicated, and as the Acting President pro tempore has indicated. It was agreed to last night in our unanimous consent request that I offered and was accepted that the next order of business would be to take up the Kyl amendment, and there would be protected either a second-degree or a side-by-side amendment to that amendment; and then we would move, after that, to an amendment by the Senator from Connecticut, Mr. LIEBERMAN, and a side-by-side or second-degree amendment could then be offered by the Senator from Indiana, Mr. BAYH.

Madam President, I see my friend from Arizona is here. In a moment, I am going to suggest we reverse the order of that because of Senator KERRY's requirements this morning. I have no objection at some point to entering into a time agreement on Kyl, by the way, at all. That is not the purpose, to delay that to a cloture moment. But I think the minority would want to see the language of any side-by-side before there was an agreement to a time agreement. If not, I am happy to enter into a time agreement on Senator KYL's and any second degree or side-by-side at any time my good friend from Arizona wants to do that.

But in order for the convenience of the parties, if Senator LIEBERMAN and Senator BAYH could come down now—if they can do that—I would like to inquire about that and dispose of their amendments first and then take up the Kyl amendment with a time agreement—just to reverse the order of those two because of the Finance Committee's meetings this morning, which Senator KERRY needs to attend.

I have not had a chance to talk to my friend from Arizona about this just because of the way the morning goes. That is what I would like to suggest. If that can be done, it would simplify things.

There are also a number of other things we need to do. We have—and I think the Senator from Arizona is familiar with this—an amendment on voting rights for the troops which I think has been cleared. It is a bipartisan amendment which is going to need about 15 minutes of debate, I understand. That could be done as well, hopefully.

But my goal, if it is agreeable to the Republican manager, would be to basically flip the two, with time agreements for both, going first to the Lieberman and Bayh amendments, if they are able to do it.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, let me just say to my friend, the distinguished chairman, all of our Members have very busy schedules. The Senator from Arizona, whose amendment it is, happens to be the second ranking Republican and has heavy responsibilities. I would point out that we waited for a couple hours yesterday for the same Senator yesterday afternoon to be able to come to the floor to address another amendment. At the same time, the clock is running because the majority leader has filed cloture on the bill.

So are we going to run the proceedings here, consideration of the authorization bill, based on the priorities of one Senator or are we going to carry out what we all agreed to last night in the unanimous consent agreement? There was no objection last night from the Senator from Massachusetts. He could have objected. So now we want to turn everybody else's schedules on their heads because one Senator has some other priorities.

Obviously, we are going to finish the bill because the majority leader filed cloture, and we have to close out the bill, after spending nearly a week on two issues, hate crimes and guns, neither of which had a single thing to do with the Defense authorization bill—because, unprecedented in the 20-some years I have been a member of the Armed Services Committee, the majority leader of the Senate came to the floor and proposed a hate crimes bill that had not been through the committee of jurisdiction and was, obviously, very controversial on this side.

So after getting bollixed up for a week and a half—or at least a week—on those two issues, we enter into a unanimous consent agreement when the majority leader files cloture to close off debate on this side. That is the reason it is done. So now we are supposed to overturn, some 10 hours later, a unanimous consent agreement because one Senator cannot fit it into his schedule, when the sponsor of the amendment is the No. 2 ranking member on this side? There is something wrong with that process.

I will be glad to discuss it with the distinguished chairman and we will try and see if we can adjust to it. In the meantime, the clock continues to run and we have fewer and fewer amendments that will be germane and be allowed to be discussed, because we find out this morning, after a unanimous consent agreement which could have been objected to last night, one Senator has a schedule that dictates we turn the unanimous consent agreement on its head.

I suggest the absence of a quorum.

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

Mr. LEVIN. Madam President, if the Senator would withhold that request for a moment so I may comment.

Mr. MCCAIN. I withhold my request.

Mr. LEVIN. Madam President, I was not suggesting that we not proceed this morning; I was suggesting that we reverse the order to accommodate a Senator who is going to be offering a second-degree amendment. If that is not acceptable, we do not need to do that. I was simply trying to accommodate the Senator so that the second-degree or side-by-side amendment that was in the unanimous consent proposal last night could be offered by him. If that is not agreeable to the Republican side, then I obviously am not going to make the suggestion. But it would not delay anything; all it would do would be to change the order of events to accommodate us. If that is not acceptable to the minority, then I will obviously not make that unanimous consent proposal.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, I would ask the distinguished chairman, then, in the spirit of compromise, can we arrange a time agreement on the Lieberman amendment that is reasonable so that perhaps we could take up the Kyl amendment later in the morning so that at least that might not upset his schedule, since we are making accommodation for the sponsor of a second-degree amendment, which seems to be our priority.

Mr. LEVIN. Madam President, of course, that is exactly what I was proposing. I appreciate the willingness of the Senator from Arizona to try to work that out.

There is no problem with the time agreement on the Lieberman-Bayh matters because the reason we couldn't do that is that the Bayh language was not available in time for the minority side to consider a time agreement. We would be happy to have a time agreement of 1 hour on the Lieberman amendment, 1 hour on the Bayh amendment; 2 hours together, in other words. We are happy to have a time agreement on Senator KYL's amendment, but we were only suggesting that we reverse the order to accommodate things here. It would not result in any additional use of time; it would not delay anything; it would simply reverse the order for the accommodation of the Senator who needs to be here to offer a second-degree amendment, if we are going to do it, or a side-by-side to Senator KYL's first-degree amendment.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Madam President, obviously, whatever is most convenient to the chairman and ranking member is fine, subject to I had planned, because of our conversations last night, to be able to do this this morning. By this afternoon, I am going to have a lot of conflicts. In fact, I too am on the Finance Committee where Senator KERRY is right now and I am supposed to be there but made this arrangement.

I don't believe the business before the Finance Committee is going to last very long at all. In fact, it was a very quick matter to be resolved. So as long as we can try to get the amendments relating to the START treaty resolved before afternoon, I am perfectly willing to agree to anything that is acceptable to everybody else here, and it seems to me we should be able to accomplish that.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Madam President, let me say we can have 1 hour for each side on the Lieberman amendment and then move directly to the Kyl amendment, if that is agreeable.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, what we need to do along that line is to see if we can get an agreement from Senator LIEBERMAN and from Senator BAYH on a time agreement on those two amendments. I would suggest, as the Senator from Arizona did, that there be an hour equally divided on each, which will be a total of 2 hours, and then if the majority leader is agreeable to this——

Mr. MCCAIN. Maybe we need a quorum call for a moment.

Mr. LEVIN. I suggest the absence——

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I wanted to say that as the overnight proceeded, there are a number of people who want to come down and speak on our side, so I wish to ask that on our amendment we have at least an hour and a half, perhaps two. I hope not to use it, but I think this is going to be a significant debate.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I suggest that we seek an agreement that there be 2 hours on the two amendments together, one equally divided between the Senator from Connecticut and the Senator from Indiana.

I suggest the absence of a quorum.

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

Mr. LEVIN. Madam President, I ask unanimous consent that the order for consideration of amendments this morning be switched and that the Senate now consider the Lieberman amendment No. 1627 and the Bayh amendment No. 1767; that the amendments be debated concurrently for a total of 150 minutes, with 90 minutes under the control of Senator LIEBERMAN and 60 minutes under the control of Senator BAYH; that no amendments be in order to either amendment; that upon the use or yielding back of time, the vote in relation to the amendments occur at a time to be determined, with the first vote in relation to the Bayh amendment, to be followed by a vote in relation to the Lieberman amendment, with 2 minutes of debate prior to the second vote.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. LEVIN. I thank the Presiding Officer and I thank my colleagues for working this out to try to accommodate all of us the best we can.

I yield the floor.

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

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

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam 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. 1627

Mr. LIEBERMAN. Madam President, I have consulted with the chairman of the Armed Services Committee, Senator LEVIN, and the ranking member, Senator MCCAIN, and they have urged me to go forward and call up my amendment on the alternate engine and begin debating it to expedite matters while we are awaiting Senator BAYH to come over. I call it up at this time.

The ACTING PRESIDENT pro tempore. The clerk will report.

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, Mr. REED, Ms. SNOWE, Mr. SCHUMER, Mr. INHOFE, Mr. DODD, Mrs. HUTCHISON, Ms. COLLINS, Mr. KYL, and Mr. CORNYN, proposes an amendment numbered 1627.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that 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 require the Secretary of Defense to make certain certifications with respect to the development of an alternative propulsion system for the F–35 Joint Strike Fighter program before funds may be obligated or expended for such system and to provide, with offsets, an additional $282,900,000 for the procurement of UH–1Y/AH–1Z rotary wing aircraft and an additional $156,000,000 for management reserves for the F–35 Joint Strike Fighter program)

On page 39, strike lines 4 through 17, and insert the following:

SEC. 211. LIMITATION ON USE OF FUNDS FOR AN ALTERNATIVE PROPULSION SYSTEM FOR THE F–35 JOINT STRIKE FIGHTER PROGRAM; INCREASE IN FUNDING FOR PROCUREMENT OF UH–1Y/AH–1Z ROTARY WING AIRCRAFT AND FOR MANAGEMENT RESERVES FOR THE F–35 JOINT STRIKE FIGHTER PROGRAM.

(a) LIMITATION ON USE OF FUNDS FOR AN ALTERNATIVE PROPULSION SYSTEM FOR THE F–35 JOINT STRIKE FIGHTER PROGRAM.—None of the funds authorized to be appropriated or otherwise made available by this Act may be obligated or expended for the development or procurement of an alternate propulsion system for the F–35 Joint Strike Fighter program until the Secretary of Defense submits to the congressional defense committees a certification in writing that the development and procurement of the alternate propulsion system—

(1) will—

(A) reduce the total life-cycle costs of the F–35 Joint Strike Fighter program; and

(B) improve the operational readiness of the fleet of F–35 Joint Strike Fighter aircraft; and

(2) will not—

(A) disrupt the F–35 Joint Strike Fighter program during the research, development, and procurement phases of the program; or

(B) result in the procurement of fewer F–35 Joint Strike Fighter aircraft during the life cycle of the program.

(b) ADDITIONAL AMOUNT FOR UH–1Y/AH–1Z ROTARY WING AIRCRAFT.—The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy is increased by $282,900,000, with the amount of the increase to be allocated to amounts available for the procurement of UH–1Y/AH–1Z rotary wing aircraft.

(c) RESTORATION OF MANAGEMENT RESERVES FOR F–35 JOINT STRIKE FIGHTER PROGRAM.—

(1) NAVY JOINT STRIKE FIGHTER.—The amount authorized to be appropriated by section 201(a)(2) for research, development, test, and evaluation for the Navy is hereby increased by $78,000,000, with the amount of the increase to be allocated to amounts available for the Joint Strike Fighter program (PE # 0604800N) for management reserves.

(2) AIR FORCE JOINT STRIKE FIGHTER.—The amount authorized to be appropriated by section 201(a)(3) for research, development, test, and evaluation for the Air Force is hereby increased by $78,000,000, with the amount of the increase to be allocated to amounts available for the Joint Strike Fighter program (PE # 0604800F) for management reserves.

(d) OFFSETS.—

(1) NAVY JOINT STRIKE FIGHTER F136 DEVELOPMENT.—The amount authorized to be appropriated by section 201(a)(2) for research, development, test, and evaluation for the Navy is hereby decreased by $219,450,000, with the amount of the decrease to be derived from amounts available for the Joint Strike Fighter (PE # 0604800N) for F136 development.

(2) AIR FORCE JOINT STRIKE FIGHTER F136 DEVELOPMENT.—The amount authorized to be appropriated by section 201(a)(3) for research, development, test, and evaluation for the Air Force is hereby decreased by $219,450,000, with the amount of the decrease to be derived from amounts available for the Joint Strike Fighter (PE # 0604800F) for F136 development.

Mr. LIEBERMAN. This amendment I am introducing with Senator MCCAIN as my lead cosponsor, and with a strong bipartisan group of cosponsors, including Senator REED of Rhode Island, and Senators SNOWE, SCHUMER, INHOFE, DODD, HUTCHISON, COLLINS, KYL, and CORNYN. I am very grateful for that support.

To state it briefly, and then to go into some detail, this amendment would remove funding from this bill that was added by way of amendment in the Armed Services Committee for $439 million to build a second engine for the Joint Strike Fighter plane.

I will argue, on behalf of the amendment I have introduced with Senator MCCAIN and others, that it is a waste of $439 million to build for a plane a second engine, which we don't need. In fact, estimates are that continuing acquisition of this second engine will cost over $6 billion of taxpayer money that we don't need to spend because there has been a competition for the engine to be used in the Joint Strike Fighter, which is now the heart and soul of America's hopes for the future when it

comes to tactical aviation—particularly after the Senate terminated the F–22 program the other day.

So there was a competition to build the engine for the Joint Strike Fighter. General Electric, in its proposal, lost that competition. Pratt & Whitney won that competition.

Now, by way of legislation, the proponents of the second engine for this plane are trying to achieve, by legislation, what they could not achieve by competition. It is not only that it is an unnecessary expenditure of $439 million in the coming year, and more than $6 billion, for a second engine that we don't need for that plane, but it has consequences. It is not just that we are spending taxpayer money, but I will go into this in some detail in a moment.

Regarding putting that money to use on that second engine, a general from the Air Force overseeing this Joint Strike Fighter program told our committee it would delay the Joint Strike Fighter, which our services are desperately waiting for. They need this tactical fighter. So it would delay the program and, in fact, this Air Force general testified to our committee that putting money into the bill for the second engine, and continuing to fund it, would result, over the next 5 years, in a reduced capacity to build Joint Strike Fighters by 53 planes.

So to spend the money to build a second engine for a plane, when we don't need a second engine—because the first one won the competition and is performing very well—we are going to reduce the buy of this tactical fighter that our military needs by 53 planes over the next 5 years.

How do my friends who support the second engine pay for it? Well, in the Armed Services Committee bill, which is before us, which Senator MCCAIN, I, and others are trying to remove, they defund the acquisition of helicopters, which are desperately needed by our marines, particularly those fighting in Afghanistan.

There will be an alternative proposal made this morning in the amendment Senator BAYH will introduce, I presume, because there has been so much protest to defunding this acquisition of helicopters that the marines need in battle in Afghanistan, in order to pay for a second engine, which is unnecessary, for the Joint Strike Fighter. Instead, the amendment will defund the acquisition of C–130s, which are specially fitted for our special operations forces. Again, they are carrying out extremely dangerous and critical missions in Afghanistan, Iraq, and other places, where they are courageously taking on particularly the terrorists who attacked us on 9/11.

That is the essence of the argument. This second engine is a program President Obama has described as ''an unnecessary defense program that does nothing to keep us safe, but rather prevents us from spending money on what does keep us safe.''

That warning from President Obama about the consequences of funding the second engine for the Joint Strike Fighter is realized already in the part of the bill Senator MCCAIN and I and others are trying to withdraw and in the amendment my friend from Indiana will introduce because it takes money from the Marines and the Air Force special operations community in areas they and we desperately need.

I wish to add that, this morning, I was grateful and honored to receive a letter from Secretary of Defense Robert Gates, in which the Secretary of Defense strongly and clearly expresses his opposition to the alternate engine, the second engine, an unnecessary engine—the $6 billion unnecessary engine for the Joint Strike Fighter—and his support for the amendment that Senator MCCAIN and I and others have introduced.

I ask unanimous consent that the letter from Secretary Gates be printed in the RECORD.

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

DEFENSE PENTAGON,
Washington, DC, July 22, 2009.

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

DEAR MR. CHAIRMAN: The Department of Defense supports striking from legislation any provision that would require the development or procurement of an alternative propulsion system for the F–35 Joint Strike Fighter.

The current engine is performing well with more than 11,000 test hours. In addition, the risks associated with a single engine provider are manageable as evidenced by the performance of the F–22 and F/A–18E/F, both Air Force and Navy programs supplied by a single engine provider. The Air Force currently has several fleets that operate on a single engine source. Thus, further expenditures on a second engine are unnecessary and will likely impede the progress of the overall F–35 program.

It is my belief that the JSF program presented in the President's budget request is in the best interests of national security. If a final bill is presented to the President containing provisions that would seriously disrupt the F–35 program, the President's senior advisors will recommend that the President veto the bill.

Sincerely,

ROBERT M. GATES,
Secretary of Defense.

Mr. LIEBERMAN. I will read from the letter. It is three paragraphs:

The Department of Defense supports striking from legislation any provision that would require the development or procurement of an alternate propulsion system for the F–35 Joint Strike Fighter.

The current engine is performing well with more than 11,000 test hours. In addition, the risks associated with a single engine provider are manageable as evidenced by the performance of the F–22 and F/A–18/F, both Air Force and Navy programs supplied by a single engine provider. The Air Force currently has several fleets that operate on a single engine source.

I draw back from the letter. What is unusual is to have a second engine. Logically, if we want to buy a car, it would be nice to have a second engine in the garage but would we pay the extra money for it if we had a perfectly good engine in the car? Back to the letter:

Thus, further expenditures on a second engine are unnecessary and will likely impede the progress of the overall F–35 program.

It is my belief that the JSF program presented in the President's budget request is in the best interests of national security. If a final bill is presented to the President containing provisions that would seriously disrupt the F–35 program, the President's senior advisors will recommend that the President veto the bill.

I intend to show in my argument this morning that, in fact, this Armed Services Committee bill—if the amendment Senator MCCAIN and I are proposing is not adopted—will seriously disrupt the F–35 program, the Joint Strike Fighter program and, therefore, will be occasion for the President's advisers to recommend he veto this entire and critically necessary bill.

I thank Secretary Gates for expressing support for the amendment Senator MCCAIN and I and others—Senator SCHUMER, Senator DODD, Senator KYL—have offered to strip this unnecessary expenditure of money from the bill.

Our amendment, as I have said, would restore funding that was taken from the U.S. Marine Corps helicopter, the Huey, when the committee voted to fund the alternate engine. The vote to cut 10 Marine Corps helicopters comes at a time the Marines are conducting a major offensive in the mountains of Afghanistan where the high altitudes and hot weather require the best capabilities Congress can provide them, including these Hueys.

In fact, in recent statements from the Joint Staff and Marine Corps leadership, it is clear how urgently the Marines need the enhanced capabilities of the UH–1 Huey on the battlefield. Speaking before the Armed Services Committee of the Senate on Thursday, July 9, the Vice Chairman of the Joint Chiefs, General Cartwright, said to the members of the committee:

Those helicopters are, in fact, critical.

He continued:

The helicopter for the Marines is one of their most lethal weapons. They are the most effective in the battlefield, particularly in the counterinsurgency arena.

They are effective in built-up urban areas and in compounds because they can be discreet, so the value of those helicopters is significant.

The day after General Cartwright appeared, I received a letter from the Commandant of the Marine Corps, GEN James Conway.

Madam President, I ask unanimous consent to have printed in the RECORD the letter from General Conway.

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

JULY 10, 2009.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SIR: The Marine Corps greatly appreciates your interest in the UH–1Y/AH–1Z program. Procurement of less than the optimum

ramp of 28 H–1s during Fiscal Year 2010 will lead to continued reliance on aging helicopters that should have been retired from the inventory years ago. This happens at a time when the Secretary of Defense appears poised to issue guidance to the Military Departments to increase rotary-wing assets to conduct current and future Irregular Warfare conflicts.

As we focus on operations in Afghanistan, sustaining the introduction of the H–1 is vital to our future success. We have prioritized UH–1Y deliveries early in the program in an effort to quickly replace our aging fleet of UH–1N helicopters. While the UH–1N has served us well for many decades, it has now reached the point where its available power and key aircrew systems are simply not adequate for robust combat operations. As typically configured, UH–IN loads are often reduced to just two or three combat configured Marines when operating at high density altitudes. Because of these severe operational limitations, we have been very aggressive in transitioning to the significantly improved capabilities of the UH–1Y. Our frist Marine Expenditionary Unit detachment of three new aircraft deployed to the Central Command AOR this year when only ten UH–1Ys had been delivered to the fleet. In November 2009, we plan to deploy our first full squadron to Afghanistan where the UH–1Y's improved payload and airspeed in that challenging environment will serve our Marines well.

Once we deploy the UH–1Y to theater, we want to keep it there. However, in order to sustain our anticipated combat deployment schedule, production must remain on track. With recent deliveries occurring well ahead of schedule and substantial contractor investments in tooling and long-lead materials, there is tangible evidence that the production rate of 28 helicopters contained in the President's budget request can be met.

I greatly appreciate the opportunity to correspond with you and expand on this important subject. The supporting documentation you requested is attached. If you have any additional questions, please do not hesitate to call on me. I also thank you for your leadership and longstanding efforts on behalf of our men and women in uniform.

Sincerely,

JAMES T. CONWAY,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

Mr. LIEBERMAN. Madam President, in his letter, General Conway writes:

Procurement of less than the optimum ramp up of 28 H–1s in fiscal year 2010 will lead to continued reliance on aging helicopters that should have been retired from the inventory years ago. As we focus on operations in Afghanistan, sustaining the introduction of the H–1 is vital for our future success.

He continues:

Because of the severe operational limitations of the Corps' legacy helicopters, the Marines are transitioning toward the significantly improved capabilities of the UH–1Y.

General Conway points out that the Corps has already sent three UH–1Y to Afghanistan and will deploy its full squadron of them this November. This is a plane the Marines desperately need in combat today.

I also want to read from a letter I received from Major General Bockel, retired, Army Reserve, now acting director of the Reserve Officers Association. General Bockel says in his letter to me:

The Reserve Officers Association, representing 65,000 Reserve Component members, supports the Lieberman-McCain Alternate Engine Amendment. This amendment restores critical funding to procure helicopters that the United States Marine Corps urgently needs in Afghanistan.

I suspect the Reserve Officers Association will no more support an effort to ask our special operations forces, as the second-degree or side-by-side amendment Senator BAYH will offer, to pay the bill for an unnecessary second engine than he was to see our Marines foot the bill.

I ask unanimous consent to have printed in the RECORD Major General Bockel's letter.

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

RESERVE OFFICERS ASSOCIATION,
Washington, DC, July 21, 2009.

Hon. JOSEPH LIEBERMAN,
Hart Office Building,
Washington, DC.

DEAR CHAIRMAN LIEBERMAN: The Reserve Officers Association, representing 65,000 Reserve Component members, supports Lieberman-McCain Alternate Engine Amendment. This amendment restores critical funding to procure helicopters that the United States Marine Corps (USMC) urgently needs in Afghanistan.

In the Senate Armed Services Committee's mark of the National Defense Authorization Act, the bill would cut funds for the procurement of Marine Corps UH–1Y helicopters and the AHI–Z Super Cobra in order to fund an unnecessary ''alternate engine'' for F–35 Joint Strike Fighter.

The Bell UH–1Y Venom is a twin-engine medium size utility helicopter, part of the USMC's H–1 upgrade program, replacing the Marines aging fleet of UH–IN Twin Huey light utility helicopters first introduced in the early 1970s. The Corps' current fleet of utility helicopters face noticeable operational limitations at high altitudes, which is not a problem for the new UH–1Y. Because of the severe limitations, which can have an impact on operational agility, the USMC is aggressively transitioning to the new aircraft.

The Pentagon had requested 28 AH–1Z and UH–1Y helicopters, but NDAA markups have reduced these numbers to offset funding. This amendment would restore $482.9 in funding that was stripped from the U.S. Marine Corps UH–1Y program, which is an action that ROA supports.

Thank you for your efforts on this key issue, and other support to the military that you have shown in the past. Please feel free to have your staff call ROA's legislative director, Marshall Hanson, with any question or issue you would like to discuss.

Sincerely,

DAVID R. BOCKEL,
MAJOR GENERAL, USAR (RETIRED),
Acting Executive Director.

Mr. LIEBERMAN. Madam President, let me talk now about what this amendment would do. It would essentially remove the funding for the second engine, but it does it in a way that I think is thoughtful. It requires that there be no obligation of any funds on the development of a second engine for the Joint Strike Fighter unless and until the Secretary of Defense certifies to Congress that the development and procurement of such an engine will reduce the total life-cycle costs of the program, improve the operational readiness of the F–35 fleet, and avoid either disrupting the Joint Strike Fighter Program or resulting in procurement of fewer Joint Strike Fighter aircraft during the life cycle of the program.

Why do we propose these conditions? Because they are the benefits the proponents of the second engine claim it will deliver. So we ask that the second engine be judged on its alleged merits. And I hope my colleagues will agree that this is a fair way to go at this.

I have spoken already at the outset about the fact that there was a competition for the engine for the Joint Strike Fighter that took place in 1996. Ultimately, one engine won the competition while the other lost. Understandably, but not acceptably, the makers of the engine that lost have come back to achieve by legislation—or attempt to—what they could not achieve by competition.

The proponents of the second engine have also claimed that it would lower costs on the Joint Strike Fighter Program overall. I have cited numbers that come from the Pentagon and elsewhere arguing on the other hand that this program will cost over $6 billion of taxpayer money without any showing, really, that it will save money. Developing a second engine, quite logically and following common sense, would require the Department of Defense to maintain two logistics operations to support it—tails, as it is called in the military, two tails, two sets of training manuals, two sets of tooling component improvement parts. These additional and unnecessary expenses would raise operations and sustainment costs for the Joint Strike Fighter throughout the life cycle of the program.

I want to get to the impact funding a second engine—an unnecessary engine, a costly engine—would have on the Joint Strike Fighter Program.

On June 9, the Armed Services Committee Subcommittee on Air and Land, which I have the honor of chairing, heard testimony from LTG Mark Shackelford, Military Deputy Officer to the Secretary of the Air Force for Acquisition. He is in charge of acquisition. I asked General Shackelford whether development of a second engine would disrupt the Joint Strike Fighter Program. His explanation is detailed but important to hear. It has a very strong message:

The fiscal year 2010 production quantity for the joint strike fighter is 30 aircraft, split between three variants.

That means with three different services.

If forced to pay for the alternate engine, we would have to reduce that to two to four, depending on which of the variants. That has a negative effect on the unit cost of the remaining aircraft if you are buying fewer. It also ripples into next year's quantities, and then as we take that 2010 increment of dollars and extend that out through the future year defense program—

Which is the 5-year so-called fit up that the Pentagon does planning on—

there are equal decrements in terms of the numbers of aircraft that we can buy with the remaining dollars.

After hearing that—decrements, decreases, reduction in the number of aircraft we can buy—I asked General Shackelford how many fewer Joint Strike Fighters would be purchased over that 5-year period if we went ahead with the second engine. He responded:

Over the 5-year period, it would be 53.

I cannot emphasize that enough—53 fewer aircraft that we otherwise would have purchased for the Air Force, Navy, and Marine Corps that are desperately in need of them over the next 5 years; 53 fewer planes because we are going to spend that money buying a second engine we do not need. That really would be a major disruption to the Joint Strike Fighter Program. But it is avoidable, and it is avoidable by adopting the amendment Senator MCCAIN and I, Senator SCHUMER, Senator DODD, Senator KYL, Senator HUTCHISON, Senator COLLINS, and Senator SNOWE—a very broad bipartisan group—have offered.

I close this opening statement in support of our amendment and in opposition to the amendment my friend from Indiana will offer with this quote from President Obama when he sent the defense budget to us on May 15. Here is the quote from the President:

We're going to save money by eliminating unnecessary defense programs that do nothing to keep us safe but rather prevent us from spending money on what does keep us safe. One example is a $465 million program to build an alternate engine for the joint strike fighter. The Defense Department is already pleased with the engine it has. The engine it has works. The Pentagon does not want and does not plan to use the alternate version.

President Obama concludes:

That is why the Pentagon stopped requesting this funding 2 years ago.

That is why I respectfully ask my colleagues, in the interest of the taxpayers, in the interest of the Joint Strike Fighter Program, to protect funding for the Marines, for the Hueys, the special operations forces of the Air Force, for the C–130s, to protect the Navy, Air Force, and Marines, who are waiting for the Joint Strike Fighter. I ask you to vote against the amendment offered by my friend from Indiana and for the amendment I have the honor to offer.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

AMENDMENT NO. 1767

Mr. BAYH. Madam President, I ask unanimous consent to call up my amendment No. 1767.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Indiana [Mr. BAYH] proposes an amendment numbered 1767.

Mr. BAYH. Madam 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 provide for the continued development of a competitive propulsion system for the Joint Strike Fighter program and additional amounts, with an offset, for UH–1Y/AH–1Z rotary wing aircraft and Joint Strike Fighter program management reserves)

On page 39, strike lines 4 through 17, and insert the following:

SEC. 211. CONTINUED DEVELOPMENT OF COMPETITIVE PROPULSION SYSTEM FOR THE JOINT STRIKE FIGHTER PROGRAM.

(a) IN GENERAL.—Of the amounts authorized to be appropriated or otherwise made available for fiscal year 2010 for research, development, test, and evaluation for the F–35 Lightning II aircraft program, not more than 90 percent may be obligated until the Secretary of Defense submits to the congressional defense committees a written certification that sufficient funds have been obligated for fiscal year 2010 for the continued development of a competitive propulsion system for the F–35 Lightning II aircraft to ensure that system development and demonstration continues under the program during fiscal year 2010.

(b) ADDITIONAL AMOUNT FOR UH–1Y/AH–1Z ROTARY WING AIRCRAFT.—The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy is hereby increased by $282,900,000, with the amount of the increase to be allocated to amounts available for the procurement of UH–1Y/AH–1Z rotary wing aircraft.

(c) RESTORATION OF MANAGEMENT RESERVES FOR F–35 JOINT STRIKE FIGHTER PROGRAM.—

(1) NAVY JOINT STRIKE FIGHTER.—The amount authorized to be appropriated by section 201(a)(2) for research, development, test, and evaluation for the Navy is hereby increased by $78,000,000, with the amount of the increase to be allocated to amounts available for the Joint Strike Fighter program (PE # 0604800N) for management reserves.

(2) AIR FORCE JOINT STRIKE FIGHTER.—The amount authorized to be appropriated by section 201(a)(3) for research, development, test, and evaluation for the Air Force is hereby increased by $78,000,000, with the amount of the increase to be allocated to amounts available for the Joint Strike Fighter program (PE # 0604800F) for management reserves.

(d) OFFSET.—The amount authorized to be appropriated by section 103(1) for aircraft procurement for the Air Force is hereby decreased by $438,900,000, with the amount of the decrease to be derived from amounts available for airlift aircraft for the HC/MC–130 recapitalization program.

Mr. BAYH. Madam President, I wish to begin by thanking my colleague from Connecticut and my friend, JOE LIEBERMAN. We have worked together on so many issues and so well that I find this to be an odd set of circumstances today where we have a difference of opinion on this issue. But even here, we have worked collegially to call up our respective amendments in a timely manner.

I regret the order of offering the amendments was changed because I know the Senator had speakers on his approach to this issue, as I had. I wish their voices could be heard. I am grateful Senator LEVIN will be speaking shortly in support of my approach. I think the fact he is chairman of the Armed Services Committee lends some credence to our approach. I thank the Senator for his cooperation and courtesy. I so much enjoy, as with Senator MCCAIN as well, our working together on so many different issues. I thank Senator MCCAIN for his courtesy in trying to respect the time of the various Members who planned their schedules and planned to speak here. I thank Senator LIEBERMAN for all that. We do, however, have a difference of opinion on this important issue.

This amendment will restore funding for Marine Corps helicopters and the Joint Strike Fighter management service reserves. Let me repeat for my colleagues who are concerned about funding for the Marine Corps helicopters or the number of Joint Strike Fighters which will be purchased, my amendment deals with those concerns. So many of the very appropriate comments Senator LIEBERMAN was making about the Marine Corps, about the helicopters, about the testimony of the services in favor of those helicopters, those are no longer relevant. Under my amendment, the helicopters are provided for, so many of his comments about the need for Joint Strike Fighters and the number of tails, the number of planes, those comments are no longer relevant. We have full funding for the number of Joint Strike Fighters.

I know this debate has proceeded rapidly, it has changed rapidly, but all of that commentary about helicopters and the number of Joint Strike Fighters has been taken care of by my amendment and is no longer relevant to the consideration of the underlying issue, which is the importance of competition and how best to go about saving money and procuring engines for this vitally important program.

I should also say that a number of statements were read about the President and his points of view. I think it is important for my colleagues who care about the comments from the President's staff about a recommendation of a veto to point out that in those comments, they were speaking directly to the number of planes, which has now been taken care of. That has now been addressed. They were not referring to the underlying opinion of the GAO and the whole fiscal aspect of this, which is a legitimate debate, but those comments and concerns were not raised as legitimate grounds for a veto threat by the President of the United States. So that has been taken care of as well.

What is on the table is preserving competition in the Joint Strike Fighter Engine Program. My friend and colleague's amendment No. 1627 strikes funding for this commonsense program. I wish to set the record straight by preserving this competition.

The Joint strike Fighter is a massive acquisition program. By 2030, this fighter will make up the vast majority of our tactical air fleet. Investing now to ensure competition over the life of the JSF is good government and sound management practice. Understanding

this, my colleagues in the Armed Services Committee prudently included $439 million to continue development of the competitive engine.

As most of our colleagues know, I am very concerned with our Nation's growing deficit. I have consistently opposed bills that spend too much, including the omnibus spending bill and the recent budget. I have supported amendments to strike wasteful spending.

I understand the importance of restraint, and I would not be here today if I did not truly believe this competitive engine strategy will save the taxpayers money.

I am not alone in this view. In 1996, Congress initiated the F–136 competitive engine program because we knew then, as we still know now, competition results in lower cost, improved performance, increased reliability, and greater contractor responsiveness. Since then, Congress has maintained unwavering support for this program for 13 consecutive years.

I want to be clear that there was never a competition for the GSF engine development. I heard the word ''competition'' used repeatedly by my friend and colleague. I hold in my hand copies of the contracts, the contracts for the engine that has just been alleged to have been let competitively. The first contract was on January 23, 1997, to Pratt & Whitney, in the sum of $804 million. It sets in bold print ''this contract was not competitively procured.''

Let me repeat that in plain English. This contract for the engine program about which it was just stated repeatedly that there was a competition, was, in fact, not competitively let. It is in plain English. A Federal Government document refutes that contention.

The second contract, dated October 26, 2001, once again to Pratt & Whitney, in the sum of $4,830,000—this contract was not competitively procured. There was no competition for the engine program. It is a matter of public record in plain black and white. If you care about competition, you will support my approach to dealing with this issue.

This is an engine program whose total cost will top $100 billion. There is simply no justification for awarding a sole-source noncompetitive contract in this area. The General Accounting Office has consistently supported funding a second engine as a fiscally responsible approach that would yield long-term cost savings for taxpayers.

On May 20 of this year, the GAO reaffirmed this view when discussing the cost to complete the second engine and stated:

> A competitive strategy has the potential for savings equal to or exceeding the amount across the life cycle of the engine. Prior experience indicates it is reasonable to assume that competition on the GSF engine program could yield savings of at least as much. As a result, we remain confident the competitive pressures could yield enough savings to offset the costs for competition over the GFS program's life.

GAO went on to elaborate on the nonfinancial benefits of procuring a second amendment:

> Our prior work, along with studies by the Department of Defense and others, indicate there are a number of nonfinancial benefits that may result from competition, including better performance, increased reliability, and improved contractor responsiveness.

The long history in the Department of Defense is that when you award sole-sourced, noncompetitive contracts to a single provider, costs go up, responsiveness goes down, the taxpayers suffer. That is what my amendment will avoid.

Further, in light of the increased investment Secretary Gates and the administration have chosen to make in the GSF program, limiting the Department of Defense to a single source has implications for our readiness and strategic posture. If we have problems with the primary engine, we will have no alternative. There will be no second supplier with any ability to produce a comparable engine. Production delays or engine failures could prove catastrophic for an already thin tactical air fleet.

Anybody who thinks that a large contract to a single vendor without competition—again I reiterate, as the contracts specifically indicate, they were not competitively bid—anyone who thinks that is a good way for the government to do business should support the Lieberman amendment.

Some may very well argue that my amendment constitutes business as usual or is, in fact, wasteful, but many of these individuals have, in fact, supported this approach as good public policy in the past. They were right then. I am right today.

We need to keep the primary contractors honest and the only way to do that is through competition. There was no competition in the award of these contracts. We now maintain that competition through the adoption of this amendment.

There were several other Senators who were intending to speak on behalf of this amendment. Because of the change in schedule, they may not be able to be with us. We will have to wait and see about that, but again I thank Senator MCCAIN for his courtesy in attempting to ensure that they could speak. I know there were some in opposition to my approach who wanted to speak as well. Senator KENNEDY cosponsors my amendment and is fully supportive. Because of health care concerns he could not be here today. I do wish to share with our colleagues and for the record a statement he issued on June 24, as a part of the Armed Services Committee markup on this issue, in support of my approach.

Senator KENNEDY, a longstanding member of the Armed Services Committee:

> For the fourth year in a row, the Department of Defense continues to ignore the will of the Congress on the production of an alternate Joint Strike Fighter engine in order to reduce risk to our forces, protect against any cost overruns, preserve the U.S. industrial base and support our international partners.

That is what our amendment is designed to accomplish and that is why Senator KENNEDY supports it. He goes on to say:

> I remember well the ''Great Engine Wars'' of the 1980s, and the development of an acquisition strategy, considered controversial at the time, that ultimately delivered stronger and more cost-effective fighter aircraft to the nation. That issue began a decade earlier, when the decision to sole-source the F–15's F100 engine resulted in rushed development to meet program timelines, inadequate responses to program shortfalls, and mounting frustration over our inability to address these discrepancies without additional resources. Ultimately, the Air Force, the Navy and Congress agreed that the short-term and long-term benefits of industrial competition would meet these challenges and deliver results.
>
> That experience is as relevant today as it was then, because we face a similar challenge. The Joint Strike Fighter is one of the largest military aircraft programs in history, with $100 billion allocated for engines alone. In light of recent defense acquisition challenges and the growing ''fighter gap'' in our air forces, these decisions could not be more important, or their results more far-reaching.
>
> Critics emphasize the short-term cost savings of the sole-source procurement strategy and cite reports showing different timelines to re-coup program costs. But dramatic long-term opportunity costs are missing from this debate, and are conspicuous in their absence.

That is what the GAO was referring to in the study I cited before.

> Competition for the Joint Strike Fighter engine has compelling advantages and avoids past pitfalls. Dual-sourcing will build vital operational redundancy into the fleet, avoiding a single point of failure for the engine malfunctions and spare parts shortages experienced in the past with other fleet-wide groundings. Competition delivers an inherent incentive for manufacturers to absorb and contain cost growth, even as it encourages responsiveness by contractors, continuous product improvement, and innovation. All of these factors are less evident in sole-source contracts.
>
> The alternate engine program appropriately diversifies capability and capacity across the U.S. industrial base and ensures that sustained production, maintenance, and availability of critical components are not concentrated in a single provider. In addition, the F136 alternate engine program considers the sustained participation of key international partners and stakeholders, especially the United Kingdom, and Australia, Canada, Denmark, Italy, the Netherlands, Norway, and Turkey as well. Their commitment is important to the future of the Joint Strike Fighter program and our basic security relationships.
>
> For these reasons, I strongly support the addition of $438 million in the FY 2010 National Defense Authorization Act to sustain the F136 alternate Joint Strike Fighter engine program.

Those are the words of Senator KENNEDY.

In conclusion and by way of summary, the Marine Corps helicopter issue has been taken care of. That is no longer an issue. We fully provide for that.

Allegations about the number of procurements for the Joint Strike Fighters has been taken care of. That is no longer an issue.

Statements by the President's staff with regard to a possible Presidential

veto related to the potential reduction in the number of fighters, that issue has been taken care of.

As I mentioned, the contracts for the engines themselves, in black and white, given to Pratt & Whitney on the dates in these legal documents, say very clearly, and I quote once again: ''This contract was not competitively procured.''

That is a matter of public record. This debate is about competition, the benefits of competition. I support them. That is why I urge my colleagues to support our amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I rise in support of the amendment which has been described by the proponent and opponent. Obviously, it would strip from the Defense authorization bill a provision that authorizes funding for an alternate engine for the F–35 Joint Strike Fighter.

Underscoring Senator LIEBERMAN's point and as was the case with the provision this body addressed in the F–22 program, funding for an alternate engine for the JSF at this time is something the Department of Defense has not asked for and does not want. It is not reflected in either the President's budget request or any of the Services' unfunded priorities list.

I believe there is good reason why neither the Department nor any of the services at this time want an alternate engine for the JSF. That reason is perhaps best expressed in a letter that Senator LIEBERMAN has already quoted from and had printed in the RECORD, from Secretary Gates. He concludes by saying:

> It is my belief that the Joint Strike Fighter Program presented in the President's budget request is in the best interests of national security. If a final bill is presented to the President concerning provisions that would seriously disrupt the F–35 program, the President's senior advisers will recommend that the President veto the bill.

Before I go much further, I would like to apologize to all Members who had planned to speak on this very important amendment and had arranged their schedules to do so. We have obviously changed the timing, despite the unanimous consent agreement to the contrary, apparently to accommodate one Senator's schedule.

I hope, because this is a very important issue, that Senators both in support of Senator BAYH's position and in support of this amendment would seize the opportunity to come down and address this issue.

Some have cited the benefits of competition as a reason to pursue a second engine for the Joint Strike Fighter, but a competition for this engine was already conducted. It was already conducted as a part of the original flyoff competition for the Joint Strike Fighter itself. The current airframe manufacturer and engine team won.

In 1996, Lockheed Martin, Boeing, and McDonnell Douglas originally competed for the two Joint Strike Technology Concept Demonstration Awards. In connection with that, each of those airframe manufacturers solicited engine proposals from Pratt & Whitney and General Electric. Pratt & Whitney won the competition as to Lockheed Martin and Boeing, and General Electric won separately as to McDonnell Douglas. Lockheed Martin and Boeing were selected to proceed to concept demonstration—where Lockheed Martin ultimately won in 2001.

That is exactly how most military aircraft engines are selected—as a team, combining an airframe with a powerplant. That makes sense, I might say. Obviously, we do not want them being developed separately. So with regard to a second engine, we are not talking about competition, we are actually talking about another bite at the apple.

I hope the great engine war is over. I know of no data or analysis that supports that taxpayers will see any net savings from subjecting the engine for the JSF to any further competition.

I do not believe there is anybody who believes more in competition than the Senator from Connecticut and me, including the chairman. We need to have competition. But there comes a point where you have to make a decision in the development of both the aircraft and the engine and move forward. At some point you have to abandon the alternate engine or, in some cases, there have been advocates of an alternate aircraft itself, to perform the same mission, as in the case of the tanker, and to move forward in order to proceed in a fashion which is in the best interests of the taxpayers and the defense of the country.

That is why the Secretary of Defense feels so strongly on this issue that he says the President's senior advisers will recommend that the President veto the bill if the Lieberman amendment is not adopted.

The fact is also funding an alternate engine over the next 6 years has been estimated to cost the program about $5 billion, the equivalent of 50 to 80 aircraft, according to the program manager.

Also, given that continuing development of a second engine would require in excess of $600 million in fiscal year 2010 alone, according to the Military Deputy to the Assistant Secretary of the Air Force for Acquisitions, GEN Mark Shackelford. Paying for the engines in just that year would require cutting production of at least two Joint Strike Fighters this year alone.

There may be some nonfinancial benefits to subjecting the engine program for the Joint Strike Fighter to additional competition—improved contractor performance at the margins, for example.

Like Senator LIEBERMAN, I am not persuaded those benefits are worth an additional cost of $5 billion to the Joint Strike Fighter's bottom line over the next 6 years. Certainly there are more cost-effective ways of ensuring contractor performance.

In my view, the possibility of a fleetwide grounding due to a single engine—that is another argument that is made by proponents of a second engine—is overstated. In fact, the only other U.S. military aircraft with an alternative engine is the F–16. All other aircraft have single-engine sources and have worked well.

There is no doubt the cost growth of the engine has been a huge problem. From fiscal year 2007 to 2008, the engine costs have grown specifically to meet the needs of the Marine Corps for a version capable of short takeoff and vertical landing. But I suggest the challenge there is to ensure that development costs leading to production remain stable, not to introduce a new engine to the program that will most assuredly add more uncertain testing requirements, complexity, and ultimately cost to the program.

So I believe the provision currently in the bill would be seriously disruptive because one of the offsets it uses to fund developing and buying a second engine derives from research, development, and testing and evaluation efforts supporting the program itself.

Also, it is my understanding the offset is of the C–130, which obviously is very much required in our operations in Iraq and Afghanistan. Remember, Secretary Gates restructured the Joint Strike Fighter Program this year precisely to provide for more robust developmental testing over the next 5 years to ensure that the program stays on its planned budget. Taking money out of the program's research, development, and testing and evaluation effort will, in my view, most assuredly disrupt the program.

One of the lessons of history on this program is its stability in funding is absolutely vital to executing that program soundly, the instability in funding—the disruption that the provision introduces into the bill—brings the bill within the scope of a veto threat.

For these reasons, I urge my colleagues to support the amendment under consideration and prohibit any additional funding for an alternate engine program for the Joint Strike Fighter.

Let me also point out to my colleagues, I think this Secretary of Defense has decided, in an incredible act of courage, to take on certain institutions and the way we do business. I think this Secretary of Defense has decided to take on—and I know he has—the military-industrial-congressional complex which lards on porkbarrel projects and unnecessary spending which, in many respects, places parochial interests over the national interests. Obviously, he feels so strongly about it that he would recommend a veto by the President of the United States. That would be regrettable, obviously, because we have so many important provisions in this bill for the

men and women who are serving this country, from the wounded warriors, to a pay raise, for so many things—to the amendment of Senator LIEBERMAN's that we adopted yesterday that we would provide an additional 30,000 members of the U.S. Army so we can better pursue the conflict in Iraq and Afghanistan.

So, obviously, as of yesterday, the Secretary of Defense feels so strongly on this issue that he would recommend that the President veto the entire bill. Does that mean it would kill a bill? No. But it does mean there would be a significant period of delay in passing this legislation and therefore delay the ability of the Pentagon and the military to implement some of the very important provisions of this legislation.

So I would urge my colleagues to examine this issue carefully, as I am sure they do all of the issues before this body. Also I would hope they would take into consideration the views of our distinguished Secretary of Defense.

I do not agree on every issue with the Secretary of Defense, and neither does my colleague, Senator LIEBERMAN. But I think he is on the right track. I think he can bring about change, at least on how we acquire weapons and how we spend money, and end these atrocious, outrageous cost overruns we have experienced in literally every single weapon system in recent years, which have cost the taxpayers incredible amounts of money, and end this earmarking and porkbarrel process that I will talk more on today.

Every day just about we pick up a paper and hear about, or go on line and hear about, some organization that got an earmark and their waste, mismanagement, and in some cases criminal behavior as far as use of the taxpayers' dollars are concerned. We have to do the big things and the small things. This is a big thing.

I respect, enormously, the Senator from Indiana. There has been no more valuable member of the Armed Services Committee than Senator BAYH. I respect his views. I understand where he is coming from in the name and sake of competition.

Senator LIEBERMAN's and my argument is that the time for competition is over, and it is time to move forward with a tested engine that will, one, accelerate the development and operational entrance by the F–22, and also save some $5 billion of the taxpayers' money.

So I hope my colleagues will examine this issue very carefully and support the Lieberman amendment.

I yield the floor.

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

Mr. LIEBERMAN. I wanted to speak very briefly because I note the presence on the floor of the Senator from Ohio. I want to speak simply to thank Senator MCCAIN for his very strong and thoughtful statement. I am honored that he is the cosponsor of the amendment.

Senator MCCAIN has enormous credibility in two areas that have come together in this amendment. The first is his support of the men and women of our military. The second is his opposition to wasteful spending of taxpayer dollars. And the two come together here.

Of course, as he has argued so compellingly, there are a lot of times when the wasteful spending of taxpayer dollars for military acquisitions is not only harmful in itself because it is wasteful, but it takes money away from things we need more.

That is the case here. The money that will be spent, $5, $6, $8 billion over the next 6 years by various estimates, will result in 50 to 80 fewer Joint Strike Fighters produced in that time. The Navy, Air Force, and Marines are waiting with anxiety for these tactical fighters.

In addition to that, the folks who want to fund this second engine have to find the money somewhere. They find it not only by delays in the Joint Strike Fighter Program, but by either, as the amendments today give the alternative—the first one was to take it from the Marine Corps for helicopters that are needed in Afghanistan.

The one that Senator BAYH has before us will take the money from the Air Force special operations community for C–130s that they need for Iraq, Afghanistan, and throughout the world. It is not worth it.

I thank Senator MCCAIN for his strong statement and for his cosponsorship.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. VOINOVICH. Who is managing this side of the debate?

The ACTING PRESIDENT pro tempore. Senator BAYH and Senator LIEBERMAN.

Mr. VOINOVICH. I ask unanimous consent that I take some of the time of Senator BAYH, who is supposed to be managing.

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

Mr. VOINOVICH. Madam President, I rise today to speak in support of the competitive sourcing for the Joint Strike Fighter engines. Senator BAYH's compromise amendment continues our support for competition for the Joint Strike Fighter engines and restores the funding for the Marine Corps helicopters that I know a number of my colleagues are concerned about.

From my understanding of what happened is that in the Armed Services Committee, Senator BAYH was concerned that the committee did not have money in the budget for competition for the Joint Strike Fighter. As a result of that, he moved to amend and took money away from the helicopters that Senator LIEBERMAN is so concerned about.

Today we are here because the Senator from Connecticut wants to restore that money for those helicopters, and at the same time, those of us who are concerned about competition would like to see the money included so we can continue competition for the Joint Strike Fighter.

As most of you know, I am a former Governor and mayor who has been an ardent champion of fiscal responsibility and total quality management in government. I am not a Johnnie-come-lately to this whole business of efficiency in terms of our defense budget.

Since 1990, the Department of Defense acquisition management has been under GAO's high risk list, and that is why, in my capacity as chair and now ranking member of the Subcommittee on Oversight and Government Management, I strongly supported reforms at the Defense Department that address contracting weaknesses and promote good business practices to support our men and women in uniform.

I want everyone to understand, this is not the F–22. This is about competition, fiscal responsibility, and good government management. When I came to the Senate, I remember Dwight D. Eisenhower talked about the military-industrial complex. I must say, since I have been a Senator, he had it wrong. It is the military-industrial-congressional complex.

If you watch how things are done on the floor of the Senate, a lot of it has got to do with protecting the business in our States, even though in some instances it is not in the best interests of our country. I am proud to say, in spite of the fact that in my State we lost about 500 jobs, I voted to eliminate the F–22.

That is what we should see more of here. But too often, when we make our decisions, it has got more to do with the corporations in our respective States and the jobs than it has to do with what is in the best interests of the country or what is fiscally responsible.

I think all of us should be concerned about it. I am going to leave here at the end of next year. But it seems to me if we do not start paying more attention to that, we are going to continue to be in trouble.

In testimony before the House Armed Services Committee this past May, the Government Accountability Office stated that competition, competition for the Joint Strike Fighter engine will yield long-term cost savings for taxpayers.

Does that mean it is not going to cost a little more at the front end because we are going to have more than one company competing for that engine? Of course it is going to cost a little bit more. But that testimony GAO gave cited an example of engine competition for the F–16. OK? We had competition for the F–16. Let's remember that this Joint Strike Fighter is going to be the fighter for all of the Federal agencies. It is going to be with us for the next 25 or 30 years.

That testimony for the F–16 said: It reduced engine costs for the F–16 by

over 20 percent. In other words, by putting a little money up front and having competition between the companies that wanted to do the engines, we, over the contract, saved 20 percent.

I commend to my colleagues the GAO testimony before the Subcommittee on Air and Land Forces, Committee on Armed Services, House of Representatives. This is quite a report. For those who are really interested in the subject, I ask them to read this or have their staff look at it. It is entitled ''Joint Strike Fighter Strong Risk Management Essential as Program Enters Most Challenging Phase.''

It is interesting the way the company that was originally chosen to do this has had cost overruns even in the beginning—and the two companies that were competing with them have been on budget and on time for the RECORD. By the way, it is right here in this GAO report. All you have to do is read the report. It is there.

Let me read what the report says:

> A competitive strategy has the potential for savings equal to or exceeding that amount across the life cycle of the engine. Prior experience indicates that it is reasonable to assume that competition on the Joint Strike Fighter engine program could yield savings. . . . As a result, we remain confident that competitive pressures could yield enough savings to offset the [upfront] costs of [development] over the JSF program's life.

Let me repeat that:

> As a result, we remain confident that competitive pressures could yield enough savings to offset the [upfront] costs of [development] over the [Joint Strike Fighter] program's life. Most of us understand competition.

We have laws against antitrust, trying to make sure that one company doesn't get an advantage over another. I think most of my colleagues understand competition brings out the best and the lowest price.

The GAO testimony goes on to address the impact competition has on quality of product and incentives to perform:

> Our prior work, along with studies by the [Department of Defense] and others, indicate there are a number of nonfinancial benefits that may result from competition, including better performance, increased reliability, and improved contractor responsiveness.

I heard the Senator from Arizona speak eloquently about all of the overruns and expenses and everything else about it. If he were here, I would say to him: Hey, what we want to do is have some competition on this engine so we get the best price, the best quality, the most responsiveness.

We don't need the GAO to confirm common sense. We all know that competition leads to lower cost, improved performance, increased reliability, and helps to keep our contractors honest. Without a competitive engine, over 90 percent of our fighter aircraft will be powered by one engine by 2030. Think about that. One company will have that contract. Giving an extraordinarily large contract to a single vendor without competition is reckless and irresponsible. Our government has an obligation to keep our contractors honest, and the surest way to achieve that honesty is through competition. I urge colleagues to support the Bayh compromise amendment that preserves competitive sourcing for the Joint Strike Fighter engine.

We have an opportunity. I can understand the Senator from Connecticut was upset because we took money out of the helicopters to maintain the competition. What Senator BAYH is trying to do is come up with an amendment that will restore the money so we can buy the helicopters and, at the same time, maintain competition on the Joint Strike Fighter.

I urge my colleagues to study this issue. Please, if they have a chance, they or their staffs ought to look at this report by the GAO. It substantiates the reasons why we are so ardent in terms of our support for competition for the Joint Strike Fighter.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself such time as I need from the time allotted.

Let me respond to a few points made in this debate.

First, as was clear, the original place that proponents of this second engine, which I believe is an unnecessary engine or unnecessary expenditure of taxpayer money, the place from which they would take the money originally for the Huey helicopters for the marines, I think there was a lot of upset about that. So the choice that Senator BAYH has put before us today would cut the HC–130 and MC–130 aircraft which would seriously impact both the Air Force's air combat command and the special operations command. This is a late-breaking development this morning, the change of source of the funding, but we asked for a response from the office of the Secretary of Defense and it was this, that this ''take'' from these two variants of the C–130s that the Air Force special operations command is using in Afghanistan, Iraq, and elsewhere, wherever they are needed in the world, the Secretary of Defense says this would slow down the rate at which the aircraft would be delivered.

The argument Senator BAYH made is that in the supplemental we adopted earlier, three additional MC–130s and four HC–130s were included, seven planes. But the Air Force says to us this morning: Based on the JROC validation requirements—that is the joint operating committee that determines acquisition—the Air Force has validated requirements for 37 MC–130s and 78 HC–130s.

The Air Force, including the Air Force special operations command and air combat command, is grateful for the seven the supplemental gave them, but they need many more. They need 115 total, and so far we have given them 7. Removing the nine planes that were in the President's budget for the Air Force to fund the unnecessary second engine is not a costless move. It would do damage to the Air Force and its program.

I know Senator REED is here and wants to speak on the amendment before us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Madam President, I rise in support of the Lieberman-McCain amendment. I commend both of them for their efforts in this regard. This represents part of what I believe Secretary Gates is trying to do, which is to focus on immediate consequential threats and necessary equipment while we continue to maintain deterrents for the future.

This second engine has not been fully validated by the Secretary of Defense. This amendment requires such validation. In addition, one of the aspects of the underlying legislation is that the alternate engine for the Joint Strike Fighter would be paid for in part by taking away funds to purchase additional UH–1Y helicopters for the Marine Corps. This request was in the President's budget. These helicopters are absolutely critical to ongoing operations in Afghanistan and throughout the world. The wear and tear on equipment, particularly in Afghanistan and Iraq, has been considerable. If we don't upgrade or repair these pieces of equipment on a regular basis, we will not have the lift to combat our opponents across the globe.

By comparison, right now in Great Britain there is an argument about the sufficiency of helicopters their forces have. We don't want to get into such an argument down the road. We want to make sure our forces in the field have the equipment they need to carry the fight to our opponents.

I think this amendment is extremely well crafted. It puts the money where it should be to help our tactical airlift, marines particularly, helicopter airlift. It requires the Secretary to justify and validate that a second engine would reduce the whole life cycle cost and improve the operational readiness of the F–35. We should go forward with helicopters and let the Secretary make a judgment about the efficacy of the second engine.

I thank the Senator for yielding to me.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my friend from Rhode Island, Senator REED, for taking the time to come over to the Chamber. I know the schedule changed. We had to adjust things. His presence and the strength of his statement—he is a senior member of the Armed Services Committee—and his support mean a lot to this cause.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Michigan.

Mr. LEVIN. I yield myself 10 minutes of the time of Senator BAYH.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized for 10 minutes.

Mr. LEVIN. Madam President, I oppose the Lieberman amendment that would eliminate funding for the Joint Strike Fighter alternate engine. The committee voted 12 to 10 to keep this competition going. I emphasize, this is not a new engine that is being introduced. This effort is to have a competitive engine. This effort has been supported by Congress for many years. Indeed, our Armed Services Committee had a vote on this 2 years ago where we determined to maintain the competition. This year's vote was 12 to 10.

A fundamental tenet for reforming the Defense Department's acquisition system is ensuring competition throughout the development and production cycle of major acquisition systems, whenever and wherever that makes sense. In the case of the Joint Strike Fighter Program, Congress has concluded repeatedly that competition makes sense because of the size of this buy.

The JSF program is planned to be one of the largest acquisition programs ever undertaken by the Defense Department. The Defense Department intends to buy more than 2,400 JSF aircraft, with our foreign partners slated to buy at least another 600. That means we are talking about a program of more than 3,000 aircraft. That means more than 3,000 engines. The cost of the engines alone will exceed $50 billion over the life of the program. This is not an issue such as whether we add F–22s. This is a matter of whether we are going to have competition in a program everybody supports and where we intend to purchase about 3,000 planes.

A number of studies have been done trying to estimate the economic costs and benefits of developing a second engine. The analysis of our Government Accountability Office, which Congress directed to review this, came out a few years ago. Michael Sullivan, GAO Director of Acquisition and Sourcing Management, testified as follows in March 2006 before the House Armed Services Committee:

> The current estimated remaining life cycle cost for the JSF engine under the sole-source scenario is $53.4 billion. To ensure competition by continuing the JSF alternate engine program, an additional investment of $3.6 billion to $4.5 billion may be required.

This was back in 2007. It is a lot less than that now to complete this program.

Continuing from the testimony:

> However, the associated competitive pressures from this strategy could result in savings equal to or exceeding that amount across the life cycle of the engine. The cost analysis that we performed suggests that a savings of 10.3 to 12.3 percent would recoup that investment, and actual experience from past engine competitions suggests that it is reasonable to assume that competition on the JSF engine program could yield savings of at least that much. These results are dependent on how the government decides to run the competition, the number of aircraft that are ultimately purchased, and the exact ratio of engines awarded to each contract. In addition, DOD-commissioned reports and other officials have said that non financial benefits in terms of better engine performance and reliability, improved industrial base stability, and more responsive contractors are more likely outcomes under a competitive environment than under a sole-source strategy. [Department of Defense] experience with other aircraft engine programs, including that for the F–16 fighter, has shown competitive pressures can generate financial benefits of up to 20 percent during the life cycle of an engine program and/or the other benefits mentioned. The potential for cost savings and performance improvements, along with the impact the engine program could have on the industrial base, underscores the importance and long-term implications of [Department of Defense] decision making with regard to the final acquisition strategy.

A few months ago, before the Armed Services Committee, in May of 2009, that same Mr. Sullivan of the GAO said that his study of 2007 is still relevant and the same conclusions can be drawn.

This is not a new engine which is being introduced. This is an engine development program to provide competition which has been long underway. The Department of Defense and Congress have approved, authorized, and appropriated spending so far of $2.5 billion for this alternate engine. The most important point I think I can make is this is not $4 billion or $5 billion or $6 billion additional funds we are talking about. In order to complete the development of this competitive engine, it will require $1.8 billion. So that $2.5 billion is already sunk into this engine development program. That is probably two-thirds of its cost already sunk into it. The question is, do we complete the development of this alternative engine at a cost of about $1.8 billion? That would conclude the cost for the engine contractor and other government costs for that program, for testing activities and for oversight. So again, the issue is not whether to introduce a new engine. The question is, do we complete the development of a second engine which is already two-thirds paid for?

We received a letter this morning—I received a letter this morning—from the Secretary of Defense, and the letter concludes that if the final bill presented to the President contains provisions that would seriously disrupt the F–35 program, the President's senior advisers will recommend that the President veto the bill.

If the final bill presented to the President contained provisions that would seriously disrupt the F–35 program, I would recommend to the President that he veto the bill. There is no serious disruption to the F–35 program that would occur whether or not the Bayh amendment is adopted. The Bayh amendment makes triply sure there will be no disruption at all, even a minute disruption, in the F–35 program. It is not going to be disrupted at all.

The funding for this alternate engine in the bill which the committee approved came from a Marine helicopter program, a part of which could not be produced this year. So the committee determined that it could safely take funds that were requested for that program, which could not be spent this year. A question has been raised about that. There is no one on this committee, there is no one in this Senate, who wants to slow down a Marine helicopter program. None of us will permit that to happen. That program is a vital program. We have spent a lot of money on it. It is critically necessary.

The decision, which was made by the Armed Services Committee, was to simply take funds which could not be spent for that program, because of development delays, and to spend that, instead, for the second engine. However, what the Bayh amendment does is to make triply sure, to reassure everybody there cannot possibly be any impact on a Marine helicopter program, by finding a separate, a different, a distinct source, an alternate source, for this second engine.

So the Bayh amendment removes any question about Marine helicopters. If adopted, that will be off the table. It was off the table in any event. But everybody wants to assure the Marines, assure our people that there is not going to be any impact on a Marine helicopter program for any reason, much less a second engine.

There is another question which some have raised about whether two engines—

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. LEVIN. I thank the Acting President pro tempore.

Madam President, how much time is left for Senator BAYH?

The ACTING PRESIDENT pro tempore. Twenty-seven minutes.

Mr. LEVIN. I would, in that case, conclude my statement. If there is additional time for Senator BAYH, I will then ask at a later point for some of that time. But for those reasons, and more, which I have not yet been able to reach, I very much support the Bayh amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LIEBERMAN. Madam President, I yield to the Senator from Georgia, Mr. CHAMBLISS, such time as he requires.

Mr. LEVIN. Madam President, if I could ask the Senator from Georgia, about how much time does he believe he would be using?

Mr. CHAMBLISS. No more than 10 minutes.

Mr. LEVIN. Madam President, I ask unanimous consent that after that 10-minute time is used Senator KERRY be recognized for a period of up to 10 minutes on Senator BAYH's time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I thank the Senator from Connecticut for yielding time on this critically important issue.

As we have been here debating on the floor for the last 2 weeks now the respective issues relative to the priorities from a Defense authorization standpoint, we have done everything other than going from increasing pay for our military personnel to the termination of what I argued on the floor last week and this week of the latest, most technologically advanced warfighting machine that has ever been produced by mankind. But the decision was made to terminate the F–22.

The F–22, not only from a technology standpoint, was providing valuable test material for the follow-on fighter, but it also is powered by two engines, one engine of which is going to be on the F–35. And here we are now talking about the issue of whether we should continue with a competitive second engine for an airplane that now has an engine that is being flown, has been flown, has been tested by the Air Force on the F–22. It has successfully flown on the F–22 for years now, and also has flown successfully in what limited testing has been done on the F–35.

We have put all of our eggs in the F–35 basket now. As I said during the debate on the F–22, I am a big supporter of the F–35. It is a great airplane. I know it is going to succeed. But we are at a point, with respect to the cost of all weapons systems, where we have to look more toward where we are going to be in future years from a cost standpoint and with regard to what we are able to provide our men and women.

When you look at items that need to be included in the mix from a competition standpoint, there is nobody who supports competition more than I do. That is the reason I supported the second engine—up to a point in time. But when it came up again last year, it was pretty obvious we were at a point where the engine, manufactured by Pratt & Whitney—two of which fly on the F–22; only one of which is needed for the F–35—is a good engine. It is doing the job. It has passed the test. So I decided last year we needed to move away from the spending of the money on the second engine, and let's concentrate on providing, obviously, the two engines for the F–22, and the one engine on the F–35.

We have something else thrown into the mix. I did not support Senator BAYH's amendment in committee, for what I still think are all of the right reasons from the standpoint of: Do we need competition for an engine that is successful? For an engine we know is working? For an engine for which we know what the cost is today?

Why do we need the second engine? Well, I know detractors have said—and they have made the argument to me—that: Look, that engine may fail. Something may happen to that engine. I agree for a point in time that could have happened. But we have been at this with respect to the engine that is powering the F–35 for years now, and it is a success. So I reached a point in time last year when I decided we did not need the additional competition from the standpoint of the second engine and, obviously, the committee reached that same result this year.

Now we are changing horses a little bit more. Instead of using the discontinuance of the helicopters, the Marine helicopters, we are taking money from six C–130Js to fund the competitive second engine for the F–35, and the competition is going to be between the new engine we have tested and have had in production now for several years against an engine we know to be successful.

Well, the issue has gotten even more sensitive to me because I know how critically important the C–130J is to our men and women who are in combat today—not those who might be going into combat and might need this weapon system somewhere down the road. Our men and women in theater today depend every single day on the C–130J, and on the C–130Hs, even, that are old airplanes, that are in theater, that are flying our men and women. They are looking to get the new C–130Js to help them transport themselves as well as equipment from one part of the theater to the other, from outside the theater into the theater. Our special operations men and women are looking to the C–130J for the gunship operations they carry out.

Here we are going to say to those men and women: Well, we think it is more important to have competition for a second engine against an engine we know is successful than it is to provide you with the latest, most technologically advanced airlift capability we can give you. That makes no sense whatsoever to me from a national security standpoint.

All of us have been to Iraq and Afghanistan at some point or another. I have been to Iraq eight times. I have been to Afghanistan twice. When we go over there, we fly into either Kuwait or Jordan or some neighboring country. Then we are transported from that country into Iraq or into Afghanistan. What have we flown on? I would say not 99 percent of the time but 100 percent of the time when we are transported into theater, we fly on C–130s. All of us have had the experience of seeing date plates on C–130s we are flying on into theater, where rockets are being fired occasionally at those weapons systems, and we have had some issues relative to that. But the date plates on those airplanes we fly on almost consistently are in the 1960s or 1970s.

So today what we are asking our men and women to do is to fly C–130s that are 40 years old, 30 years old, or whatever it may be, that are not equipped with the latest, most technologically advanced weapons systems, and here we are saying to those men and women that we are going to take away from you the entrance of additional C–130Js into theater because we think it is important we have competition for a second engine on the F–35.

This makes absolutely no sense from either a fiscal standpoint or a national security standpoint. The C–130J is a great airplane. We have nine of them in this authorization bill. This particular amendment takes six of those nine out of the bill and pays for the funding—the remainder of the funding—on the second engine. That second engine is a great engine. It has performed magnificently. But it is competing with an engine that also is performing magnificently.

So to say we now ought to take a weapons system, such as the C–130J that our men and women depend on every single day to fly them around within Afghanistan—because they need these airplanes to land, they need an airplane that can land on a short runway; and the C–130 has that capability to fly our men and women around Iraq, to fly our men and women who carry out special operations and missions and have the gunships—the guns that are mounted on the C–130J to be transformed into a gunship—we are going to take away that capability and that need from our men and women to fund a second engine for an airplane that already has an engine on it, that is performing well, that we know is successful, for which we know how much it costs today. It is not like we are going to see a reduction in price on the engine of the F–35 because we complete the testing and the procurement of an alternative engine. That is not going to happen, and that is not the issue. The issue comes down to the point of are we going to take, in this case, a weapon system away from our men and women to fund a second engine to compete with an engine that is already successful.

I would say that, obviously, I felt very strongly and was very emotional about the discontinuance of the F–22 for all of the right reasons, but this is one of those issues that makes even less sense than the discontinuance of the F–22. We need to make sure we spend tax money wisely. We have had the competition on the F–35. It is time we move down the road of building and procuring as many of those as we can. With the ramp-up this bill calls for, under the direction of the chairman, we are going to be buying a lot of F–35s in a short period of time. They have a great engine on them today. It works. It is successful. That is where we need to concentrate. That is where we need to spend our money. We don't need to spend the money on the second engine, nor do we need to take six C–130 airplanes out of this budget to pay for an engine we are probably never going to buy.

So I would simply urge my colleagues to vote in support of the Lieberman amendment and to vote against the Bayh second-degree amendment.

I yield the floor.

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

Mr. KERRY. Madam President, I rise to join my colleague, Senator KENNEDY, in opposing the Lieberman amendment to eliminate funding for the Joint Strike Fighter alternative engine. I disagree with the arguments that were just made by the Senator from Georgia who actually is inaccurate by saying it is going to take away a weapon system from our military at the current time. It doesn't take any weapon system away whatsoever. It simply changes the schedule of production with respect to the C–130s, but all of the C–130s will be built. So no system is taken away. It is important to try to be accurate about what is at stake here.

As does Senator KENNEDY and a lot of other people, including Senator BAYH and others, I believe the alternative engine is critical to reduce risks to our forces, to protect against cost overruns, to preserve the U.S. industrial manufacturing base, and to support our international partners. It is a little strange, I might add, to have some of our friends on the other side of the aisle who are usually quick to come up here and support competition in the American marketplace arguing that we shouldn't have competition and that we ought to have a single-source production for engines, where we have already seen that there are problems frequently in those single-source production lines.

I strongly support the second-degree amendment offered by Senator BAYH and Senator KENNEDY that would provide more than $156 million for the management reserves of the Joint Strike Fighter Program and more than $280 million for the Marine Corps helicopter fleet. This will allow the Senate to preserve funding for the vital Marine Corps helicopters without eliminating competition for the Joint Strike Fighter's competitive alternative engine program.

Let me say the funding for the Joint Strike Fighter alternative engine has been important to Senator KENNEDY for a long period of time. As we all know, he is being treated back in Massachusetts and is not here today, but his statement in support of the amendment he is offering with Senator BAYH has already been put into the RECORD by Senator BAYH. I wish to simply reference one thing Senator KENNEDY has said:

> Competition for the Joint Strike Fighter engine has compelling advantages and avoids past pitfalls. Dual-sourcing will build vital operational redundancy into the fleet, avoid a single point of failure for the engine malfunctions and spare part shortages experienced in the past with other fleet-wide groundings. Competition delivers an inherent incentive for manufacturers to absorb and contain cost growth, even as it encourages responsiveness by contractors, continuous product improvement, and innovation.

All of us know that is the way we are most effective at producing all of our goods in this country. We do it through competition. It is that kind of competition that spurs innovation, and it avoids cost overruns. Senator KENNEDY is 100 percent accurate in his analysis of this issue, and I hope Senators will weigh his measurement of this based on his years of experience on the Armed Services Committee as well as on the facts regarding this particular engine proposition.

The alternate engine program spreads capability and capacity across the U.S. industrial base. What it does is it ensures the production, maintenance, and availability of critical components so they are not concentrated in the hands of one single producer.

Why does that matter? Well, the current engine for the Joint Strike Fighter has had testing issues. It is simply not appropriate to stand here and suggest that everything is absolutely hunky-dory with the single-source program. The fact is, there have been two engine blade failures within the past 2 years requiring a redesign, remanufacture, and delays in the flight test program. In fact, the engine has yet to even be flight tested in the most stressing flight regime—the vertical landing mode. Those tests have been delayed for up to 2 years, and they are now scheduled to take place in September.

It is precisely that kind of delay that begs for this kind of alternative engine program. In fact, the 2007 Institute of Defense Analysis study concluded:

> Competition has the potential to bring benefits in addition to reduced prices, including force readiness, contractor responsiveness, and industrial base breadth.

So I don't believe it is in the best interests of our military to have the major part of the fighter fleet dependent on a single-engine type provided by a single manufacturer. It is simply too risky, and experience tells us it is too risky.

In the 1970s, many of the F–15s and F–16 fleets were grounded as a result of reliability and durability issues because the aircraft were dependent on one engine type. Similarly, the AV–8 Harrier was grounded for 11 months due to engine problems. With over 2,400 F–35s currently planned for procurement and each of the services going to be dependent on one engine and one aircraft type for the vast majority of its capability, it simply doesn't make sense to put all of it into one engine manufacturer—one engine and one producer. We certainly don't want to take the risk of the entire F–35 fleet being grounded. Competition will avoid that potential.

So I ask my colleagues to oppose the Lieberman amendment, support the Bayh-Kennedy amendment to provide additional funding to the Joint Strike Fighter Program and to the Marine Corps helicopter fleet. I believe that is the way we best eliminate risk and best serve the armed services and the needs of this particular aircraft.

Madam President, I reserve the remainder of the time to Senator BAYH. Does the Senator from Ohio wish to speak?

Mr. BROWN. Madam President, I wish to speak to thank Senator BAYH for his work and Chairman LEVIN and Senator KERRY in opposition to the amendment.

Mr. KERRY. Madam President, I yield the Senator such time as he may use on behalf of Senator BAYH.

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

Mr. BROWN. Madam President, I wish to thank Chairman LEVIN for his leadership and Senator BAYH for his work.

This debate is about competition. It is about how our government spends money.

Earlier this year, the Senate passed a comprehensive DOD procurement reform law. Now we are debating a Defense authorization bill of more than $660 billion. We need to continue to reform the procurement process. We need to make sure Congress is not just a rubber stamp.

We are debating today whether we should end a near monopoly on engines and long-term maintenance for the Joint Strike Fighter to one company. The Department of Defense created the alternative engine program in the mid-1990s because DOD knew such a program would foster competition between engine manufacturers. Competition fosters cost savings and improved performance and flexibility. Now we are debating whether the Senate should create a monopoly in buying just one engine for more than 2,400 aircraft.

What would happen if we end the alternative engine program? One engine manufacturer, frankly, would have us over a barrel. The government would have no option. The government would have no bargaining power. That is what we are talking about today. We are debating whether we should clear the field and have no competition, not even the threat of competition, for our Nation's most important aerial defense program.

What would happen if performance standards changed? I tell my colleagues, we will become price-takers. The company will tell us how much they want for making the required changes. We will have to accept it. What would happen if the manufacturer decided they can't deliver the engine at the agreed price? We would be price-takers again.

What if we needed to ramp up production to defend our Nation but we have only one production line? We would be in trouble. What if there are skyrocketing costs in production? We would have to pay them.

If this amendment passes, we are setting the stage for inflated costs. We are setting the stage for inadequate capacity.

So as we work to find ways to save money in this bill, as we work to reduce our budget deficit, we are contemplating cutting funding for a program that could lower the cost of the JSF and save our government billions of

dollars while creating a more reliable aircraft, and we are debating whether to limit the military's ability to pick the best engine possible.

We have been talking about an alternate engine program, but that is a bit of a misnomer. It is not an alternate engine; it is a competition between engines to ensure we pick the right one. Remember the famous competition between engine manufacturers for the F–16. The so-called great engine war saved our government billions of dollars and provided our military with the best engine possible.

The F–16 has kept our Nation safe for a generation. It is in large part because the military was able to pick the best possible engine. That competition made it possible to avoid massive cost overruns, to avoid production problems, to avoid performance issues. That is why we have a competitive engine program now. We are not talking about one alternate engine; we are talking about two engine alternatives. It is an important distinction. It is about competition.

What we are debating is an effort by some to declare the competition over, even though this body has provided funding for two engines over and over. We are going to buy more than 2,400 Joint Strike Fighters and costs will keep going up. According to news reports, we are talking at least $300 billion.

We need to make sure we spend this money wisely. By eliminating the alternate engine program just to save a few dollars today, we are jeopardizing billions later—$300 billion, 2,400 planes, the next generation aircraft that will serve the entire military for decades.

We have to get this right the first time. There are no do-overs. The JSF is a single-engine fighter. Any problem with its engine could ground the entire fleet. This would waste billions of tax dollars, and even more importantly, it would jeopardize our military's ability to defend our Nation.

We need to get this right. We need to make sure we are not granting a monopoly today that we are going to be stuck with for 10 years or 20 years or 30 years from now. Let's keep the second engine program going. Let's have a competition. Let's make sure our military has the best plane possible.

Thank you, Madam President. I yield the floor.

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

Mr. LIEBERMAN. Madam President, I wish to respond to a few of the statements that have been made by the proponents of the second engine which I feel very strongly is a costly waste of taxpayer money and is unnecessary.

The argument has been made: why stop competition? I can't say it often enough that there has been competition. There was a competition in the 1990s between these two great engine manufacturers: Pratt & Whitney and General Electric. Pratt & Whitney won the competition fair and square. They did it, as Senator CHAMBLISS said, with an engine that has now had an enormous amount of experience. The Air Force has had experience with it in the F–22, and it has worked extraordinarily well.

Secretary Gates, in his letter to us today, says the current engine is performing well with more than 11,000 test hours. So there has been a competition. General Electric, which manufactures the second engine which lost the competition, is trying, in my opinion—I love this company. I respect them. They are headquartered in Connecticut, but they are trying to achieve through legislation what they could not achieve through competition, and it is costly.

It is costly. It delays the Joint Strike Fighter Program. Earlier this week, we terminated the F–22 technical air fighter program. That means we are all in the Joint Strike Fighter Program. This is our single hope and the specific program to take us to the future for American tactical air war combat.

This second engine—the money for it—according to testimony before the Senate Armed Services Committee will cost the Air Force between 50 and 83 fewer Joint Strike Fighters for the Air Force, Army, and Navy over the next 5 years. That is a lot to pay for.

There has been competition and it is over. This engine that has been selected is a good one, and it will continue to perform well and not delay the program.

I want to say a few other things about what has been said. There has been some citing of a GAO report issued in May of this year that suggested that, in the long term, a second engine might result in savings. I think it is important to say that the opinion of the GAO is not documented in their report on that matter, and it is not shared by other authorities who have done independent analyses.

The Institute for Defense Analyses says flat out that GAO underestimated the required government investment to develop an alternative engine by nearly $4 billion. One of the supporters of the second engine earlier said that we have already spent over $2 billion on it, and there is only a need to spend another $1.5 billion or $1.8 billion. Of course, any dollar we spend on an engine that I believe we don't need should go to other programs in the Department of Defense. It is a waste of dollars.

In the GAO report itself, which is cited by proponents of the second engine, it is quite clear that they say an additional investment of $3.5 billion to $4.5 billion in development and production costs may be required for this program.

That means an additional $3.5 billion to $4.5 billion, in the coming years totaling over $6 billion—some say even more—for a second engine, which would be nice to have, like it would be nice to have a lot of things, but we cannot afford it.

The fact that we cannot afford it is demonstrated by the amendments introduced by the proponents of the second engine. We will have to cannibalize, or take from the Marine Huey helicopters and from the Air Force C–130s being used by the special operations and Air Force combat command in battle today.

Let me go to this GAO argument. My friend from Massachusetts cited an Institute of Defense Analyses statement offered in testimony before the House in March of this year. There is another line in that that makes a very powerful point on the question of savings from the second engine. To break even financially, according to the Institute of Defense Analyses—I am quoting from that:

> To offset fully the estimated $8.8 billion investment to establish the alternative JSF engine would require a savings rate, during the production phase, of 40 percent on a net present value basis.

That is a little complicated. Here is the key from the independent Institute of Defense Analyses:

> Savings of this magnitude are implausible, considering the 11 to 18 percent savings realized in other competition.

So it is way beyond what we have seen before. I want to quote from testimony received in our committee, a very interesting exchange between Senator BEGICH, a member of our subcommittee, and the representative of the Navy and the Air Force. Senator BEGICH, in reference to the GAO report cited, indicated that the F–136, the second engine, had better efficiency and opportunity, ''but you seem to disagree with that,'' the Senator says to the witnesses, and I believe that the current Joint Strike Fighter engine is the course you are taking. Vice Admiral Architzel of the Navy says:

> While we generally support competition, the cost of continuing to develop a second engine versus being able to use that in procurement dollars for aircraft or in the cost also to maintain the 2 engines, the Navy supports the Department of Defense in just having this one F–35 engine.

Lieutenant General Shackleford, from the Office of Acquisition of the Air Force, says a very important quote regarding the GAO report that has been cited by proponents of the second engine:

> In this particular case, the analysis that the Office of the Secretary of Defense did to look at the costs associated with a second engine yielded a different result from what the GAO reported, which basically says the costs associated with development of a second engine would be something that we would consider unaffordable in the current timeframe, while we would be doing the development. That benefit down the road, in terms of comparative costs, would be more of a wash than the more optimistic version of what the GAO report said.

So when we look at balancing the risk of having one engine versus the costs of paying for the second—be it costs within the program, which would be taken out of production aircraft with a negative effect in terms of unit

costs, or even having to source these dollars someplace else within the Air Force—we don't consider the purchase of a second engine to be an affordable solution.

Again, competition has occurred. It is over. We have to really go forward with the Joint Strike Fighter Program, not delay it, or waste money on it or take money from other programs to fund this one.

I will introduce this for the RECORD. I ask unanimous consent to have printed in the RECORD two letters, one from Military Families United, and another from the Vets for Freedom.

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

JULY 23, 2009.

Hon. JOE LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of Military Families United and the military families throughout the country we represent, I am writing today in support of restoring funding to the FY2010 National Defense Authorization Act to procure additional UH–1s and HC–130s.

As we continue to increase deployments of our forces in Afghanistan, the strain on our military hardware will greatly increase thus making it more necessary that we continue to procure and recapitalize vital equipment at a sustainable rate. Without this equipment America's brave men and women in uniform will be put in greater danger. They deserve the best equipment available to defend themselves and successfully complete the mission they have been asked to accomplish. Providing the necessary funds for the procurement and recapitalization of both the UH–1 and the HC–130 will afford our Armed Forces the ability to successfully execute our military engagements overseas.

Our warfighters deserve the very best equipment we can provide them. To that end, Military Families United aggressively supports this effort to restore funding for the procurement and recapitalization of these vital weapons systems. We must never forget the sacrifices the brave men and women of our Armed Forces make every day in the service of our nation and for the cause of Freedom. I look forward to working with your office to get this important legislation passed.

Sincerely,

BRIAN WISE,
Executive Director,
Military Families United.

JULY 23, 2009.

Hon. JOSEPH I. LIEBERMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: Vets for Freedom has always fought for the success of the mission and fielding the needs of war-fighters serving our country in harms way. Recently, we've seen attempts made in Congress to strip funding from the Marine Corps H–1Y Huey helicopter program and from the Special Operations Command's C–130 fleet.

Both pieces of equipment play a key role in making both our troops more effective and lethal on the battlefield: by both transporting Marines into the fight and allowing our Special Operations Forces to take the fight to the Taliban and Al-Qaeda around the country. Both of the H–1Y Huey and HC/MC–130 Hercules are mission critical assets for the fight we are in today and tomorrow—and the Secretary of Defense and Commandant of the U.S. Marine Corps agree.

Vets for Freedom calls on the Senate to fund these two critical programs and ensure that our troops have the equipment and support they need to successfully accomplish their current mission.

Sincerely,

PETE HEGSETH,
Chairman, Vets for Freedom.

Mr. LIEBERMAN. This is from Bryan Wise, executive director of Military Families United:

. . . I am writing today in support of funding to the FY2010 National Defense Authorization Act to procure additional UH–1s and HC–130s.

. . . Providing the necessary funds for the procurement and recapitalization of both the UH–1 and the HC–130 will afford our Armed Forces the ability to successfully execute our military engagements overseas.

. . . Military Families United aggressively supports this effort to restore funding for the procurement and recapitalization of these vital weapons systems. We must never forget the sacrifices the brave men and women of our Armed Forces make every day in the service of our Nation and for the cause of freedom.

The second letter, from the Vets of Freedom, is signed by Pete Hegseth, a distinguished and decorated veteran, who is chairman of Vets for Freedom. He says:

Vets for Freedom has always fought for the success of the mission and fielding the needs of war-fighters serving our country in harm's way. Recently, we've seen attempts made in Congress to strip funding from the Marine Corps H–1Y Huey helicopter program and from the Special Operations Command's C–130 fleet.

Both pieces of equipment play a key role in making our troops more effective and lethal on the battlefield: by both transporting Marines into the fight and allowing our Special Operations Forces to take the fight to the Taliban and al-Qaida around the country. Both of [these programs] are mission critical assets for the fight we are in today and tomorrow—and the Secretary of Defense and Commandant of the U.S. Marine Corps agree.

I appreciate these letters. They speak volumes, and I hope they will lead my colleagues to oppose the Bayh amendment and support the amendment we have introduced.

I yield the floor.

Ms. SNOWE. Madam President, I rise in support of Senator LIEBERMAN's amendment to the National Defense Authorization Act for Fiscal Year 2010, which would eliminate funding for an alternate engine for the F–35 Joint Strike Fighter, JSF.

President Obama singled out the alternate engine as wasteful government and he specifically did not request funding for an alternative engine in his budget proposal to the Congress. On May 7, President Obama said that ''we're going to save money by eliminating unnecessary defense programs that do nothing to keep us safe—but rather prevent us from spending money on what does keep us safe. One example is a $465 million program to build an alternate engine for the Joint Strike Fighter. The Defense Department is already pleased with the engine it has. The engine it has works. The Pentagon does not want—and does not plan to use—the alternative version. That's why the Pentagon stopped requesting this funding two years ago.''

In fact, the administration has already stated its intention to veto a defense authorization bill that is presented to the President that includes funding for an alternative engine. The June 24, 2009 Statement of Administration Policy on HR 2647, the House Defense authorization bill, which also includes funding for development of an alternative engine, noted that ''. . . the Administration objects to provisions of [HR 2647] that mandate an alternative engine program for the JSF. The current engine is performing well with more than 11,000 test hours. Expenditures on a second engine are unnecessary and impede the progress of the overall JSF program. Alleged risks of a fleet-wide grounding due to a single engine are exaggerated. The Air Force currently has several fleets that operate on a single-engine source.''

In addition, the Secretaries and Chiefs of the Air Force and Navy have all said that they do not need or want a second engine for the JSF. When Air Force Chief of Staff General Schwartz testified before the Senate Armed Services Committee on May 21, 2009, he said that if he were asked where he would put his next available dollar for the F–22 program, ''it would not be in a second engine.'' Chief of Naval Operations Admiral Gary Roughead is also opposed to the second engine, stating, ''. . . keeping parts for two engines on the decks of aircraft carriers is not advisable. Therefore you can put me solidly in the one-engine camp.''

It has been suggested that competition for these engines would be good for the military. Quite simply, there has already been a competition and it was won by Pratt & Whitney. In 1996, the Pratt & Whitney engine was the engine of choice for two of three competitors for the Joint Strike Fighter: Boeing and Lockheed Martin. The third competitor, McDonnell Douglass, selected the General Electric engine. When McDonnell Douglass was not selected for a key milestone in the JSF development, concept demonstration, while Lockheed Martin and Boeing were selected, the General Electric engine was eliminated as a future engine for the JSF. In fact, the P&W engine was well positioned for this competitive success in the JSF competition by previously besting competing engines in 1991 for use in the F–22. Moreover, the only other aircraft in the U.S. military inventory that has a dual source for engines is the F–16. All other military aircraft have a single source engine, and it is a strategy that works. Single source jet engines are the rule, not the exception.

In terms of the industrial base, the leaders of the potential alternate engine teams would suggest that without an alternate engine they might be shut out of the military aircraft engine business. However, these teams already provide engines for multiple military aircraft platforms. In contrast, Pratt &

Whitney will only make aircraft engines for the Joint Strike Fighter with the closing of the C–17 and F–22 lines. In a sense, the reverse would be more accurate.

This is especially important to me since much of the JSF engine work will go through the Pratt & Whitney facility in my home State of Maine. The 1,375 highly skilled employees at the P&W North Berwick facility should not have their jobs jeopardized for an unnecessary competition. A competition that they already won.

This debate should not even be occurring. The President and the U.S. military say they do not want or need this alternate engine. There is no reasonable justification for spending on a second engine when the first engine is performing admirably. I urge my colleagues to support Senator LIEBERMAN's amendment.

Mr. LEAHY. Madam President, I rise in strong support of the alternate engine for the F–35 Joint Strike Fighter. The Armed Services Committee, which has reviewed the program carefully, made the sensible move in restoring the almost $440 million necessary this year to continue design and development of the alternate engine, known as the F136 engine, made by General Electric Aviation.

The F–35 Joint Strike Fighter Program will likely emerge as the largest tactical aircraft program in the Nation's history.

Given developments in unmanned aerial vehicles, it could also be the country's last major tactical aircraft program. The F–35 will provide a tremendous general purpose capability to replace the Air Force's aging F–16s, the Marine Corps' AV–8Bs, and older versions of the F/A–18. We have to get development of this aircraft right. The kind of delays and cost overruns that have plagued development of so many other defense programs recently would be absolutely unacceptable in this far-reaching program.

An alternate engine would create competition. Competition would force both production teams to deliver a better product at a better price to the government.

An alternate engine would prevent a single-point failure in the F–35s continued development. If one program reaches insurmountable obstacles, the Department of Defense will be able to rely on the other engine. Finally, an alternate engine would ensure that the country has more than one military engine manufacturer.

Several nonpartisan, rigorous studies from groups such as the Institute for Defense Analyses and the Government Accountability Office have underscored the benefits of an alternate engine.

There is some question as to whether the existence of a second engine and the resulting competition would save money over the life of the program. One need only look to the history of the F–16 engine in the 1970s and the 1980s for an answer, which is a resounding yes. In that case, the availability of two engines resulted in a decline in price for the overall aircraft, allowing the government to buy more for less. Opponents of the alternative engine claim that cutting the engine will allow more planes to be built, when in fact what will happen is that the overall cost of the program will increase and incentives to build the best engine will be eliminated.

Real cost savings, improved performance: these are the reasons that we simply must continue development of the Alternate Engine for the Joint Strike Fighter. And it is these reasons that I will vote to continue forward with this absolutely essential investment that ensures we are getting the best product for our troops and at the best price for taxpayers.

Mr. McCAIN. Madam President, what is the time situation?

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Connecticut has 26 minutes. The Senator from Indiana has 14 minutes. Who yields time?

Mr. LIEBERMAN. Might I ask my friend from Oklahoma how much time he needs?

Mr. INHOFE. A couple minutes.

Mr. LIEBERMAN. I yield to the Senator from Oklahoma up to 5 minutes of my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, I look at this issue and think about not just the hours and days and months but years we have talked about this. A lot of people have changed their mind and have gone back and forth on it. I think at the time Senator WARNER was here, he actually took a couple of positions.

I look at it simply. I have been concerned about the funding and about some of what we need to have. We all had different ideas on the additional F–22s. I look at this and I see that the only current U.S. military aircraft with a new engine source is the F–16. All the rest have single engine sources. It has worked well, and there is no military requirement for the alternate engine.

I have come to the conclusion it would cost over $5 billion to fund the alternate engine and, over the next year, it will cost the program—I have seen estimates from 50 to 80 aircraft, according to the program manager.

Congress has directed three studies on the alternative engine, and we have gone over studies in our Armed Services Committee. Two out of the three studies of the alternate engine stated there would never be any cost savings associated with the competition.

There has never been actual data—only anecdotal—that proves there was ever any cost savings brought about by what someone called the ''great engine war'' on the F–16s.

It seems to me it is a savings without the alternate engine, which will allow us to have more capability, more aircraft.

I strongly support the Lieberman-McCain amendment.

I yield the floor.

Mr. BAYH. How much time remains on our side, Madam President?

The PRESIDING OFFICER. The Senator from Connecticut has 23 minutes. The Senator from Indiana has 14 minutes.

Mr. McCAIN. Madam President, I want to add some additional comments about the $438 million that would be taken from the HC/MC 130s recapitalization program to fund development of the alternate engine.

I don't think there is any doubt that given the conflict in Afghanistan, as well as Iraq, but particularly now in Afghanistan, as we move into the southern part of the country, the HC/MC 130s are critical weapons systems. Their platforms are designed to specifically support our special operations warriors, which is the kind of fight we are in. It is an irregular fight, and it puts increasing demands on our special forces.

As we know, these aircraft are specialized C–130s that are specifically designed for that fight. They have capabilities, such as aerial refueling and gunship weaponry, that meet the requirements of the special operations command.

I would be very reluctant and strongly opposed to taking funding away from special operations and using it to fund the second motor for the Joint Strike Fighter. It is a time, obviously, when we are fighting two irregular wars, and it is not a time to take this funding away.

According to the Defense Department, the current military requirement for the HC/MC 130s aircraft is 60. The Department recently recognized that the need to modernize the aging, worn-out special operations and combat search and rescue fleets is urgent.

According to the Office of the Secretary of Defense, ''the cut to these aircraft would slow down deliveries to the warfighter of the HC–130 and the MC–130 impacting both the Air Force's Air Combat Command and Special Operations Command.''

According to the Air Force ''based on the JROC validated requirements for 37 MC–130s and 78 HC–130s, the Air Force, including the Air Force Special Operations Command and Air Combat Command, would benefit from an even greater acceleration of the recapitalization rate of all 9 aircraft that remain in the President's budget.

Taking that money out of this program would delay the delivery of new aircraft to the warfighter. I think that if General McChrystal were here, and our other leaders, they would make it very clear that in the very difficult situation we face in Afghanistan—large areas of geography that need to be traveled and controlled—these aircraft are very much needed. I hope my colleagues will also take that into consideration as we consider this vote.

I congratulate the Senator from Indiana for a very eloquent argument on behalf of his position. Again, I state

my appreciation for the very important role he plays as a member of the Armed Services Committee. This is one of the few times we disagree, but I think he has presented his side of the argument with eloquence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Madam President, perhaps I should quit while I am ahead following those very generous remarks by my friend and colleague from Arizona. I am compelled, however, to save a few minutes of my time for Senator LEVIN, who is the chairman of the Armed Services Committee and is supportive of our amendment, for him to offer a few additional observations. I do want to close with a few closing remarks.

First, I thank Senator KENNEDY, who could not be with us today but who is a strong supporter of our amendment, and Senators KERRY, VOINOVICH, BROWN, and Senator LEVIN I have mentioned, who spoke in support of this amendment. I thank them.

I do want to address a couple of points that have been raised, first with regard to the issue of the Marine Corps helicopters. Again, for those who care about the helicopters, for those who care about supporting the Marine Corps, we have taken care of that issue. The Marine helicopters will be fully funded. So that is off the table. For the assertions made in the reduction of the number of Joint Strike Fighters to be procured, we fully funded the administration's request, and there will be no reduction because of my amendment. We have taken care of that issue. That is no longer relevant.

The President's staff recommending a veto was premised on the presumption that there would be a reduction in the number of planes purchased. Since that has been taken care of, the veto threat is no longer relevant. It has been taken care of.

There have been comments made about the C–130 procurement. I, too, support the C–130 procurement. We have fully funded—fully funded—the administration's request. It was passed in the supplemental. The money is there, in recognition of that. That is why the House of Representatives fully eliminated the account we are using to fund the second engine.

For those who care about the C–130, as do I—and I thought Senator MCCAIN's comments were very appropriate about the need for that important plane—that has been fully funded. In fact, what has been proposed in our authorization is a duplicate funding, a double funding. So for those of us who care about duplication, this, in fact, would save the taxpayers money, which I understand is one of the premises underlying the Lieberman amendment. Accepting their premise, this is a fully appropriate funding source.

Finally, I would like to address this issue of competition once again. It has been asserted and alleged over and over that there was a competition, that the competition was run by Pratt & Whitney, that there was competition, competition, competition. I hold in my hands copies of the contracts given to Pratt & Whitney. I hold them right here. Cover page, January 23, 1997, Pratt & Whitney, $804 million, et cetera, in bold type:

> This contract was not competitively procured.

Let me repeat that:

> This contract was not competitively procured.

The second contract is for the engine dated October 26, 2001, Pratt & Whitney, in this case $4.8 billion. Once again, in bold type—bold type—so people can read it and understand:

> This contract was not competitively procured.

It could not be any plainer than that for those of us who can read these documents. There was not a competition with regard to this engine. It is a sole-source contract.

Therein lies the issue. It is not about helicopters. It is not about the number of planes that are procured. It is not about the C–130. All of those things have been taken care of. It is about your belief that competition is in the best interest of the taxpayers—and quality. If you believe that, you support this amendment. If you believe single-source, noncompetitively bid contracts, such as these, are in the best interests of quality and protecting the taxpayers, then you will support Senator LIEBERMAN's amendment. That is what this is all about.

Since I don't have much time—how much time do I have, Madam President?

The PRESIDING OFFICER. The Senator has 10½ minutes.

Mr. BAYH. Madam President, I don't want to exhaust it all. I quoted at length in my previous comments from the General Accounting Office, and there are a variety of studies. It is asserted that GAO did not offer much reasoning for their comments. I point out once again that they state very clearly the savings from this competition; the second engine has the potential to be equal to or exceeding its cost. Prior experience, they indicate, points to this and that they are confident competitive pressures could yield these kinds of savings. The GAO is well on record. I understand there is a dispute from other entities and other studies, but that is the GAO's opinion.

This all comes down to competition, whether my colleagues embrace it, in which case they support our amendment, or if they do not—and I suppose there may be legitimate arguments in favor of noncompetitive bidding—they will support the other amendment.

I yield the floor.

Mr. LEVIN. Madam President, will the Senator from Indiana yield me 3 minutes?

Mr. BAYH. Absolutely.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, let me confirm what the Senator from Indiana said. This issue does not involve 130s. Congress has put all the money in for 130s that the President requested. The reason this money for 130s was in our committee report is because we did not know at the time that the supplemental appropriations bill would put money in for the 130s. So we do not need this money for the 130s to fully finance the request of the President of the United States for 130s.

I wish to reiterate one point I made earlier. This is not an issue of whether we insert a new engine, whether we start down the road with a second engine. That issue was resolved years ago by Congress when we started to fund a second engine for the purpose of competition. We have already put $2.5 billion into this second engine. Roughly $1.8 billion more is needed. So our sunk costs are approximately two-thirds of the cost of this second engine.

We have consistently supported it in the Armed Services Committee. This is not new. We feel the value of competition will more than make up for all of the costs and surely far more than make up for the final costs which we need in order to complete the development of this second engine.

I do support the Bayh amendment. I think it makes sense in terms of the fundamental point of competition, it makes sense fiscally, and it makes good sense in terms of the quantity we are buying. There is a huge buy, 2,500 planes, engines, and perhaps 500 more in terms of the export market. It is a huge buy. With this size buy and given the precedent of other planes—at least three that have had two engines available for them—with that precedent and with these savings, I hope the Bayh amendment is accepted.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, first, I ask unanimous consent that the Senator from New Hampshire, Mrs. SHAHEEN, be added as a cosponsor to the amendment Senator MCCAIN and I and others have offered.

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

Mr. LIEBERMAN. Madam President, I thank my friend from New Hampshire for joining us on this amendment. We have a dispute about whether there was competition. I guess it depends on what you describe as competition.

There clearly was competition for the Joint Strike Fighter plane engine in the 1990s. In 1996, Pratt & Whitney and General Electric each submitted engine proposals to the three airframe manufacturers that were competing for the Joint Strike Fighter contract: Lockheed, Boeing, McDonnell Douglas. Two of the three selected the Pratt & Whitney engine, and it happened that those two airframe manufacturers were down-selected for the final competition. Ultimately, in 2001, Lockheed was selected to start the design and development with the Pratt & Whitney engine.

I believe there was a competition. General Electric lost. It has gone the other way on other occasions. And this is a legislative attempt to achieve by legislation what could not be achieved through competition.

Secondly, my dear friend Senator LEVIN, the chairman, and I may have an effectual disagreement on how much more going for the second engine will cost. He believes it will be $1.8 billion. I cited earlier in this debate statistics that show it will be between $4.5 and $5.5 billion. That is not the main point. Madam President, $1.8 billion is a lot more to spend on an engine I have submitted to my colleagues we do not need. Not only do we not need it, the Air Force testified before our committee that if we spend this money on a second engine, we are going to get, by General Shackelford's testimony to us, 53 fewer Joint Strike Fighters in the next 5 years. We will not be able to afford them. That is a serious consequence.

What about this engine that has been selected? The F–135 engine has flown over 11,000 test hours and delivered 12 flight test engines. The F–135 uses a core that has been delivered and is being used in the F–22. It will have close to 1 million flight hours by the time this selected engine, the Pratt & Whitney F–135, enters operational service in 2012. That is quite a remarkable record and one that justifies what Secretary Gates said to us in a letter he sent to us this morning: ''The current engine is performing well with more than 11,000 test hours.'' I think the record is a clear one.

I, again, respectfully thank my friend from Indiana. Senator MCCAIN said he has argued well. He is a dear friend. We would rather be on the same side on issues. We both feel strongly about this issue. Therefore, I respectfully urge my colleagues to vote against the Bayh amendment and for our amendment which would end funding for a second unnecessary engine.

I thank the Chair, and I yield the floor.

Mr. BAYH. Madam President, unless my friend and colleague from Arizona has something new and shocking to say, I am going to yield back the remainder of my time.

First, I thank both of my colleagues for the tenor of the debate. We have some honest differences of opinion. I find myself much more comfortable working with my colleague, Senator LIEBERMAN, in a variety of capacities. Senator MCCAIN and I are one of a hearty band of a few who come to the floor in agreement to oppose wasteful measures. I look forward to resuming that partnership in the future even though we have a respectful difference of opinion today. I only wish all our debates could be as focused and collegial as this has been.

Having said that, I thank my colleagues. Unless Chairman LEVIN has anything additional to say, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, has all the time been yielded back?

Mr. LIEBERMAN. I ask my friend from Arizona if there is anything more he would like to say.

Mr. MCCAIN. I think we are prepared to vote.

Mr. LIEBERMAN. Madam President, I will say very briefly, to wind up, the Bayh amendment does remove the 130s from the Air Force. It is true they got money in the supplemental, but statements we got this morning from the Air Force and the Office of the Secretary of Defense, the 130s they got in the supplemental, which are critically needed, leave open—in other words, they are nowhere near their requirements for that plane which is critically important to the Air Force and particularly to our special operations forces in Afghanistan, Iraq, and throughout the world in the war on terrorism.

I would just close by reading a statement from President Obama, when he introduced his defense budget on May 15.

> We are going to save money by eliminating unnecessary Defense programs that do nothing to keep us safe but rather prevent us from spending money on what does keep us safe. One example is a $465 million program to build an alternate engine for the Joint Strike Fighter. The Defense Department is already pleased with the engine it has. The engine it has works. The Pentagon does not want and does not plan to use the alternate version. That is why the Pentagon stopped requesting this program funding 2 years ago.

And then from Secretary Gates, just today:

> It is my belief the Joint Strike Fighter program presented in the President's budget request is in the best interest of national security. If a final bill is presented to the President containing provisions that would seriously disrupt the F–35 Joint Strike Fighter program, the President's senior advisers will recommend that the President veto the bill.

That is from Secretary Gates' letter.

So I submit to my colleagues, I believe we have shown today that the second engine funding will seriously disrupt the Joint Strike Fighter Program. Again, I respectfully ask my colleagues to oppose the amendment from our good friend from Indiana and support the amendment we have offered.

I thank the Chair, and if there is no one else who wants to speak, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I ask unanimous consent that at 12:35 p.m., all time remaining for debate with respect to these amendments, Nos. 1627 and 1767, having been yielded back, the Senate then proceed to vote in relation to the amendments in the order previously entered, with the second vote 10 minutes in duration and all other provisions of the previous order remaining in effect.

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

Mr. LEVIN. Madam President, I modify that unanimous consent request and ask that the vote begin immediately at 12:34 and a half p.m.

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

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1767 offered by the Senator from Indiana. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—38

Baucus	Dorgan	Lugar
Bayh	Feingold	McCaskill
Begich	Gillibrand	McConnell
Brown	Graham	Murkowski
Bunning	Hagan	Murray
Burr	Hutchison	Sanders
Burris	Inouye	Stabenow
Cantwell	Johanns	Thune
Carper	Kerry	Vitter
Cochran	Landrieu	Voinovich
Conrad	Lautenberg	Warner
Corker	Leahy	Webb
Cornyn	Levin	

NAYS—59

Akaka	Feinstein	Nelson (FL)
Alexander	Franken	Pryor
Barrasso	Grassley	Reed
Bennet	Gregg	Reid
Bennett	Harkin	Risch
Bingaman	Hatch	Roberts
Bond	Inhofe	Rockefeller
Boxer	Isakson	Schumer
Brownback	Johnson	Sessions
Cardin	Kaufman	Shaheen
Casey	Klobuchar	Shelby
Chambliss	Kohl	Snowe
Coburn	Kyl	Specter
Collins	Lieberman	Tester
Crapo	Lincoln	Udall (CO)
DeMint	Martinez	Udall (NM)
Dodd	McCain	Whitehouse
Durbin	Menendez	Wicker
Ensign	Merkley	Wyden
Enzi	Nelson (NE)	

NOT VOTING—3

Byrd	Kennedy	Mikulski

The amendment (No. 1767) was rejected.

Mr. LEVIN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1627

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1627, offered by the Senator from Connecticut.

Mr. LEVIN. Madam President, I ask unanimous consent, with the concurrence of the proponents and the opponents, that the 2 minutes be yielded back and that this be voice voted.

The PRESIDING OFFICER. Without objection, it is so ordered. All time is yielded back.

The question is on agreeing to amendment No. 1627.

The amendment (No. 1627) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

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

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

AMENDMENT NO. 1760

Mr. KYL. Madam President, let me take a moment to indicate to colleagues where we are at the moment. The pending business is my amendment, amendment No. 1760, dealing with the START treaty. We need to have our nuclear weapons program modernized consistent with the START treaty.

What we are thinking of doing is to start the debate with about 2 minutes of conversation, and then if we are able to work out an agreement with the chairman of the Armed Services Committee and other members who have an interest in this, we can avoid a long, protracted debate and potentially a lot of votes on alternatives as well as this amendment.

In the meantime, other business on the bill could be conducted. I think the next business the chairman intends would be for Senator SCHUMER to speak. So what I would suggest is that we move forward to try to work out an agreement. The essence is simply this, for my colleagues who are interested in this START treaty: We know there is a treaty, or at least we hope a treaty is going to be submitted to the Senate late this year.

We would be reducing the number of nuclear warheads and delivery systems in an agreement with the Russians. That makes it even more necessary to put some money into our current nuclear program, the infrastructure and our nuclear stockpile, to bring it up to snuff, to modernize it, and to ensure that it meets the test for safety, security, and credibility.

We need to have a plan for doing that, that is at least no later than the point at which the treaty would be submitted to the Senate so we know what we are going to be able to support. Hopefully, what we would do is convey to the administration jointly, Democrats and Republicans, our desire to have that submittal to the Senate to have a study we could put into law as a part of this bill that would call for bringing in that modernization program and thereby avoid voting specifically on the amendment No. 1760 I have proposed.

We are trying to work out the details of that. If we can do that, we can probably save quite a bit of time.

Mr. LEVIN. Madam President, let me thank my friend from Arizona. First of all, we are trying to work out an approach which would be satisfactory to the issue and will save a lot of time if we can work it out. If we cannot, we can go to a vote on his amendment. The regular order would be to go back to the Kyl amendment as I understand it at this point. We are going to ask unanimous consent that the Senator from New York be recognized to introduce an amendment, that it be in order for him to do so, and that after 15 minutes we vote.

I ask unanimous consent that after 15 minutes of debate, with no amendments being in order to the amendment, we then proceed to a vote, understanding it would be a voice, and then the regular order would be restored, which is the Kyl amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Reserving the right to object, if the chairman would agree, the Senator from Montana wants to take some time to talk about his amendment which is germane, but he wants to talk about it. We have not had a chance to examine it. Then we could go back to the Kyl amendment, pending hopefully an agreement.

Mr. LEVIN. I would modify my unanimous consent request that after the disposition of the Schumer amendment, then Senator TESTER be recognized for 10 minutes to talk about his amendment, without the consent to offer it.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Reserving the right to object, is there a time agreement on the Schumer amendment?

Mr. LEVIN. Fifteen minutes is what I reserved.

Mr. CHAMBLISS. Thank you. I do not object.

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

The Senator from New York is recognized.

AMENDMENT NO. 1764

(Purpose: 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)

Mr. SCHUMER. I ask unanimous consent to set aside the pending amendment so we can call up amendment No. 1764.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 1764.

Mr. SCHUMER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SCHUMER. I ask unanimous consent I be yielded 5 minutes of the 15; Senator BENNETT, the ranking member of the Rules Committee, be given 5 minutes; and Senator CHAMBLISS be given 5 minutes, divided that way.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

Mr. SCHUMER. I rise to talk about Amendment No. 1764, called the MOVE Act, The Military and Overseas Voter Empowerment Act of 2009. I first wish to thank my colleague, Senator BENNETT, for his hard work. He was indispensable in getting this done, as were Senator CHAMBLISS and Senator BEN NELSON of Nebraska and Senator CORNYN, who had previous legislation that was similar. I also wish to thank the Chairman, Senator LEVIN, as well as Senator MCCAIN, for helping us.

The MOVE Act is a bipartisanship solution to a serious, yet all too familiar, problem. The bottom line is, our soldiers overseas have a very difficult time in voting. With the MOVE Act, with 58 cosponsors, we can tackle this problem head on and make voting for our military overseas men and women easier.

We chaired a hearing in the Rules Committee that brought up the problems, and they are shocking. The bottom line is very simple. If you are in the military, it is very difficult to comply with State registration laws. You have to go through two post offices, military mail, and then the regular post office. There is no availability of notaries. Many States require notaries.

There is also the problem, of course, that you have to do everything, by many State laws, by mail. And the mail takes forever when you are overseas.

Couple that with the fact that for absentee voting, which by definition these voters have to use, there are serious deadlines. All too often our soldiers get their absentee ballot after the deadline has passed to send them in. All too often, even more frequently, the voting ballot does not arrive by the deadline the State has set.

So these are serious problems. The bottom line is, with technology, they all could be overcome. We have faxes, we have e-mails, we have computers, and we do not use them for our soldiers overseas. They can risk their lives for us, we can at least allow them to vote. They take orders from the Commander in Chief. They are the first people who ought to be allowed to elect and vote for a Commander in Chief.

If we can deploy tanks and high-tech equipment and food to the frontlines, we can figure out a way to deliver ballots to our troops so they can be returned and counted. That is what the MOVE Act does, correcting the many

flaws that riddle absentee ballots for overseas voting.

The numbers are very troubling. More than a quarter of all ballots either come in too late or are not counted. That is a serious problem. When our soldiers who have so much else on their minds go out of their way to get the absentee ballot cast, then it is not counted. That is frustrating. That is wrong. That is not American.

So our bill—and the details are available in the RECORD—deals with that issue. One soldier sent to the Overseas Vote Foundation a letter which said: ''I hate that because of my military service from overseas, I was precluded from voting.''

That soldier continues: ''Of all people, deployed servicemembers should have a guaranteed ability to vote.'' That sums it up. That sums it up.

The MOVE Act will ensure it by allowing ballots to be sent electronically, dealing with the time gaps and all the other problems we face. It is bipartisan. Again, both Senator BENNETT and I on the Rules Committee support it. Senator CHAMBLISS and Senator BEN NELSON, who have done such a good job, are the cosponsors of this legislation. We can finally solve this problem, which is unacceptable, by moving this legislation.

I ask my colleagues, how can a marine in Fallujah find a notary? Why are we making things so hard? How can somebody who goes out of his or her way to cast a ballot have that ballot not counted? This legislation solves the problem in a fair, measured way that is cognizant of the rights of States to set the voting laws as they wish. I hope we will have unanimous support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I am happy to cosponsor the bill Senator SCHUMER has just discussed, the Military and Overseas Voters Empowerment Act or the MOVE Act. As the ranking member of the Rules Committee, I have served alongside Chairman SCHUMER and commend him for his decision to make this a priority and move it through the committee. Our military personnel make tremendous sacrifices for this country, and we need to make sure they are able to exercise their right to vote. I thank Senator SCHUMER's staff as well for the cooperative way in which we have moved this forward and for his willingness to deal with two other colleagues on the committee, Senator CHAMBLISS and Senator NELSON.

When the legislation was introduced in its original form, I raised concerns with Senator SCHUMER about some of its provisions. He worked with me and my staff to address those concerns, and the amendment before us today effectively does so. That is why I am pleased to now be a cosponsor of the bill.

The difficulties our service personnel face in attempting to vote have been well documented. The Senator from New York has described them. I believe this amendment deals with them in a proper fashion.

I want to clarify several points for the record. We recognize that election administration is carried out at the local level, and we have no intention of transferring those functions to the State in this legislation. The amendment makes clear that States may comply with the obligations imposed on them hereunder by delegating their responsibilities to other jurisdictions in the States, just as they have for so many years in complying with the Uniformed and Overseas Citizens Absentee Voting Act. Also, the amendment requires States seeking Federal funds to meet the requirements imposed by this amendment to update their State plans which have been previously submitted pursuant to HAVA, the Help America Vote Act. The amendment clarifies that only States seeking the funds authorized by and appropriated pursuant to this amendment are obligated to update their State plans.

With that clarification, I thank Senator SCHUMER and my other colleagues who worked so hard on this legislation: the two I mentioned, Senators CHAMBLISS and NELSON, as well as Senator CORNYN, who is not a member of the committee but who has worked on it. I appreciate their bringing the issue before the Senate. I am proud to support it and look forward to its unanimous passage.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise to express my strong support for amendment No. 1764 offered by the Senator from New York, Mr. SCHUMER. With the leadership of Senator SCHUMER and Senator BENNETT, we have crafted one of the most substantive and comprehensive military and overseas voting reforms we have seen in years. This amendment tackles some very tough issues while taking States rights into account.

In May of this year, Senator BENNETT was consumed with another issue, and he asked me to cochair a hearing with Senator SCHUMER on military and overseas voting. We heard testimony from numerous witnesses regarding the difficulty of military and overseas voting. This amendment addresses some of those concerns and is a significant step toward ensuring that military and overseas voters are not disenfranchised.

The amendment establishes uniform standards for the request and delivery of blank balloting material that takes into account all available technologies. It makes sure all overseas voters have time to vote by requiring States to send out ballots to military and overseas voters at least 45 days before election day. It utilizes expedited mail delivery services for our uniformed members serving overseas, ensuring a timely delivery of completed ballots. It establishes a requirement for service Secretaries to designate voter registration agencies at military installations to assist with voter registration and aid our voting assistance officers. It lays the groundwork to gather needed information to continue to improve the overseas absentee voting process and will help existing voting oversight organizations gather key voting metrics to help make key decisions ahead of future elections.

Not since the passage of the Uniformed and Overseas Citizens Absentee Voting Act in 1986 have we proposed such significant legislation designed to help the men and women of the military who time and time again are called upon to defend the rights and freedoms we Americans hold so sacred.

Unfortunately, our military is one of the most disenfranchised voting blocks we have. Today we have the opportunity to correct this problem. I am extremely pleased with this legislation and proud to have been a part of the team that put this amendment together.

There are 57 other cosponsors which is representative of the strong support for this amendment and significant concern around the country regarding this issue. I thank Senator SCHUMER and his staff for leading this effort and helping make this legislation become a reality. I thank Senator BEN NELSON, my good friend and colleague, on the Armed Services Committee, for his efforts in this matter. It would not have happened without his strong leadership.

I also thank Senator BENNETT and his staff for their strong efforts in putting this bill in the proper perspective and making sure that all issues were properly addressed. I also thank Senator CORNYN for his leadership over the years on this issue. Senator CORNYN is not a member of the Rules Committee, but he has been very engaged on this issue over the last several years. His input was valuable. There is no question that his support for the amendment and contributions he and his staff have made to the amendment have made what was a good amendment a much better one.

Lastly, I thank the secretary of state of the State of Georgia, Karen Handel, also a very valuable asset to us as we went through the process of putting this bill together. She and her staff responded very timely and were honest in the feedback we got from them. Their contributions helped make sensible changes that make the amendment better. Their partnership on this effort will move us forward in the right direction toward ensuring every overseas voter wishing to vote will be able to do so.

Again, to my colleague from New York, it has been a pleasure to work on this. It is one other asset that we can give to our men and women in uniform; that is, to make sure they have the ability to participate in what we all take for granted but a very precious right, that being the right to vote.

I yield the floor.

Mr. NELSON of Nebraska. Mr. President, I rise in strong support of amendment No. 1764, better known as the Military and Overseas Voter Empowerment Act. I wish to express my appreciation to Senators SCHUMER and CHAMBLISS for their leadership and excellent work on this issue and acknowledge the outstanding support and contributions of Senators BENNETT and CORNYN, whose involvement has improved this bill and whose ongoing support will help us enact it into law. This effort has been constructive and bipartisan all the way, as evidenced by our list of 58 bipartisan cosponsors, and I am very proud of the bill we have produced.

We owe it to our men and women in uniform to protect their right to vote. And for military and overseas voters, that right is only as good as their ability to cast a ballot and have it counted. For years, we have known of the obstacles these brave Americans face in exercising their right to vote, often when far from home and in harm's way. I firmly believe this legislation will make a huge impact in empowering our military and overseas voters to have their votes counted, no matter where they find themselves on election day.

Simply put, the status quo for these voters is unacceptable. It is hard for military families to keep their voter registration information current, and it is often difficult to deliver ballots to overseas voters in enough time for them to vote and return the ballot by the time the polls close.

The poor results from recent elections speak for themselves. In 2008, statistics from the seven States with the greatest number of deployed troops show that one in four military and overseas voters were unable to have their vote counted. In 2006, the situation was even worse: according to the U.S. Election Assistance Commission, up to two-thirds of ballots requested by voters under the Uniformed and Overseas Citizens Voting Act were either not cast or not counted.

We discussed these numbers and heard testimony from State and local officials at a hearing in the Rules Committee earlier this year. The challenges we face are significant, but a number of very excellent recommendations were made at that hearing, and Senators SCHUMER and CHAMBLISS and I immediately got to work on a commonsense bill to improve and streamline the process for these voters. The bill we came up with was amended and reported unanimously by the Rules Committee last week. The product of that effort is now before the Senate as an amendment to the Defense bill.

I urge the adoption of the amendment, and I will push for it to be enacted into law in this bill, because as State and local election officials know, voting reforms need to be put in place well in advance. The way they see it, the next Federal election is right around the corner. Now is our chance to make a difference for 2010.

This legislation harnesses technology to speed up the voting process by allowing registration and ballot requests to be sent electronically. It ensures that military and overseas voters have time to vote by requiring ballots to be sent out 45 days before the election and allowing blank ballots to be sent electronically. It also provides some flexibility to States that cannot meet the 45-day deadline, as long as they come up with an alternative plan to ensure time to vote. In addition, it will harness the creativity of States and local officials by authorizing pilot projects to test new voting technology, with appropriate safeguards for privacy and security. The legislation also requires the Department of Defense to play a more significant role in facilitating voter registration and in collecting and returning voted ballots in cooperation with the Postal Service.

The MOVE Act, as we call it, has the support of the Alliance for Military and Overseas Voting Rights, which is a coalition of over 30 military associations, nonprofit organizations, elected officials, and student groups dedicated to ensuring that Americans abroad have an equal right and opportunity to vote. We also have the support of many other groups, including the National Association of County Officials, which is especially important because having the support of State and local officials means that our efforts are endorsed by the people who actually carry out elections in this country, which can often be a thankless job.

In conclusion, I would like to thank all 57 of the amendment's cosponsors, especially Senators SCHUMER and CHAMBLISS and the others I mentioned who have shown real leadership on this issue. This amendment is bipartisan, noncontroversial, and necessary to solve a persistent problem that has dogged our troops and overseas voters for years. We tackle those problems head-on, and I think we will see real, tangible results from this legislation.

Mr. President, it is our responsibility to ensure the right to vote for the men and women of our Armed Forces and others serving overseas; they protect our rights, and we have an opportunity today to return the favor by passing the MOVE Act. I urge the amendment's adoption.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will note that this amendment passed unanimously out of the Committee on Rules, which has joint jurisdiction, last week.

I yield back all remaining time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1764.

The amendment (No. 1764) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. SCHUMER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1564

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I come to the floor today to say a few words about amendment No. 1564, an amendment I am seeking agreement on, and hopefully we will achieve agreement between the majority and minority. This amendment will allow but not require the Secretary of each service branch to allow family members of fallen servicemembers to attend one memorial service as a way of helping to honor those who give their lives to our Nation. Although the Defense Department's current regulations permit the services to provide transportation of family members to the burial service of a servicemember killed on Active Duty, the regulations do not allow travel to memorial services. This can be particularly painful when a parent or sibling cannot afford to travel to a memorial service held by a unit or even other family members.

Although some charity groups have been able to help families attend memorial services for their fallen loved ones when servicemembers die in service to their country, it is the government's moral obligation to help their families in every possible way. This is not an abstract problem; it is all too real to some families.

A little over a year ago, on May 1, 2008, a soldier with a family in both Montana and Arizona was seriously wounded while serving in Iraq. Four days after being injured he was being transferred from an Army hospital in Germany to Walter Reed. While en route, the soldier's injuries worsened and the plane was diverted to Halifax, Nova Scotia. It was there that he passed away on May 15.

Like too many children today, this soldier grew up with divorced parents. His father is a constituent of mine. His mother is a constituent of the distinguished ranking Republican on the Armed Services Committee. When his family and friends in Phoenix organized a memorial service for him, his father asked the casualty affairs officer assigned to him if the Army could pay for him to attend the memorial service. He was told, no; that it is not an authorized expense. The Army cannot pay for such a plane ticket.

My office was contacted, and we were able to work out with a nonprofit organization to obtain a plane ticket for the soldier's father to attend the memorial service but only after considerable frustration and pain.

This amendment would make travel to a single memorial service an authorized expense. It is supported by the Gold Star Mothers.

Our troops and veterans have earned every benefit and every paycheck they get from our country. Every single Member of the Senate has been steadfast in that support. But the families of folks who serve this country have earned our Nation's support and respect as well. Sometimes we do not do

enough to recognize the sacrifice that comes along with having a loved one in the Armed Forces. This amendment provides the families of our servicemembers one small measure of support and appreciation.

I thank Senators LEVIN and MCCAIN for the work they have done on this bill and, hopefully, the work they did to get this amendment accepted.

I also wanted to take some time this afternoon to speak about a dire situation in Columbus, MT. At this moment there are 1,300 employees of the Stillwater Mining Company who are going to work wondering about the future of their company and the future of their jobs. Yesterday a bankruptcy court in New York nullified a contract between Stillwater Mine, the only palladium and platinum producer in the United States, and General Motors. General Motors petitioned the bankruptcy court to drop its precious metals contract with the Montana mining company so it can instead use foreign, cheaper suppliers based outside this country, specifically in Russia and South Africa. I would have a big problem under any circumstances for an American corporate icon to choose foreign suppliers over a viable American option, but when we consider that General Motors only exists today due to the direct assistance of the American taxpayer, this decision is appalling and weakens our American manufacturing base.

As a member of the Senate Banking Committee, I attended the marathon hearings late last year where the domestic automakers pleaded for government assistance. On November 18 of last year, I relayed to executives from Ford, Chrysler and, yes, GM the importance of spending taxpayer funds in the United States. I said I would have to ask: Where is the money going to be spent, who is it going to be spent on, and what country is it going to be spent in? Those are all critically important questions.

If we are using taxpayer dollars, from my perspective, it ought to be spent in the United States. In response, I was assured that taxpayer funds would be spent domestically to rebuild the auto manufacturers. By negating Stillwater's contract, GM is not investing domestically. They are not investing in American jobs. They are not investing in this country. It goes against the grain when we see a viable company that has recently gotten into trouble, such as GM, go against what they told me in committee.

When General Motors came pleading to the Senate late last year, they spoke of the fate of their employees, but they also spoke of the fate of small parts manufacturers, miners, dealerships, and other interconnected businesses dependent on GM.

I voted against giving taxpayer dollars to the auto manufacturers, just as I voted against the Wall Street bailout. The auto manufacturers didn't convince me they would spend the money wisely and that they would spend it in the United States. I wish I were wrong, but they are not spending the taxpayer dollars wisely, in my opinion, and they are not spending the taxpayer dollars in the United States. And it is the folks at Stillwater, like many auto dealerships in Montana and across rural America, who are hurting.

With its $50 billion in taxpayer funds, General Motors recently emerged from bankruptcy, and with its first repayment on the $50 billion owed to the American taxpayer, the new GM has decided to dump its only domestic supplier of palladium. They have failed to present a significant need to do business with foreign suppliers when they can contract with a company right here in America that employs more than 1,300 hard-working Americans.

For the last decade, Stillwater has supplied GM with palladium and rhodium, which are used to make catalytic converters that filter pollutants from vehicle exhaust. The palladium sales to auto companies accounted for 42.8 percent of Stillwater's revenue last year.

General Motors' rejection of its contract with Stillwater will result in company losses of about $500,000 per month and almost certainly means losing countless good-paying American jobs—and those American jobs, in this case, happen to be in Montana.

Stillwater is one of Montana's largest employers. The economic well-being of 1,300 Montanans at Stillwater who work at the mines in Nye and Big Timber is no doubt in serious trouble. GM's actions threaten the well-being of families, numerous small communities, and dozens of interconnected Montana businesses.

Immediately after the court ruled against Stillwater and its employees, I joined with the senior Senator from Montana, MAX BAUCUS, in urging General Motors to reconsider their decision to choose foreign suppliers over a proven domestic partner.

I still hope they make the right decision and realize the new GM only exists today because of the American taxpayers—taxpayers such as the Montanans who work at the Stillwater mines. Maybe they do not care about placing American jobs at risk, but the fact is—as I do, and we do—they should.

I cannot express adequately today the disappointment I have had and that I have with GM's decision to negate the contract with Stillwater Mining. It is part of that manufacturing base that I think is so critically important to this country, and they are turning their back on it.

With that, I yield the floor, Mr. 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. MCCAIN. 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. MCCAIN. Mr. President, I wish to ask unanimous consent to engage in a colloquy for a minute with the distinguished chairman.

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

Mr. MCCAIN. Mr. President, I understand we are hopefully close to an agreement on the Kyl amendment and then we could set up, following that agreement, the Burr amendment, followed by an Akaka amendment, and our staffs will be working on further amendments so our colleagues will know.

Mr. LEVIN. Our goal is precisely that. We are trying to work out an agreement with Senator KYL. Staffs are trying to work out a time agreement. The order, though, hopefully will be Senator BURR and then Senator AKAKA. But we have to make sure the proper committees are notified that are involved in those amendments, and then we could, I think, have a unanimous consent agreement. That is our goal.

Mr. MCCAIN. I thank the chairman. For the benefit of our colleagues I still think it is possible—and I think the chairman would agree—to finish up by tonight, if we could have expeditious handling of the amendments but which may require us to finish by tomorrow, I hope.

Mr. LEVIN. I am very pleased to hear the optimistic assessment. I can't honestly say I share that optimism, but I will be delighted to be surprised.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak as in morning business while we are waiting for the outcome of the negotiations that I had a colloquy with the chairman about.

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

EARMARK REFORM

Mr. MCCAIN. Mr. President, I have long spoken about the broken appropriations process and the corruption it breeds. I remain deeply concerned over the damage done to our country and, indeed, this institution by their continued abuse. I ask my colleagues: How many more pay-to-play scandals will it take before we enact comprehensive and meaningful earmark reform?

Look at the scandals over the last 5 years alone: Former U.S. Representative Randy Cunningham sits in a Federal prison today for selling earmarks. Among the many bribes Cunningham admitted receiving was the sale of his house at an inflated price; the use of a yacht, free; a used Rolls Royce; antique furniture; Persian rugs; jewelry; and a $2,000 contribution for his daughter's college graduation party. In return, he earmarked untold millions of dollars and pressured the Department of Defense to award contracts to his co-conspirators.

Of course, Senator DORGAN and I spent nearly 2 years investigating the Indian lobbying practices of Jack

Abramoff, who reportedly dubbed appropriations committees ''a favor factory.'' One former Senate staffer pled guilty to accepting gifts in exchange for helping Mr. Abramoff's team on appropriations matters. An ex-official in the Department of Justice pled guilty to accepting bribes for helping Mr. Abramoff's client secure millions of dollars to build a jail. In all, over 20 people—including an ex-Congressman, administration officials, congressional staffers, and lobbyists—have been indicted, convicted or pled guilty.

The Department of Justice investigation into this matter still continues to this day.

We have today multiple pay-to-play scandals unfolding before our eyes. We read weekly, almost daily, news article after news article about numerous criminal investigations revolving around earmarks. Take, for example, the ongoing criminal investigation into the PMA Group. Most Americans have probably never heard of the PMA Group. The PMA Group was a DC lobbying firm with deep ties to Capitol Hill and a reputation for securing lucrative earmarks for its clients, especially defense earmarks. As I have said many times, it is the ''Willie Sutton Syndrome,'' because when he was asked why he robbed banks, he said: ''That's where the money is.'' The reason why a lot of these corrupting earmarks came out of defense is because that is where the money is.

The PMA Group boasted more than $15 million in revenue last year. The PMA Group clients reportedly received $300 million in defense earmarks for fiscal year 2008 and $317 million for fiscal year 2009. The PMA Group and its clients spread around a lot of campaign contributions in an attempt to curry favor with lawmakers.

Last November, the Federal Bureau of Investigation raided PMA's offices and the home of its founder, Paul Magliocchetti. According to news reports, prosecutors were initially focused on whether Mr. Magliocchetti used a Florida wine steward and a golf club executive as a front to funnel illegal donations to lawmakers. The Washington Post examined campaign contributions reportedly given by employees of the PMA Group and found listed in donor records ''several people who were not registered lobbyists and did not work for the lobbying firm,'' including a 75-year-old California man who had never even heard of the firm.

Since then, the Department of Justice has raided the offices of a number of PMA clients and their business partners. A Federal grand jury reportedly subpoenaed records from one U.S. Representative's congressional and campaign offices and the FBI is interviewing his staffers.

Last week, we read about yet another scandal involving people and firms in PMA's orbit. According to a July 15 Associated Press news article, the former head of the defense contractor, Coherent Systems International, pled guilty in Federal court to defrauding the U.S. Government and accepting kickbacks. Two former PMA clients are reportedly caught up in the scandal.

According to court documents, in October of 2005, the Air Force Research Lab awarded Coherent an $8.1 million contract to deliver four Ground Mobile Gateway Systems. An $8.2 million earmark contained in a tsunami relief bill funded the contract. Get that: It was for a Ground Mobile Gateway System included in a tsunami relief bill. Not surprisingly, Coherent had lobbied for that earmark. At the time, Coherent was represented by a firm called KSA Consulting.

Coherent submitted to the government at least $1.8 million in purchase orders outside the scope of the Air Force contract. What did the government get for its $1.8 million? Coherent paid two subcontractors, which were also represented by KSA Consulting, almost $600,000 for software that was not called for under the Air Force contract. What did Coherent do with the software? It literally threw the software in a closet where it sat collecting dust.

Coherent paid another subcontractor $650,000 for the delivery of five prototypes, also not part of the prime contract. Some reports suggest that this is the same subcontractor that allegedly bribed Coherent's president and whose offices the FBI raided earlier this year.

Coherent also paid Schaller Engineering, a former PMA client, $200,000 for technology that was never delivered. We now know where the money went. On July 21, 2009, Roll Call reported that the former Air Force contracting official, on the Mobile Common Data Link Gateway program, pled guilty to ''skimming money from an earmark that was provided to a Pennsylvania defense contractor.'' In his plea agreement, the official admits to approving invoices that were not part of the contract and then taking the kickback from the defense contractor.

This is outrageous, but I also believe it is only the tip of the iceberg. We will undoubtedly see the continued march of news reports about further indictments and guilty pleas.

Earmarks breed corruption, purely and simply. The current earmarking process doesn't stop it or adequately guard against it. So I ask my colleagues: How many more scandals must we suffer before we enact meaningful earmark reform? How low must Congress's approval rating sink before we act to repair this institution's reputation? How many more lawmakers, staffers, government officials, and contractors have to go to jail before we actually fix this process?

Unfortunately, Congress's earmarking practices have grown worse, not better, just about every year I have served in the Senate. This year promises to be the worst. We began the year by passing a $400 billion Omnibus appropriations bill with almost 9,000 earmarks in it. Contrary to his promise to the American people to stem the tide of earmarks, the President refused to veto that pork-laden bill. In fact, he signed it in a quiet room far from the public eye, I might add, using the rationale it was ''last year's business,'' even though it was passed this year.

Two weeks ago, the Senate approved a $44 billion Department of Homeland Security appropriations bill. It was over $200 million more than last year's bill and almost $100 million more than the President's budget request. It, too, was laden with numerous unrequested, unauthorized earmarks added at the direction of members of the Appropriations Committee in the Senate. Rest assured, we will see more earmarks in the other appropriations bills that come to the floor later this year. Even the pending fiscal year 2010 national defense authorization bill is not insulated from the practice.

Americans all over the country are hurting. People are losing their jobs, their savings, and their homes. So what do we do? We continue this disgraceful earmarking process, elevating parochialism and patronage politics over the true needs and welfare of this Nation. The President pledged during his campaign he would work to eliminate earmarks. The Speaker of the House promised to drain the swamp. Given the abysmal state of our economy, Americans can no longer wait for them to make good on their promises. Earmark reform is needed and it is needed now.

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD:

July 21, 2009: ''Ex-Air Force Employee Pleads Guilty in Case Tied to Murtha Earmark.''

The Hill, July 21, 2009: ''Second Contractor Pleads Guilty in Earmark Probe.''

July 21, 2009: ''Inquiries Focus on Subcommittee Ties.''

July 15, 2009: ''Ex-Defense Contractor CEO Enters Fraud Guilty Plea.''

Washington Post, February 14, 2009: ''Despite Listing, Donors Don't Work For Firm Being Probed.''

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

[From Roll Call, July 21, 2009]

EX-AIR FORCE EMPLOYEE PLEADS GUILTY IN CASE TIED TO MURTHA EARMARK

(By Paul Singer)

A former Air Force employee pleaded guilty Monday to skimming money from an earmark that was provided to a Pennsylvania defense contractor by Rep. John Murtha (D–Pa.).

In the plea agreement, Mark O'Hair admits he was the Air Force official responsible for evaluating contract proposals and making technical evaluations of contracts under the ''battlefield airman'' program, which was designed to integrate battlefield communication technology.

According to the plea agreement, filed in a federal court in Florida, in May 2005, ''Congress passed a tsunami relief act which included within the provisions of the act an $8.2 million earmark for the development of

the 'Mobile Common Data Link Gateway.' Coherent Systems International, Inc. (CSI) had lobbied for this earmark appropriation.''

Roll Call reported in June that Coherent was represented by KSA Consulting, the lobbying firm that employed Murtha's brother, Kit, and that the Congressman had provided this earmark to Coherent by eliminating the same sum from a project that had been designated for a previous client of his brother's firm.

O'Hair admits in the plea agreement that he approved several purchase orders from Coherent for items that were not part of the Gateway project, including $275,000 to VidiaFusion Inc. and $300,000 to Gensym, both for software that was provided but never used. Gensym and VidiaFusion were both clients of KSA as well.

O'Hair also approved a payment of $650,000 to Kuchera Industries—a firm close to Murtha that was raided by the FBI earlier this year for products that were not part of the Gateway contract, and $200,000 to Schaller Engineering for ''target tags'' that were never provided. Schaller was represented by the PMA Group lobbying firm, which was raided by the FBI in November.

Richard Schaller, the founder of Schaller Engineering, then distributed the $200,000 to O'Hair though another company he created and to his business partner Thomas Sumrall, according to the plea agreement. Sumrall has also pleaded guilty in the case, but Schaller has not.

Richard Ianieri, the former CEO of Coherent Systems, pleaded guilty July 14 to charges linked to the same scheme. He has also pleaded guilty in a Pennsylvania court to taking kickbacks from a subcontractor referred to as ''K'' for favorable treatment under government contracts. Coherent worked closely with Kuchera Industries and shared a facility with the company. Bill Kuchera, the owner of Kuchera Industries, has not been charged in the case.

Roll Call has previously reported that Kuchera, Sumrall, Schaller, Ianieri, O'Hair and two KSA executives—Ken Stalder and Richard Weiss—as well as a staffer from Rep. Murtha's district office met with several other defense contractors in September 2005 at the Nemacolin resort in Pennsylvania to discuss opportunities to provide communication technologies to the military.

Murtha has not been accused of any wrongdoing in the case, and his office has said that anyone involved in illegal activity connected to the project should be punished.

[From the Hill, July 21, 2009]

SECOND CONTRACTOR PLEADS GUILTY IN EARMARK PROBE

(By Susan Crabtree)

A former Air Force contractor pleaded guilty Monday to a false statement and conflict-of-interest charge in a widening case involving several defense companies with ties to Rep. John Murtha (D–Pa.).

Mark O'Hair faces up to 10 years in prison and a $500,000 fine for omitting any reference to his position as a director of a defense company on financial disclosure forms required for his position as a civilian program officer. The company received more than $200,000 in government contracts while O'Hair was in charge of awarding contractors for the Air Force Research Laboratory at Eglin Air Force Base in Florida.

After retiring from the Air Force in 2001, O'Hair became the senior electronic engineer with the Air Force Research Lab Munitions. Two years later, he became the contracts program manager for the Battlefield Airman program, which was designed to improve the military's battlefield communications systems.

O'Hair is the second defense contractor in a week to plead guilty and agree to cooperate with a federal probe of an earmarked contract Murtha directed to several companies.

Last week, Richard Ianieri, the former chief executive of Coherent Systems International Corp., pleaded guilty to accepting $200,000 in kickbacks. He received the kickbacks from companies that he had parceled off some portions of the contract to; however, he received little to no concrete work in return.

Murtha is not accused of any wrongdoing in either case.

O'Hair's sentencing hearing is scheduled for October.

[From Politico, July 21, 2009]

INQUIRIES FOCUS ON SUBCOMMITTEE TIES

(By John Bresnahan)

The Appropriations Defense Subcommittee—always considered the high altar of congressional spending power—has suddenly become a liability for lawmakers touched by criminal inquiries scrutinizing the nexus of lobbyists, earmarks and Pentagon contracts.

Just in the past week: A Pennsylvania businessman with ties to Rep. John Murtha (D–Pa.) pleaded guilty in a kickback scheme, leading to new questions about Murtha's role in getting earmarks for his brother's lobbying business. FBI agents raided a Florida company linked to Rep. Bill Young (R–Fla.), leading Young to withdraw a $4 million funding request for the firm the next day. And Rep. Pete Visclosky (D–Ind.) asked the Federal Election Commission for permission to use his campaign funds to pay legal bills of current and former staffers as part of the investigation into the PMA Group, a lobbying shop that specialized in defense earmarks.

None of these lawmakers, who oversee more than $500 billion in Pentagon spending, have been accused of wrongdoing, and no one other than Visclosky and his former chief of staff, Charles Brimmer, has even been subpoenaed at this point.

But this web of legal actions, all focused on suspicious ties between lobbying, military contractors and the billions in funding they receive, has once again cast a negative light on the relationship between lawmakers and earmark recipients.

At this point, it's unclear whether the separate Justice Department actions are part of one broad investigation into earmarking and government contractors or are separate probes on different tracks.

But the Department of Justice has certainly focused on some of the most powerful members of Congress. Murtha is chairman of the Defense Subcommittee, while Young, who chaired the full Appropriations Committee for six years, is currently ranking member of the panel. In addition to serving on Defense, Visclosky is chairman of the Appropriations Energy and Water Subcommittee.

All three lawmakers have consistently pushed tens of millions of dollars in earmarks for companies back in their districts. While Murtha may be the most well-known practitioner of the trade, both Young and Visclosky are masters of earmarking, as well.

''The chickens are coming home to roost,'' said Steve Ellis, vice president of Taxpayers for Common Sense, a government watchdog group that opposes earmarking.

The Justice Department is ''beating the drums, that's for sure. They're really stirring things up,'' said a former Appropriations Committee staffer turned lobbyist. ''Everyone is kind of waiting for the next shoe to drop.''

And while the criminal investigations heat up at DOJ, House Speaker Nancy Pelosi (D–Calif.) is not protecting her members, letting ethics inquiries move ahead inside the House. The ethics committee has begun a preliminary review of lawmakers' ties to PMA, after Democrats initially blocked such a probe.

''We are going to let the chips fall where they may,'' said a top aide to one Democratic leader. ''If they did something wrong, they are going to have to pay for it. We're not going to cover anything up for them.''

The seemingly constant questions about Murtha and his relationship with legally troubled contractors have caused the most political headaches for Pelosi, who pledged to stop the ''culture of corruption'' she believes thrived under the Republican-controlled Congress.

In November, the FBI raided the offices of the PMA Group. Murtha has received more than $2.7 million in campaign donations from PMA, its lobbyists and clients over the past decade, but there have been no charges filed until now. The PMA search was followed in January by another federal raid on Kuchera Defense Systems, a Pennsylvania firm that has received more than $50 million in federal contracts via Murtha earmarks.

Last Wednesday, Richard ''Rick'' Ianieri, former CEO of Coherent Systems International, pleaded guilty to taking $200,000 in kickbacks from a subcontractor on an $8.2 million Air Force contract earmarked by Murtha. Coherent's lobbyist was Robert ''Kit'' Murtha, the congressman's brother, who helped them win that earmark.

''We had no knowledge of these disturbing transactions, and if they are true, then the individuals and companies in question should be held accountable under the law,'' said Matt Mazonkey, Murtha's spokesman.

On the same day that Ianieri pleaded guilty, federal agents raided Conax Florida Corp. of St. Petersburg, Fla. Young has earmarked more than $28 million for Conax, a maker of safety devices for NASA and the Pentagon, since 2005, according to the St. Petersburg Times.

According to the Federal Election Commission record, Young received $6,000 in campaign contributions from Conax employees.

Young has never attracted the same kind of scrutiny for his earmarks as Murtha, although the St. Petersburg Times reported last year that Young steered more than $73 million in federal funds to a defense firm and nonprofit groups where two of his sons work.

''You're going to have a hard time, with Young, finding people to say he's somehow dirty or put him in the same category as Murtha,'' said a former Appropriations Committee aide.

Visclosky, the least well-known of the defense appropriations trio, meanwhile, is searching for ways to cover his legal bills—and those of his staffers snared by his investigation.

Visclosky and Brimmer were issued subpoenas last month by a federal grand jury in Washington that is investigating PMA.

''It is possible that additional subpoenas or requests for information could be forthcoming for additional current and/or former staff members,'' wrote Michael Malczewski, Visclosky's treasurer.

With his reputation harmed by the PMA controversy, Visclosky has temporarily stepped aside from overseeing the energy and water spending bill. He has also given up $18,000 in PMA-related contributions.

While this swirl of legal action around companies and lobbyists looks bad for these lawmakers, it's important to point out that none of them have been accused of enriching themselves personally—and that's what brought down lawmakers in other recent cases.

The charges against former Reps. Bob Ney (R–Ohio), Jim Traficant (D–Ohio), William Jefferson (D–La.) and Rick Renzi (R–Ariz.) and Sen. Ted Stevens (R–Alaska) involved taking official actions that directly benefited their own wallets.

''To my knowledge, none of these cases that are being discussed in the press have come up with any evidence of that at all,'' noted Scott Lilly, a former staff director for the House Appropriations Committee who is now a senior fellow at the Center for American Progress.

But the scrutiny of the Department of Justice into who gets earmarks and how they get them must be rattling Capitol Hill.

''They realize that even with the best of intentions, you really need to know a lot about the people who are being helped by this process,'' Lilly added. ''And you need to know they're on the level.''

EX-DEFENSE CONTRACTOR CEO ENTERS FRAUD GUILTY PLEA

(By Christine Armario)

PENSACOLA, FL. (AP).—The former chief executive of a defense contractor with ties to Rep. John Murtha pleaded guilty in federal court Tuesday to a kickback scheme and defrauding the Air Force, and promised to cooperate in an ongoing criminal investigation.

Federal prosecutors said Richard S. Ianieri solicited kickbacks from a subcontractor in Pennsylvania while he headed Coherent Systems International Corp. Ianieri also was charged with filing false purchase orders related to an Air Force contract in Florida.

Ianieri pleaded guilty to both charges during a hearing in Pensacola and is scheduled to be sentenced in September. He could face up to 15 years in prison.

A nine-page plea agreement that Ianieri signed says the government will urge a lighter prison sentence if he provides substantial assistance ''in the investigation or prosecution of other persons who have committed offenses.''

Following Ianieri's plea, Murtha spokesman Matthew Mazonkey said it is not the congressman's job to oversee companies and that ''if they broke the law, then they should be held accountable for their actions.''

Murtha, D–Pa., has directed hundreds of millions of dollars in government contracts over the years to Coherent and other defense contractors through a process called earmarking.

''This case isn't about earmarks,'' said Mazonkey. ''It's about individuals within the defense industry and the Defense Department accused of defrauding the government.''

Executives at Coherent and two other companies named in court papers in Ianieri's Florida case have donated over $95,000 to Murtha's re-election campaigns and his political action committee since 2002, according to Federal Election Commission records.

One of the companies is Kuchera Industries Inc. of Windber, Pa about 10 miles from Murtha's political home base of Johnstown.

A felony information filed in Pittsburgh states that Ianieri was given two kickbacks totaling nearly $200,000 from a company identified only as ''K'' for ''improperly obtaining and rewarding favorable treatment'' regarding a defense subcontract.

In an April 2006 news release, Murtha announced that Coherent and Kuchera Defense Systems were working ''virtually as one company'' on 14 contracts worth $30 million to develop high-tech military gear.

Kuchera's offices were raided by federal agents in January. Kuchera built high-tech military components that Coherent designed.

The Florida charges concern a Coherent contract given through the Air Force Research Laboratory to deliver four Ground Mobile Gateway Systems, which are designed to help soldiers and pilots trace U.S. units and cut down on friendly fire.

The United States paid Coherent $5.9 million to build the systems. According to federal court papers, Coherent subsequently paid about $1.8 million to subcontractors for the delivery of software and materials that were not part of the contract.

Ianieri was charged with presenting purchase orders to the Air Force that he knew were ''false, fictitious and fraudulent,'' court records state.

Murtha also has ties to lobbyists for some of the companies under scrutiny. His brother worked from 2004 to 2006 for KSA Consulting, of Rockville, Md., which lobbied for Coherent. Another lobbying firm, PMA Group, represented two of the companies involved in the Florida investigation.

Founded by a lobbyist who has long been close to Murtha, PMA and its defense contractor clients have donated over $2 million to Murtha's re-election campaigns and to his political action committee over the years.

Ianieri's attorney, W. Thomas Dillard, of Knoxville, Tenn., declined to comment after the hearing. He would not address questions regarding whether Murtha had sponsored an $8.2 million earmark that included the money for Coherent. Murtha's spokesman also has refused to say whether the congressman was the sponsor.

Dillard also refused to say whether his client could implicate Murtha or other members of Congress in allegedly illegal conduct.

[From The Washington Post, Feb. 14, 2009]

DESPITE LISTING, DONORS DON'T WORK FOR FIRM BEING PROBED

(By Carol D. Leonnig)

Marvin Hoffman is listed in campaign finance records as one of the many lobbyists with the powerful PMA Group donating money to lawmakers. But Hoffman is a soon-to-retire information technology manager in Marina del Rey, Calif., who has never heard of the Arlington lobbying firm or the Indiana congressman to whom he supposedly gave $2,000.

''It's alarming that someone is stealing my identity somewhere,'' Hoffman, 75, said in an interview. ''I've never heard of this company.''

Another contributor listed as a PMA lobbyist is, in fact, a sales manager for an inflatable boat manufacturer in New Jersey. John Hendricksen said he did make campaign donations but never worked at PMA and does not know how he ended up listed in records that way.

These errors, along with other unusual donations linked to the firm, come as the Justice Department examines allegations that PMA may have violated campaign finance laws. The offices of PMA, which ranked last year as the 10th-largest Washington lobbying firm by earnings, were raided in November by FBI agents and Defense Department investigators.

Federal investigators are focused on allegations that PMA founder Paul Magliocchetti, a former appropriations staffer close to Rep. John P. Murtha (D–Pa.), may have reimbursed some of his staff to cover contributions made in their names to Murtha and other lawmakers, according to two sources familiar with the investigation. PMA has long had a reputation for securing earmarks from congressional appropriators, particularly for defense contractors, and it has donated generously to influential members of Congress. Magliocchetti personally gave $98,000 in campaign donations last year, according to campaign records.

Federal election laws limit the amount of money individuals may contribute to candidates, but lobbying firms often show their clout by collecting and bundling contributions. It is illegal for employers to reimburse donors for their contributions.

The Washington Post examined contributions that were reported as being made by PMA employees and consultants, and found several people who were not registered lobbyists and did not work at the lobbying firm. It is unclear whether the donors misidentified as PMA associates are part of the federal probe.

A PMA spokesman said the firm's management does not know Hoffman or Hendricksen and does not know how the errors were made in reports to the Federal Election Commission.

''It's up to the campaigns to report contributions in their FEC filings,'' said PMA spokesman Patrick Dorton.

FEC spokeswoman Mary Brandenberger said she has not often seen such misidentified donations, but if a complaint were received, the commission would first question the campaign about its record-keeping.

Jan Witold Baran, a campaign finance and ethics expert and Wiley Rein lawyer, said the errors pose serious questions and should be cleared up.

''It's true that candidate campaigns have the responsibility for disclosure, but the information they obtain usually comes from the contributor or the person who solicited from the contributor,'' Baran said. ''The question is: Where did that information come from?''

Murtha aide Matthew Mazonkey said the congressman was not the recipient of the erroneous donations.

PMA, founded in 1989 by Magliocchetti, a former Murtha aide to the House Appropriations Committee, has enjoyed a high success rate in winning earmarks for its clients, which include such major defense contractors as Lockheed and General Dynamics. PMA also represents a circle of lesser-known but also successful contractors such as Argon ST, MTS Technologies, DRS Technologies and Advanced Acoustic Concepts. Many PMA clients have opened offices in Murtha's western Pennsylvania district, donated generously to him, and received millions in earmarks requested by the congressman.

In the last election cycle, PMA and its clients donated $775,000 to Murtha's campaigns. Last year, those clients received earmarks worth $299 million and arranged by Murtha and his colleagues.

The majority of PMA's 35 lobbyists had worked on Capitol Hill or at the Pentagon. Several of the top lobbyists were also PMA directors and had ties to lawmakers.

Two men listed in campaign finance reports as together giving $30,000 to lawmakers and being part of the PMA Group team are not Washington lobbyists at all. They live and work in the Florida resort community of Amelia Island, where PMA founder Magliocchetti has a beachfront condominium. Both are listed as directors of PMA.

John Pugliese had been a sommelier at the posh Ritz-Carlton Hotel on the island, his family said. Jon C. Walker is in charge of golf marketing at the neighboring Amelia Island Golf Club, according to club personnel and its Web site. They each donated identical amounts to the same lawmakers, in 12 installments each, almost always on the same date.

Walker and Pugliese did not return repeated phone calls and messages.

Pugliese is listed as a PMA Group ''associate,'' and Walker is a PMA Group ''consultant'' in finance records.

Rebecca DeRosa, who is listed as a part-time accountant at PMA and director, recently married Magliocchetti and has given generously on PMA's behalf for several years. Last year alone, she personally gave $73,000 to lawmakers and congressional political action committees, records show. For most of those donations, she is listed as a PMA employee. Her donations included $22,000 to the Democratic Congressional Campaign Committee and $4,250 to Rep. James P. Moran Jr. (D–Va.).

DeRosa did not answer her phone or return calls to the Gaithersburg office of the DRS subsidiary, where she is listed as an employee.

Mr. MCCAIN. So I wish to tell my colleagues, I will be coming to the floor a lot and talking about this, sometimes with charts. This practice has to stop. We cannot afford not only the earmarking because of the costs, but we can't afford to have the continued corruption that is associated with this.

I know some of my colleagues are offended when I use the word ''corruption,'' but when former Members of Congress are residing in Federal prison and their aides and former staffers and others are indicted and convicted in Federal court, I don't know how you can describe it as anything else.

So we will be talking a lot more in the days and weeks ahead. The American people are sick and tired of it and so am I.

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. CASEY. 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. CASEY. Mr. President, I rise to speak about an amendment I filed. I ask unanimous consent to be recognized for 12 minutes.

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

Mr. CASEY. Mr. President, I appreciate the time to speak about this amendment to the National Defense Authorization Act for fiscal year 2010 to implement a number of essential reforms to cost comparison studies at the Department of Defense.

There is an old expression, principally in the legal community, in our system of justice, where they say ''justice delayed is justice denied.'' That theme—not the same concept necessarily—is part of what I am talking about. When we are studying how government agencies are delivering services to the taxpayers, sometimes we study too long, and especially in the context of what I am about to speak of. I do thank the cosponsors of this amendment, several Senators, including Senators BROWN, SCHUMER, MIKULSKI, KENNEDY, MURRAY, GILLIBRAND, and FEINGOLD.

The reforms included in the amendment will achieve two very important goals: First, it will save taxpayer dollars, and it will enhance protections for workers across the Department of Defense.

I had the great honor to serve the people of Pennsylvania for 8 years—two terms as auditor general of the State—where I was a fiscal watchdog looking after money spent, and I audited and sometimes investigated how money was spent; then 2 years as State treasurer. So I have a sense of what government studies and reviews entail. Sometimes they take too long and defeat the purpose because of their length. Sometimes they should be doing their jobs every day instead of responding to an endless study.

Some of the language is a little arcane, but when you talk about competitive sourcing, which is known, as a lot of these things are in government—I hate to use acronyms or short phrases—but competitive sourcing, in this context, is known as the A–76 process.

Here is basically what it is. You don't need to know the numbers. We need to know what we are talking about. It is a government-wide initiative that subjects functions performed by government employees to public-private competition. We are all for competition and always have been. I believe many of my colleagues know in this context we have some real problems.

This privatization process has been marked by controversy at great cost to taxpayers. Many workers in the Federal Government bring years of experience, dealing with problems and dealing with particular programs; and they also, because of that experience, bring a particular kind of expertise and skill to that work. We all know what happened just 2 years ago at Walter Reed Army Medical Center. The list could go on and on, but here are a couple examples: appalling conditions for those who serve our country, and run down facilities and inadequate care for our returning veterans.

All of this was uncovered back then, and I know improvements have been made. Part of the problem rested with a 6-year cost comparison review, which had an impact on the center's staffing. In 2006, the Garrison Commander, who was responsible for managing base operation support activities at Walter Reed, wrote that as a ''direct'' result of the A–76 study, ''we face the critical issues of retaining skilled clinical personnel for the hospital and diverse professionals for the Garrison, while confronted with increased difficulties in hiring.''

Continuing with the quotation, ''Due to the uncertainty associated with this issue,'' meaning the review underway, ''Walter Reed continues to lose other highly qualified personnel.''

That was then, at the time; he wrote that a few years ago.

The point is, even something as grave and serious as the problems we experienced at Walter Reed, part of the reason for that can be traced to the problems with these kinds of studies.

Despite the heroic efforts by Senator MIKULSKI from Maryland, the study continued and the problems persisted at the facility. In 2008, GAO conducted reviews of the cost comparison process at the Department of Labor and the Forest Service, finding it impossible to verify cost savings. They concluded at that time that the problems with the A–76 process were systemic.

Today, the Department of Defense is the only agency with A–76 studies in the process. According to the DOD, there are almost 30 A–76 studies still in process, involving about 3,600 employees. By next month, three-quarters of these studies will be at least 2 years old. A couple of examples bring this issue into clear life.

Currently, the Defense Logistics Agency is reviewing 279 employees who perform installation management services in my home State of Pennsylvania and also in Virginia and Ohio. Prior to the study, this management of this agency said the A–76 study would be disruptive and recommended an internal effort instead, believing it would lead to greater savings. However, as is the common practice, the savings for this study have already been counted, and the people who ran the A–76 program refused the request from the agency management to scrap the study, as they should have. If it is not saving money and helping the taxpayers, it should be scrapped. Therefore, 279 employees, some of whom work in Pennsylvania, are uncertain of their future and have been forced to put off major life decisions.

A similar situation is ongoing at West Point, where two studies continue despite requests to terminate them. These decisions to proceed with studies in the face of unyielding and reasonable opposition and alternatives are indeed troubling.

The amendment before the Senate addresses these issues in a number of ways.

First, the amendment establishes a Department of Defense-specific, 1-year suspension of new A–76 studies, consistent with the government-wide suspension included by Senator DURBIN in the financial services appropriations bill.

Secondly, my amendment closes the loophole that currently allows certain DOD functions to be given to contractors by converting smaller functions to contractors without conducting any cost comparisons.

Third, our amendment establishes a 24-month time limit for how long studies can last—from the beginning of preliminary planning to the final award decision. Currently, there are no established time limits on A–76 studies, which only increases the costs.

Fourth, the amendment addresses issues pending with A–76 studies and directs DOD to suspend these studies and determine, based on several criteria, whether their completion is justifiable.

Fifth, the amendment improves the process for workers by adding briefings

to affected employees about contracting out decisions.

Finally, the amendment makes technical corrections to ensure that Federal employees have bid protest rights, building on previous efforts by Members of the Senate.

The A–76 process is about cost comparison. Due to the ambiguity around the timelines and the process, these lengthy studies often fail to create promised long-term savings.

This amendment addresses these lingering issues with A–76 studies by lending necessary clarity to the process. In addition, these reforms will improve conditions for workers. Lengthy studies have been shown to compromise the capacity of agencies to perform their missions by placing both the critical functions of the agency and employees who perform these functions in limbo.

Finally, I urge my colleagues to support the amendment for this reason: It will promote fiscal responsibility, save money for taxpayers, while ensuring those who have the experience, expertise, and skill are able to carry out their tasks in the Department of Defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent that Senator BURR be recognized next to offer an amendment. I understand there is not going to be opposition on this side and that he will accept a voice vote on it. Then I ask unanimous consent that Senator AKAKA be recognized to offer his amendment, which he talked about last night.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. BURR. What is the pending amendment?

The PRESIDING OFFICER. The Kyl amendment.

Mr. BURR. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1554

Mr. BURR. Mr. President, I call up amendment No. 1554, the Military Spouses Residency Relief Act.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. BURR], for himself, Mr. BAYH, Ms. SNOWE, Mr. UDALL of Colorado, Mr. WICKER, Mr. THUNE, Mr. ENZI, Mr. JOHANNS, and Ms. MURKOWSKI, proposes an amendment numbered 1554.

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

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

The amendment is as follows:

(Purpose: To guarantee the equity of spouses of military personnel with regard to matters of residency)

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

SEC. 573. GUARANTEE OF RESIDENCY FOR SPOUSES OF MILITARY PERSONNEL FOR VOTING PURPOSES.

(a) IN GENERAL.—Section 705 of the Servicemembers Civil Relief Act (50 U.S.C. App. 595) is amended—

(1) by striking ''For'' and inserting the following:

''(a) IN GENERAL.—For'';

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

''(b) SPOUSES.—For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State because the person is accompanying the person's spouse who is absent from that same State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become a resident in or a resident of any other State.''; and

(3) in the section heading, by inserting ''**AND SPOUSES OF MILITARY PERSONNEL**'' before the period at the end.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act (50 U.S.C. App. 501) is amended by striking the item relating to section 705 and inserting the following new item:

''Sec. 705. Guarantee of residency for military personnel and spouses of military personnel.''.

(c) APPLICATION.—Subsection (b) of section 705 of such Act (50 U.S.C. App. 595), as added by subsection (a) of this section, shall apply with respect to absences from States described in such subsection (b) on or after the date of the enactment of this Act, regardless of the date of the military or naval order concerned.

SEC. 574. DETERMINATION FOR TAX PURPOSES OF RESIDENCE OF SPOUSES OF MILITARY PERSONNEL.

(a) IN GENERAL.—Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. 571) is amended—

(1) in subsection (a)—

(A) by striking ''A servicemember'' and inserting the following:

''(1) IN GENERAL.—A servicemember''; and

(B) by adding at the end the following:

''(2) SPOUSES.—A spouse of a servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember's military orders if the residence or domicile, as the case may be, is the same for the servicemember and the spouse.'';

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(3) by inserting after subsection (b) the following new subsection:

''(c) INCOME OF A MILITARY SPOUSE.—Income for services performed by the spouse of a servicemember shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the spouse is not a resident or domiciliary of the jurisdiction in which the income is earned because the spouse is in the jurisdiction solely to be with the servicemember serving in compliance with military orders.''; and

(4) in subsection (d), as redesignated by paragraph (2)—

(A) in paragraph (1), by inserting ''or the spouse of a servicemember'' after ''The personal property of a servicemember''; and

(B) in paragraph (2), by inserting ''or the spouse's'' after ''servicemember's''.

(b) APPLICATION.—Subsections (a)(2) and (c) of section 511 of such Act (50 U.S.C. App. 571), as added by subsection (a) of this section, and the amendments made to such section 511 by subsection (a)(4) of this section, shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act.

SEC. 575. SUSPENSION OF LAND RIGHTS RESIDENCY REQUIREMENT FOR SPOUSES OF MILITARY PERSONNEL.

(a) IN GENERAL.—Section 508 of the Servicemembers Civil Relief Act (50 U.S.C. App. 568) is amended in subsection (b) by inserting ''or the spouse of such servicemember'' after ''a servicemember in military service''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply with respect to servicemembers in military service (as defined in section 101 of such Act (50 U.S.C. App. 511)) on or after the date of the enactment of this Act.

Mr. BURR. Mr. President, this is a very simple amendment. Under current law, our military men and women, about every 3 years, are repositioned in the country or out of the country. Their orders change. When they make that change, it is beneficial to them, and I believe to society, that their spouses and children go with them.

Years ago, we made accommodations for those military personnel so they could pick a State of residency, even though they moved frequently. They could choose the State in which they grew up or the State they might retire in or a State they had visited during their assignments that they thought was the best or most advantageous place for them to claim residency. That provided that every State they went to, they didn't have to change their driver's license or voter registration or basically change everything in their lives.

Now with the size of our military and the constant deployments we are in—this continuation of every 3 years, getting reassigned to a different post—what we realized from a quality-of-life standpoint was that we forgot about the spouses as it relates to the accommodations of a new surrounding. When we think about it, spouses who leave and go with the servicemember, they go into a community unemployed. They have to look for a job. They have to go to the DMV, the department of motor vehicles, and get a driver's license and reregister to vote. I might also say their husband or wife could claim residency somewhere, and they may not be on the title of the house they own or the property they own.

The fact that the spouse cannot claim a State of residency consistent with the servicemember means they are at a tremendous disadvantage from the standpoint of what they own. It is easier to put it in the servicemember's name because they are protected regardless of where their orders send them.

Very simply, this amendment extends the same privilege to a spouse that it does to a servicemember, so they can claim that State of residency, keep that one constant driver's license, and they can pay joint taxes in a State versus being forced to file separate taxes where there may be tax implications so that those military families pay more taxes than if they could file jointly. They still have the challenge of walking into a community unemployed, and they might leave a business behind because they believe the fabric of their family is that important.

That is what we ask all of our military families to deal with. This is a simple way to make life a little easier on the spouses of our servicemembers and to make sure they don't have to change everything in their lives just because their spouse has been reassigned but only certain things that they will have to deal with.

I remind my colleagues there is a stand-alone bill, S. 475. It had a hearing in the Veterans' Affairs Committee. It was passed unanimously out of the Veterans' Affairs Committee. It is identical to my amendment today.

I urge my colleagues to support this amendment. With the Chair's agreement, I ask for a voice vote.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 1554.

The amendment (No. 1554) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I understand under the previous order, the Senator from Hawaii is now to be recognized to call up his amendment.

The PRESIDING OFFICER. That is correct.

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

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

AMENDMENT NO. 1522

Mr. AKAKA. Mr. President, I ask to set aside the pending amendment and call up amendment No. 1522 to enhance the retirement security of Federal employees.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. BEGICH, Mr. KOHL, Ms. MIKULSKI, Mr. CARDIN, Mr. INOUYE, Mr. WEBB, and Mr. WARNER, proposes an amendment numbered 1522.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. AKAKA. Mr. President, as chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am proud to join with Senators COLLINS, LIEBERMAN, VOINOVICH, MURKOWSKI, BEGICH, KOHL, MIKULSKI, CARDIN, INOUYE, WEBB, and WARNER in this bipartisan effort to correct certain inequities in the Federal Government retirement system.

This amendment is very similar to an amendment that was included in the House-passed fiscal year 2010 national Defense authorization bill. Each of these revisions is much needed and has been thoroughly debated by the appropriate committees in the House and Senate. Many of the changes were requested by the administrators of the retirement plans and are strongly supported by many organizations. The list of supporters is too long to read here, but it includes every major Federal employee union, postal unions, supervisors, and postmasters, the Federal Law Enforcement Officers Association, and several government managers groups. I spoke in more detail last evening about the substance of the amendment.

I strongly encourage my colleagues to support this amendment, the Federal retirement reform provisions, and the bill as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, this amendment by Senator AKAKA, the distinguished chairman of the Veterans' Affairs Committee, I would imagine has some very good and helpful provisions associated with it. It also applies to Federal employees and perhaps some Department of Defense employees are included in that. But it is a very large amendment. It is composed of six retirement-related provisions and some expenditure of funds.

As I understand the bill, there is not provision for paying for it. I may be wrong. Let me point out that the Chair and ranking member of the Homeland Security Committee have looked at these issues as well. I am wondering why it was not included then on Homeland Security. We just finished doing the Homeland Security appropriations.

It would reduce mandatory spending by $36 billion over 10 years. It has significant costs that will have to be appropriated, at least $2.5 billion over the next 10 years. Because they would be added on this bill, it would add to the cost of the National Defense Authorization Act and would exceed our budget allocation. Properly, it would be subject to a budget point of order which the Senate would then speak on whether it is an appropriate budget point of order.

There has been no strong opposition from the administration, and these costs were not included in the administration's budget request.

I understand that a lot of these provisions, because of the large number of employees, fall under the Department of Defense. I don't think it is a good idea to have a bill of this magnitude, although certainly the amendment is in order—but I am not sure it is appropriate that a bill of this magnitude should be tacked on to the Defense authorization bill.

I say that fully aware that we are tacking on a hate crimes bill which has even a lot less to do with the Department of Defense.

I say to my friend, I will be glad to have a vote on this amendment. Perhaps there is going to be a budget point of order raised on this amendment. But hopefully we can alert our colleagues and give them the opportunity in the next few minutes to raise a budget point of order or ask for a recorded vote. If there is no objection, then we would have a voice vote.

I wish to point out to my colleagues, this is fairly large legislation which does fall under the proper authority of the Homeland Security Committee.

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

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, may I further comment that these provisions, without question, are much needed in Hawaii, Alaska, and the territories. COLA rates, and with them the pay of Federal employees, are slated to go down later this year if we do not act. This is the reason we are trying to move it at this time. Most of these employees in Hawaii are defense employees, as in these other States and territories as well.

The provisions on this issue are nearly identical to the bill that passed the Senate by unanimous consent last year. Most of the provisions are in the House Defense authorization bill.

Again, Hawaii, Alaska, and the territories received untaxed cost-of-living allowances that do not count toward retirement instead of locality pay that other Federal employees receive.

This bill grew out of a Bush administration proposal in response to repeated litigation over the different systems. This transition will cost a substantial amount of money for several reasons. The budget implications are better than they appear. A large portion of appropriated costs of the COLA provisions are intergovernmental transfers from Federal employers to either the annuity or the Social Security trust fund. According to the CBO report, employer contributions, intragovernmental transactions, do not affect the deficit.

Many employees in Hawaii and Alaska and the territories, of course, are looking at this as something that is necessary as they continue to work in the Federal Government in this area.

Again, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that we set aside consideration of the Burr amendment and that I be able to call up amendment No. 1657.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object—and I will need to object—we are working through unanimous consent agreements and amendments are lined up on both sides. We have not reached that point yet. There are other amendments that have to come first from the Senator's side, and that would be up to Senator MCCAIN. I have to object at this time. Obviously, we will try to accommodate the Senator getting his amendment up, but Senator MCCAIN would need to consider the Senator's proposal. I have to object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I understand the difficulties Senator LEVIN has, but we are moving to final passage. Cloture has been filed. It is important that this amendment be considered. I get a little nervous when things are not moving along in a way that I think they should or at least in a way that could cause this amendment not to be considered. I wish to speak briefly about it so it will be clear what it is we are talking about.

The amendment I sought to bring up would preempt any Federal Executive, that is Presidential, requirement that our troops in the field, in Afghanistan and Iraq, read Miranda warnings to al-Qaida terrorists whom they capture.

The amendment would also clarify that nothing in Federal law requires that our soldiers read Miranda warnings or give any other kind of warning to captured terrorists, and it preempts any efforts to enforce such a requirement through an exclusionary rule. That is, denying admissibility of evidence if it does not occur.

Miranda is the warning, as most watchers of television detective programs know, in which an individual who is detained by a police officer in the United States on suspicion of some crime is told they have a right to remain silent and they have a right to have a lawyer, or have one appointed for them.

The question is, How did we get to the point that we are now having soldiers in the field being asked to give Miranda warnings?

One person, I think, who would agree with me—although recent activities cause me concern—is our Commander in Chief, President Obama. In a recent interview on the TV show ''60 Minutes,'' he was asked about the terrorist detainees, and this is what President Obama said:

> Do these folks deserve Miranda rights? Do they deserve to be treated like a shoplifter down the block? Of course not.

''Of course not.'' I couldn't have said that with more clarity myself. Of course, we should not be giving Miranda warnings to captured terrorists on the battlefield. Unfortunately, not all of the subordinates in the current administration seem to understand this message.

A recent article in the magazine the Weekly Standard describes why the amendment is necessary. As this article explains, the current administration appears to be requiring our soldiers to read Miranda warnings to terrorists whom they capture in the field in Afghanistan. And the article further notes, according to former CIA Director George Tenet, who was appointed originally by President Clinton and served under President Bush, that we would not have obtained the valuable information we did from Khalid Shaikh Mohammed, the planner of the 9/11 attacks, if he had been given his Miranda rights—or been given Miranda rights, not his, because we have never given Miranda rights to captured soldiers in any kind of conflict in the history of the Republic.

The following is from the Weekly Standard:

> When 9/11 mastermind Khalid Shaikh Mohammed was captured on March 1, 2003, he was not cooperative. ''I'll talk to you guys after I get to New York and see my lawyer,'' he said, according to CIA Director George Tenet. Of course, Khalid Shaikh Mohammed did not get a lawyer until months later, after his interrogation was completed, and Tenet says that the information the CIA obtained from him disrupted plots and saved lives. ''I believe none of these successes would have happened if we had had to treat KSM like a white-collar criminal—read him his Miranda rights and get him a lawyer, who surely would have insisted that his client simply shut up.

That was Mr. Tenet's view as stated in his memoirs just a couple of years ago.

If Mr. Tenet is right, it is a good thing KSM was captured before President Obama became President, for the Justice Department has quietly ordered the FBI to read Miranda rights to high-value detainees captured and held at U.S. detention facilities in Afghanistan.

According to a senior Republican on the House Intelligence Committee:

> The administration has decided to change the focus to law enforcement. Here's the problem. You have foreign fighters who are targeting U.S. troops today—foreign fighters who go to another country to kill Americans. We capture them, and they're reading them their rights—Mirandizing these foreign fighters.

That was a quote from Representative MIKE ROGERS, who recently met with the military and intelligence and law enforcement officials on a fact-finding trip to Afghanistan.

ROGERS, a former FBI special agent and a U.S. Army officer, says the Obama administration has not briefed Congress on the new policy. He is quoted as saying:

> I was a little surprised to find it taking place when I showed up because we hadn't been briefed on it. I didn't know about it. We're still trying to get to the bottom of it, but it is clearly a part of this new global justice initiative.

Representative PETE HOEKSTRA, the ranking Republican on the House Intelligence Committee, said this:

> When they Mirandize a suspect, the first thing they do is warn them that they have the right to remain silent. It would seem the last thing we want is Khalid Shaikh Mohammed or any other al-Qaida terrorist to remain silent. Our focus should be on preventing the next attack, not giving radical jihadists a new tactic to resist interrogation—lawyering up.

According to MIKE ROGERS, that is precisely what some human rights organizations are now advising detainees to do. He says:

> The International Red Cross, when they go into these detention facilities, has now started telling people—''Take the option. You want a lawyer.''

And ROGERS adds:

> The problem is you take that guy at 3 in the morning off of a compound right outside of Kabul, where he's building bomb materials to kill U.S. soldiers, and read him his rights by 4, and the Red Cross is saying take the lawyer, you have now created quite a confusion amongst the FBI, the CIA and the United States military. And confusion is the last thing you want in a combat zone.

This is from Congressman ROGERS, a former FBI agent and a former Army officer.

So one thing is clear: A detainee who is not talking cannot provide information about future attacks. Had Khalid Shaikh Mohammed had a lawyer, Tenet wrote in his book, '' . . . I am confident that we would have obtained none of the information he had in his head about the eminent threat against the American people.''

Mr. President, one thing we have to get straight in our minds is that we are in a state of war against al-Qaida types and others around the world, and that calls for an entirely different approach to dealing with the people you capture. In fact, before you capture them, you have the authority to shoot them and kill them. We have the ability to drop bombs on them, which results in death. You don't do that in law enforcement situations against drug dealers or against white-collar criminals. These are not criminals, they are unlawful enemy combatants. They are not lawful because they do not operate according to the rules of war.

The Geneva Conventions require that a lawful combatant, an enemy soldier, or any kind of soldier from any country wear their uniform so that you can identify them by their uniform and do not target civilian personnel gratuitously. Among other requirements, these are some of the rules of war. But they have never been given the rights of a common criminal.

So I feel strongly about this issue. And I would note parenthetically that the Supreme Court has not held that Miranda is even a constitutional requirement. They passed it as a prophylactic policy to help police officers do a better job, the Court thought, in doing their work. It is not a requirement. So

it is a big mistake. I believe it is a road we should not go down, requiring these warnings, and if we do, it is an absolutely clear signal that we are confused about the nature of the deadly enterprise in which we are engaged, which is defending this country and our allies from attack by a violent, determined enemy.

I thought after 9/11 there was a consensus in this body that terrorists and enemy combatants were different from criminals. I thought the 9/11 Commission went into that, and I thought there was a bipartisan consensus on that. So I am concerned about it. It suggests to me that we are confused about the nature of this life-and-death struggle we are in. We are confused about the risk our soldiers are being subjected to every day on the battlefield. And they ought not to be placed in a situation where an additional burden is put on them that is not justified by law or common sense.

So I hope we get a vote on this, and I hope we are able to send the message that this is not the right policy and we need to make sure we stop it and nip it in the bud.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, if I could just have Senator MCCAIN's attention for a minute, I think we have a unanimous consent agreement.

Mr. President, has the Akaka amendment been disposed of?

The PRESIDING OFFICER. It has not.

Mr. LEVIN. I ask unanimous consent that the Akaka amendment be temporarily set aside, that we then move to an amendment on European missile defense, which is a Lieberman amendment with many cosponsors, which we have worked very hard on and which is ready to be propounded.

There is at least one additional speaker on it. Senator SESSIONS wants to speak on it as well. But I ask unanimous consent that Senator LIEBERMAN be recognized now to introduce that amendment; that after he speaks, Senator SESSIONS be recognized; that I will then be recognized, and then Senator MCCAIN, if he wishes to be recognized.

I believe the intention here is that we may be able to adopt this by a voice vote; is that correct? That is the hope, anyway. Well, I will leave that part alone.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The Senator from Connecticut.

AMENDMENT NO. 1744

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to call up amendment No. 1744.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. SESSIONS, Mr. INHOFE, Mr. VITTER, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. KYL, Mr. BEGICH, and Mr. MCCAIN, proposes an amendment numbered 1744.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate on and reserve funds for the development and deployment of missile defense systems to Europe)

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

SEC. 245. SENSE OF SENATE ON AND RESERVATION OF FUNDS FOR DEVELOPMENT AND DEPLOYMENT OF MISSILE DEFENSE SYSTEMS IN EUROPE.

(a) FINDINGS.—The Senate makes the following findings:

(1) In the North Atlantic Treaty Organization (NATO) Bucharest Summit Declaration of April 3, 2008, the Heads of State and Government participating in the meeting of the North Atlantic Council declared that ''[b]allistic missile proliferation poses an increasing threat to Allies' forces, territory and populations. Missile defence forms part of a broader response to counter this threat. We therefore recognize the substantial contribution to the protection of Allies from long-range ballistic missiles to be provided by the planned deployment of European-based United States missile defence assets''.

(2) The Bucharest Summit Declaration also stated that ''[b]earing in mind the principle of the indivisibility of Allied security as well as NATO solidarity, we task the Council in Permanent Session to develop options for a comprehensive missile defence architecture to extend coverage to all Allied territory and populations not otherwise covered by the United States system for review at our 2009 Summit, to inform any future political decision''.

(3) In the Bucharest Summit Declaration, the North Atlantic Council also reaffirmed to Russia that ''current, as well as any future, NATO Missile Defence efforts are intended to better address the security challenges we all face, and reiterate that, far from posing a threat to our relationship, they offer opportunities to deepen levels of cooperation and stability''.

(4) In the Strasbourg/Kehl Summit Declaration of April 4, 2009, the heads of state and government participating in the meeting of the North Atlantic Council reaffirmed ''the conclusions of the Bucharest Summit about missile defense,'' and declared that ''we judge that missile threats should be addressed in a prioritized manner that includes consideration of the level of imminence of the threat and the level of acceptable risk''.

(5) Iran is rapidly developing its ballistic missile capabilities, including its inventory of short-range and medium-range ballistic missiles that can strike portions of Eastern and Southern North Atlantic Treaty Organization European territory, as well as the pursuit of long-range ballistic missiles that could reach Europe or the United States.

(6) On July 8, 2008, the Government of the United States and the Government of the Czech Republic signed an agreement to base a radar facility in the Czech Republic that is part of a proposed missile defense system to protect Europe and the United States against a potential future Iranian long-range ballistic missile threat.

(7) On August 20, 2008, the United States and the Republic of Poland signed an agreement concerning the deployment of ground-based ballistic missile defense interceptors in the territory of the Republic of Poland.

(8) Section 233 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4393; 10 U.S.C. 2431 note) establishes conditions for the availability of funds for procurement, construction, and deployment of the planned missile defense system in Europe, including that the host nations must ratify any missile defense agreements with the United States and that the Secretary of Defense must certify that the system has demonstrated the ability to accomplish the mission.

(9) On April 5, 2009, President Barack Obama, speaking in Prague, Czech Republic, stated, ''As long as the threat from Iran persists, we will go forward with a missile defense system that is cost-effective and proven. If the Iranian threat is eliminated, we will have a stronger basis for security, and the driving force for missile defense construction in Europe will be removed.''.

(10) On June 16, 2009, Deputy Secretary of Defense William Lynn testified before the Committee on Armed Services of the Senate that the United States Government is reviewing its options for developing and deploying operationally effective, cost-effective missile defense capabilities to Europe against potential future Iranian missile threats, in addition to the proposed deployment of a missile defense system in Poland and the Czech Republic.

(11) On July 9, 2009, General James Cartwright, the Vice Chairman of the Joint Chiefs of Staff, testified before the Committee on Armed Services of the Senate that the Department of Defense was considering some 40 different missile defense architecture options for Europe that could provide a ''regional defense capability to protect the nations'' of Europe, and a ''redundant capability that would assist in protecting the United States,'' and that the Department was considering ''what kind of an architecture best suits the defense of the region, the defense of the homeland, and the regional stability''.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the United States Government should continue developing and planning for the proposed deployment of elements of a Ground-based Midcourse Defense (GMD) system, including a midcourse radar in the Czech Republic and Ground-Based Interceptors in Poland, consistent with section 233 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009;

(2) in conjunction with the continued development of the planned Ground-based Midcourse Defense system, the United States should work with its North Atlantic Treaty Organization allies to explore a range of options and architectures to provide missile defenses for Europe and the United States against current and future Iranian ballistic missile capabilities;

(3) any alternative system that the United States Government considers deploying in Europe to provide for the defense of Europe and a redundant defense of the United States against future long-range Iranian missile threats should be at least as capable and cost-effective as the proposed European deployment of the Ground-based Midcourse Defense system; and

(4) any missile defense capabilities deployed in Europe should, to the extent practical, be interoperable with United States and North Atlantic Treaty Organization missile defense systems.

(c) RESERVATION OF FUNDS FOR MISSILE DEFENSE SYSTEMS.—

(1) IN GENERAL.—Of the funds authorized to be appropriated or otherwise made available for fiscal years 2009 and 2010 for the Missile Defense Agency for the purpose of developing missile defenses in Europe, $353,100,000 shall be available only for the purposes described in paragraph (2).

(2) USE OF FUNDS.—The purposes described in this paragraph are the following:

(A) Research, development, test, and evaluation of—

(i) the proposed midcourse radar element of the Ground-based Midcourse Defense system in the Czech Republic; and

(ii) the proposed long-range missile defense interceptor site element of such defense system in Poland.

(B) Research, development, test, and evaluation, procurement, construction, or deployment of other missile defense systems designed to protect Europe, and the United States in the case of long-range missile threats, from the threats posed by current and future Iranian ballistic missiles of all ranges, if the Secretary of Defense submits to the congressional defense committees a report certifying that such systems are expected to be—

(i) consistent with the direction from the North Atlantic Council to address ballistic missile threats to Europe and the United States in a prioritized manner that includes consideration of the imminence of the threat and the level of acceptable risk;

(ii) operationally effective and cost-effective in providing protection for Europe, and the United States in the case of long-range missile threats, against current and future Iranian ballistic missile threats; and

(iii) interoperable, to the extent practical, with other components of missile defense and complementary to the missile defense strategy of the North Atlantic Treaty Organization.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting or preventing the Department of Defense from pursuing the development or deployment of operationally effective and cost-effective ballistic missile defense systems in Europe.

Mr. LEVIN. Mr. President, may I ask Senator LIEBERMAN to yield for a moment?

First of all, I ask unanimous consent that no second-degree amendments be in order to this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair, and I thank the chairman of the committee.

Mr. President, I rise to offer this amendment, along with the Senator from Alabama, Mr. SESSIONS, and a broad bipartisan group of cosponsors. This amendment concerns the deployment of missile defenses in Europe.

I am very pleased to say, as Chairman LEVIN suggested, that there has been a lot of work done on this issue by a lot of people, including Chairman LEVIN, Ranking Member MCCAIN, their staff, and our staff. I think we have reached a very important agreement here which holds up some standards of what is most important to our national security regarding the deployment of missile defenses to Europe.

If I may, the administration, as we know, is now evaluating alternatives to the planned European deployment of a Ground-based Midcourse Defense, or GMD, system to Poland and the Czech Republic. In the context of that policy review, this amendment states that any alternative to the GMD deployment to Poland and the Czech Republic must be as effective and affordable as the current plan. We think this is a reasonable standard by which to judge any alternative and I am hopeful and grateful my colleagues seem to agree.

Let me now go forward to explain why Senator SESSIONS and I and others think it is so important to set a standard for the alternatives that are now under consideration, and why the growing Iranian threat requires us to deploy an effective missile defense in Europe.

Last year the United States reached a pair of groundbreaking agreements with two of our closest European allies on the deployment of elements of a Ground-based Midcourse Defense, GMD, system to protect Europe and the United States from Iran's growing ballistic missile threat.

When I say ''and the United States,'' they don't have the ability now, or the ballistic missile, to reach the United States, but they are clearly investing in a ballistic missile program whose range they hope will grow and grow to a point where they will be able to reach the United States.

Specifically, on July 8, 2008, the United States and the Czech Republic agreed on establishing an American ballistic missile defense radar site on Czech territory. Two months later, on August 20, the United States and the Government of Poland reached a similar agreement under which we would deploy 10 ground-based interceptors to Poland. Just less than a year after these agreements, at a June 16 hearing at our Senate Armed Services Committee, Deputy Secretary of Defense Bill Lynn told the members of the committee:

> We think there are a number of ways to address [the Iranian] threat and one of the options is to deploy the missiles in Poland and the radar in the Czech Republic, and we are certainly evaluating that option as well as other possible options.

We heard other testimony before our committee, including from the Vice Chairman of the Joint Chiefs, General Cartwright, along the same lines, that though the agreements were entered into with Poland and the Czech Republic, the administration is evaluating other options.

To help place the other options that are under consideration into perspective, and to explain why Senator SESSIONS and I and the others who have joined us as cosponsors introduce this amendment today, I want to go to a Congressional Budget Office study that was released earlier this year, in February. It is titled ''Options for Deploying Missile Defenses in Europe.'' This study was requested by then-Congresswoman Ellen Tauscher, in her capacity as Chair of the House Armed Services Strategic Forces Subcommittee. It examined the potential cost and defense capability of the European ground-based defense system in Poland and the Czech Republic, as well as alternatives to it.

What are the alternatives? These include deployment of sea-based interceptors on Navy ships around Europe, or using mobile land-based interceptors in Europe. The study also considered the possible benefits of closer cooperation on missile defense with the Russian Federation.

The findings of this report clearly demonstrate that the Ground-based Midcourse Deployment in Poland and the Czech Republic is the most effective and affordable option that is before us today. I am particularly struck by the report's conclusion that the alternatives to the GMD system in Poland and the Czech Republic would significantly reduce America's ability to provide a layered defense for our American homeland against the eventual threat of intercontinental ballistic missiles launched by Iran or anyone else in that region against the United States of America.

I want to be clear about this and what it means. Whereas the GMD deployment to Poland and the Czech Republic would provide, according to the report, a so-called shoot-look-shoot capability for the defense of the entire continental United States, the alternatives that the Congressional Budget Office considered would leave most of our country without such a layered defense.

Let me explain. Shoot-look-shoot is an operational concept that is actually the cornerstone of our increasingly successful missile defense program. It is the idea that we should be able to shoot at an incoming missile, assess whether that shot was successful, and then shoot again. This shoot-look-shoot capability dramatically increases the effectiveness of our missile defense system.

You might say it is redundant. Most of our military systems are redundant because of what is on the line. I cannot think of a place where I would rather have redundancy than the situation we are dealing with, with an incoming ballistic missile, presumably containing a nuclear weapon, perhaps chemical or biological. I know people watching this debate may think this is far off and unrealistic, but these are the realities we do have to deal with in our world because we know a country such as Iran, whose leaders regularly lead tens of thousands of their citizens in shouting ''death to America'' is in fact investing in a growing intercontinental ballistic missile system.

What does shoot-look-shoot mean with regard to this amendment? If you have a GMD system in Europe and a missile that is fired from Iran, we have

a first opportunity to take a shot at that missile. We then obviously have a chance to look and see whether we hit it. If we did not, we have a second opportunity utilizing the ground-based missile defense system that we have now installed in California and Alaska. That is an important redundancy in the God-awful circumstance that a rogue nation, an anti-American nation, is actually firing missiles at the United States.

I want to draw the attention of my colleagues to a pair of maps that I think indicate the differences as CBO found them between the planned GMD system in Poland and the Czech Republic and the proposed land-based SM–3 block IIA system that I think is a favored alternative—a possible alternative—I don't mean it is selected, but one looked at with great interest by the Defense Department.

Incidentally, these maps were prepared by the Congressional Budget Office and included in the study I just mentioned, which I would commend to my colleagues to read in full.

On the first map here we can see the planned GMD system in Poland and the Czech Republic would provide a layered defense for the entire continental United States. In other words, this is the area that would be defended. Most of Europe, if a missile were fired from Iran, and all of the United States would be covered. That means the concept of shoot-look-and-shoot would be in effect a defense for our entire population.

The second map shows the capabilities of a prospective land-based SM–3 IIA block system, which is quite different. You can see that this one, as the CBO estimated, only covers a portion of the United States. I note it does cover Connecticut, but there is a lot of the rest of the United States—even though there are those of us who love this small State—a lot of the rest of the United States we do not want to leave unprotected by this redundancy.

In fact, on a population basis, because there is a concentration of population, of course, on the east coast, almost 80 percent of the population would be left uncovered by this redundant defense. All States west of the Mississippi, for example, would not be defended by this system.

In terms of operational capability, it is also important to note that the components of the proposed GMD system for Europe are much farther along in their development and purchase closer to being proven to work than the proposed SM–3 Block IIA interceptor, which may not be available until close to 2020. So the consequences of pulling away from the Poland and Czech Republic system are serious in the near term.

As for the question of cost, the Congressional Budget Office in this study estimates that the two alternate systems would cost nearly the same to develop, deploy, and operate. In other words, if we opt for an alternative to ground missile defense, CBO will be telling us we will be paying the same amount of money but for a less capable defense and a dramatically less comprehensive coverage of the population and territory of the United States.

Another question under consideration, I know by the administration, is the possibility—and was with the last administration, too—the possibility of partnership between the United States and Russia through the joint use of two Russian radar stations, as well as the sharing of information and data. I support very much the exploration of this opportunity of cooperating with Russians on missile defense, but I believe we have to have a clear understanding of its potential benefits and limitations.

Let me begin with some of the benefits. Obviously, closer cooperation with Russia on missile defense could increase our early warning detection capability for missile launches from the Middle East, based on their radar. With this capability we could send a clear message to Iran that not just the United States but the world, including Russia, is opposed to its weapons of mass destruction and intercontinental or continental ballistic missile systems. So I support the objective of negotiating and discussing this with the Russians.

But I want to say there are also limitations that are in this proposal. The Russian radar stations that are most discussed as part of a joint United States–Russian ballistic missile system as a technical matter cannot be a substitute for a European-based GMD system. Although these radars would give us additional early warning capabilities, as I indicated, they would not provide any additional targeting capability which, of course, is a critical component to reducing threats. Radar helps to target, sends the message to the interceptors in Poland and to the other system, and that facilitates an accurate shoot-down.

As the CBO pointed out in its February report, the radars face south and any missiles facing south and any missiles targeted toward Europe and the United States would, according to the report, ''tend to fly through and out of the Russian radar's field of regard very early in their trajectories.'' Though this system would provide us with early warning, it is also very important, really critical, to have targeting capability.

The amendment Senator SESSIONS and I and the others have proposed would not in any way prohibit the possibility of cooperation, or even deter the possibility of cooperation with the Russian Federation—certainly not with regard to sharing radar data, and I hope we can all agree we should not seek an agreement with Moscow that leaves the United States more vulnerable to the threat from Iran.

Very briefly, what about that threat? Some may ask, Why do we still need to be investing so much in missile defense? The answer, simply put, is because our most unpredictable and irresponsible adversaries, in particular rogue states such as Iran and North Korea, are investing very aggressively in ballistic missiles. That is why we need ballistic missile defense. The investments we make in missile defense will quite literally provide greater personal security to the coming generations of Americans, our children and their grandchildren and beyond. As LTG Mike Maples, then Director of the Defense Intelligence Agency, testified before our Senate Armed Services Committee earlier this year:

> The threat posed by ballistic missile delivery systems is likely to increase over the next decade. Ballistic missile defenses with advanced liquid or solid propellant propulsion systems are becoming more mobile, survivable, reliable, accurate, and possess greater range.

That is the end of the quote from the former head of the Defense Intelligence Agency.

In the last few months we have seen graphic reminders of the progress our enemies are making toward fielding intercontinental ballistic missiles. In February, Iran launched its first satellite into orbit using the same technologies that Tehran can draw upon to develop the capacity to build an intercontinental ballistic missile that could strike the continental United States.

In May, Iran carried out its first successful test flight of a two-stage solid fuel ballistic missile, a development that the White House Coordinator for Arms Control and WMD Terrorism, Gary Seymour, warned was ''a significant step forward in terms of Iran's capability to develop weapons.''

Iran's growing ballistic capabilities are made, of course, even more threatening when coupled with its nuclear weapons development program. Of course, we all hope the United States and the rest of the international community can persuade Iran, through diplomacy and economic sanctions, to abandon both its nuclear and ballistic ambitions and programs.

Missile defense is an important component of that effort on the premise that we may be able to convince Iran it is not worth spending those countless millions of dollars on perfecting these weapons if its leaders come to realize that we in the West are determined to stay one step ahead of them in neutralizing their strategic impact with a missile defense system.

As the Department of Defense now undertakes its review of the planned GMD deployment to Europe and possible alternatives, this amendment would express the Senate's opinion of what we expect our missile defenses in Europe to deliver, generally.

It would state that the United States expects those missile defenses to be the most capable and affordable and give a defense in the short term, not just to our allies in Europe but to our fellow citizens throughout the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I wish to join my colleague, Senator LIEBERMAN, in introducing amendment No. 1744, concerning the deployment of missile defenses in Europe, and also thank him for his leadership on this issue over many years. He is clearly one of the most effective spokesmen for clear and strategic thinking and has helped us for many years to establish good defense policy for our Nation.

As Senator LIEBERMAN has explained, this amendment would state it is the sense of the Congress that the administration should continue to develop the planned missile defense deployment through Poland and the Czech Republic, even as it considers other alternatives.

Further, it would state that any alternative to the current plan must be as effective and affordable, and, most important, must be able to defend the United States as well as Europe against long-range ballistic missiles.

This amendment is important at this time because the administration is now considering alternatives to the plan long pursued by the Bush administration to station ground-based interceptors in Poland, a missile-tracking radar system in the Czech Republic. Both Poland and the Czech Republic have signed agreements to host these missile defense assets after being told by the United States that we believed the plan is important to protect Europe and the United States from rogue states, more specifically, Iran's developing missile capability.

After much effort and political capital has been expended, both in the United States and by our Polish and Czech Republic allies and friends, now the project has been put in somewhat of a limbo, I am afraid.

Russia and the domestic left opposed this plan from the beginning. They lobbied the people and members of Congress in Poland and the Czech Republic to not do it. But they have gone forward with it today. If the objections of the United States to this system arise from Czech reasons, then I would refer my colleagues to a February 2009 CBO study Senator LIEBERMAN cited, ''Options for Deploying Missile Defense in Europe,'' which came to the conclusion that a ground-based interceptor deployment in Poland and the Czech Republic is the most effective and affordable option available for the foreseeable future.

The CBO concluded: ''This is the most effective and affordable option for the foreseeable future.''

Other options apparently now under consideration include the deployment of a land- or sea-based version of the Standard Missile 3, SM–3 which is now deployed on Aegis ships of the United States.

The CBO found that this option, the SM–3, will not available until late in the next decade, is no less expensive than the GBI option and does not provide protection for the United States against long-range Iranian missiles. In other words, while the deployment of a land- or sea-based version of SM–3 may be suitable to protect Europe against medium- and intermediate-range missile threats, it would not contribute to the defense of the United States which could occur from the launch of an ICBM, an intercontinental ballistic missile, which would travel at a much higher altitude.

Likewise, Admiral Stavridis, the new commander of the U.S. European Command, testified before the Senate Armed Services Committee during a hearing last month:

> Sea-based and transportable land-based assets are integral components of a comprehensive ballistic missile defense system but cannot defeat the entire range of threats by themselves. Sophisticated sensors are required for early acquisition and target determination, and ground-based interceptors are needed to defeat longer-range missiles.

The missile Iran seeks to develop, and is moving forward to develop, would be capable of hitting the United States. Now they are seeking to develop ICBMs, and they are actively pursuing nuclear weapons, as we all know.

Why, I would ask my colleagues, would we want to consider alternatives to the proposed GBI deployment in Europe that would not save any money and would not provide additional protection for the United States?

I would recall the comments former Secretary of State Henry Kissinger made a few years ago about missile defense and whether we should deploy. His comment was: I have never heard of a nation whose policy it is to keep itself vulnerable to attack.

Well, we do not need to be kept vulnerable to attack. We have the capability to defend ourselves and protect against incoming missiles. Some have suggested that such additional protection is not needed, that current ground-based interceptors deployed at our missile defense site in Fort Greely, AK, can provide complete protection for the United States against Iranian threats.

But that argument does not tell the complete story. The truth is, deploying GBIs in Europe would provide an early opportunity to intercept Iranian missiles headed to the east coast, which could then be followed by an intercept attempt by Alaska, providing the United States an extra layer of protection. Just 10 missiles could provide a great additional protection for the United States. That is what is needed, an integrated, layered, ballistic missile defense shield that effectively protects America and her allies from rogue attack.

Most Americans think we are adequately protected. I do remember a townhall meeting I held, and I asked the people there: What would happen if a missile was launched at the United States? They said: We would shoot it down. Well, that was before our system was up and running in Alaska, and it was not accurate. People think we do have a fully operational system, but we only have a few of those missiles up in Alaska, and we need this additional shield in Europe.

Without the site in Poland, the United States would have only one opportunity to engage Iranian missiles headed for certain portions of our country. Why should we take that risk?

Although the search for alternatives may please the Russians, it would perversely send the wrong message to our NATO allies and, in particular, to our friends in Poland and the Czech Republic who, despite pressure and threats from Russia, have agreed and stood firm and expressed their willingness to host these missile defense assets on their territory.

I would remind my colleague that NATO, the North Atlantic Treaty Organization, the most successful defense treaty in the history of the world, endorsed the current plan at the April 2008 Bucharest Summit and noted in their declaration:

> We therefore recognize the substantial contribution to the protection of Allies from long-range ballistic missiles to be provided by the planned deployment of European-based United States missile defense assets.

I also understand the Polish and Czech Parliaments have yet to ratify the agreements, and the ambivalence presented by the Obama Administration now regarding what was a firm policy of the United States, means, frankly, it is unlikely they will do so until our administration completes its consideration of alternatives. This has placed our situation in limbo. I am not happy with that. I think it was a mistake.

After all, why should those parliaments take up an agreement that the United States may pull off the table? This unfortunate event was obvious from the beginning when we backed away from our plan and started showing uncertainty. It is obvious the political support in Central Europe may erode.

I am left to conclude that the reason the administration is pursuing alternatives in this current plan is its hopes it will address Russian objections about the proposed deployment as part of a grand strategy to reset relations with Russia and conclude a follow-on to the START nuclear reduction agreement. I am not confident in this effort. In fact, it seems to, instead of moving our relations forward, have moved them backward.

Let me make note of some recent events. Just days after the United States and Russia reached a broader agreement on arms reductions and missile defense cooperation at the July 6 Moscow summit, Reuters News Agency reported, on July 10, 4 days later, that Russian President Medvedev threatened the United States that if it did not reach agreement with Russia on our joint NATO/Polish/Czech plans for

missile defense systems, Moscow would deploy rockets in an enclave near Poland.

Typical Russian bluster, threat. Likewise, Russian Foreign Minister Sergey Lavrov has threatened to end arms control talks with the United States if we pursue cooperation with our allies on missile defense, a system that in no way threatens Russia's massive nuclear capability, and they know it.

Ten interceptors of the United States in Europe are going to somehow have a capability to stop the thousands of Russian missiles and nuclear weapons that they have? Russia knows that our defenses would be no match.

As reported by the Associated Press, just 1 day after the summit, Lavrov stated:

> If our partners make a decision to create an American missile defense system with global reach, then that will doubtless place a big question mark over the prospects for further reduction in strategic offensive weapons.

Again, this is, unfortunately, a regressive approach by Russia on issues that I do not think is justified. It seems we are falling back into a darker approach to world affairs with threats instead of working together to build a more peaceful and prosperous, harmonious world.

If, in fact, there were technical arguments in favor of alternative deployments, which there are not, Russian belligerence would now indeed be an argument for proceeding, nevertheless.

The former Prime Minister of the Czech Republic, Mirek Topolanek, put the issue in its proper perspective when he stated:

> The moral challenge is clear and simple: If we are not willing to accept in the interests of the defense of the Euro-Atlantic area such a trifle as the elements of a missile defense system, then how shall we be able to face more difficult challenges that may come?

That is an important statement. Are we losing confidence in ourselves? He is not alone in that view. Just last week, 22 prominent Eastern European political figures of important historic importance, including Poland's Lech Walesa and the Czech Republic's Vaclav Havel, published an open letter to President Obama expressing their uneasiness over U.S. maneuvers with Russia. This letter was sent to address their concerns in light of what appears to them to be Russia's attempt to reassert its influence over Russia's former Eastern European satellites. These are independent nations. They have been freed from Soviet domination. It is not their desire to kowtow to Russia and to have to seek Russia's permission over whether to put a radar site in their country. They are sovereign nations.

These leaders noted in their letter that America's planned missile defense installations in Poland and the Czech Republic have become ''a symbol of America's credibility and commitment in the region.'' They further warned that:

> The Alliance should not allow the issue to be determined by unfounded Russian opposition. Abandoning the program entirely or involving Russia too deeply in it without consulting Poland or the Czech Republic can undermine the credibility of the United States across the whole region.

I don't think that is no small matter. These are historic figures in Eastern Europe who suffered under the Communist boot. They do not want to go back. They are sending us a message. They are great American allies. They believe in freedom and democracy. This is not an academic matter to them, it is very real.

I ask unanimous consent to have this letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SESSIONS. On March 5, Secretary of State Hillary Clinton ''applaud[ed] the decision by the people of the Czech Republic and their government—as well as the people and Government of Poland—for proceeding with missile defense on their soil.'' That was just in March of this year. The United States should honor this commitment by proceeding with the missile defense deployment as planned and not be affected by Russia's unfounded objections. I remain baffled by their objections, other than, perhaps, this is a way they think they can extract concessions from the United States as a bargaining chip.

As the CBO study referenced above makes clear:

> Only the Polish and Czech deployments can protect the United States and Europe. Any other option costs more and defends the U.S. less, if at all.

I ask my colleagues to support this message. It will be good for our country to be clear on this question and for Congress to speak up.

I express a concern about what has happened in this budget to national missile defense. It represents a major reduction in spending for missile defense. We intend to deploy 44 missiles in Alaska. The budget proposes, I believe, now just 30. It was proposed and part of the agenda for the last number of years to place a multikill vehicle on top of these interceptors so it could take out dummies and decoys and multiple missiles. That was zeroed out, ended in this budget. For a number of years, we have been funding research and development of the kinetic energy interceptor. That is a high-speed system that can take out missiles in the launch phase, which is the best phase to do so. That was zeroed out. There was the airborne laser which has the capability of shooting down missiles in their launch phase when they have so much heat coming out of them. It is funded for 1 more year, and it will be ended, apparently. Of course, now the 10 interceptors in Europe are in question.

We need to be sure we understand how seriously we are impacting the long-term strategy of the United States. We have spent $20 billion to develop a system that will actually work at incredible rates of speed, with hit-to-kill technology to knock down an incoming missile. After all of these investments and all these years, for $1 billion we could complete the program. We are saving about $150, $200 million this year that would have kept us on track. Maybe we can keep the system going forward. I hope so with this resolution and some other things.

But the American people need to know that we are not talking about a minor retrenchment of national missile defense in the budget that has come forward out of our committee. It represents the biggest reduction of missile defense funding during my time in the Senate, over 12 years.

I hope that as the months go along we will be able to reevaluate what we are doing and make sure we don't abandon the progress we have made and take full advantage of decades of research and development that has produced a system that will work to protect us.

I yield the floor.

[JULY 15, 2009]

EXHIBIT 1

AN OPEN LETTER TO THE OBAMA ADMINISTRATION FROM CENTRAL AND EASTERN EUROPE

(By Valdas Adamkus, Martin Butora, Emil Constantinescu, Pavol Demes, Lubos Dobrovsky, Matyas Eorsi, Istvan Gyarmati, Vaclav Havel, Rastislav Kacer, Sandra Kalniete, Karel Schwarzenberg, Michal Kovac, Ivan Krastev, Alexander Kwasniewski, Mart Laar, Kadri Liik, Janos Martonyi, Janusz Onyszkiewicz, Adam Rotfeld, Vaira Vike-Freiberga, Alexandr Vondra, Lech Walesa)

We have written this letter because, as Central and Eastern European (CEE) intellectuals and former policymakers, we care deeply about the future of the transatlantic relationship as well as the future quality of relations between the United States and the countries of our region. We write in our personal capacity as individuals who are friends and allies of the United States as well as committed Europeans.

Our nations are deeply indebted to the United States. Many of us know firsthand how important your support for our freedom and independence was during the dark Cold War years. U.S. engagement and support was essential for the success of our democratic transitions after the Iron Curtain fell twenty years ago. Without Washington's vision and leadership, it is doubtful that we would be in NATO and even the EU today.

We have worked to reciprocate and make this relationship a two-way street. We are Atlanticist voices within NATO and the EU. Our nations have been engaged alongside the United States in the Balkans, Iraq, and today in Afghanistan. While our contribution may at times seem modest compared to your own, it is significant when measured as a percentage of our population and GDP. Having benefited from your support for liberal democracy and liberal values in the past, we have been among your strongest supporters when it comes to promoting democracy and human rights around the world.

Twenty years after the end of the Cold War, however, we see that Central and Eastern European countries are no longer at the heart of American foreign policy. As the new Obama Administration sets its foreign-policy priorities, our region is one part of the

world that Americans have largely stopped worrying about. Indeed, at times we have the impression that U.S. policy was so successful that many American officials have now concluded that our region is fixed once and for all and that they could ''check the box'' and move on to other more pressing strategic issues. Relations have been so close that many on both sides assume that the region's transatlantic orientation, as well as its stability and prosperity, would last forever.

That view is premature. All is not well either in our region or in the transatlantic relationship. Central and Eastern Europe are at a political crossroads and today there is a growing sense of nervousness in the region. The global economic crisis is impacting on our region and, as elsewhere, runs the risk that our societies will look inward and be less engaged with the outside world. At the same time, storm clouds are starting to gather on the foreign policy horizon. Like you, we await the results of the EU Commission's investigation on the origins of the Russo-Georgian war. But the political impact of that war on the region has already been felt. Many countries were deeply disturbed to see the Atlantic alliance stand by as Russia violated the core principles of the Helsinki Final Act, the Charter of Paris, and the territorial integrity of a country that was a member of NATO's Partnership for Peace and the Euroatlantic Partnership Council—all in the name of defending a sphere of influence on its borders.

Despite the efforts and significant contribution of the new members, NATO today seems weaker than when we joined. In many of our countries it is perceived as less and less relevant—and we feel it. Although we are full members, people question whether NATO would be willing and able to come to our defense in some future crises. Europe's dependence on Russian energy also creates concern about the cohesion of the Alliance. President Obama's remark at the recent NATO summit on the need to provide credible defense plans for all Alliance members was welcome, but not sufficient to allay fears about the Alliance's defense readiness. Our ability to continue to sustain public support at home for our contributions to Alliance missions abroad also depends on us being able to show that our own security concerns are being addressed in NATO and close cooperation with the United States.

We must also recognize that America's popularity and influence have fallen in many of our countries as well.

Public opinions polls, including the German Marshall Fund's own Transatlantic Trends survey, show that our region has not been immune to the wave of criticism and anti-Americanism that has swept Europe in recent years and which led to a collapse in sympathy and support for the United States during the Bush years. Some leaders in the region have paid a political price for their support of the unpopular war in Iraq. In the future they may be more careful in taking political risks to support the United States. We believe that the onset of a new Administration has created a new opening to reverse this trend but it will take time and work on both sides to make up for what we have lost.

In many ways the EU has become the major factor and institution in our lives. To many people it seems more relevant and important today than the link to the United States. To some degree it is a logical outcome of the integration of Central and Eastern Europe into the EU. Our leaders and officials spend much more time in EU meetings than in consultations with Washington, where they often struggle to attract attention or make our voices heard. The region's deeper integration in the EU is of course welcome and should not necessarily lead to a weakening of the transatlantic relationship. The hope was that integration of Central and Eastern Europe into the EU would actually strengthen the strategic cooperation between Europe and America.

However, there is a danger that instead of being a pro-Atlantic voice in the EU, support for a more global partnership with Washington in the region might wane over time. The region does not have the tradition of assuming a more global role. Some items on the transatlantic agenda, such as climate change, do not resonate in the Central and Eastern European publics to the same extent as they do in Western Europe.

Leadership change is also coming in Central and Eastern Europe. Next to those, there are fewer and fewer leaders who emerged from the revolutions of 1989 who experienced Washington's key role in securing our democratic transition and anchoring our countries in NATO and EU. A new generation of leaders is emerging who do not have these memories and follow a more ''realistic'' policy. At the same time, the former Communist elites, whose insistence on political and economic power significantly contributed to the crises in many CEE countries, gradually disappear from the political scene. The current political and economic turmoil and the fallout from the global economic crisis provide additional opportunities for the forces of nationalism, extremism, populism, and anti-Semitism across the continent but also in some of our countries.

This means that the United States is likely to lose many of its traditional interlocutors in the region. The new elites replacing them may not share the idealism—or have the same relationship to the United States—as the generation who led the democratic transition. They may be more calculating in their support of the United States as well as more parochial in their world view. And in Washington a similar transition is taking place as many of the leaders and personalities we have worked with and relied on are also leaving politics.

And then there is the issue of how to deal with Russia. Our hopes that relations with Russia would improve and that Moscow would finally fully accept our complete sovereignty and independence after joining NATO and the EU have not been fulfilled. Instead, Russia is back as a revisionist power pursuing a 19th-century agenda with 21st-century tactics and methods. At a global level, Russia has become, on most issues, a status-quo power. But at a regional level and vis-a-vis our nations, it increasingly acts as a revisionist one. It challenges our claims to our own historical experiences. It asserts a privileged position in determining our security choices. It uses overt and covert means of economic warfare, ranging from energy blockades and politically motivated investments to bribery and media manipulation in order to advance its interests and to challenge the transatlantic orientation of Central and Eastern Europe.

We welcome the ''reset'' of the American-Russian relations. As the countries living closest to Russia, obviously nobody has a greater interest in the development of the democracy in Russia and better relations between Moscow and the West than we do. But there is also nervousness in our capitals. We want to ensure that too narrow an understanding of Western interests does not lead to the wrong concessions to Russia. Today the concern is, for example, that the United States and the major European powers might embrace the Medvedev plan for a ''Concert of Powers'' to replace the continent's existing, value-based security structure. The danger is that Russia's creeping intimidation and influence-peddling in the region could over time lead to a de facto neutralization of the region. There are differing views within the region when it comes to Moscow's new policies. But there is a shared view that the full engagement of the United States is needed.

Many in the region are looking with hope to the Obama Administration to restore the Atlantic relationship as a moral compass for their domestic as well as foreign policies. A strong commitment to common liberal democratic values is essential to our countries. We know from our own historical experience the difference between when the United States stood up for its liberal democratic values and when it did not. Our region suffered when the United States succumbed to ''realism'' at Yalta. And it benefited when the United States used its power to fight for principle. That was critical during the Cold War and in opening the doors of NATO. Had a ''realist'' view prevailed in the early 1990s, we would not be in NATO today and the idea of a Europe whole, free, and at peace would be a distant dream.

We understand the heavy demands on your Administration and on U.S. foreign policy. It is not our intent to add to the list of problems you face. Rather, we want to help by being strong Atlanticist allies in a U.S.-European partnership that is a powerful force for good around the world. But we are not certain where our region will be in five or ten years time given the domestic and foreign policy uncertainties we face. We need to take the right steps now to ensure the strong relationship between the United States and Central and Eastern Europe over the past twenty years will endure.

We believe this is a time both the United States and Europe need to reinvest in the transatlantic relationship. We also believe this is a time when the United States and Central and Eastern Europe must reconnect around a new and forward-looking agenda. While recognizing what has been achieved in the twenty years since the fall of the Iron Curtain, it is time to set a new agenda for close cooperation for the next twenty years across the Atlantic.

Therefore, we propose the following steps:

First, we are convinced that America needs Europe and that Europe needs the United States as much today as in the past. The United States should reaffirm its vocation as a European power and make clear that it plans to stay fully engaged on the continent even while it faces the pressing challenges in Afghanistan and Pakistan, the wider Middle East, and Asia. For our part we must work at home in our own countries and in Europe more generally to convince our leaders and societies to adopt a more global perspective and be prepared to shoulder more responsibility in partnership with the United States.

Second, we need a renaissance of NATO as the most important security link between the United States and Europe. It is the only credible hard power security guarantee we have. NATO must reconfirm its core function of collective defense even while we adapt to the new threats of the 21st century. A key factor in our ability to participate in NATO's expeditionary missions overseas is the belief that we are secure at home. We must therefore correct some self-inflicted wounds from the past. It was a mistake not to commence with proper Article 5 defense planning for new members after NATO was enlarged. NATO needs to make the Alliance's commitments credible and provide strategic reassurance to all members. This should include contingency planning, prepositioning of forces, equipment, and supplies for reinforcement in our region in case of crisis as originally envisioned in the NATO-Russia Founding Act.

We should also re-think the working of the NATO-Russia Council and return to the practice where NATO member countries enter

into dialogue with Moscow with a coordinated position. When it comes to Russia, our experience has been that a more determined and principled policy toward Moscow will not only strengthen the West's security but will ultimately lead Moscow to follow a more cooperative policy as well. Furthermore, the more secure we feel inside NATO, the easier it will also be for our countries to reach out to engage Moscow on issues of common interest. That is the dual track approach we need and which should be reflected in the new NATO strategic concept.

Third, the thorniest issue may well be America's planned missile-defense installations. Here too, there are different views in the region, including among our publics which are divided. Regardless of the military merits of this scheme and what Washington eventually decides to do, the issue has nevertheless also become—at least in some countries—a symbol of America's credibility and commitment to the region. How it is handled could have a significant impact on their future transatlantic orientation. The small number of missiles involved cannot be a threat to Russia's strategic capabilities, and the Kremlin knows this. We should decide the future of the program as allies and based on the strategic plusses and minuses of the different technical and political configurations. The Alliance should not allow the issue to be determined by unfounded Russian opposition. Abandoning the program entirely or involving Russia too deeply in it without consulting Poland or the Czech Republic can undermine the credibility of the United States across the whole region.

Fourth, we know that NATO alone is not enough. We also want and need more Europe and a better and more strategic U.S.-EU relationship as well. Increasingly our foreign policies are carried out through the European Union—and we support that. We also want a common European foreign and defense policy that is open to close cooperation with the United States. We are the advocates of such a line in the EU. But we need the United States to rethink its attitude toward the EU and engage it much more seriously as a strategic partner. We need to bring NATO and the EU closer together and make them work in tandem. We need common NATO and EU strategies not only toward Russia but on a range of other new strategic challenges.

Fifth is energy security. The threat to energy supplies can exert an immediate influence on our nations' political sovereignty also as allies contributing to common decisions in NATO. That is why it must also become a transatlantic priority. Although most of the responsibility for energy security lies within the realm of the EU, the United States also has a role to play. Absent American support, the Baku-Tbilisi-Ceyhan pipeline would never have been built. Energy security must become an integral part of U.S.-European strategic cooperation. Central and Eastern European countries should lobby harder (and with more unity) inside Europe for diversification of the energy mix, suppliers, and transit routes, as well as for tough legal scrutiny of Russia's abuse of its monopoly and cartel-like power inside the EU. But American political support on this will play a crucial role. Similarly, the United States can play an important role in solidifying further its support for the Nabucco pipeline, particularly in using its security relationship with the main transit country, Turkey, as well as the North-South interconnector of Central Europe and LNG terminals in our region.

Sixth, we must not neglect the human factor. Our next generations need to get to know each other, too. We have to cherish and protect the multitude of educational, professional, and other networks and friendships that underpin our friendship and alliance. The U.S. visa regime remains an obstacle in this regard. It is absurd that Poland and Romania—arguably the two biggest and most pro-American states in the CEE region, which are making substantial contributions in Iraq and Afghanistan—have not yet been brought into the visa waiver program. It is incomprehensible that a critic like the French anti-globalization activist Jose Bove does not require a visa for the United States but former Solidarity activist and Nobel Peace prizewinner Lech Walesa does. This issue will be resolved only if it is made a political priority by the President of the United States.

The steps we made together since 1989 are not minor in history. The common successes are the proper foundation for the transatlantic renaissance we need today. This is why we believe that we should also consider the creation of a Legacy Fellowship for young leaders. Twenty years have passed since the revolutions of 1989. That is a whole generation. We need a new generation to renew the transatlantic partnership. A new program should be launched to identify those young leaders on both sides of the Atlantic who can carry forward the transatlantic project we have spent the last two decades building in Central and Eastern Europe.

In conclusion, the onset of a new Administration in the United States has raised great hopes in our countries for a transatlantic renewal. It is an opportunity we dare not miss. We, the authors of this letter, know firsthand how important the relationship with the United States has been. In the 1990s, a large part of getting Europe right was about getting Central and Eastern Europe right. The engagement of the United States was critical to locking in peace and stability from the Baltics to the Black Sea. Today the goal must be to keep Central and Eastern Europe right as a stable, activist, and Atlanticist part of our broader community.

That is the key to our success in bringing about the renaissance in the Alliance the Obama Administration has committed itself to work for and which we support. That will require both sides recommitting to and investing in this relationship. But if we do it right, the pay off down the road can be very real. By taking the right steps now, we can put it on new and solid footing for the future.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I very much support the pending amendment. It is the product of a lot of work by a lot of people. Senator LIEBERMAN, in particular, was considering offering an amendment during our markup in the committee. He agreed that he would hold off until we got to the floor to try to get broad bipartisan agreement on a very important subject. He did that. We are grateful to him for doing so.

This amendment is consistent with the administration's policies for missile defense in Europe, including its consideration of a variety of options and architectures for defending Europe, including the so-called third site in Poland and the Czech Republic. The main purpose of these efforts in Europe is to act against an Iranian missile threat should it materialize. It is very important that we do so.

Earlier this month, General Cartwright, Vice Chairman of the Joint Chiefs, testified before the Armed Services Committee that the Department of Defense is considering a number of missile defense options in Europe.

This amendment is also consistent with the administration's efforts to pursue missile defense cooperation with Russia as part of our efforts to address the Iranian missile threat. Those missiles, of course, potentially could be armed with nuclear warheads. This potential Iranian missile threat is a threat that confronts not just Europe as NATO but also Russia as well, obviously, and a number of other countries. It is a real threat. Everything we can do to deter that, everything we can do to defend, should it ever materialize, is something we must do. It is a major threat.

In one of its findings, NATO recognizes this Iranian threat. This is the way NATO recognized this Iranian threat and the importance of trying to work together to deter, to try to prevent it from happening, and then, should it happen, to defend against it, to make it useless. Here is what NATO said in April:

> We support increased missile defense cooperation between Russia and NATO, including maximum transparency and reciprocal confidence-building measures to allay any concerns. We reaffirm our readiness to explore the potential for linking United States, NATO and Russian missile defense systems at an appropriate time and we encourage the Russian Federation to take advantage of [U.S.] missile defense cooperation proposals.

Back in April, I led a delegation, with Senators COLLINS and BILL NELSON, to visit Russia, Poland, and the Czech Republic to discuss missile defense and the potential for a cooperative approach. What we found is that there appears to be real potential for a cooperative approach and for having missile defense be a uniting issue against a common threat instead of a dividing issue. If we can find a way to cooperate with Russia on missile defense, it would send an extraordinarily powerful message to Iran that we are united against their continued development of nuclear technology and long-range ballistic missiles.

That is the point of missile defense in Europe, to address the Iranian missile and nuclear program in order to enhance their security and our security. This amendment will authorize prior year's funds for a variety of cost-effective and operationally effective missile defense options that could protect Europe and the United States from Iranian missiles of all ranges, current and future. The amendment is designed to command and hopefully attract strong bipartisan support. I hope it does just that.

I believe a voice vote may be possible after Senator MCCAIN speaks. I hope that is the case, given the schedule.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in support of the Lieberman amendment expressing the sense of the Senate that the U.S. Government should continue developing and planning for the proposed deployments of elements of a

ground-based midcourse defense system. I thank the Senator from Connecticut for this amendment and his willingness to work with all parties, which will then allow us to voice vote this very important amendment.

Obviously, there are a lot of strong feelings on the issue of missile defense in Europe. I believe this amendment addresses and expresses our concerns and our goals, including a midcourse radar in the Czech Republic and ground-based interceptors in Poland, as well as the reservation of funds for the development and deployment of missile defense systems in Europe.

As rogue nations, including North Korea and Iran, push the nuclear envelope and work tirelessly to develop delivery vehicles capable of reaching America and its allies, we must aggressively develop the systems necessary to counter such belligerent efforts. Enhancing missile defense capabilities in Europe is an essential component to addressing rogue state and in-theater threats we face and expect to face in the future.

As Iran works to develop ballistic missile capabilities of all ranges, the United States must reaffirm its commitments to its allies and develop and deploy effective missile defense systems. The Iranian ballistic missile threat is real and growing. During the NATO summit in Bucharest in April of 2008, the allies cited the threat of ballistic missile proliferation as one of great concern to their forces, territory, and populations. Missile defense in Europe, according to NATO ''forms part of a broader response to counter this threat . . . [a] substantial contribution to the protection of Allies from long-range ballistic missiles to be provided by the planned deployment of European-based United States missile defense assets.''

Uncertainty about the future of missile defense in Europe, some stemming from perceptions, whether wanted or not, that Russia will have a say or veto power over the disposition of our missile defense architecture, has caused concerns both here in the Senate and among some of our closest European allies. I urge the administration to provide some clarity on how it plans to honor the commitments the United States has made to Poland and the Czech Republic.

The last administration recognized the importance and need for a European component to our missile defense system, reached out to the Governments of Poland and the Czech Republic, and asked that they make what many at the time perceived as an unpopular agreement. Despite unwanted threats from Russia, both governments recognized the importance such a capability would provide to their citizens and to Europe as a whole and agreed to allow the United States to place ground-based interceptors in Poland and a midcourse radar site in the Czech Republic.

Given the perception, one that has been strengthened by the testimony of administration officials before the Armed Services Committee, that the United States is preparing to back away from its commitments to our Polish and Czech allies, this amendment comes at an important moment. It was only a year ago, after all, that the United States and the Czech Republic affirmed that:

> Within the context of, and consistent with, both the North Atlantic Treaty and the Czech Republic . . . the United States is committed to the security of the Czech Republic. [And that] the Czech Republic and the United States will work together to counter emerging military or non-military threats posed by third parties or to minimize the effects of such threats.

Similarly, on August 20, 2008, the United States signed an agreement with Poland stating that the:

> United States is committed to the security of Poland and of any U.S. facilities located on the territory of the Republic of Poland. . . .The United States and Poland intend to expand air and missile defense cooperation. In this regard, we have agreed on an important new area of such cooperation involving the deployment of a U.S. Army Patriot air and missile defense battery in Poland.

Our Polish friends are clearly uneasy and have been quite vocal. During a forum earlier this year in Brussels, Polish Foreign Minister Radoslaw Sikorski said:

> We hope we don't regret our trust in the United States.

I urge the administration and my colleagues in the Senate to join me in reiterating our commitment to the security and freedom of these nations as well as deterring and defending them against any threats to their security.

With respect to Russia and the ongoing START negotiations, I urge the President to continue to reject any Russian attempt to link reductions in offensive strategic nuclear weapons with defensive capabilities such as missile defense. Russia, too, must recognize that the current Iranian path is unsettling to the global interests of all peace-seeking nations. Missile defense in Europe is not and should not be viewed in Moscow as some new form of post-Cold War aggression. It is, rather, a reasonable and prudent response to the very real threats the Iranian regime continues to pose to the United States, Europe, and the world.

Again, I thank my good friend from Connecticut for offering this amendment, and I urge my colleagues to support its adoption.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, very briefly, I want to thank Senator LEVIN and Senator MCCAIN for their very thoughtful statements in support of this amendment. I thank their staffs for the work that has been done with all of my staff, Senator SESSIONS, and others to reach this agreement. It is an important statement of policy about our national security in the years ahead. I appreciate all that has been done by everyone here in the spirit of unity.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 1744) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, I now ask unanimous consent that Senator DORGAN be recognized for up to 15 minutes and then we return to regular order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me thank the chairman of the committee, Senator LEVIN, and Senator MCCAIN, for their work on this bill.

We talk about a lot of things in this bill: jet fighters, bombers, tankers, submarines, unmanned aerial vehicles—lots and lots of subjects. The subjects are about the defense of our country, what provides national security for our country, so these are all very important. I wish to speak, however, about one piece of this legislation that probably is not mentioned much but I think is very important; that is, the reduction of the threat of nuclear weapons.

There is something over $400 million in this bill that deals with the efforts to try to reduce the threat of nuclear weapons.

I have had at my desk in the Senate for a long while some pieces of equipment. I ask unanimous consent to show them.

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

Mr. DORGAN. Mr. President, this is a piece of a wing of a Soviet Backfire bomber. We did not shoot this plane down. This was sawed off of a wing of a Backfire bomber that would have carried nuclear weapons, presumably, to threaten our country. But under something called the Nunn-Lugar Cooperative Threat Reduction program that we engaged in with the countries of the former Soviet Union, bombers were destroyed—oh, not by bullets, but they were sawed in half and the wings were taken off and so on.

This is a tube of copper, I show you, from the electrical wiring of a Russian submarine that carried nuclear weapons targeting this country. This was

ground up by the Cooperative Threat Reduction program. The submarine was not destroyed by American bullets. This is part of the Cooperative Threat Reduction effort.

This, I show you, is a hinge from a nuclear weapon on top of a missile that was in the Ukraine, presumably aimed at an American target. Where this missile once sat now grows sunflowers in the Ukraine.

The Cooperative Threat Reduction Program—now, why is that important?

Mr. President, we have a lot of threats to this country, but none is as great as the threat of a nuclear warhead being exploded in a major American city or any metropolitan area of this world, for example.

Here, as shown on this chart, is how many nuclear warheads we have. This is from the Carnegie Endowment in 2009. They estimate the number of nuclear warheads that exist on the planet—Russia, about 14,000 nuclear weapons; the United States, 10,500 nuclear weapons; China, about 125; France, about 300; Britain, about 160 nuclear weapons; Israel, 80; India, 50; Pakistan, 60, and so on.

Let me tell you a story, if I might. It is a story that has been written about extensively. In fact, it was the lead for a book called ''Nuclear Terrorism,'' written by Graham Allison.

It was 1 month after 9/11/2001. It was October 11, 2001, when, at the Presidential daily briefing to President George W. Bush, George Tenet, the then-head of the CIA, informed the President that a CIA agent code named Dragonfire had reported that al-Qaida terrorists possessed a 10-kiloton nuclear weapon, evidently stolen from the Russian arsenal. According to Dragonfire, the CIA agent, it had been smuggled into an American city, probably New York City. Again, at the President's daily briefing, 1 month to the day after 9/11, it was said that al-Qaida had smuggled a 10-kiloton stolen nuclear weapon into perhaps New York City.

The CIA had no independent confirmation of it, but in the hours that followed, the Secretary of State, the National Security Adviser, and others struggled with the question of whom do you call to talk about the threat and how do you do it without the news media putting out a bulletin that there is a rumor that a stolen 10-kiloton Russian nuclear weapon is in an American city without causing panic and mass exodus?

So they tried to determine what to do about this and analyzed: Was it plausible, possible that al-Qaida terrorists had stolen a 10-kiloton nuclear weapon? The answer is yes. Did the Russians possess 10-kiloton nuclear weapons? Yes. Did they have good command and control over them, absolute command and control? No. Was it possible, having stolen it, that the terrorists could have smuggled it into New York City or, perhaps, Washington, DC? Yes. And could the terrorists detonate it? The answer is yes. If it were trucked, for example, to Times Square and exploded, would half a million people be killed instantly? Yes.

But they did not tell anybody. They did not tell the mayor of New York. They sent nuclear weapons search teams to New York. The President sent teams to New York but did not inform anybody, for obvious reasons.

About a month later, while there were a lot of people having an apoplectic seizure about this prospect, it was determined that perhaps the report by the CIA agent, Dragonfire, was not credible.

Now, think of that. Think of the unbelievable angst about the potential of one rather small nuclear weapon, a 10-kiloton nuclear weapon, having been stolen on a planet where there are 25,000 of them—most of them much larger than that. Think of the angst about the potential of having one stolen by a terrorist group and exploded in the middle of an American city. That is just one weapon, and there are 25,000.

There are a lot of people who are good thinkers and very experienced in these areas who will tell you, including former Defense Secretary Perry and others, that there is a very high probability that within the coming 10 years there will be a nuclear weapon exploded in a major city.

So with all of the talk about planes and ships and all of the issues in this bill, this issue of the threat reduction, with $400 million-plus in this bill—the threat reduction that allowed us to dismantle nuclear weapons, cut off the wings of an adversary's bombers, grind up the wiring, and destroy the submarines—that is critically important. The question for us is, What are we going to do to reduce the number of nuclear weapons and to stop the spread of nuclear weapons around the world? Because almost certainly there will be an explosion of a nuclear weapon in a metropolitan area at some point in the future unless we provide the leadership in arms talks and arms reductions. It is our responsibility to lead. It falls on our shoulders to bear this burden to lead.

I know there are some who would say: Do you know what, that is a sign of weakness to be talking about reducing nuclear weapons. I am not suggesting reducing America's strength or allowing America to be undefended. I am suggesting the world will be a much safer place if we do not have 25,000 nuclear weapons, and this world will be a much safer place if we find a way to stop the spread of nuclear weapons. Every day now, we see the spectacle of Iran. Iran possessing a nuclear weapon? That is scary. North Korea. We do not know how many weapons North Korea has, but the Carnegie Endowment says perhaps less than 10.

But what do we do now? What do we do to decide we are going to be involved in a very aggressive way leading the world in the nonproliferation of nuclear weapons and beginning to reduce the number of nuclear weapons?

We are operating now under what is called the Strategic Offensive Reductions Treaty, also known as the Moscow Treaty, that our last President negotiated. It required the United States and Russia to have no more than 2,200 operationally deployed nuclear weapons. It does not mean that is the limit. That is just the operationally deployed limit. They can have far more nuclear weapons than that. By 2012, they had to be down to 2,200 operationally deployed. It does not restrict delivery vehicles of any kind—missiles, ships, planes. It does not have any verification measures, and it expires in 2012.

There is another treaty called the START Treaty, which was superseded by the treaty I just described. But some parts of the START Treaty are still in force because it does have verification and onsite monitoring and confidence-building measures and it does limit delivery vehicles. But that limitation is going to expire, and that START Treaty expires at the end of this year.

So the point I want to make today simply is this: We are talking about a lot of very important things, and I think the bill put together by the chairman and ranking member, this Defense authorization bill, is very important. I understand that. We need an Army, a Navy, the Marines, the Air Force. We need them well equipped. This is a troubling world in some corners. We face an enormous threat of terrorism. We face a lot of different threats. We must keep our eye on the ball. We, above all, here in the United States have a responsibility to provide the leadership that is necessary to stop the spread of nuclear weapons, and to try to push and push and push for agreements that would reduce the number of nuclear weapons.

As I said before, when, again, a CIA agent code named Dragonfire shows up and says to the CIA, I have picked up information which indicates there is one nuclear weapon that has been stolen and it is in the hands of terrorists, and it is now in New York City, ready to be detonated, when that happens next, we had better worry a great deal if we haven't prevented it, if we haven't taken all of the steps necessary to say, that can't happen. That report in October of 2001 turned out to be false, but all of the post mortems by experts understood that it could well have been true, and all of the elements could have been accurate. A weapon could have been stolen, smuggled into the city, detonated and a half a million people within three-quarters of a mile of Times Square would have died immediately. If that would have happened the world would never be the same. Everything will have changed.

So it seems to me we have a responsibility to aggressively pursue arms control agreements. We have an opportunity now, and a responsibility to pursue aggressively, even in legislation such as this, the reduction of nuclear weapons and delivery vehicles to try to

see if we can step back from the abyss and actively engage with other nuclear powers to do things that will tighten controls, and in a very significant way, prevents the opportunity from other nations, and especially rogue nations, and especially, most especially, terrorist groups, from acquiring nuclear weapons.

We know, we have the history, that Osama bin Laden has been fascinated with and has wanted to acquire the mechanics for nuclear weapons and the materials for nuclear weapons for a long time. We know that. Al-Qaida is still there. As far as we know, Osama bin Laden is still leading al-Qaida. It is pretty unbelievable to think about that. On 9/11 we were told there isn't one acre on this Earth that would be safe for the person who designed the attack against our country, but it is now 8 years later and we are told in the public briefings by our CIA that the greatest threat to our homeland is al-Qaida, a reconstituted al-Qaida. The terrorist threat which is the greatest threat to our homeland is a reconstituted al-Qaida with training camps where they are designing attacks against our country.

Let us hope that we are able to make the kinds of efforts and provide the kind of leadership that singularly says to the world: It is this country that leads the way to stop the spread of nuclear weapons, and it is our country that wants to reduce the number of nuclear weapons on this planet. No, that won't make us weaker; I don't suggest any approach that would ever weaken this country relative to its adversaries. But it will certainly strengthen the future of this planet if we reduce the number of nuclear weapons below the 25,000 nuclear weapons that now exist as well as take very significant steps to stop other countries and certainly to prevent forever rogue nations and terrorist organizations from acquiring nuclear weapons. That needs to be job one. We don't talk nearly enough about it. We don't talk about the subject as much as we should. But I wanted to bring this issue to the floor during this discussion because it is in this bill, Cooperative Threat Reduction, which we know works and which we have funded in the past and will continue to fund in this bill again, and is something that addresses the issue of not just building more weapons but actually finding ways to engage with our adversaries to reduce the weapons that can, frankly, threaten the existence of this planet.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the Akaka amendment No. 1522.

AMENDMENT NO. 1519

Mr. BURR. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1519.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object. I will not object—of course—this would be the next amendment which would be in a line of amendments that Senator MCCAIN and I are trying to work out alternating between the two sides.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR], for himself and Mrs. HAGAN, proposes an amendment numbered 1519.

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

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

The amendment is as follows:

(Purpose: To prohibit the establishment of an outlying landing field at Sandbanks or Hale's Lake, North Carolina)

On page 565, after line 20, add the following:

Subtitle D—Other Matters

SEC. 2481. PROHIBITION ON OUTLYING LANDING FIELD AT SANDBANKS OR HALE'S LAKE, NORTH CAROLINA, FOR OCEANA NAVAL AIR STATION.

The Secretary of the Navy may not establish, consider the establishment of, or purchase land, construct facilities, implement bird management plans, or conduct any other activities that would facilitate the establishment of an outlying landing field at either of the proposed sites in North Carolina, Sandbanks or Hale's Lake, to support field carrier landing practice for naval aircraft operating out of Oceana, Naval Air Station, Virginia.

Mr. BURR. Mr. President, most Members don't know much about this amendment. If you are not from Virginia or if you are not from North Carolina or you are not on the Armed Services Committee, this amendment will probably not make a lot of sense. This is about the proposed acquisition of land in North Carolina for an outlying landing field for carrier-based aircraft to practice their touch and goes for the purposes of night takeoffs and night landings.

This is not new to North Carolina. Let me say to my colleagues, I don't think there is a State more friendly to the military than North Carolina. We are home to Fort Bragg, the Pentagon of the Army; we are home to Camp LeJeune, the east coast hub of the Marine Corps; Seymour Johnson Air Force Base. Our communities don't just welcome the military, they support the military. I think it is the most military-friendly State you can find. There is no military family that is stationed within North Carolina that has not been extended in-State tuition regardless of how long they are there or whether their kids are still in education once their parents might have been deployed elsewhere.

This is not an issue of ''not in my backyard.'' There are two proposed sites. One thing my amendment very clearly does is it prohibits the establishment of an outlying landing field at the proposed Hale's Lake, Camden County/Currituck County landing sites and the Sandbanks, Gates County sites in North Carolina. It says to the Navy: You have to take them off your list; you can't include them.

The Navy is proposing to construct an outlying landing field for their carrier-based fixed-wing aircraft squadrons stationed in Virginia Beach at the Naval Air Station Oceana. They propose to acquire 30,000 acres. So they get 30,000 acres to allow for the accommodation of fee-simple purchases, the purchase of restrictive use or through conservation easements.

Approximately 2,000 acres would be used for the core area, which would include an 8,000-foot runway. Think about 30,000 acres relative to the airport that is in your local community and you get an idea of how much bigger this footprint is.

I said earlier this is not about ''not in my backyard.'' As a matter of fact, North Carolina has proffered to the Navy currently a Marine air station in Cherry Point as a potential OLF site where we already have squadrons of Marine aircraft. We have the capacity and, more importantly, we have a community that wants to have this site. The Navy doesn't support the Cherry Point proposal, supposedly because it is considered to be in a location too far from Oceana. Well, let me describe for my colleagues, when you draw the line that says anything outside of this is too far, Cherry Point falls 20 miles outside of the line they have drawn. Twenty miles is the glidepath to land and the glidepath to take off. We are not talking about a big distance. It doesn't seem to make sense why the Navy is looking to condemn 30,000 acres for the purposes of constructing a new facility instead of using an existing facility, an existing military base that would be much more efficient and cost effective for the Navy and, more importantly, cost effective for taxpayers.

Why am I here? Why is Senator HAGAN offering this amendment? Because the people in Gates County, in Currituck County, in Camden County, don't want it. The Navy went into this process saying: If people don't want us, we won't go there. The truth is it doesn't stop there.

I wish to enter into the RECORD, if I may—on May 27, 2009, the North Carolina General Assembly unanimously passed a bill, House bill 613, which states that the consent of the State is not granted to the Federal Government for acquisition of land for an outlying landing field in a county or counties which have no existing military base where squadrons are stationed. I ask unanimous consent to have printed in the RECORD this document, as well as a letter from the president of the North Carolina Senate.

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

GENERAL ASSEMBLY OF NORTH CAROLINA, SESSION 2009

SESSION LAW 2009–20, HOUSE BILL 613

An Act providing that consent of the State is not granted to the United States for acquisition of land for an outlying landing field in a county or counties which have no existing military base at which aircraft squadrons are stationed

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 104–7 reads as rewritten:

''§104–7. Acquisition of lands by the United States for customhouses, courthouses, post offices, forts, arsenals, or armories; cession of jurisdiction; exemption from taxation.

(a) The consent of the State is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in the State that either is:

(1) Required for customhouses, courthouses, post offices, forts, arsenals, or armories; provided that the total land to be acquired for a particular facility does not exceed 25 acres; or

(2) To be added to Fort Bragg, Pope Air Force Base, Camp Lejeune, New River Marine Corps Air Station, Seymour Johnson Air Force Base, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, or the United States Coast Guard Air Station at Elizabeth City. Any of the land to be added to a military base named in this subdivision shall be contiguous to and within a 25-mile radius of the military base for which the property is acquired.

(a1) Notwithstanding the provisions of subsection (a) above, the consent of the State is not given to the acquisition by the United States, by purchase, condemnation or otherwise, of any land in a county or counties which have no existing military base at which aircraft squadrons are stationed, for the purpose of establishing an outlying landing field to support training and operations of aircraft squadrons stationed at or transient to military bases or military stations located outside of the State. Exclusive jurisdiction in and over any land acquired by the United States without the consent of the State under this subsection is not ceded to the United States for any purpose.

(b) Exclusive jurisdiction in and over any land acquired by the United States with the consent of the State under subsection (a) of this section is hereby ceded to the United States for all purposes for which the United States requests cession of jurisdiction except that jurisdiction in and over these lands with respect to: (i) the service of all civil and criminal process of the courts of this State, (ii) the concurrent power to enforce the criminal law, (iii) the power to enforce State laws for the protection of public health and the environment and for the conservation of natural resources, and (iv) the entire legislative jurisdiction of the State with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property is reserved to the State. Cession of jurisdiction shall continue only so long as the United States owns the land.

(c) The jurisdiction ceded shall not vest until the United States has acquired title to the land by purchase, condemnation, or otherwise; accepted the cession of jurisdiction in writing; and filed a certified copy of the acceptance in the office of the register of deeds in the county or counties in which the land is located. The acceptance of jurisdiction shall be made by an authorized official of the United States and shall include a precise description of the land involved and a statement of the extent to which cession of jurisdiction is accepted. The register of deeds shall record the acceptance of jurisdiction and index it in both the grantor and the grantee index under the name of the United States and, if title to the land over which jurisdiction is ceded is vested in any entity other than the United States, then the register of deeds shall also index the acceptance of jurisdiction in both the grantor and the grantee index under the name of that entity.

(d) So long as land acquired with the consent of the State under subsection (a) of this section remains the property of the United States, and no longer, the land shall be exempt and exonerated from all State, county, and municipal taxation, assessment, or other charges that may be levied or imposed under the authority of this State.

(e) Persons residing on lands in the State for which any jurisdiction has been ceded under this section shall not be deprived of any civil or political rights, including the right of suffrage, by reason of the cession of jurisdiction to the United States.''

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2009.

WALTER H. DALTON,
President of the Senate.

WILLIAM L. WAINWRIGHT,
Speaker pro tempore of the House of Representatives.

BEVERLY E. PERDUE,
Governor.

Approved 3:21 p.m. this 30th day of April, 2009.

NORTH CAROLINA GENERAL ASSEMBLY,
Raleigh, NC, May 27, 2009.

DEAR NORTH CAROLINA CONGRESSIONAL DELEGATION: We are writing to inform you of the North Carolina General Assembly's unanimous opposition to the Navy's plans to build an outlying landing field in northeastern North Carolina. Last month, both the North Carolina House of Representatives and North Carolina Senate unanimously passed House Bill 613, which says that the consent of the state is not granted to the federal government for acquisition of land for an outlying landing field in a county or counties which have no existing military base where aircraft squadrons are stationed. This new law, which the Governor signed April 30th, will make it more difficult for the Navy to force an OLF into Camden, Currituck, or Gates Counties and sends a strong, unified message of opposition from our state. We are including a copy of the legislation for your information.

All along, we have known that an OLF in northeastern North Carolina would benefit the people of Virginia and would be built to alleviate noise and congestion at Naval Station Oceana in Virginia Beach. For years, the Navy has refused to admit this very basic rationale for their proposed OLF.

Therefore, we respectfully ask you, as our federal representatives, to urge the Navy to move some of the squadrons based at Oceana to the Marine Corps Air Station at Cherry Point. This would alleviate the need for an OLF in northeastern North Carolina and our state would benefit from the employment surrounding these additional squadrons. If an OLF is needed, North Carolina's new law would allow one near Cherry Point, in an area of our state that wants it and receives the economic benefits as well.

North Carolina is the most military-friendly state in the nation and we intend to remain so. It is our hope that we can work toward a solution that allows the Navy to meet its training needs and continues the proud tradition of cooperation between the military and our state.

Sincerely,

MARC BASNIGHT,
President pro tempore.

BILL OWENS,
Representative.

Mr. BURR. Mr. President, an OLF at any of the proposed sites in North Carolina and Virginia would create 52 jobs. Fifty-two jobs, for a 30,000-acre footprint. The location at the Hale's Lake site is a 38,000-acre farm that currently employs 90 employees and has a local economic impact of approximately $6.5 million. Let me say that again. We are being asked to consider a 30,000-acre footprint at Hale's Lake where we are going to take 90 jobs and we are going to replace them with 52 jobs, where they have $6.5 million worth of economic impact and we are going to go to a situation where the Federal Government doesn't pay property taxes.

The core of the Sandsbank outlying landing field site contains 1,269 acres of wetland. Let me say this again. The core of the Sandsbank 30,000 acres contains 1,269 acres of wetlands. In October of 2007, the North Carolina Division of Water Quality recommended that the Sandsbank site not be pursued. Why? Because of the significance of wetlands.

I say to my colleagues—and I think we will probably lose this amendment and we will have a voice vote on it—I think it is important to understand, North Carolina has taken option after option after option to the Navy. As a matter of fact, this is our second round after they shortcut an environmental impact study and the courts got involved for a site they had picked and had already purchased the land. They are now in the unusual position of having a lot of land and they can't build the site there based upon where the environmental impact study sent them because they were trying to put it next to one of the largest migratory bird areas on the east coast. Not a smart thing when you want to have pilots taking jets in. It has to go through the environmental impact study whether they pick the Sandsbank site or whether they pick the Hale Lake's site. So I am not sure if the EIS will allow them to go to Sandsbank where there are 1,269 acres of wetlands that will be incorporated into this. Those are all out there.

We have communities today that are being affected. They are being affected by the fact that property can't sell, that people don't want to move there because they don't know whether there is going to be a naval jet base. They don't know whether there is going to be a 30,000-acre protected area where all night long you are going to have aircraft going in, and it only produces 52 jobs for the local community. Not a very good trade-off on the part of North Carolina. Not a very good action on the part of the military.

I ask my colleagues—I think we probably know the outcome of the vote, but

we have to be vigilant. North Carolina is an incredible State when it relates to our military. That doesn't mean that the military can walk in and make a decision that is inconsistent with what is good for our State, and potentially forces an adverse relationship between the State and the military. They pushed it in and that is why the General Assembly did what they did. It is my hope that as this bill moves through conference, since the House has this provision in it, at least this provision will prevail.

I thank my colleagues, I thank the Chair, and I thank the ranking member for their understanding and allowing me to bring this amendment up. It is important that every Member understand what is involved and at the core of this. It is the lives of the people in North Carolina. It is the ability to have predictability in the future and not necessarily a decision that may linger for 6 or 7 or 10 years with individuals not knowing what the disposition of the Navy decision is going to be and, therefore, a market for their property or the plans for the next generation of farmer as it might relate to Hale's Lake, not knowing exactly how to plan their lives.

I would suggest that we call the question on this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in reluctant opposition to the amendment offered by my friend from North Carolina. He and the other Senator, the junior Senator from North Carolina, argued passionately and, to some degree, persuasively in the markup of this legislation.

I think it is very appropriate that they are reacting to local concerns and perhaps even the fact that I think, in straight talk, perhaps the Department of the Navy has not approached some of these communities in a way that would gain the cooperation of the communities.

I agree also with Senator BURR that the people of North Carolina are among the most patriotic that we have in our Nation. But facts are facts, and the Navy needs a field to train carrier pilots stationed on the east coast within the range of both Naval Air Station Oceana and Marine Corps Air Station Cherry Point in North Carolina. The Navy needs to field trained pilots in order for us to have the best qualified pilots in the world. Part of that training, of course, is to learn landing on aircraft carriers, among other types of training.

Again, a lot of local communities in North Carolina and Virginia have expressed concern about noise, about hours, and about the impact it will have on their communities. During the markup we adopted an amendment by the Senator from Virginia, Mr. WEBB, that basically requires the Navy to do extensive consultation with local communities, to consider assistance to local communities in case there is substantial economic impact, and to do everything they can to reach an agreement with the local communities as they go through this siting procedure.

Madam President, I cannot change geography. I think this committee can do a lot of things, but we cannot change the map. The map is that two of our major air stations, Oceana and Cherry Point, are where our pilots and air wings are stationed. They have to have the ability to train, and they have to train someplace within a reasonable range.

So I believe after a spirited discussion in committee, the Senator from Virginia came up with a very excellent amendment that basically requires a lot more participation in the local communities, a lot more consideration and consultation, and even—I have never seen this before—some economic assistance to the local communities, if necessary. Nobody likes to be awakened at 1 or 2 a.m. by the sound of jet engines. I understand that. But I also understand—and I hope our colleagues do—that on the entire east coast, because of population and the location of these two major bases—Cherry Point and Oceana—we don't have much choice but to look in Virginia and North Carolina. We cannot let, over time, that requirement be overridden forever. We can try to accommodate and understand, and we can try to do whatever is necessary to ease the burden. But the fact is, our pilots have to train.

I appreciate the fact that both Senators from North Carolina were eloquent in stating the concerns their local communities have, which may be under consideration for the location of an airfield—just as the Senator from Virginia was concerned; but the Senator from Virginia, I think, in his amendment, laid out some parameters that I think will lead to a fair process, which will take into consideration the very understandable concerns of the local communities.

With reluctance but concern for the ability of our Navy and Marine Corps pilots to train and be adequately prepared to fight, I oppose this amendment.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, I also reluctantly oppose this amendment. Senator BURR and Senator HAGAN have both been very eloquent in their positions, and it is understandable how they and their States feel in this matter. The Navy has not done a particularly good job.

Senator WEBB, in committee, suggested some important language that will, hopefully, be helpful. Senator WEBB was equally eloquent in his position. We adopted that report language. I think we should stand with it. It is simply not good public policy for Congress to prematurely limit training locations—particularly when those sites have not been fully considered by the military.

So it is, hopefully, going to prod the Navy to do a lot better in terms of its consultation and communications with our communities in North Carolina, Virginia, and around the country. I also must oppose this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1519) was rejected.

Mr. LEVIN. Madam President, I move to reconsider that vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Madam President, I see the Senator from Oklahoma here.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. 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. INHOFE. 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. INHOFE. Madam President, I ask unanimous consent that we set aside the current pending amendment for the consideration of Inhofe amendment No. 1559.

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT NO. 1710

(Purpose: To provide for classified information procedures for military commissions, and to provide for interlocutory appeals by the United States of certain orders and rulings of military judges)

Mr. LEVIN. Madam President, I ask unanimous consent that the pending amendment be laid aside temporarily and that it be in order for me to offer an amendment on behalf of myself, Senator GRAHAM, and Senator MCCAIN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for himself, Mr. GRAHAM, and Mr. MCCAIN, proposes an amendment numbered 1710.

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

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

(The amendment is printed in the RECORD of Wednesday, July 23, 2009, under ''Text of Amendments.'')

Mr. LEVIN. Madam President, the amendment I now offer, along with Senators GRAHAM and MCCAIN, would modify the procedures for the handling of classified evidence by military commissions. This is language that was requested by the administration witnesses at our hearing on military commissions procedures a few weeks ago.

We have worked closely together, and we have worked closely with the administration on the language. It is our

understanding that this amendment will fully address the administration's concerns. It has the support of the Justice Department and the Department of Defense.

Section 1031 of the bill, which addresses military commissions, is based on the standard established by the Supreme Court in the Hamdan case that military commissions should 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.'' For this reason, the procedures now in the bill for the handling of classified information are based on the procedures established in the Uniform Code of Military Justice.

However, the witnesses at our July 7 hearing on military commissions made a persuasive case that the procedures for the handling of classified information in Federal court—the Classified Information Procedures Act, or CIPA—would provide a better model for handling classified information. The reason is, the Federal courts have far more experience handling classified information and far more precedent applicable to the difficult issues raised by classified information in detainee cases. DOD general counsel Jeh Johnson explained the issue as follows:

> [W]e note that the legislation incorporates certain of the classified evidence procedures currently applicable in courts-martial, where there is relatively little precedent and practice regarding classified information.

Mr. Johnson continues:

> We in the administration believe that further work could be done to codify the protections of classified evidence, in a manner consistent with the protections that now exist in Federal civilian courts. We believe that those protections——

Referring to the Federal civilian court protections——

> would work better to protect classified information, while continuing to ensure fairness and providing a stable body of precedent and practice for doing so.

VADM Bruce McDonald, the Judge Advocate General of the Navy, testified in a very similar way. He said:

> Section 949d provides for the use of rules of evidence in trials by general courts-martial in the handling of classified evidence. This is consistent with our overall desire to use those procedures found within the UCMJ . . . whenever possible. However, experience has shown that practitioners struggle with a very complex and unclear rule within the Military Rules of Evidence. The military rules do not have a robust source of informative or persuasive case law. Frankly, prosecutions using Military Rule of Evidence 505 are rare. In developing the rules for the handling of classified material during a military commission, it would be more prudent to rely upon the Classified Information Procedures Act (CIPA) used in Article III courts as a starting point.

Since the time of the hearing, we have been working on a bipartisan basis with the administration to produce new language on the handling of classified information, consistent with the recommendations of our witnesses. In accordance with those recommendations, and our own thinking and discussion, the language in the amendment we are considering today tracks very closely with CIPA. In a few areas, we have chosen to codify standards that are applicable case law under CIPA to provide additional clarity.

The amendment is consistent with the intention of the bill to apply established procedures to military commissions and to deviate from those established procedures, where justified, by evident practical need. There is an evident practical need here. We have a good experience under CIPA, and we decided that is the better model to follow.

We also believe the procedures in this amendment will facilitate the handling of classified information in trials by military commissions in a way that is fair to both sides.

I have a letter from the Department of Justice on this matter which I ask unanimous consent to have printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 23, 2009.

Hon. CARL LEVIN,
Chairman.
Hon. JOHN MCCAIN,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEVIN AND RANKING MEMBER MCCAIN: This letter expresses the strong support of the Department of Justice for the Levin-Graham-McCain amendment to S. 1390, the ''National Defense Authorization Act for Fiscal Year 2010,'' regarding classified information procedures for military commissions.

The amendment would establish a system for addressing classified information issues in military commissions that is similar to the system provided by the Classified Information Procedures Act (''CIPA'') for criminal cases prosecuted in Federal court. Although CIPA might need to be updated in some respects to address terrorism cases more effectively, we believe it has generally worked well both in protecting national security and ensuring fair proceedings. The Levin-Graham-McCain amendment adapts CIPA to the military commissions context, with some modifications to reflect lessons learned from past terrorism prosecutions. The amendment expressly provides that the judicial construction of CIPA shall, in most instances, be authoritative in interpreting the analogous provisions in the amendment. It sets substantive standards for providing the defense access to classified information in the discovery phase, and for the use of classified information at trial. It also establishes a range of tools and procedures, such as protective orders, ex parte hearings, alternatives to disclosure of classified information, expanded interlocutory appeal rights, and sanctions for failure to comply, that will provide appropriate guidance to military judges in handling these complex issues as they arise in the course of military commission proceedings.

The Department of Justice consulted at length with committee staff as they developed this amendment, and we are grateful for their work on this important issue. We believe the amendment will advance the President's objective of reforming the commissions and ensuring that they are a fair, legitimate, and effective forum for the prosecution of law of war offenses.

The Office of Management and Budget has advised us that, from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

RONALD WEICH,
Assistant Attorney General.

Mr. LEVIN. Again, I thank Senator GRAHAM and Senator MCCAIN. Senator GRAHAM is an expert we all look to in matters such as this. He has not only personal experience but he has a vast amount of personal knowledge from study, as well as his own experience in this area, and it is invaluable to us. It does help make possible the conclusion we offer the body.

Mr. MCCAIN. Madam President, I would like to, once again, thank Chairman LEVIN for the work he has done in this bill on the structure of military commissions. I appreciate his working closely with me and with Senator GRAHAM, and I believe that the changes in this bill put our military commissions framework on a solid footing so that our nation will be ready to proceed with the trials of terrorist detainees by military commission.

In the same vein, I am pleased to cosponsor Senator LEVIN's amendment No. 1710, which deals with the protection of classified information used in military commissions. This amendment is based on extensive meetings between our staffs and the professional prosecutors who wish to ensure that classified information receives the fullest possible protection in the course of these trials.

The amendment is based in large part on the Classified Information Procedures Act, CIPA, which includes protections for the use of classified information in trials. Based on 20 years of experience with CIPA, and with 3 years of experience with the Military Commissions Act, the protections contained in this amendment are what the professional prosecutors believe they need to ensure that classified information is not improperly disclosed and to allow trials to proceed more efficiently by providing military judges with an extensive body of law based on CIPA upon which to base their decisions. Avoiding the unauthorized disclosure of classified information is a key to ensuring the protection of our national interests, and so I am pleased to advocate the adoption of this amendment. I note that the Departments of Defense and Justice concur with the language contained in this amendment. I urge my colleagues to support its adoption.

Mr. LEAHY. Madam President, the Classified Information Procedures Act, CIPA, provides a framework for using classified information in criminal cases. It is a valuable and flexible tool that allows courts to review classified information and provide for the protection of such material while ensuring a defendant's right to a fair trial. And it works. For close to 30 years, Federal courts have used CIPA to successfully

handle complex criminal cases, including hundreds of terrorism-related cases since 9/11, and still protect sensitive information from public disclosure.

I reintroduced the State Secrets Protection Act this Congress, legislation that would allow the Government to claim the State secrets privilege while ensuring that a judge would review the evidence the Government is relying upon to determine whether the privilege applies. This concept mirrors CIPA and our bill draws heavily from CIPA procedures. But our bill does not water them down.

I was encouraged to see that Senator LEVIN, along with Senators GRAHAM and MCCAIN, proposed an amendment to the National Defense Authorization Act for Fiscal Year 2010 that would provide procedures in line with CIPA for handling classified information in military commissions. One of the complaints that we have heard about commissions involves procedural confusion, including how to approach the handling of classified information. As Senator LEVIN pointed out, ''the unique procedures and requirements hampered the ability of defense teams to obtain information.''

In recent testimony before the Senate Armed Services Committee, Vice Admiral MacDonald, the Judge Advocate General for the U.S. Navy, discussed the difficulty that prosecutors have had using military rules for classified evidence and acknowledged:

> [T]he military rules on the use of classified information fall short of our overall goals. On the other hand, for over 20 years, Article III courts have relied upon the Classified Information Procedures Act, or CIPA.

David Kris, the Assistant Attorney General for the Department of Justice's National Security Division, agreed that CIPA ''has generally worked well in both protecting classified information and ensuring fairness of proceedings'' and that drawing on CIPA would ''allow military judges to draw on a substantial body of CIPA case law and practice that has been developed over the years.''

I agree that, especially with this novel use of military commissions, it is crucial that we draw on evidentiary standards supported by precedent and a proven track record. However, I am concerned that some of the modifications proposed by this amendment would depart from the traditional protections provided by CIPA. For example, CIPA requires the Attorney General to certify that the disclosure of certain information would cause identifiable damage to the national security of the United States. Here, an unidentified ''knowledgeable United States official'' would make that declaration, instead. This amendment also imports a new standard that would require a judge to consider whether disclosure of information would be ''detrimental to national security.'' It would further prohibit the accused from appealing a court order allowing the Government to withhold access to information based on an ex parte proffer by the Government. This marks a serious departure from CIPA's framework for allowing defendants to reconsider such rulings in order to ensure that they are allowed meaningful access to evidence and can present a thorough defense.

I support the administration and Senator LEVIN's goal of using more article III standards in military commissions, and the use of CIPA procedures is certainly a marked improvement. However, it is important that we not minimize the protections and standards that make tools like CIPA effective in protecting both classified information and the rights of the accused. Until we have a more thorough review and understanding of why these changes are necessary, I believe we should proceed cautiously before we depart from the standards that have served us well for so long in our Federal jurisprudence.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I thank the chairman for his kind comments. I have been a military lawyer for a while, but I am smart enough to know what I don't know.

The bottom line is judge advocates, to a person, have indicated the procedures as outlined by Senator LEVIN would be the best way to go. Under the civilian Classified Information Procedures Act, there is a robust body of cases. Military rule of evidence 505(b) is not used very often in courts-martial. What we have tried to do is interject into the commissions some reforms that will make the trials go forward in a manner that the courts are likely to approve the work product.

I think everybody involved—military judges, defense counsel, prosecutors—welcome this change. Senator LEVIN and his staff and our staffs have worked with the White House. I think we found a way to reform the military commissions that would provide balance when it comes to admission of classified evidence to protect the Nation at large and also allowing the people accused of a crime as much access as possible.

Every military lawyer who is going to be involved in the commissions supports this change. I think it is one way to make the commissions better. This whole effort to make the commissions better is bearing fruit. I appreciate what Senator LEVIN has done.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Mr. LEVIN. Mr. President, there is now pending an amendment that I have offered on behalf of myself, Senator GRAHAM, and Senator MCCAIN relative to the protection of classified information; is that correct?

The PRESIDING OFFICER. Amendment No. 1710, offered by Senator LEVIN, is pending, yes.

Mr. LEVIN. Mr. President, I think we are now ready to vote on this amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 1710) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. The pending matter now would be to return to the Akaka amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I am sorry I couldn't be down here this afternoon, and I apologize to my colleagues that we will have a delay on this bill, probably with cloture, until tomorrow morning. My statement is in no way meant to reflect any ill will on Senator AKAKA or Senator COLLINS or Senator VOINOVICH or Senator LIEBERMAN, but we have before us in this amendment something that is intolerable to the unemployed people in this country today, or should be intolerable to everybody.

In fact, what we are going to do is take $3.1 billion and give it to Federal employees in their retirement systems and adjustments to retirement systems when we have 9.5 percent unemployment and we have six States with over 15 percent. What we should be doing is taking that $3 billion and making sure we are creating jobs so people have jobs in this country rather than paying Federal workers.

I want to enter into the RECORD what the average pay and benefits are for Federal employees because most Americans are unaware.

The average Federal pay and benefit for an employee of the Postal Service is $80,353 a year. If you work at the Pentagon, but you are not a soldier, your average pay and benefit is $89,000 a year. If you are a soldier, it is about $25,000 less than that. The guy taking the bullets is making $25,000 less than the civilians working in the Pentagon. Then you have all the rest of the Federal employees, and their average is $113,000. That is twice what the average wage in this country is, and we have attached this amendment to this bill—an amendment which has nothing to do with the Defense Department, it has to do with adjusting pension benefits for Federal employees outside of the Defense Department.

I think our Federal employees are valuable, and I do not mind paying them. But I do mind spending more money at that level now when we have a large number of people who are unemployed. If we count people who are not looking for work anymore because they are so discouraged, we have over 15 percent unemployment. The very idea that we would take $3.2 billion from our grandkids to add to a program, when we have millions and millions of Americans not collecting a paycheck at all, to me, is inappropriate. We can't afford it because we are going to charge it to the next two generations. We don't have the money.

That reminds me. If we go back and talk about where we are in this country, we have the first $4 trillion budget ever, this year. That is what is going to be spent—$4 trillion in 1 year. We are spending $1 trillion more this year in the last 7 months than we did last year in this country. We have passed bill after bill after bill after bill that we can't afford to buy things that we don't need with money we don't have.

Let me, for my colleagues, read the unemployment rates throughout the country: Alabama, 10.1 percent; Alaska, 8.4; Arizona, 8.7; Arkansas, 7.2; California, 11.6; Colorado, 7.6; Connecticut, 8 percent; Delaware, 8.4 percent; Washington, DC, 10.9 percent; Florida, 10.6 percent; Georgia, 10.1; Hawaii, 7.4 percent; Idaho, 8.4 percent; Illinois, 10.3 percent; Indiana, 10.7 percent; Iowa, 6.2; Kansas, 7 percent; Kentucky, 10.9 percent unemployment; Louisiana, 6.8; Maine, 8.5 percent; Maryland, 7.3 percent; Massachusetts, 8.6 percent; Michigan, 15.2 percent.

What would the people of Michigan do with $3 billion to invest in jobs in Michigan right now?

Minnesota, 8.4 percent; Mississippi, 9 percent; Missouri, 9.3 percent; Montana 6.4 percent; Nebraska, 5 percent; Nevada, 12 percent; New Hampshire, 6.8 percent; New Jersey, 9.2 percent; New Mexico 6.8 percent; New York, 8.7 percent; New York, 11 percent; North Dakota, 4.2 percent; Ohio, 11.1 percent; Oklahoma, 6.3 percent; Oregon 12.2 percent; Pennsylvania, 8.3 percent; Puerto Rico, 14.5 percent; Rhode Island, 12.4 percent; South Carolina, 12.1 percent; Tennessee, 10.8. If I missed South Dakota, it is 5.1; Tennessee, 10.8 percent; Texas, 7.5 percent; Utah, 5.7 percent; Vermont, 7.1 percent; Virginia, 7.2 percent; Washington State, 9.3 percent; West Virginia, 9.2 percent; Wisconsin, 9 percent; and Wyoming 5.9 percent.

Those are just percentages. But you know what they represent? They represent real hard-core pain for American families today. The fact that we would have the gumption to come and take another $3 billion from them to increase the benefit structure of Federal employees at a time when what we should be doing is seeing how we can become more efficient in the Federal Government and spend less money in the Federal Government flies in the face of the difficulties that these individuals find themselves faced with.

If you look at what is actually happening to our country and take the 75-year projections, this year we are going to spend under $200 billion in interest. Eight years from now we are going to spend $806 billion in interest just on the interest rates we have today.

How many people believe we will have a Fed discount rate of a quarter of 1 percent 8 years from now and that we will be able to borrow money on a 10-year T-bill at 3.6 percent? It isn't going to happen. We are going down the road to destruction, and we are clueless about how to solve it.

So if we add up the 75-year projected unfunded liabilities for Medicare and if we add up the 75-year unfunded liabilities for Medicaid and if we add up the 75-year unfunded liabilities for Social Security and if we add up the 75-year unfunded liabilities for Federal employee retirement and if we add up the 75-year unfunded liabilities for military retirement and if we add up the 75-year unfunded liabilities for every other trust fund this Congress and Congresses before have robbed the money from to spend now—which should have been endowed—what we come to is $100 trillion.

If we look at what our population is expected to be then, and the percentage that would not be working in the workforce—in other words, the very young children and the very large 40 percent of that population that is going to be retired—what we end up having is an unfunded obligation for every one of those people who are going to be the taxpayers of $500,000 apiece. That doesn't include the debt we have now, which is $11.4 trillion—which is going to double to $22 trillion over the next 10 years—and the internal debt of that will triple. So now we have $122 trillion worth of liabilities. Yet we are saying, now is the time to increase the benefits for Federal employees.

I don't deny that the Federal employees do great work. But when you look at what the average pay plus benefit is for Federal employees versus everybody else in the country, now is not the time to do it. Not only because, No. 1, we can't afford it; but, No. 2, it is patently unfair to everybody else in this country based on the average salaries.

So the fact that we would add an amendment onto the Defense bill—because it is a bill that is going to move; there is no question it would not survive cloture—that doesn't bother me. I have done that a lot. What bothers me is that we lack the perspective of what is happening. We passed a $787 billion stimulus bill, of which only $80 billion has gone out the door. The unemployment rate is still rising—and I am not critical. This body passed it. But it is not going to be highly stimulative because most of it was not meant to be stimulative. It was meant to be transfer payments. But we have spent that, and that is all borrowed money. We passed an omnibus. We passed a supplemental. None of that was paid for. Not a penny of it was paid for. That is all borrowed.

So what we have done is we are going to add $2.2 trillion to our debt this year, and now we have something that, well, it just adds a measly little $3.2 billion. But think about what $3.2 billion would do to help people who don't have a job in this country today. Instead, we are going to enhance the benefits of Federal employees. To me, it is an insult to every other worker who is out there who is either struggling to keep their job—and, by the way, we are going to add 100,000 Federal employees this year. So these numbers are underestimating what the real cost is.

Here is the amendment. It is 49 pages long. It has six major titles in it—adjusting. We allow people who left the government to come back and put their money back in, and we will say: Oh, you didn't leave, so you didn't lose any of your retirement. You still get it compounded.

We have institutionalized sick pay and we have made it an entitlement. We have said everybody who has ever worked for the DC government, they can work for the Federal Government and all of their retirement years will transfer to the Federal Government. But we don't do that for anybody else who works for any other State government. We certainly don't do that for people who have retirement plans from any other company. We don't add that retirement to the Federal Government's. So why are we doing things that are patently unfair to the rest of the American workforce in this country?

I plan on speaking on this bill until cloture ripens, which means we are going to be here all night. Until this amendment is withdrawn, I will stay here, or I will have a colleague stay here, and we will talk about how this country is out of control in its spending. We will talk about how we have failed the American people by not being good stewards; how we have not done oversight on the $350 billion worth of waste every year. Not one amendment has passed that has gotten rid of any of the waste that this government wastes every year. Not one has gotten through this Congress. Not one.

We are getting ready to work on a health care bill. We have been working on it. We have spent a ton of time on it. We have $120 billion worth of fraud in Medicare and Medicaid, but we haven't addressed that at all. It is not being addressed. We are twiddling our thumbs as Medicare goes bankrupt, while Medicare doesn't offer the services that are promised, and we are going to create another $1.6 trillion worth of cost for the American people. The only thing I can figure is that Washington thinks we can spend more money to save money in a significant way. We have been trying to do that since 1965 and it hasn't worked once, and it isn't going to work this time.

Let me mention, for a minute, just some of the things that we have been doing that do not fit with the priorities

of American citizens. It does not come anywhere close to matching what every family in this country is doing today. Here is what they are doing.

First of all, they are scared and they are fearful and they are worried. Do you know what they are doing? We see it in the economic statistics. When consumer spending drives normally 70 percent of our economy, we have the highest savings rate we have had in 40 years because they are afraid to spend. One of the reasons they are afraid to spend is because they don't trust what we are doing up here. They think things might get worse. I think things are going to get better, but they are certainly not going to get better by spending another $3.2 billion in this way.

What they do is they sit down as a family and they say here is what is coming in and here is the auto payment and here is the house payment and here is what we have to have for groceries and here is the utility bills. What is left? In other words, they make a list of priorities. They decide what has to be done, what must be done, but what they want to do comes last because we are in tough times. That applies to almost every family in this country. It implies heartaches because it means a father is not doing something he would like to do for his son or a mother is not buying a new dress for a daughter to help her own self-esteem in comparison with other children. It has real-world factors on families.

They make those hard decisions every day, absolutely every day. The reason they make those hard decisions is they do not lack the courage to face reality, such as we do. They also do not have the other option we have, and that is charging our lack of courage to the next two generations.

Most Americans are not cowards. They look at the real world, they look at what is responsible of them, what decision is going to have to be made. They dig in their heels, they work and work to solve the problem, and they will go through tough times doing the very best they can to make good of a bad situation.

That is opposite the behavior this place has been displaying. We have ignored the fact that we have $11.4 trillion worth of debt. We passed a stimulus spending bill, of which less than $150 billion was true stimulus. We have created dependencies of, now, the States. Anytime they are in tough times, they have now been infected with our illness: Don't worry about it, we will just charge it to the next generation. Because every State we helped through the stimulus we did charge it to the next generation. We have now instituted lack of discipline by every State legislature in the country because now they no longer have to worry about it. The Senate will just borrow from their grandkids and send it to them and now they don't have to worry about it, they don't have to have any courage to make the tough decisions.

What all have we done that would secure the honor of the American people, that we are working for them? What symbol have we given them, in terms of limiting our excesses in Washington, that might give them hope?

The Akaka amendment is the opposite of that. It is saying: You don't get it, your priorities are not right. You think you can forget what has happened to us. You think you can charge it to our grandchildren and our children. You think you can steal their opportunity and nobody is ever going to know it.

I have barked up this tree a lot in the last 5 years in this body, and I am not ever going to stop barking up this tree because it is morally wrong to steal the future from your grandchildren. It is morally wrong. It is not just ethically wrong, it is not just conveniently wrong, it is morally wrong to take the great attributes of this country away from your children and grandchildren. It is time for some grownups to start making hard decisions that may cost us reelection but are in the best long-term interests of this country.

So this issue is not going to go away. I may ultimately get defeated on it, but those families out there who do not have a job, those families out there making those hard choices every day—every night worrying where is the money to buy the food that is going on the table the next day, who still have a job—they are going to know somebody is going to fight for some common sense in the Senate.

There is no question, I lost this amendment in committee. I was mortified at the lack of sensitivity to the rest of this country, placing Federal employees' very good benefits—enhancing those above the negatives that are occurring to every family in this country based on our economic situation. Even if we were not having a tough economic time, it would still be wrong to do this. It would still be incorrect to do this.

If you think for a minute about what it costs to fund the interest costs on $500,000—if it is 6 percent, it is $30,000 a year. If I were a schoolteacher here and we had a blackboard, I would be making everybody write home that I am sorry I am stealing $30,000 a year from each of your children. That is what I would be doing—I am sorry I am stealing $30,000 a year just to pay the interest, never mind paying the principal off, on what we have accumulated.

Take a young child 6 years of age today and extrapolate that out to right before their retirement. What you have done is you have stolen their opportunity to have the American dream because it is not just going to be the $30,000, because all the years they can't work it is going to build that they will have to pay and all the years in their retirement are going to be less because they will not have the benefits.

By the way, if you are a Federal employee and unhappy with me trying to defeat this amendment, you should pay attention to something. There is no guarantee to your Federal pension based on the economics we face today in this country. If you think it is guaranteed, you have another thought coming because the world economic system is going to determine whether we can honor that pension. That is what is coming. We are very close.

It was not long ago that Alan Greenspan was asked a question: What is the maximum limit which we can borrow? There is a lot of question about whether people want to loan us money anymore. What he said is, I don't know what it is, but I can tell you we are getting very close.

What happens to us when we tap out? You know, he is not an unrespected thinker in materials of economics and banking.

Here is what happens to us. Interest rates that are 3.6 percent for a 10-year government note go to 7 percent, 8 percent, 9 percent, 10 percent. All of a sudden, the cost of funding our debt becomes $2 or $3 trillion a year, 20 years from now. What is the option? The option is there not be any government pensions, there will not be any Medicare. We will barely have money to defend our country. All these wonderful Federal programs that we have, most of which have a duplicate somewhere in the Federal Government that they defend, that we cannot get rid of because they have a constituency that somebody might be afraid, if we eliminate some of the $350 billion in waste, fraud, and duplication, they are not going to be there.

So what it comes down to and what we are facing is, can our Republic survive our excesses? Can we survive this tremendous direction that we have stepped away from reality, saying economic forces do not apply to us? The answer to that is no. There will not be a Federal pension when interest is at 10 or 12 percent and we have $35 or $40 trillion worth of debt.

Mr. McCAIN. Will the Senator yield?

Mr. COBURN. Certainly.

Mr. McCAIN. Does the Senator have an estimate how much this will cost the taxpayers?

Mr. COBURN. Over the first 10 years, $3.3 billion.

Mr. McCAIN. I understand from the amendment there is a provision that all the money is paid back.

Mr. COBURN. It is another trick and game. There is an assumption it will be paid back, but it will never be paid back. What it will do is increase the obligations of the Federal taxpayer—that is myself and you and all your families and everybody we represent—the liabilities of the people who are going to get the benefit from this amendment.

Mr. McCAIN. Could the Senator tell me the connection between this amendment and the Defense authorization bill?

Mr. COBURN. There is no connection between this amendment and the Defense authorization bill.

Mr. McCAIN. May I say to the Senator from Oklahoma, I am in agreement. We do strange things around here, particularly late in consideration of the bill. I thank him for at least bringing it to the attention of the American taxpayer.

Mr. COBURN. Mr. President, I wish to finish my line of thought because what I sense is the American people get it and we do not. The American people are worried we do not get it. They are worried we think we can continue spending money, not reform things, not make things more efficient, not eliminate duplication. What they know is this is not monopoly money. They know this is not ''not real money.'' They know this issue about us having common sense, about us being fiscally responsible—they know the future of their children and their grandchildren depends on whether we start acting the same way every other family in this country has to act. That is in the real world. It is not in the world of Washington that: Don't worry, we will put it off because the next election is much more important than I addressing this and taking the next tough vote. We are going to put it off.

I say to my colleagues, I have plenty of topics. I am going to spend the next couple hours going through waste so the American people can actually see how well we have done with their money—waste and earmarks and things that benefit the well-heeled and the well-connected but hurt your children and hurt your grandchildren.

Before I do that, I wish to spend a moment talking about what the heritage of our country is. How did American exceptionalism come into being? How is it that this became the greatest country in the world, that had more technological advances than anybody else in the world? That created the highest standard of living of any society ever known in the world? What was the glue, what was the key, what was the characteristic that allowed that to happen?

I will tell you what it was. It was called sacrifice. If you think back four or five generations in your family and you try to find out what was going on, no matter what your racial background is or what your lineage is, what you saw was people willing, absolutely willing to sacrifice the short term to make sure the long term was better for their children, their family, and their grandchildren. That is what I call a heritage of sacrifice. It is what made us great. It is what created this vast, great country.

I am sorry to say that, since I entered the area of public service—and one of the reasons I entered it was because I didn't see this trait—is that, since 1994 I have not seen any change. Actually, it is worse.

When you take the oath to be a Senator, what it says is you will do what the Constitution says. You will uphold it, you will make sure it is protected, that you will follow it.

I have a bill, it is called the Enumerated Powers Act. It has a lot of cosponsors, but none of the big spenders here want to cosponsor it. Do you know why? Because it creates a challenge for wasteful spending. What it says is what our Founders thought was pretty important. They very clearly, in article I, section 8 of our Constitution, listed out what the responsibilities of the Federal Government are. They listed them out. What Madison and Jefferson wrote about when they wrote in article I, section 8, they said people are going to try to say it is something different than this. They are trying to say the general welfare clause is we can do anything we want. The commerce clause is—don't believe them. That is not what we intended. Yet that happens every day in this body. We abandon the intent.

We just had a hearing on a Supreme Court nominee and one of the questions she was asked by a lot of us was: Are you going to uphold the Constitution?

Well, my thoughts and prayers would be that she will do a better job than we do, because we get an F. And the American people know it. They know we cannot tolerate this spending. They know we cannot tolerate this debt. They know we cannot tolerate raising taxes on the American people if we are going to hope to get out of this. Their wisdom needs to be brought here. And the way you bring your wisdom here is to let us know. Hold us accountable. Call, e-mail, go to the offices, write to our homes, make sure that people who are representing you uphold that oath of fulfilling the Constitution, honoring the tenth amendment.

You know, our Founders in the Bill of Rights put in the tenth amendment, and it is a very important amendment, because it says: Whatever is not spelled out specifically under article I, section 8—here is the limited things the Federal Government is supposed to do—is explicitly reserved for the States and for the people.

So how is it that we are going to have a $2 trillion deficit this year? I can tell you how it is. It is because we have ignored the Constitution. We have done things that are totally outside the realm our Founders thought we would ever do. We have taken over things that are truly the responsibilities of the States and the communities and individuals. We have created dependency by the States, created dependency in all sorts of others.

I got a letter last week asking me to sponsor money for fire engines for Oklahoma. When did buying firetrucks for Oklahoma become a part of the U.S. Constitution? Am I supposed to steal money from people in Pennsylvania and New Jersey and New York so Oklahoma can have fire engines, which is an Oklahoma responsibility? It is not even an Oklahoma responsibility; it is a community responsibility.

As we create this dependency, we create something that is worse after it. If you cannot get it, you all of a sudden are a victim. That is why earmarks are so bad, because what they do is keep us from making the great and hard decisions we should make because we benefit from it politically.

That is why several of us have fought since we have been here to change the earmarking process so that the American people can see what it is about. And what you will see, you watch on this bill, on the appropriations bills that follow, is if somebody has an earmark in this bill, they will never vote against it. Because what they will be told by the chairman or ranking member of the committee the next time they go to request something is: Oh, you requested something. I put it in the bill, but you did not vote for the bill, so I am not going to give it to you.

What happens is, instead of looking at the content of a bill and the best long-term interests of the country, we look at the content of the earmark and how we look back home to the well-heeled and the well-connected few, the source of campaign, the source of political empowerment, instead of looking at our oath that says: You will follow the Constitution.

There is no question we have the right to say where money goes. And there is no question we should be able to have earmarks if they are authorized, which means that a committee of your peers, through the Appropriations Committee, says: This is something we as a country ought to do. But you will not see that. What you see are not authorized earmarks. They do not go through a committee of your peers. So it becomes the very foul stink that ends up corrupting the whole system of following that Constitution and being loyal to that oath.

In 2016, every American is going to pay $13,000 on the national debt—think about that—for interest. I said that wrong. Every American family is going to be responsible for $13,000 worth of interest on the national debt. That is if it does not grow a penny from now. And we know we are going to have trillion-dollar deficits from now for as long as we can see under the budget that has passed this body.

The average American family, do you have $13,000? Do you have $13,000 for us to continue the excess of uncontrolled spending in Washington, the excess of failing to do our job to eliminate waste and fraud and duplication? Do you have it? Maybe you ought to call us and borrow it from the Senators. Maybe you ought to ask us for it since we are the ones labeling you with it.

So as you hear what we are saying today when we talk about what is going on, these are not just words; they are real facts that affect real lives, that limit opportunity, that steal this wonderful country from us and our kids. Because what is happening is we are slowly putting handcuffs on ourselves. We are slowly diminishing our ability to be creative. We are slowly taking away the opportunity and the freedom with which we have excelled.

If, in fact, the government said more about how you live your life than you say how you live your life, you have lost freedom. You have lost it. As we encounter this mountain, this truly high mountain of debt, what is going to happen is those handcuffs are going to get tighter and tighter—they are not going to get tighter, they are going to get closer and closer together before we have little ability to get out of them, little opportunity to change.

We are close to being on an irreversible course. What we do and how we do it over the next 2 years in this country is going to determine whether your children live in freedom. And I do not mean controlled by a dictator, I am talking about having the freedom to have the opportunity to work hard, to develop your skills, to take risks, and to hopefully reward yourself and your family so that, in fact, you can be benevolent to someone else who may not be able to do that. That is what America is all about.

We are losing. It is going away. And it goes away every week in this body. Every week that we create another new government program that limits your freedom and puts a bureaucrat between you and your choice, it goes away. Quite frankly, we have gotten pretty good at stealing your freedom.

For me and the people I represent, we have had enough. We have had enough of the government deciding everything for us. We have had enough of judges not following the Constitution. We have had enough of Federal bureaucrats limiting our property rights, and what we can do on our own property. We have had enough of people telling us what our freedoms are and what they are not. We have had enough of the Federal bureaucracy in education ruining our schools rather than giving us the freedom to educate the children the way we want; taking our taxes, absorbing 20 percent and sending 80 percent back and saying: You can have this money if you do this, this, this, and this. It is interesting, in the Constitution, there is no role for Federal education, no role for the Federal Government to be involved in education. None. Zero. Where did we get the idea that 80 percent of the people who work in the Department of Education, who do not know how to teach a child, should be telling the teachers in this country what to teach, and what to do, and what they can get paid for and what they cannot.

That is a loss of freedom, folks. You have a bureaucracy in Washington that determines the outcome of what your children's education is going to be, rather than you determining what that outcome will be.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. COBURN. I will yield for a question.

Mr. SESSIONS. I know my colleague has given more time and effort to studying the sickness that is affecting our Congress with regard to how we spend money than anyone in this body, and he has taken a lot of heat for standing up and raising these issues. I salute him for it.

But the amendment that is before us, it seems to me, is absolutely typical of how out of step Congress is. This may be a swell amendment for whoever benefits from it, but the people who are paying for it are not aware that the money they have earned from the sweat of their brow is now going to somebody who got a better health care plan, a better retirement plan and higher pay than they get, and more job security than they get.

In my home county, the unemployment rate is over 20 percent. Then we have people with so much better jobs wanting more money. This is what, a $2 billion amendment? I would ask you, is this not sort of a pretty egregious example of the tendency we have to try to reward one group and ignore the cost that everybody else is going to have to pay?

Mr. COBURN. I would answer the Senator, yes, but it is even worse in another way, and it is this: You know, we are not going to get killed by one big punch. It is going to be the little pinpricks. This is another pinprick. The fact is, I would love for our Federal employees to get this benefit. But we cannot afford it, one.

No. 2, it is highly unfair to everybody else out there trying to struggle right now to pay the taxes that pay those salaries. No. 3 is, we do not even have the money to fund the pensions for the Federal employees that we have promised right now. So it is about us getting it wrong. Our priorities are wrong. That is my whole point. There is no common sense to what we are doing.

Sure, it is nice, you can be lauded by all of the Federal employees: You did this. You did this. You can get their vote. But what about the future of our Republic? What is going to happen to us?

I have a granddaughter who is going to be born in the next 2 weeks, and I am wondering if she will even recognize what I knew to be what we were like in the 1950s, 1960s, 1970s, 1980s, because the freedom, the diminution of our freedom in this country has been massive. It is in direct correlation with the size of the growth of the Federal Government, directly correlated.

The bigger the Federal Government is, the less freedom we have. As it gets smaller, we can possibly get back some of our freedom. But we are talking about growing the Federal Government, we are talking about making it bigger. We are talking about having it more involved in every aspect of our life and taking away the ability of you and your family to make critical decisions about your family.

Are we totally dependent on the Federal Government? If that is where we are, our freedom is lost. If we have decided we do not need the States any more, get rid of all of the State legislatures; the Federal Government is doing it all anyway. And we do it so efficiently and so well, you can interact with your bureaucrat so well. They always make sense, they are always 100 percent responsible. That is garbage.

The fact is, the farther away your government is from you, the less control you have over it. There is no need, if we continue the direction we are in, to have a city council. We are directing what you have got to do on street lights now. We are going to tell you what car you can drive.

I thank the Senator from Alabama for his question. I appreciate his help on a lot of these issues.

This is not anything other than a departure point for our country. So let me spend a little time—first, let me tell you how good of a job we do. We passed a $787 billion stimulus bill of which $70 billion is out the door. So not even 10 percent, maybe 10 percent by this week; I have not checked the Web site this week to see.

Let's talk about what has gone out the door. What has gone out the door in my home State in Perkins, OK, that to get the money for a new water sewage system that the Federal Government said they had to have—State government did not say it, the Federal Government did—they had to spend an extra $2 million to build a water disposal and sewage plant that originally was going to cost $4 million. Now it costs $6.2 million. Guess what they got from the Federal Government—$1.5 million.

Think about that for a minute. Here is the stimulus. There is no question some jobs are being created from that. There is no question the citizens of that town will have to pay higher water rates and sewage rates to get a new plant. But what we did in the meantime of having the Federal Government involved in it is we raised the net cost of it by $500,000 so that the people who are going to benefit from it are going to end up paying water rates, sewage rates, at elevated levels for a longer period of time because the Federal Government got involved in it.

It doesn't mean we didn't need the sewage plant. We did. It didn't mean the city fathers didn't do the best thing they could for the city. They had to get a bond. So when somebody comes up and says, I am the Federal Government, here is $1.5 million, take it; and you say, maybe I can help my city out and get this thing done—except the net result of that is, it will actually end up costing $2 million more—ask yourself a question: If you were to build a garage onto the back of your house and the Federal Government says: We will give you a grant to help you do that, but when you finish up, the net cost to you is going to be about 8 to 20 percent more than what it would have cost if you did it yourself, are you going to take that deal? No, you are not.

This is money that is already out the door on the stimulus. It is an example of what happens when we lose common

sense and when we lose economic parameters with which to make decisions.

No. 2, in the stimulus was, heretofore, before we got to the health care bill that we just passed out, was the largest earmark in history, $2 billion. Here we have FutureGen. Let me tell you what we know about FutureGen. The idea behind it is pretty good. Let's figure out if we can take coal and make it absolutely clean and take the carbon dioxide out of it and sequester the carbon dioxide and use this resource we have and have a totally nonpolluting coal plant for generating electricity. Good idea, right? It got canceled in late 2007 because the Department of Energy, relying on a study from the Massachusetts Institute of Technology, said: We don't have the technology to do it. You shouldn't spend the money. The technology isn't there.

Isn't it funny, in 4½ months that report gets ignored and we put a $2 billion earmark in to build a coal plant that we don't have the technology for? Let me explain what will happen. We will spend that $2 billion, but when the $2 billion is gone, they are going to come back and say: We almost got it. How about $2 billion more? We will get another $2 billion earmark and another $2 billion earmark, and 5 to 10 years from now, we will have $24 billion in it. Then they will either do one or two things. They will say: We finally figured it out, which means had we waited to build on it a small prototype plant and perfected the technology, we could have done it for 5 percent of that, or they will say: It just didn't work. We can't do it. But we did it on the basis of parochialism and the enhanced interest of some power companies that were well-heeled and well connected to this body. So now we have $2 billion of your money going to a project that MIT says the technology isn't finished yet, and we should not be spending any money to build a final plant. Yet we did it. Yet the claim was that there weren't any earmarks in the stimulus bill.

Here is another fact that a lot of people don't know. Every fact I will give you I can absolutely document, either from the Department of Transportation or somewhere else. We have over 230,000 major bridges in disrepair. Remember Minneapolis. We have tons of those bridges. I am not saying they will collapse, but structurally they have been deemed to need repair.

The stimulus bill spent $24 billion on roads, highways, and bridges. We should have spent $100 billion because we really would have created four times as many jobs. We would have bought things we know we will have to buy anyhow, and we would have fixed problems we know we have today. If we are going to borrow money against our kids' future, it ought to be on high-priority items that will truly benefit us and our kids rather than that which is not going to benefit us.

Here we have Wisconsin, which has 1,256 structurally deficient bridges—more than Florida, Colorado, Arizona, and Alaska combined. Instead of fixing those, they put $58 million into bridge repair to repair 37 rural bridges that people hardly ever use. Why? How? How did it happen? We have interstate highway bridges that need to be repaired that have tens of thousands of cars going over them every day, and instead we repair a bridge to a bar. I guess that Rusty's Backwater Saloon is more important than the safety of kids on the highway.

Then we have a Florida project. When we build highways today, especially interstates, we put these eco-passages underneath them so that wild animals—sometimes cattle, if they are connected lands—can have transportation underneath the highway without going around. Good idea. In Florida, we have a highway sitting there, and less than a couple miles down the road we have an eco-passage, and a couple miles up the road we have one. We are going to spend $3.4 million to put another one in because too many turtles are crossing the road and getting hit. Maybe that is OK. But when we have a $11.4 trillion debt, we are going to run a $2 trillion deficit this year, when everything we are spending this year—50 cents out of every dollar we spend, we are borrowing on the backs of our children—should we be spending this kind of money on turtles? There are plenty of turtles in Florida. It is probably not going to have an ecological impact. But is that a priority? Is that something we should be doing? I think not.

We have a nonprofit that got fired for doing weatherization contracts in one of our States, for poor performance and noncompliance. We get the stimulus, and guess who gets the contract—somebody who has already cheated the taxpayers. Nevada. Somebody has already been fired for noncompliance and not doing appropriate work, and the first thing we do is we hire them back. Do you think there might not have been a political connection with the person who got that contract? Think it is strange?

Here is my favorite. This is Oklahoma. In the wonderful wisdom of the Corps of Engineers, back in the late 1940s and 1950s in western Oklahoma—fairly arid land, good for raising cattle, and where you can get irrigation, it is great for growing wheat—we built a dam and a spillway and generation and everything. Only one problem: There never was any water that came to the lake.

So we have this little road that runs along the edge of it, and they replaced the guardrails 2 years ago. Less than 10 cars a day in the regular summer season go across this, 3 average in the winter. The Corps of Engineers decides, since we have all this money, we need to replace the guardrails. The reason they wanted to replace the guardrails is they are an inch and a half too short for the 10 cars that go by there. But if you run off the road, you run into something down there that is dry as a bone. You don't run into a lake. But because the Corps has the code that you have to have guardrails on anything around a lake, even if you don't have a lake there, we are going to spend millions of dollars putting guardrails around a nonexistent lake because the bureaucratic code is: Never do what is best when you can do what is good for you. Here goes millions of dollars to build guardrails. I pretty well have gotten this one stopped by having my staff out there with the Corps, but had I not done it, we would have spent the money.

What are we doing? Do you like the fact that the Federal Government is involved in all this? Do you think they are exhibiting wisdom and prudence?

We can take Elizabethtown, PA. They have had an old train station that hasn't been used in 30 years. Granted, they could maybe use a train station, but they have been getting along pretty well without one for 30 years in this particular location. We are going to spend millions of dollars to renovate an old train station, not because we have a need but because we have money to spend and it will create a job.

There is nothing wrong with having deficit spending, in terms of Keynesian economics, to try to stimulate the economy, but there ought to be a priority that what we spend the money on actually, in fact, is a long-term benefit that we would have spent the money on anyway. When we throw the money out there and we roll the dice, what happens is, yes, we get a benefit. We get the millions of dollars spent on our behalf. It gets spent on our behalf. But was it the best way to spend the money? Was there another priority that would have been better, that would have created more jobs, that was something we truly have to have, that would have created a permanent job, that would have helped truly stimulate the economy? Those questions are not getting asked.

Here is another one of my favorites. Part of the stimulus was that we give seniors a check. I don't understand that, but we did. But the IRS sent checks to 10,000 dead people. It can happen. I could see how that could happen, but 10,000? So if we are sending checks to 10,000 dead people on a stimulus, what else are we not doing right at the IRS and every other agency? I think it totaled $25 million.

Here is another one of my favorites: Union, NY. The town of Union was surprised when it was notified that it would be receiving a $578,661 stimulus grant to prevent homelessness for several reasons. Here is another interesting point: They never applied for the grant. Second, they don't have a homeless problem. ''Union did not request the money and does not currently have any homeless programs in place in the town to administer such funds,'' said the town supervisor, John Bernardo. ''We were surprised. We were never a recipient before.'' He is not aware of

any homeless issue in the largely suburban town. Where did that one come from? Where is the connection? The people at the Department of Housing and Urban Development just sent them a check. It is not their money. Get the money out the door. Send it to somebody who doesn't need it. When asked about it, HUD just sent the money to every town based on its population, whether it had a homeless problem or not.

When did it become, under the Constitution, a Federal responsibility rather than a community responsibility to take care of homeless people? As we shift that responsibility to the Federal Government, what happens to the freedom of your hometown to care for homeless people? When you get the money from the Federal Government come the rules and regulations on what you will do and how you will do it. Rather than a community-based or a church-based homeless shelter, now you will follow these regs and do these things if you want our help.

What is our help? Our help is taking money from you, filtering it through Washington, wasting 20 percent of it, and then sending it back to you to tell you what you already know how to do, except now they will tell you how to do it and give you 35 pieces of paper and forms to fill out as you tell them how you spent your money that they took 20 percent of to care of your homeless that you should have never sent the money to Washington for in the first place.

Let me spend time—I will pick and choose through a few of these. The Federal Government gives weatherization grants to help people weatherproof their homes. We have been doing this for over 25 years, and we continue to spend more and more money on it every year. Either we are not doing a good job or we have weatherized every home in the country and we are starting to do it a second time.

But here is one from Illinois, where they took the weatherization grant and bought eight pickup trucks for the county—under a weatherization grant.

In Wisconsin, a nursing home got $2.8 million in stimulus money it did not need or request. Prior to the stimulus funding, the Knapp Haven Nursing Home was on track for a loan from the USDA. In other words, they had the finances set up to get a loan to where they could repay it. When the stimulus money came available, the funding source was shifted to a new source of Federal assistance. Carmen Newman, the city clerk-treasurer said:

> It's kind of a joke as far as I'm concerned. I don't understand how they can say this is stimulus.

They were going to do it anyway. The mayor of that city said:

> I don't see how the project benefited.

Well, somebody benefited. But somebody also lost, and that was our kids and our grandkids.

Here is a good one: Iowa State legislators are using money freed up by the Federal stimulus cash to buy $11 million in new cars the State does not need. About four dozen brandnew cars owned by the State are already sitting unused in a parking lot near the capitol. According to State Representative Christopher Rants:

> Some of them [still] have the [sales] stickers on them. None of them have license plates. Some of them still have their seats wrapped in plastic.

But we are going to buy the cars because we got the money. So see what is happening here? There is no priority. Because the money comes in, spend it. Even though you have excess cars sitting in the parking lot, you buy it. Spend it or lose it.

Michigan is going to spend $500,000 to renovate an old freight house for a yoga class. There is no question if you renovate an old warehouse and you employ people to do that, you will stimulate the economy. The criticism here is, are there not other things more important in Michigan that we could spend $500,000 on that would create more permanent jobs, long-lasting jobs, and be of stronger benefit to the community?

The only reason I question this is because it came through the Federal Government down there. If that money came through the statehouse or the city, I would have no business questioning it at all. But in light of where we find ourselves as a country, it is difficult for me to see the priorities that are expressed.

In Macomb, IL, $643,945 was spent on a Prairieview public housing parking lot that nobody wants. Many of the residents whom the parking lot was supposed to benefit have protested it. Explaining his concern, a local resident said: The kids love the grass. We have enough pavement already for all the cars here. We need a playground.

But we are going to pour concrete over it because we have the money to do it—another wasted priority.

In Chicago, rather than help welfare recipients obtain jobs and escape poverty, $1 million will be used to study whether 300 people in Chicago are healthier when living in a ''green'' public housing facility. The study will evaluate whether green housing is healthier for people and will focus on 300 residents at a Chicago public housing facility. Researchers expect to find that residents living in these more energy-efficient facilities will have much lower health care costs. The study will create jobs because it will get two or three people to interview the residents.

Oh, here is another priority that came out of the stimulus. The National Institutes of Health has given an Indiana University professor a grant of $356,000. Maybe this is OK but not now. It is not OK where we find ourselves. But here is what they are going to do with it. They are going to ''test how children perceive foreign-accented speech compared to native-accented speech.'' It will also determine how such accents might influence speech development in children.

I do not doubt that might, in fact, be something we want to study. But we still have a lot of women in this country with a lot of disease and we have a lot of men in this country with a lot of disease. I am not sure accents are as important as studying ways to lower health care costs or funding a professor to do research on one of the cancers that are plaguing our country. How about buying H1N1 flu vaccine? Might that not be a better expenditure of that money? In other words, priorities get lost.

Detroit Public Schools will reap massive benefits from the stimulus despite a $150 million deficit. According to the Intelligencer—that is, evidently, a newspaper in the area—financial management problems became ''so tangled the state recently appointed a manager to take the financial reins.'' The Detroit Public School System stands to get $530 million, which $355 million would have ''no strings attached.''

So we have a school system that has been totally irresponsible with their financing and the management of their money, and what do we do with the stimulus? We reward the incompetence and then give them twice that amount to pull them out of a hole rather than fix the real problem.

Consequences to our behavior are a great learning episode for all of us, no matter how old we are. If we are very young and we touch the hot stove, we learn it is hot. When we are adolescents and we do some of the stupid things we do as adolescents, we learn from them. Do you know what. Governments do not learn, and that is because governments do not have compassion. Only people have compassion. And when you bail out a school system that has been irresponsible, without them suffering the consequences—and I know the answer is: Well, the kids suffer the consequences. That is right. We all suffer the consequence. You do not think kids are suffering the consequences right now in our economy?

So this one is just cute. You will love it. Yale University and the University of Connecticut are going to get $850,000—they have already gotten it, by the way—in stimulus money for research ''to study how paying attention improves performance of difficult tasks.''

Did you ever hit your thumb with a hammer? Studying that paying attention helps you with difficult tasks? I do not know who thinks these things up. But, more importantly, it does not matter who thinks them up. Who would give a grant for that? I am not opposed to giving grants for sound scientific study. But do you know what. We already know the answer this thing is going to give us—a statistically significant answer: You do better if you pay attention; and you do not do as well if you do not. It is pretty straightforward.

Hanscom Field, MA, where we are going to put excess money for additional runways, has received criticism

from local representatives, including a State representative from Lexington. The State legislative leaders did not want us to do it. But do you know what. We did it anyway. The people who represent the area, the political leaders, did not want it to happen because they thought it promoted irresponsible corporate behavior. Do you know what we did? We did it anyway. It goes back to that point we were talking about: freedom. When you give it to us, you lose it. We are supposed to be the bastion that protects your freedom, and what we have become, through this myriad number of Federal programs and spending, is we have been the ones who are taking away your freedom.

In Oklahoma, I trap armadillos in my yard. They come in and they will ruin a good yard because they like grub worms. So all you have to do is to lay a few marshmallows out and then put a marshmallow or two in the trap cage and you will catch those suckers.

Well, that is what Washington is doing to the American liberty. We bite the first little bite off the marshmallow and say: Oh, that tastes good. I got a little benefit here. There is no connection between what I have done and me receiving this benefit. And then we take another little bite off the marshmallow or the next one in. And all of a sudden, before you know it, this armadillo—that runs at night mainly that my dogs chase into the woods every time they see one of them—pretty soon that armadillo fellow is in my cage. I got him. The reason I got him is he kept thinking he could get something for nothing. He kept thinking: Man, that is a sweet marshmallow.

So what happens is, here he comes down the road, like us—us promising more, promising more—but, remember, whatever we are promising to give you, we have already taken from you. And when we take it from you, we lessen your liberty, to a great extent. We steal your liberty. We steal your choice. We steal your freedom. We steal your ability to be whom you want to be. We steal your ability to be the parent you want to be because we are interjecting us in the education system between you and your child. We are interjecting and planting the seeds of a lack of responsibility and accountability, as we bite the marshmallow, as we walk into the trap, and the cage closes.

There are two things I do with those armadillos—one of two things. I either put them in the back of my pickup and take them 10 or 15 miles away from my property or I shoot them. That is exactly what is going to happen to us. We are either going to be carried far away from what we know, we trust, and believe in to be right or we are going to be extinct as a nation. We are going to lose the wonderful flavor of the greatest Nation that has ever been on this Earth. We are going to lose—and we are doing that—we are losing it, a little bit at a time because we are similar to the frog that climbed into this wonderful pot of water that slowly and slowly heated up, and he never thought to jump out because, before he knew it, he could not.

So I have just listed about 30 of the first 1,000 projects that went out on the stimulus so you can get a flavor as to what kind of judgment is being made with the money we stole from our grandchildren. I would say we are not doing great. I voted for a stimulus bill that would have spent almost $500 billion—I didn't vote for this one, but it was real stimulus. It was real roads, it was real bridges, it was real sewage plants. It included things we were going to have to do. It was really resetting the military because we are going to buy a whole bunch more military. We are going to be forced to do it. To buy it now will create job after job after job, and it will save us money because we are going to buy it now at a cheaper price than what we will pay 5 years from now.

So I am not critical of having stimulus. I am critical of how we manage it, what we are doing about it, and the severe lack of oversight that Members of this body daily fail to do. They do not do the job demanded of them. It is not enough for us to say where the money is spent. What is required of us is to say where the money is spent and then make sure it is spent wisely, prudently, and in the best interests of everybody in this country, not in the best interests of our next election cycle.

I quoted earlier $350 billion worth of pure waste, fraud, and abuse every year in this country. It is not fair for me to quote that without going through it for you so you can actually see where it is. I did this last year, so I am sure it is worse this year since we have not had the courage to do anything about fixing the problems that cause this. But let me go through it. These are either department agency numbers, CBO numbers, inspector general numbers, or General Accounting Office numbers. They are not TOM COBURN's numbers. Every one of them can be backed up.

Medicare fraud: At a minimum, $80 billion a year. We are contemplating a health care bill. We have Medicare that is upside down, both Part A and Part B, running in the red, and is projected to run into the trillions of dollars. Name something that has been done on that in the last 2 years, 3 years, by us. Medicare improper payments, net loss—in other words, we paid out more than we should or we paid out less than we should—the net difference is $10 billion, so now we are at $10 billion a year.

Medicaid fraud at a minimum—and the reason we say it is at a minimum is because Medicaid can't even tell us what their fraud is. They can't even report it—$30 billion. Improper payments, net loss, $15 billion.

So now we are at $135 billion and we have just gone through two programs.

Social Security disability fraud: I hear every day in my office from people in my State about people who are getting disability who are absolutely not disabled, but they get the check. They are living off us, but they can actually go to work and do something. At a minimum, it is estimated to be—I think this is a very low number, and it doesn't mean I don't want to help people with disability if they are truly disabled. But everybody out in the country will know somebody who is collecting a check who can still ride their horse, still run their rotor tiller, still lay brick, or still do anything else they want, but they can't work: $2.5 billion.

Government-wide improper payments in all of the other agencies, but seven of them we still don't have any reporting on, even though the law says they have to report. It is a Federal law you have to report your improper payments every year, but they don't do it. Of the ones that do report, another $15 billion net loss of paying out more than they should. That is just on the agencies that report.

Maintenance of buildings by the Defense Department that they will not use in the future nor do they use now, but we can't sell them because we have all of these laws in Congress that create an impossibility for us to get them to the market. We have created a bureaucratic nightmare that takes about 10 years to put a building up for sale. We are spending in the Defense Department $3 billion that could go for soldier pay, health care for our veterans, health care for our soldiers; $3 billion to maintain buildings that are sitting empty and to maintain security for them.

We have contracting problems. The bill before us, the Defense authorization—everybody recognizes we have a significant problem with contracting in this country. This data comes not from last year but from the year before last. The Department of Defense paid out $8 billion for performance awards to contractors who did not earn the awards. In other words, they had a contract. Here are the requirements to meet the contract. They didn't meet the requirements of the contract. The Department of Defense paid them anyway. It hasn't stopped, folks. Where is the connection?

It is estimated by GAO that at a minimum, if we eliminated no-bid contracts everywhere in the Federal Government—most earmarks, by the way, are no-bid contracts; it is a sweetheart deal—we would save, at a minimum, $5 billion a year—at a minimum—probably closer to $7 billion or $8 billion. Just to eliminate no-bid contracts pays for the entire budget of the State of Oklahoma for 1 year. Every expense we have, just 1 year of eliminating no-bid contracts would have that kind of savings.

Then we have the wonderful trick: we send bills through here that are supposedly emergency supplementals, and we add all of these things of extra spending onto them that aren't emergencies. It is kind of like an earmark process, except the difference is they

don't have to be within the budget numbers, so they just go straight to the bottom line against our kids. So it doesn't pull back any spending anywhere else, but we spend this money anyhow, and that is another $15 billion a year that the Members of Congress do outside of the budget.

So let's see here. We are at $184 billion. We have a crop insurance program that benefits the crop insurance industry but not the farmers, but we refuse to modernize it. We can save $4 billion if we modernize it, but we don't modernize it because the effect and power of the well-heeled and well-connected keeps us from doing what is right.

Then we send $5.9 billion to the U.N. every year. We know—and this is a report we finally got forced to get out of there; it got leaked out and we finally got ahold of it—that our entire contribution to peacekeeping, which amounts to about 40 percent of our contributions—$2 billion a year—is totally wasted in fraud. In other words, it doesn't help us do peacekeeping anywhere in the world because there is only one agency and one government that is more inefficient than us, and it is the United Nations. Yet we can't have transparency.

Every year I put on the foreign appropriations bill a requirement that for the U.N. dues to be paid, they have to give us transparency about where they are spending our money. It passes 99 to 0, and as soon as it goes to the conference, guess what happens. It gets pulled out because we don't have the courage to confront the U.N. and say: We are giving you $5.9 billion. Tell us how it is being spent. So there is another one.

One of the greatest areas of worry the inspectors general have across all the agencies of government is investment in IT. Last year, we contracted $64 billion of IT contracts through the Federal Government—$64 billion. What we know is at least 20 percent of that ends up totally getting mismanaged and wasted. It gets wasted because they don't know what they want when they sign the contract. They continue to change what they want as the contract goes through, and when we get to what was going to be a $200 million contract, it ends up being an $800 million contract because we have changed what the contract did.

By the way, the contract isn't no-bid; the contract is cost plus, so whoever is doing the contract has every inclination to give them new ideas to make it better and change it. So what happens is we fall way behind, we don't get it, we pay four times as much. What is estimated is that we lose almost $11 billion a year on that kind of poor management. What is being done about it? Nothing in this body. Nothing in this body.

The National Flood Insurance Program is another $17.5 billion of waste and duplication. If we reformed the Tax Code—by the way, we are now right at $218 billion. If we reformed the Tax Code—if we just made it either straight line or simple, straight, fill it in on a postcard, or went to the fair tax, what we know is the Federal Government, just everything else being equal this year, would have $100 billion more collected because there would be $100 billion less in fraud. Just $100 billion. Just $100 billion. But we have a Tax Code that is this thick that no IRS department will give you the same answer to the same question anywhere else in the country, and neither will any of the big auditing firms because the code is so complex that nobody knows what the truth is. So we spend over $200 billion a year in this country paying our taxes.

I am not talking about the taxes we pay, paying our taxes. Either paying somebody else to figure it out or paying the interest because we couldn't figure it out or paying the penalty because we couldn't get it done on time, but most of it comes from paying people to pay our taxes for us.

Then there is a miscellaneous, another $18 billion. I said $350 billion. The total I have given is $385 billion. The reason I said $385 billion, I don't want to exaggerate, so I cut 10 percent off of it. So nobody can say we have exaggerated the waste, fraud, and abuse in the Federal Government that occurs every year.

What would it be like right now if we weren't wasting that? What would happen to Medicare if we didn't have this high number, billions and billions of dollars of fraud in Medicare every year? What would happen? What would happen is Medicare would last a lot longer. No. 2, we would actually get more resources directed to the people who actually need it.

The one story Dr. JOHN BARRASSO, the other physician in the Senate tells, is that Medicare is so well designed to be defrauded that people who deal in drugs stop that and start doing Medicare fraud because it is easier to hit a home run, No. 1; No. 2, if you get caught, the penalties are less. No. 3 is you can make a whole lot more money with a whole lot lower jail sentence. So we have this system that is designed to get defrauded that has $80 billion in it.

So let me make that point and say, if in fact you take—even if you only take half of what I say—$175 billion—but even if you only take half of what I say, here are the things we know: This country is absolutely on an unsustainable course. We cannot sustain what we are doing. We cannot have another year such as this year. We cannot have another year that comes anywhere close to this year.

We can't have another year that moves forward in the direction we are moving in terms of the government taking more of your freedom away and building itself up and building the bureaucracies in this town.

I understand my colleague from Hawaii is here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 1522 WITHDRAWN

Mr. AKAKA. Mr. President, I thank my friend Senator COBURN for allowing me to speak at this time. I have been working with him in our Committee on Homeland Security. We have taken up these amendments in committee. I think I am correct when I say that Senator COBURN at the time did support these amendments.

Mr. COBURN. Will the Senator yield?

Mr. AKAKA. Yes.

Mr. COBURN. I think the record will show that I did not support the amendment.

Mr. AKAKA. I thank the Senator for the clarification.

First, I understand the current economic climate. I want the Federal Government to save as much money as it can and to reduce all the inefficiencies there are. My amendment would do that.

My amendment also has been supported by a bipartisan group of Senators. I am proud that the cosponsors include Senators COLLINS, LIEBERMAN, VOINOVICH, MURKOWSKI, BEGICH, KOHL, MIKULSKI, CARDIN, INOUYE, WEBB, and WARNER. It is a bipartisan effort to correct certain inequities in the Federal retirement system. That has been our effort in these amendments.

Also, this effort was supported by a huge number of groups. Some of the organizations are: The American Federation of Government Employees, National Treasury Employees Union; International Federation of Professional and Technical Engineers; Federal Law Enforcement Officers Association; the American Federation of State, County, and Municipal Employees; American Postal Workers Union; National Association of Letter Carriers; National Rural Letter Carriers Association; National Federation of Federal Employees; National Active and Retired Federal Employees Association; Senior Executives Association; Federal Managers Association; Government Managers Coalition; National Association of Postal Supervisors; National Association of Postmasters of the U.S.; and the National Association of Assistant U.S. Attorneys.

That is the kind of support we have. This amendment will ensure that all Federal employees are treated the same when it comes to retirement. This will save money, due to the reduced lost days of work and avoid unnecessary employee transfers, which reduces the need for additional training; reduces litigation costs borne by the government due to different treatment of different classes of employees; improve employee morale, which increases efficiency; and ensure that we are able to transfer institutional knowledge to the next generation of Federal workers.

OPM estimates that $68 million is wasted per year because of the different leave policies in effect. In fact, the amendment would certainly help in that respect. My amendment will reduce the Federal deficit by $36 million over 10 years.

This amendment has the bipartisan support of the committee of jurisdiction and by both managers and employees. I have read a list of the others who support it.

This is a good government bill that protects the taxpayers' dollars.

I look forward to continuing this effort. I want to at this time say that this is a good amendment. I will fight for these provisions in conference. But I don't want to hold up the Defense authorization bill.

Under the circumstances, I will withdraw this amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Oklahoma is recognized.

Mr. COBURN. I thank the Senator. I think he will find another vehicle at some other time. I know this bill is important to him. We just happen to disagree about the priorities. That is what I have been speaking on for 1 hour 20 minutes. I appreciate him doing that as a courtesy to the rest of the Members of this body. I love him dearly as a friend and as a brother. I appreciate it.

I yield the floor.

Mr. LEVIN. Mr. President, let me add my thanks to the Senator from Hawaii. He is doing this for the good of the order to permit us to get on with the bill. He knows how important this is. I appreciate his willingness to withdraw the amendment at this time. It is very much appreciated by all of us. I hope something good could come out of conference.

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. LEVIN. 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. LEVIN. Mr. President, I ask unanimous consent that Senator HAGAN be recognized to speak on a previous amendment for up to 5 minutes.

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

The Senator from North Carolina is recognized.

Mrs. HAGAN. Mr. President, I thank Chairman LEVIN and Ranking Member MCCAIN for reporting out a bill that enacts reforming the Defense Department's budget and reorients weapons systems geared toward the wars we are fighting today. Our soldiers, sailors, marines, and airmen need capabilities that are conducive to implementing the Department's shift to counterinsurgency tactics, techniques, and procedures. There is nothing more important than enhancing the force protection of our troops. That is why I am pleased that this bill provides proven, effective ground capabilities, such as the MRAP vehicles to protect against IEDs.

I want to highlight a couple of provisions in the bill. First, I support funding the administration's request for $7.5 billion for the Afghanistan security forces fund to train and equip the Afghan national army and police. The commander of the 2nd Marine Expeditionary Brigade, Brigadier General Nicholson, recently indicated that the success of the Marine offensive in the Helmand Province is dependent upon placing an Afghan face on the operation, in order to instill confidence among local Afghans in the Afghan Government's abilities to provide safe communities and to govern efficiently.

Equally important is providing coalition support funds for Pakistan. The stability of Afghanistan is dependent on the stability of Pakistan, and vice versa. We need to enable the Pakistan Army and Frontier Corps with the capability to conduct sustained direct action missions against the dangerous elements of the Pakistani Taliban along the federally ministered tribal areas, as well as against the Afghan Taliban High Command in Pakistan's Balochistan province.

Key to successful operations in theater are effective aviation assets. I am a big proponent of the Joint Strike Fighter as it can serve multiple roles, including close air support, tactical bombing, and air defense missions. I am disappointed that we were unable to secure enough votes for Senator BAYH's amendment. I want to reiterate that I think it is important we safeguard language to authorize funding to develop and procure an alternate Joint Strike Fighter engine.

I know the issue of the location of the Navy's OLF has already been debated and voted on, so I will not spend a lot of time on it. I cosponsored an amendment with Senator BURR to prevent the Navy from building an OLF in the Sandbanks and the Hale's Lake locations within Camden, Currituck, and Gates Counties in North Carolina. I am against an OLF at these proposed sites because it would destroy small family farms that have been around for generations, as well as thousands of acres of farmland, essential to the livelihood and economic base of those communities. An OLF in these locations would only bring 52 jobs, and it would destroy valuable farmland that currently employs over 2,000 workers. Moreover, the OLF would only be a few miles away from ongoing projects that will attract new businesses and tourists.

Last week, I met with local government leaders of the respective counties to discuss their concerns regarding construction of the OLF. The State of North Carolina recently passed a law banning the construction of an OLF at these sites. I do not think it would be in the Navy's interests to continue to pursue construction of an OLF at these sites, knowing that it will more likely than not be tied up in litigation for years.

I want to make sure North Carolina is treated fairly. The residents of these counties simply do not want the OLF there. The State of North Carolina is the friendliest military State in the Nation, and we would welcome the opportunity to work with the Navy in identifying sites that could potentially meet the Navy's OLF requirement, and also have the support of the North Carolinians in those counties. One of those sites can be at Marine Corps Air Station Cherry Point or a site close to it within Craven County. All of the elected local officials in that community are in support of having an OLF located there.

The Navy excluded Cherry Point as a potential OLF site because Navy standards specify that an OLF should be no more than 120 nautical miles from home base. Cherry Point sits approximately 135 nautical miles from Oceana, VA. That is just 15 nautical miles beyond the Navy's current requirement. I want to work with the Navy to examine the impact of having an OLF that is located just outside its current requirements, and especially on the readiness of the Navy's personnel and aircraft fleet.

Senator WEBB and I worked together to insert additional language within the committee report to do two things: one, to mandate the Secretary of the Navy issue a report detailing the Navy's consultations with local governments, communities, and stakeholders in North Carolina and Virginia regarding OLF site options; two, to mandate the Navy identify all suitable options for the location of an OLF beyond the five sites identified in both States.

However, I don't think that is good enough. The State of North Carolina has had previous negative experiences with the manner in which the Navy has implemented its OLF site selection process. I strongly feel that the Navy should delete the two current sites in North Carolina.

I also thank the chairman and ranking member for accepting my amendment in committee that provides the Department of Defense with the option to increase the acquisition of additional C–27s in the outyears as mission requirements dictate. That amendment requires the Department to provide its strategic plan to deploy and station C–27 joint cargo aircraft in theater and in the continental United States, as well as plans to procure additional aircraft beyond the 38.

Forty-eight adjutants of the National Guard signed a letter to the committee last month supporting the funding of 78 joint cargo aircraft. Their letter emphasized the C–27 provides an essential airlift capability in war, as well as to State emergency management teams in 48 States.

I also thank the chairman and Ranking Member MCCAIN for accepting my amendment to direct the Secretary of the Army to submit a report to assess the feasibility and advisability of creating a trainees, transients, holdees, and students account within the Army National Guard to ensure all soldiers in

units have completed their initial entry training prior to being deployed.

Approximately 27,000 of the National Guard's end strength are not deployable because they are awaiting training. This account would allow new Guardsmen to be fully trained prior to reporting to their assignment. A TTHS account with the National Guard would improve the unit readiness, increase individual dwell time between deployments, and provide more predictability to soldiers, families, and employers.

Finally, I thank the chairman and ranking member for accepting my amendment involving depot maintenance work. This amendment directs the Secretary of the Navy to submit a cost-benefit analysis report identifying each alternative the Secretary is considering for the performance of the AV–8B Harrier aircraft planned maintenance and aircraft modifications.

We are working with the Navy and the Marine Corps to ensure that depots allow partnerships with the commercial sector, while recognizing the legitimate national security need for the Department of Defense civilian and military personnel to retain the key skills to be responsive to our soldiers fighting in these two wars.

This is an important bill, and despite my and Senator BURR's ongoing concerns about this outlying landing field, I think that Senators LEVIN and MCCAIN deserve our gratitude for their work on this bill, and this bill deserves the support of all of my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that the Kyl amendment be temporarily set aside and that the following four amendments then be in order: the Sessions amendment, No. 1657, which is going to be modified and which I understand will not require a rollcall vote; the Isakson amendment, No. 1525, which would then be called up and I understand would require some debate; the Lieberman amendment, No. 1650, which I also understand may be modified; and then the next amendment after that, which I thought I could enumerate, but I cannot now, would be a Democratic amendment and would then be in place; that no amendments would be in order to any of the above amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Mr. LEVIN. Mr. President, let me modify my previous unanimous consent agreement: that prior to those three amendments being called up, we take up the Lincoln amendment, No. 1487, which I understand has been cleared. Again, as to the other three amendments we identified for debate, no amendments will be in order to any of those amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEVIN. Mr. President, it is now my understanding that under that UC, we would take up Lincoln amendment No. 1487.

I am wondering whether the Senator from Arkansas would like to have one quick minute to explain her amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 1487

Mrs. LINCOLN. Mr. President, I ask unanimous consent that amendment No. 1487 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for herself, Mr. CORNYN, Ms. LANDRIEU, Mr. RISCH, Mr. ROCKEFELLER, and Mr. WYDEN, proposes an amendment numbered 1487.

The amendment is as follows:

(Purpose: To amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program)

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.

Mrs. LINCOLN. Mr. President, I thank the chairman, Senator LEVIN, and Senator MCCAIN, Senator GRAHAM, and the others for allowing me to bring up this amendment.

This is a critical amendment at a critical time. Many of us visit our home States, and we see the disadvantaged youth all across our States who are having difficult times. We know unstable economic times bring about instability in our schools, in our families, and in a host of different places.

One of the ways we have of combating this is with the National Guard Youth ChalleNGe Program. It is an excellent program put on by our National Guard in many of our States where these at-risk youth come in and they are surrounded by both structure and support and guidance to be able to meet their needs of getting a GED and their high school education and then going on to make something of their lives, really turning themselves around and making sure they are becoming great parts of our communities, whether it is finding a job or entering the military on their own but certainly turning their lives around and being productive.

What we do in this amendment is we open up our National Guard Youth ChalleNGe Program to new States. Right now, we have it in several of our States. Many of us have been able to see the rewards of this program, but this will open it up to other States to be able to participate.

One of the biggest problems we have had with this program is not the success, because the success has been tremendous, but it is the ability of our States to be able to financially support these programs. Right now, they have to come up with 40 percent of the resources that are necessary. Quite frankly, our States are not entering into these programs because they do not have the resources. These are excellent programs. They have tremendous results. And one of the things we want to make certain of is that we don't lose the opportunity to catch these young people early on and turn their lives around. So our amendment provides a 75–25 percent cost sharing with the States instead of the 60–40. We don't change the amount of money spent, we just change the way it is allocated. We also allow the opportunity for some new States that want to start these programs to come in, and for the first 2 years the Federal Government will support 100 percent of those programs as they get their feet on the ground and they get these programs started, and then they must again resume that 25-percent State responsibility in these programs.

We have a great bill we have introduced. We have tremendous bipartisan support. We have 32 cosponsors of our bill. I am joined in this amendment by Senators BYRD, CASEY, CORNYN, HAGAN, LANDRIEU, MURKOWSKI, RISCH, ROCKEFELLER, SNOWE, and UDALL of Colorado, along with Senator WYDEN. So we have great support for this amendment. It is something that is important for our kids, and it is certainly a great opportunity for us to see how our military can empower our youth by giving them the kind of support that is necessary to turn their lives around through both education and opportunity, helping them to develop skills, working in the community, and really making something of themselves.

I thank the chairman for the ability to be able to offer this amendment on behalf of our States and on behalf of our National Guard, which is doing a tremendous job in these programs, but most importantly on behalf of our children and the great things it does for our children all across this Nation.

Mr. President, a special thanks to the chairman and the ranking member for their indulgence in letting me offer this amendment. I am looking forward to hopefully seeing how we can move it forward.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank Senator LINCOLN for this amendment. The linkage of the National Guard and States and our kids is a very powerful link indeed. I have seen this up close and personal because I am sort of the godfather of the STARBASE Program, which started in Michigan at Selfridge Air National Guard Base, and it has spread. While this program which Senator LINCOLN is so deeply involved with, and her cosponsors, is not an outgrowth of that program, it is very similar in terms of its purpose to link our National Guard and the inspiration they can provide and the technical skills they can provide our children with. So I thank her for her amendment and hope it will be promptly adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1487) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I believe the next amendment is the Sessions amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1657, AS MODIFIED

Mr. GRAHAM. Mr. President, I call up amendment No. 1657, as modified.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for Mr. SESSIONS, proposes an amendment numbered 1657, as modified.

The amendment, as modified, is as follows:

(Purpose: To express the sense of Congress that military commissions are the preferred forum for the trial of alien unprivileged belligerents for violations of the law of war and other offenses triable by military commission)

On page 394, between lines 8 and 9, insert the following:

SEC. 1032. TRIAL BY MILITARY COMMISSION OF ALIEN UNPRIVILEGED BELLIGERENTS FOR VIOLATIONS OF THE LAW OF WAR.

(a) IN GENERAL.—Subchapter I of chapter 47A of title 10, United States Code, as amended by section 1031(a), is further amended by adding at the end the following new section:

"§ 948e. Trial by military commission of alien unprivileged belligerents for violations of the law of war

''(a) SENSE OF CONGRESS.—It is the sense of Congress that the preferred forum for the trial of alien unprivileged enemy belligerents subject to this chapter for violations of the law of war and other offenses made punishable by this chapter is trial by military commission under this chapter.''.

(b) CLERICAL AMENDMENT.—The table of sections of the beginning of such subchapter, as amended by section 1031(a), is further amended by adding after the item relating to section 948d the following new item:

''948e. Trial by military commission of alien unprivileged belligerents for violations of the law of war.''.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, we have been working with Senator SESSIONS—myself, Senator LEVIN and his staff, and Senator SESSIONS' staff. This amendment basically clarifies the fact that when a detainee is in military custody or an intelligence agent's custody, being detained as a result of wartime activity, to be interrogated for intelligence gathering, there is no requirement that person have article 31, or Miranda, rights read to them. We don't want to criminalize the war. Military intelligence gathering is not a law enforcement function.

There has been some confusion at Bagram Air Force Base about the Department of Justice FBI agents reading Miranda rights. Clearly, there could be a time when that would be appropriate, but this amendment states unequivocally that Miranda warnings, or article 31 rights, are not to be read or required to be read by DOD personnel or intelligence agencies as a result of battlefield activities or military intelligence gathering.

I think it is a good amendment that will clarify a potentially confusing situation. I appreciate Senator LEVIN's staff helping us with it.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, after a very brief comment, I am going to suggest a quorum be called. This amendment has been significantly modified from its original form. It has been modified in a way which I believe is now satisfactory. It addresses interrogations by the military, by defense agencies. It does not involve interrogations by the Department of Justice, as I understand it.

Mr. GRAHAM. That is correct.

Mr. LEVIN. The Department of Justice is not involved in the warnings that are involved here. It especially provides it must be applied in a manner consistent with the constitutional requirements. With these changes, I am satisfied, but I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, I now ask unanimous consent that the pending Sessions amendment, as modified, be temporarily laid aside and we now proceed to the next item under the unanimous consent agreement, which would be the amendment of Senator ISAKSON.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Georgia is recognized.

AMENDMENT NO. 1525

Mr. ISAKSON. I call up amendment No. 1525.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself and Mr. CHAMBLISS, proposes an amendment numbered 1525.

The amendment is as follows:

(Purpose: To repeal the sunset of authority to procure fire resistant rayon fiber for the production of uniforms from foreign sources)

On page 245, between lines 3 and 4, insert the following:

SEC. 803. REPEAL OF SUNSET OF AUTHORITY TO PROCURE FIRE RESISTANT RAYON FIBER FOR THE PRODUCTION OF UNIFORMS FROM FOREIGN SOURCES.

Subsection (f) of section 829 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 229; 10 U.S.C. 2533a note) is repealed.

Mr. ISAKSON. Mr. President, a few years ago this body granted a Berry waiver on the purchase of rayon fiber made in Austria for the purpose of making fire-resistant uniforms of the U.S. Marines, Army, and aviators. The Berry requirement is the buy American requirement, meaning that you first have to buy American before you go offshore to buy a product.

At the beginning of the Iraq war, the U.S. Army and Marines noticed immediately we had a tremendous increase, because of the nature of that war, in burn injuries. They conducted a survey and looked at the 24 best alternatives they could find anywhere to make fire-resistant uniforms. They finally settled on a para-aramid fire-resistant fiber blend of rayon with nylon.

Environmental Protection Agency requirements to make rayon make it prohibitive in the United States, and there is no rayon produced in the United States. It is produced in Austria.

So the Berry waiver we received a few years ago was to allow them to import, through now and 2013, rayon, fire-resistant rayon, which in the United States is blended for fabric, cut, sewn, produced, and shipped to the U.S. military—10,000 American jobs. The rayon cannot be produced in the United States because of the EPA requirements.

The reason to request an exception and postpone the sunset in 2013 is because the military procurement in the outyears is now reaching beyond that. With the absence of a Berry waiver for those years, they would have to zero

out the purchase for those uniforms which, in turn, would mean the people who make those uniforms would not have the certainty of the Berry waiver because it would be subject to a Berry waiver again. Therefore, the investment they would make would be limited to the years they knew they could make the guaranteed deliveries.

I have offered this amendment as an extension for that very reason. The U.S. Army, the Marine Corps, and the aviators who use the material love it because it breathes, it gives them some circulation, it has tremendous protection against burns and it has performed very satisfactorily and they want to continue to use it and there is no American competitor that can meet or exceed it.

Obviously, if there were, that waiver would go away and we could compete, but at this time they do not. I ask the Members for their consideration on behalf of our military men and women in harm's way in Afghanistan and Iraq and wherever they might be for the uniform that was chosen for the very battle we are now in because it was the best the military could find anywhere in the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WEBB. Mr. President, regrettably, I must rise in opposition to this amendment. I believe this amendment is not timely. It is premature to eliminate a congressionally imposed sunset clause for an existing temporary exception to the Berry amendment, an exception that was supposed to be temporary.

In May of this year, Senator GRAHAM and I jointly requested the Secretary of Defense to review the Department of Defense continuing reliance on this exception. The Under Secretary of Defense, Mr. Carter, has confirmed that this review is now underway and the results are expected soon. I do not believe we should modify the current statutory requirement, which would prejudice the outcome of the Department of Defense review, until we have heard the Department's assessment. Removing the sunset clause would result in an indefinite extension of an exception that favors foreign suppliers of rayon over our own American companies.

A vote against this amendment will not have an adverse effect on current arrangements to obtain rayon from foreign sources. Today's Army uniform procurement contract will continue until 2013, so long as the Army stipulates that a requirement for rayon fiber in fire-resistant uniforms and the Department of Defense maintains the exception to the Berry amendment is needed.

The 2013 sunset clause was designed to ensure that American industry will be fairly treated during future competitions for contracts if industry can demonstrate an ability to manufacture materials that satisfy Army requirements for fire resistance and other features. Under the current arrangement, companies are losing jobs because they cannot compete to provide alternate materials. Our domestic manufacturers are now able to provide alternate materials that could satisfy Army procurement requirements. It is not in the best interests of the U.S. defense industrial base, our economy or the U.S. military to remove a congressionally imposed sunset provision at this time.

We have had discussions with General Fuller, the Army's Program Executive Officer Soldier, who is responsible for acquiring the best equipment for the Army and fielding it as quickly as possible. He has confirmed to my staff that he will consult industry to determine what the domestic market has to offer to satisfy performance-based requirements for military uniforms. This will allow American industry to come in with a whole spectrum of ideas and alternate materials. The Army would then be able to explore new technologies that may have evolved since we last visited this issue.

Removing the sunset clause also poses a risk to the Army's future research and development requirements. The Army relies on American private industries to an extensive degree to conduct R&D for next-generation materials and fabrics for uniforms, body armor, and other mission-essential materials. Some companies, such as Dupont, for example, have already lost hundreds of jobs owing to that inability to compete for Army contracts. A continued reliance on this Berry amendment exception would jeopardize their ability to remain competitive in this segment of the defense industrial base. I do not believe the Army can afford to lose this critical R&D capacity. For those reasons, I oppose the amendment and urge my colleagues to also oppose it.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I would like to echo the sentiments of Senator WEBB. We have been working together on this. I very much appreciate Senator ISAKSON. I understand this is a bit complicated—there are parochial interests involved—until we understand the dilemma we are in here.

In the fiscal year 2008 Defense authorization bill, we included language that grants a 5-year waiver to the Berry amendment for the procurement of flame-resistant rayon, the material used to make military uniforms. There are 3 years left on the waiver. The Isakson amendment permanently extends this waiver and will end all efforts to produce a domestic material to make military uniforms.

I respectfully oppose the amendment. We are currently procuring the material from Europe. There is no source of domestic rayon.

Neither Congress nor DOD has ever issued a determination or finding that the domestic market lacks sufficient products that could perform the functions desired by DOD. This amendment unfairly excludes, in my opinion, U.S. manufacturers from competing for DOD procurements and improperly limits competition since the domestic market contains products such as flame-resistant cotton, Nomex, and nylon which can fulfill DOD's needs.

DOD's decision to procure flame-resistant fabric from foreign suppliers without even examining whether domestic manufacturers could meet the agency's need with other products violates DOD's statutory mandate to use performance rather than material specifications and to seek free and fair open competition whenever practical.

Instead of affirmatively extending a waiver that has 3 years remaining, we should continue to let the technologies and fabrics develop and reassess where we are in 1 or 2 years. I think that is the wise thing to do, and I respectfully urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Through the Chair, will the Senator from South Carolina yield for a moment for a question?

Mr. GRAHAM. I will.

Mr. ISAKSON. With respect, isn't it true that there is nothing in this waiver that in any way inhibits or prohibits American manufacturers from doing the research and development necessary to attempt to come up with a material that meets or exceeds the rayon made in Austria? The problem is they cannot produce rayon in the United States of America because of EPA prohibitions and the costs to meet that.

Mr. GRAHAM. I thank the Senator for that question. It is my understanding that the efforts made in Virginia and South Carolina to produce this product domestically, and the concerns the Senator has addressed, the private sector is dealing with; and that the ability to produce this material domestically is a viable option. I don't want to take a precedent, in terms of the Berry amendment, that I think would change the spirit of the amendment at a time when we have a potential to make this domestically. I think, as much as we can do domestically to protect our military and to provide resources to our military, the better.

A year or two from now, we will know better. To lift the waiver, to make it a permanent waiver, I think would be an unwise erosion of the Berry amendment at this time. That would be my answer.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, let me comment, if I can. The Berry ''Buy American'' program is absolutely 100 percent on target. The reason for waivers is when we find that there is no domestic product equal to or better than a product that has a component overseas, in the interest of our men and women in the military, we give the

waiver so it doesn't keep us—so we do not prohibit ourselves from having the best material possible. If an American domestic manufacturer produces an alternative fiber or fabric which meets or exceeds the fire-resistant para-aramid rayon that is now being used, the Berry waiver will no longer apply because there will be a domestically produced U.S. product that is superior or equal to that particular product of rayon.

So I would respectfully submit to the Senators from Virginia and South Carolina that the argument that there is a prohibition—that this would keep people from making an investment in R&D to produce something better is the reverse. It actually will accelerate the need for them to make the R&D investment to try and produce something better in the United States, if they can.

One last point. The U.S. military did 24 different evaluations after the initial move into Iraq when we had so many burn injuries. It determined this fabric has to be the best for our men and women aviators, men and women in the Marine Corps, men and women in the Army in combat, and it has performed well in Afghanistan and Iraq ever since.

So I would submit the R&D argument is actually accelerated with the extension of the waiver, and the proof of the product is in the pudding which we have seen with the safety of our troops and our men and women in harm's way.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I rise very quickly in support of the Isakson amendment. There is currently a waiver to the Berry amendment in place which allows companies to import the fire-resistant rayon from foreign countries.

Let me be very clear. The jobs that go with the manufacture of these uniforms for the Army and Marines are U.S. jobs. All of these uniforms are made in the United States. But this fabric is used by TenCate, Incorporated, to make its Defender M fabric to produce fire-resistant uniforms for both the Army and the Marines.

The material is not made in the United States due to EPA standards. This is a classic example of where EPA standards can be too stringent to allow U.S. manufacturers to operate. And, the reason is, it is cost prohibitive to do so.

The current waiver, which includes a 5-year sunset clause, was included in the 2008 Defense authorization bill after a tremendous effort by my colleague, Senator ISAKSON, and obviously is set to expire.

The Army's PEO Soldier expressed very strongly that FR rayon is the superior fabric based upon key selection criteria. The criteria were cost, comfort, durability, and length of time before receiving third-degree burns. We have had some very serious situations, obviously, that have occurred with burns in both Iraq and Afghanistan. That is why the Army and the Marines like this uniform.

We buy 115,000 new FR uniforms every month. This uniform is superior because of the fact that we have been able to import this fabric with the Berry amendment waiver. It is, in my opinion, imperative that we continue for the competition. The uniforms are still competitively bid. So it is not like we are taking anybody out of the marketplace.

I urge my colleagues to vote in favor of the Isakson amendment.

I yield the floor.

AMENDMENT NO. 1657, AS FURTHER MODIFIED

Mr. GRAHAM. Mr. President, I ask unanimous consent to send a further modification of the Session's amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment as further modified is as follows:

At the appropriate place, insert the following:

SEC. ____. NO MIRANDA WARNINGS FOR AL QAEDA TERRORISTS.

(a) DEFINITIONS.—In this section—

(1) the term ''foreign national'' means an individual who is not a citizen or national of the United States; and

(2) the term ''enemy combatant'' includes a privileged belligerent and an unprivileged enemy belligerent, as those terms are defined in section 948a of title 10, United States Code, as amended by section 1031 of this Act.

(b) NO MIRANDA WARNINGS.—Absent an unappealable court order requiring the reading of such statements, no military or intelligence agency or department of the United States shall read to a foreign national who is captured or detained as an enemy combatant by the United States the statement required by Miranda v. Arizona, 384 U.S. 436 (1966), or otherwise inform such a prisoner of any rights that the prisoner may or may not have to counsel or to remain silent consistent with Miranda v. Arizona, 384 U.S. 436 (1966). No Federal statute, regulation, or treaty shall be construed to require that a foreign national who is captured or detained as an enemy combatant by the United States be informed of any rights to counsel or to remain silent consistent with Miranda v. Arizona, 384 U.S. 436 (1966) that the prisoner may or may not have, except as required by the United States Constitution. No statement that is made by a foreign national who is captured or detained as an enemy combatant by the United States may be excluded from any proceeding on the basis that the prisoner was not informed of a right to counsel or to remain silent that the prisoner may or may not have, unless required by the United States Constitution.

AMENDMENT NO. 1525

Mr. ISAKSON. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the amendment. 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 Louisiana (Ms. LANDRIEU), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—40

Alexander	Enzi	Murkowski
Barrasso	Franken	Reed
Bayh	Grassley	Reid
Bond	Gregg	Risch
Brownback	Hatch	Roberts
Chambliss	Hutchison	Schumer
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Collins	Johanns	Snowe
Corker	Kyl	Thune
Cornyn	Lugar	Voinovich
Crapo	McCain	Whitehouse
Dodd	McCaskill	
Ensign	McConnell	

NAYS—54

Akaka	Feingold	Menendez
Baucus	Feinstein	Merkley
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Boxer	Harkin	Pryor
Brown	Inouye	Rockefeller
Bunning	Johnson	Sanders
Burr	Kaufman	Shaheen
Burris	Kerry	Specter
Cantwell	Klobuchar	Stabenow
Cardin	Kohl	Tester
Carper	Lautenberg	Udall (CO)
Casey	Leahy	Udall (NM)
Conrad	Levin	Vitter
DeMint	Lieberman	Webb
Dorgan	Lincoln	Wicker
Durbin	Martinez	Wyden

NOT VOTING—6

Bennett	Kennedy	Mikulski
Byrd	Landrieu	Warner

The amendment (No. 1525) was rejected.

Mr. MENENDEZ. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 1760

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate resume debate on the Kyl amendment No. 1760; that it be in order for Senator KYL to offer a second-degree amendment to his amendment; that once the second degree is reported, it be agreed to, amendment No. 1760, as amended, be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona is recognized.

AMENDMENT NO. 1807 TO AMENDMENT NO. 1760

Mr. KYL. Mr. President, I call up the second-degree amendment to my amendment No. 1760 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 1807 to amendment No. 1760.

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

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

The amendment is as follows:

(Purpose: To require a report on the plan for the United States nuclear weapons stockpile, nuclear weapons complex, and delivery platforms, and to express the sense of the Senate on follow-on negotiations to the START Treaty)

Beginning on page 1, line 2, strike ''**LIMITATION**'' and all that follows through page 5, line 3, and insert the following: ''**REPORT ON THE PLAN FOR THE UNITED STATES NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS AND SENSE OF THE SENATE ON FOLLOW-ON NEGOTIATIONS TO START TREATY.**

(a) REPORT ON THE PLAN FOR THE UNITED STATES NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS.—

(1) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act or at the time a follow-on treaty to the Strategic Arms Reduction Treaty (START Treaty) is submitted by the President to the Senate for its advice and consent, whichever is earlier, the President shall submit to the congressional defense and foreign relations committees a report on the plan to enhance the safety, security, and reliability of the United States nuclear weapons stockpile, modernize the nuclear weapons complex, and maintain the delivery platforms for nuclear weapons.

(2) COORDINATION.—The President shall prepare the report required under paragraph (1) in coordination with the Secretary of Defense, the directors of Sandia National Laboratory, Los Alamos National Laboratory, and Lawrence Livermore National Laboratory, the Administrator for the National Nuclear Security Administration, and the Commander of the United States Strategic Command.

(3) ELEMENTS.—The report required under paragraph (1) shall include the following:

(A) A description of the plan to enhance the safety, security, and reliability of the United States nuclear weapons stockpile.

(B) A description of the plan to modernize the nuclear weapons complex, including improving the safety of facilities, modernizing the infrastructure, and maintaining the key capabilities and competencies of the nuclear weapons workforce, including designers and technicians.

(C) A description of the plan to maintain delivery platforms for nuclear weapons.

(D) An estimate of budget requirements, including the costs associated with the plans outlined under subparagraphs (A) through (C), over a 10-year period.

(b) SENSE OF THE SENATE ON FOLLOW-ON NEGOTIATIONS TO THE START TREATY.—The Senate urges the President to maintain the stated position of the United States that the follow-on treaty to the START Treaty not include any limitations on the ballistic missile defense systems, space capabilities, or advanced conventional weapons systems of the United States.

Mr. KYL. Mr. President, I wish to thank the ranking member on the committee, my colleague JOHN MCCAIN, and the chairman of the committee, as well as Senator KERRY and Senator LUGAR, for working through this amendment. We have a good resolution. We will be writing a letter to the President. We will be adding a short provision to the bill that calls for appropriate studies and reports to accompany the START Treaty when that treaty is sent to the Senate. I think it is a good resolution of this issue.

I call for the immediate disposition of the amendment. We do not need the yeas and nays.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, let me thank Senator KYL and all of those who have been involved in working the Kyl amendment to a point where we are comfortable with it. I think all of us had concerns, and those concerns have been fairly met. I thank the Senator from Arizona for his effort, as well as, of course, my ranking member on the committee and all of the others who have been helpful.

The PRESIDING OFFICER. Under the previous order, amendment No. 1807 is agreed to.

Under the previous order, amendment No. 1760, as amended, is agreed to.

The motion to reconsider is made and laid upon the table.

Mr. DODD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER Mr. BENNET). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. Mr. President, I believe it is appropriate now to call up the Lieberman amendment, as modified.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Mr. President, I think we have a package of cleared amendments we would like to do first, if that is agreeable.

Mr. LEVIN. We are not ready yet.

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

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

AMENDMENT NO. 1650, AS MODIFIED

Mr. LEVIN. Mr. President, I now ask unanimous consent that Senators LIEBERMAN and GRAHAM call up amendment No. 1650, as modified.

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

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I appreciate the assistance of Chairman LEVIN and all those involved. This is to me a very important statement by the Senate at a crucial time in our Nation's history. Simply put, our amendment is a sense-of-the-Senate statement that there is a preference for military commission trials regarding detained terrorists.

The reason we are making this statement and trying to urge our colleagues to agree with us is that the interim detainee report that has been issued in the last day or two by the White House has a statement within that report that there should be a presumption that detained terrorists would be tried in article III Federal civilian courts.

I could not disagree more. We will keep working with the administration on this issue. There may be an odd case where a Federal court may be an appropriate venue. But I think I speak for Senator LIEBERMAN and I hope most Americans that the people we are talking about are not common criminals. They are not detained because of some violation of domestic criminal law. They are detained because they have been found to be part of al-Qaida and other terrorist organizations that the Congress has previously determined to be enemy combatant belligerents, people who have taken up arms against the United States of America, who are intent on our destruction. They are not accused of robbing a liquor store. They fall within a narrow statutory definition that was created after 9/11. This is an opportunity for the Senate to express itself and say there is a preference for military courts.

I conclude with this thought. I believe we are at war. It is an unusual war but nonetheless a deadly war. The people we are talking about, again, need to be viewed as military threats, and under military law it is appropriate to try someone who has operated outside the law of armed conflict in a military commission.

Our Nation has been doing this for 200 years. The Nazi saboteurs who were caught landing on the coast of Florida were tried by military commission. I can give a long history of how military commissions were used by our Nation at times of war. That is the preferred vehicle when a nation is at war.

I conclude with this thought. Those who can be tried should be tried by military commissions. There will be some enemy combatants determined to be part of al-Qaida who will not be subject to criminal process either in Federal courts or military commission trials. It is my belief that this country cannot afford to release them if they are still a military threat.

Under military law, there is no requirement to release an enemy prisoner as long as they present a threat to your country. There is no such concept in domestic criminal law. We cannot

criminalize this war. It will come back to haunt us.

Due process is available under military law. The men and women running these trials are officers, judge advocates. I have been one for 25 years. They are wonderful people. They will adhere to the law. They understand the law. They will provide transparent justice. But this is the setting that we need to be in regarding these detainees. This statement by the Senate is appropriate.

Mr. President, to my good friend, Senator LIEBERMAN, he has, above all others, tried to remind himself that the Nation's defense is more important than politics. I cannot tell Senator LIEBERMAN how much I admire him. We have worked together to get a sense of the Senate, not binding, but a strong statement that it is a preference that these terrorists detained as part of an al-Qaida network be tried in military commissions, as we have done in our history.

I yield to Senator LIEBERMAN and hope my colleagues will accept this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I call up our amendment No. 1650, as modified.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Mr. GRAHAM, proposes an amendment numbered 1650, as modified.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress that military commissions are the preferred forum for the trial of alien unprivileged belligerents for violations of the law of war and other offenses triable by military commission)

On page 394, between lines 8 and 9, insert the following:

SEC. 1032. TRIAL BY MILITARY COMMISSION OF ALIEN UNPRIVILEGED BELLIGERENTS FOR VIOLATIONS OF THE LAW OF WAR.

(a) IN GENERAL.—Subchapter I of chapter 47A of title 10, United States Code, as amended by section 1031(a), is further amended by adding at the end the following new section:

"§ 948e. Trial by military commission of alien unprivileged belligerents for violations of the law of war

''(a) SENSE OF CONGRESS.—It is the sense of Congress that the preferred forum for the trial of alien unprivileged enemy belligerents subject to this chapter for violations of the law of war and other offenses made punishable by this chapter is trial by military commission under this chapter.

(b) CLERICAL AMENDMENT.—The table of sections of the beginning of such subchapter, as amended by section 1031(a), is further amended by adding after the item relating to section 948d the following new item:

''948e. Trial by military commission of alien unprivileged belligerents for violations of the law of war.''.

Mr. LIEBERMAN. Mr. President, I thank Senator GRAHAM for his overly generous words in my direction. It is always a pleasure to work with him on matters of this kind. Really more than anyone else in the Senate, he knows military law because he practices it in his capacity as a member of the JAG. I thank him for cosponsoring this amendment with me.

Also, I thank Chairman LEVIN, Senator MCCAIN, and Senator GRAHAM for the extraordinary work they have done in improving the military commission system that has been set up. It is the basis for the amendment that Senator GRAHAM and I put in this evening.

The fact is that military commissions, by one name or another, have played a time-honored role in our country in bringing war criminals to justice. The use of military tribunals dates all the way back to the beginning of our country. Our first President, GEN George Washington, relied on them during the Revolutionary War for the trial of violations of the laws of war.

The United States has continued to utilize military commissions or tribunals for the trial of people accused of violations of the laws of war and related crimes throughout our history.

The fact is we are once more at war today against those who planned, authorized, committed, or aided the terrorist attacks of September 11, 2001. There is an existing authorization for the use of military force. Military commissions, in my opinion, and Senator GRAHAM's, are, therefore, the appropriate forum for the trial of war criminals captured during this conflict, as they have been throughout our history. And all the more comfortable should we be in saying that after the amendments to the Military Commissions Act have been adopted as part of this National Defense Authorization Act.

I remind our colleagues, because it was done without a lot of debate, that the package of amendments to the Military Commissions Act that has been adopted as part of this legislation, offered by Senators MCCAIN, LEVIN, and GRAHAM, would ensure lawful, fair, and effective trials by providing a series of protections to the accused for the military commissions, including a prohibition on the use of statements obtained through cruel, inhuman, or degrading treatment, access to exculpatory evidence, and meaningful appellate review of legal and factual findings.

As distinguished witnesses and authorities have testified at a hearing Chairman LEVIN led before the Armed Services Committee on this issue 2 weeks ago, according to these witnesses, including people who work as general counsel in the Defense Department, for instance, the military commission provisions in the bill before us not only meet but surpass by far the fundamental standards of fairness and due process required by our Supreme Court, the Geneva Conventions, and the rules of the International Criminal Court.

Given those robust procedural and substantive rights provided by the system of military commissions established in this bill, I must say that I have been surprised, troubled, and I would even go so far as to say astounded that officials of our administration have now made clear that they prefer prosecuting war criminals in Federal district courts here in the United States as opposed to before the military commissions we have established. That was testimony given before the Armed Services Committee in response to questions of the General Counsel of the Defense Department.

Just this week, an interim report was issued by a Department of Defense and Department of Justice task force on the legal questions associated with the detainees. In that report there is this sentence:

There is a presumption that, where feasible, referred cases will be prosecuted in an Article III court, in keeping with traditional principles of federal prosecution.

Article III courts, of course, are federal courts.

So it is the testimony of the General Counsel of the Defense Department, and now this interim report from the Department of Defense and the Department of Justice, that has led Senator GRAHAM and me to offer this amendment, because we simply disagree, as we think most Americans and most Members of the Senate do, with the idea that there is a presumption in favor of trying prisoners of war before our Federal courts instead of before military commissions, as has been done throughout our history.

This realizes the worst fears of people that we would begin to criminalize the war on terrorism instead of treating it and its perpetrators as war and criminals of war. This change in direction departs from our history and, in some sense, diminishes the extraordinary work that has been done by Chairman LEVIN, Senator MCCAIN, Senator GRAHAM, and others to create and improve these military commissions. It may, in fact, cast unfounded doubt on the legitimacy of the convictions obtained by military commissions on the strength of the evidence used to secure convictions in those proceedings and the procedural protections accorded to defendants by the military commissions process.

Our amendment is very simple. It is a long sentence, and I read it, as follows:

It is the sense of Congress that the preferred forum for the trial of alien unprivileged enemy belligerents subject to this chapter for violations of the law of war and other offenses made punishable by this chapter is trial by military commission under this chapter.

So we adopt wording in the military commissions section of this legislation regarding violations of the law of war and other offenses made punishable by this chapter, and we say that it is our preference that people accused of such crimes of war be tried before the military commissions.

We have created a system of military commissions that I believe offers remarkable protections—perhaps the best ever offered to people in the status of alleged war criminals against our country or any country, against our citizens or the citizens of any country. And, I repeat, obviously we are at war, and therefore we should use these military commissions we have created and preference should be in their direction.

The fact is, where to bring charges against people accused of violating laws of war or, as we have said in the legislation, other offenses made punishable by this chapter is a decision made by the executive branch. It is not one we can control. But we can express an opinion. We can express an opinion to the executive branch, respectfully, that we think they have made a mistake in stating a presumption to try prisoners of war in Federal district courts. Such an approach would cast doubt, as I have said, on the use of military commissions but I think would also set an unfortunate, even dangerous, precedent for the trial of war criminals today or in future conflicts in Federal courts rather than our Nation's time-honored use of military commissions for the violation of the law of war.

I hope we can unite across party lines to adopt this expression of opinion on a most important question.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I wish to take a moment, in response to my good friends, Senator GRAHAM and Senator LIEBERMAN, and say a word on behalf of the U.S. Department of Justice and its prosecutors, who have been actively engaged in the war on terror for many years now and who have shown considerable success.

The information they have is that the number of individuals who have been successfully prosecuted, convicted, and incarcerated as a result of military commissions numbers in the handful—perhaps even fewer than five. By contrast, just since January 1 of this year, more than 30 individuals have been charged with terrorism, successfully prosecuted, and sentenced to Federal prison—more than 30 convicted or sentenced just this year. There are 355 inmates in Federal prison now who have been successfully charged, prosecuted, convicted, and are now serving lengthy sentences as a result of their history or connection with international or domestic terrorism.

I don't want to get into a discussion right now on whether military commissions are a good or bad idea, but what has proven tried-and-true in terms of actually putting terrorists behind bars, where they belong, has been the expertise and the experience and the capability of the U.S. Department of Justice. They have been successful. There are hundreds of terrorists behind bars. There are far more than have ever come through the military commissions during the course of this struggle. And I think we should bear that in mind as we speak about this issue and as we vote about this issue. There is a lot of high-quality prosecutorial work and a lot of patriotism in the Department of Justice, and there is a reason we should allow the professionals to sort out case by case which is the better venue for the trial, whether a military commission, however new and untested in this modern era, or the tried-and-true model of the U.S. Federal prosecutor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we can quickly get to a voice vote. I would briefly say that the executive branch created a presumption that the cases would be tried before criminal courts—article III courts. I thought it was a mistake. We should not have a presumption one way or the other. The amendment before us redresses the balance to the extent we can do it tonight.

Also, we were able to get the agreement on the part of the sponsors to strike a part of the original amendment which would have created some very difficult bureaucratic problems in terms of reporting case by case as to why decisions were made one way or another.

So I do hope we can promptly agree to the amendment. I thank Senators LIEBERMAN and GRAHAM.

Again, my own preference is there not be either a presumption or a preference one way or the other, but I think this does even the balance. Again, it is a sense of the Senate, so it will be left to the Department of Justice.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank Chairman LEVIN for his statement. It is always a very thoughtful and mutually respectful process when you work with Senator LEVIN, even on matters of disagreement, and I appreciate the resolution.

I would just like to say in response to the comments of my friend from Rhode Island—and there is nothing here intended to in any way disparage the work of the Federal prosecutors, and I appreciate the record he cited of the prosecutions, but the point Senator GRAHAM and I are trying to make, and I hope the whole Senate will, is that violations of the laws of war are inherently different. Regardless of the outcome—how many people are convicted or put in jail or not—those allegations of such crimes belong before military commissions, or tribunals as they have been called throughout our history, not in Federal criminal courts where other violations of our domestic criminal law are handled. Part of that is just an appropriate allocation of responsibility. Part of it is that I think it is important we not fall into a misunderstanding that we are not involved in war. It is a very different kind of war, but it is a war, and we know that from the casualties we suffered on 9/11 and people around the world have suffered before and since in a lot of other cities and countries. So we are making a point of an appropriate forum for the trial of cases, not based on outcome but based on where these allegations are best tried.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1650), as modified, was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENTS NOS. 1481, 1621, AS MODIFIED, 1675, 1700, 1680, 1697, 1494, 1718, 1601, 1738, 1703, 1656, 1523, 1647, 1662, 1741, 1746, 1543, 1740, 1687, 1702, 1717, 1521, 1768, 1752, 1739, AS MODIFIED, 1775, 1735, 1564, 1773, 1774, 1795, 1788, 1780, 1782, 1779, 1785, 1806, 1803, 1727, 1706, 1749, AS MODIFIED, 1799, 1620, 1688, 1765, EN BLOC

Mr. LEVIN. Mr. President, I send a series of 46 amendments to the desk, which have been cleared by myself and Senator MCCAIN, the ranking member, and I ask unanimous consent that the Senate consider these amendments en bloc, the amendments be agreed to, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 1481

(Purpose: To require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America)

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.

AMENDMENT NO. 1621, AS MODIFIED

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

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

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

(1) in subsection (h)—

(A) by striking paragraph (3); and

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

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

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

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

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

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

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

''(3) OPERATION.—

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

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

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

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

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

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

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

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

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

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

''(4) TERMINATION.—The program established under this subsection shall terminate on October 1, 2012.''.

AMENDMENT NO. 1675

(Purpose: To ensure that members of the reserve components of the Armed Forces who are injured while on active duty are advised of programs to assist in their transition back to civilian life)

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

SEC. 652. CONTINUATION ON ACTIVE DUTY OF RESERVE COMPONENT MEMBERS DURING PHYSICAL DISABILITY EVALUATION FOLLOWING MOBILIZATION AND DEPLOYMENT.

Section 1218 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) The Secretary of a military department shall ensure that each member of a reserve component under the jurisdiction of the Secretary who is determined, after a mobilization and deployment to an area in which imminent danger pay is authorized under section 310 of title 37, to require evaluation for a physical or mental disability which could result in separation or retirement for disability under this chapter or placement on the temporary disability retired list or inactive status list under this chapter is retained on active duty during the disability evaluation process until such time as such member is—

''(A) cleared by appropriate authorities for continuation on active duty; or

''(B) separated, retired, or placed on the temporary disability retired list or inactive status list.

''(2)(A) A member described in paragraph (1) may request termination of active duty under such paragraph at any time during the demobilization or disability evaluation process of such member.

''(B) Upon a request under subparagraph (A), a member described in paragraph (1) shall only be released from active duty after the member receives counseling about the consequences of termination of active duty.

''(C) Each release from active duty under subparagraph (B) shall be thoroughly documented.

''(3) The requirements in paragraph (1) shall expire on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010.''.

SEC. 653. USE OF LOCAL RESIDENCES FOR COMMUNITY-BASED CARE FOR CERTAIN RESERVE COMPONENT MEMBERS.

Section 1222 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) USE OF LOCAL RESIDENCES FOR CERTAIN RESERVE COMPONENT MEMBERS.—(1)(A) A member of a reserve component described by subparagraph (B) may be assigned to the community-based warrior transition unit located nearest to the member's permanent place of residence if residing at that location is—

''(i) medically feasible, as determined by a licensed military health care provider; and

''(ii) consistent with—

''(I) the needs of the armed forces; and

''(II) the optimal course of medical treatment of the member.

''(B) A member of a reserve component described by this subparagraph is any member remaining on active duty under section 1218(d) of this title during the period the member is on active duty under such subsection.

''(2) Nothing in this subsection shall be construed as terminating, altering, or otherwise affecting the authority of the commander of a member described in paragraph (1)(B) to order the member to perform duties consistent with the member's fitness for duty.

''(3) The Secretary concerned shall pay any reasonable expenses of transportation, lodging, and meals incurred by a member residing at the member's permanent place of residence under this subsection in connection with travel from the member's permanent place of residence to a medical facility during the period in which the member is covered by this subsection.''.

SEC. 654. ASSISTANCE WITH TRANSITIONAL BENEFITS.

(a) IN GENERAL.—Chapter 61 of title 10, United States Code, is amended by inserting after section 1218 the following new section:

''§ 1218a. Discharge or release from active duty: transition assistance

''The Secretary of a military department shall provide to a member of a reserve component under the jurisdiction of the Secretary who is injured while on active duty in the armed forces the following before such member is demobilized or separated from the armed forces:

''(1) Information on the availability of care and administrative processing through community based warrior transition units.

''(2) The location of the community based warrior transition unit located nearest to the member's permanent place of residence.

''(3) An opportunity to consult with a member of the applicable judge advocate general's corps, or other qualified legal assistance attorney, regarding the member's eligibility for compensation, disability, or other transitional benefits.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 61 of such title is amended by inserting after the item relating to section 1218 the following new item:

''1218a. Discharge or release from active duty: transition assistance.''.

AMENDMENT NO. 1700

(Purpose: To ensure the security of Iraq through defense cooperation between the United States and Iraq)

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

SEC. 1211. ENSURING IRAQI SECURITY THROUGH DEFENSE COOPERATION BETWEEN THE UNITED STATES AND IRAQ.

The President may treat an undertaking by the Government of Iraq that is made between the date of the enactment of this Act and December 31, 2011, as a dependable undertaking described in section 22(a) of the Arms Export Control Act (22 U.S.C. 2762(a)) for purposes of entering into contracts for the procurement of defense articles and defense services as provided for in that section.

AMENDMENT NO. 1680

(Purpose: To authorize the availability of appropriated funds for certain activities conducted under the State Partnership Program of the National Guard)

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

SEC. 1211. AVAILABILITY OF APPROPRIATED FUNDS FOR THE STATE PARTNERSHIP PROGRAM.

(a) AVAILABILITY OF APPROPRIATED FUNDS.—The Secretary of Defense may, under regulations prescribed by the Secretary, use funds appropriated to the Department of Defense for fiscal year 2010 to pay the costs incurred by the National Guard (including the costs of pay and allowances of members of the National Guard) in conducting activities under the State Partnership Program—

(1) to support the objectives of the commander of the combatant command for the theater of operations in which such activities are conducted; or

(2) to build international civil-military partnerships and capacity on matters relating to defense and security.

(b) LIMITATIONS.—

(1) APPROVAL BY COMMANDER OF COMBATANT COMMAND AND CHIEF OF MISSION.—Funds shall not be available under subsection (a) for activities conducted under the State Partnership Program in a foreign country unless such activities are jointly approved by the commander of the combatant command concerned and the chief of mission concerned.

(2) PARTICIPATION BY MEMBERS.—Funds shall not be available under subsection (a) for the participation of a member of the National Guard in activities conducted under the State Partnership Program in a foreign country unless the member is on active duty in the Armed Forces at the time of such participation.

(c) REIMBURSEMENT.—In the event of the participation of personnel of a department or agency of the United States Government (other than the Department of Defense) in activities for which payment is made under subsection (a), the head of such department or agency shall reimburse the Secretary of Defense for the costs associated with the participation of such personnel in such activities. Amounts reimbursed the Department of Defense under this subsection shall be deposited in the appropriation or account from which amounts for the payment concerned were derived. Any amounts so deposited shall be merged with amounts in such appropriation or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such appropriation or account.

AMENDMENT NO. 1697

(Purpose: To require a biennial report on the military power of Iran)

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

SEC. 1222. REPORT ON MILITARY POWER OF IRAN.

(a) BIENNIAL REPORT.—Not later than March 31, 2010, and in each even-numbered year thereafter until 2020, the Secretary of Defense shall submit to Congress 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 Islamic Republic 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 the Islamic Republic of Iran, including the following:

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

(B) Aspects of 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 Middle East region.

(2) An assessment of the capabilities of the conventional forces of the Government of the Islamic Republic 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 the Islamic Republic of Iran facing United States forces in the region and other countries in the Middle East region.

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

(3) An assessment of the unconventional forces of the Government of the Islamic Republic 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 in particular those forces that have been assessed as willing to carry out terrorist operations on behalf of the Islamic Republic of Iran.

(C) A detailed analysis of the unconventional forces of the Government of the Islamic Republic of Iran and their implications for the United States and other countries in the Middle East region.

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

(c) DEFINITIONS.—In this section:

(1) CONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term ''conventional forces of the Government of the Islamic Republic 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.

(2) MIDDLE EAST REGION.—The term ''Middle East region'' means—

(A) the countries within the area of responsibility of United States Central Command; and

(B) the countries within the area covered by the Bureau of Near Eastern Affairs of the Department of State.

(3) UNCONVENTIONAL FORCES OF THE GOVERNMENT OF IRAN.—The term ''unconventional forces of the Government of the Islamic Republic 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 the Islamic Republic of Iran; or

(bb) is assessed as likely to carry out attacks in response to a military attack by another country on the Islamic Republic of Iran.

AMENDMENT NO. 1494

(Purpose: To require a report on criteria for the selection of strategic embarkation ports and ship layberth locations)

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 layberth 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.

AMENDMENT NO. 1718

(Purpose: To provide authority to transfer covered defense articles no logner needed in Iraq and to provide defense services to the security forces of Iraq and Afghanistan)

On page 475, between lines 2 and 3, insert the following:

SEC. 1211. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF IRAQ AND AFGHANISTAN.

(a) AUTHORITY.—The President is authorized to transfer defense articles from the stocks of the Department of Defense, and to provide defense services in connection with the transfer of such defense articles, to—

(1) the military and security forces of Iraq to support the efforts of those forces to restore and maintain peace and security in that country; and

(2) the military and security forces of Afghanistan to support the efforts of those forces to restore and maintain peace and security in that country.

(b) LIMITATIONS.—

(1) VALUE.—The aggregate replacement value of all defense articles transferred and defense services provided under subsection (a) may not exceed $500,000,000.

(2) SOURCE OF TRANSFERRED DEFENSE ARTICLES.—The authority under subsection (a) may only be used for defense articles that—

(A) immediately before the transfer were in use to support operations in Iraq;

(B) were present in Iraq as of the date of enactment of this Act; and

(C) are no longer required by United States forces in Iraq.

(c) APPLICABLE LAW.—Any defense articles transferred or defense services provided to Iraq or Afghanistan under the authority of subsection (a) shall be subject to the authorities and limitations applicable to excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations contained in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) REPORT.—

(1) IN GENERAL.—The President may not exercise the authority under subsection (a) until 30 days after the Secretary of Defense, with the concurrence of the Secretary of State, provides the appropriate congressional committees a report on the plan for the disposition of equipment and other property of the Department of Defense in Iraq.

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

(A) An assessment of—

(i) the types and quantities of defense articles required by the military and security forces of Iraq to support the efforts of those military and security forces to restore and maintain peace and security in Iraq; and

(ii) the types and quantities of defense articles required by the military and security forces of Afghanistan to support the efforts of those military and security forces to restore and maintain peace and security in Afghanistan.

(B) A description of the authorities available for addressing the requirements identified in subparagraph (A).

(C) A description of the process for inventorying equipment and property, including defense articles, in Iraq owned by the Department of Defense, including equipment and property owned by the Department of Defense and under the control of contractors in Iraq.

(D) A description of the types of defense articles that the Department of Defense intends to transfer to the military and security forces of Iraq and an estimate of the quantity of such defense articles to be transferred.

(E) A description of the process by which potential requirements for defense articles to be transferred under the authority provided in subsection (a), other than the requirements of the security forces of Iraq or Afghanistan, are identified and the mechanism for resolving any potential conflicting requirements for such defense articles.

(F) A description of the plan, if any, for reimbursing military departments from which non-excess defense articles are transferred under the authority provided in subsection (a).

(G) An assessment of the efforts by the Government of Iraq to identify the requirements of the military and security forces of Iraq for defense articles to support the efforts of those forces to restore and maintain peace and security in that country.

(H) An assessment of the ability of the Governments of Iraq and Afghanistan to absorb the costs associated with possessing and using the defense articles to be transferred.

(I) A description of the steps taken by the Government of Iraq to procure or acquire defense articles to meet the requirements of the military and security forces of Iraq, including through military sales from the United States.

(e) NOTIFICATION.—

(1) IN GENERAL.—The President may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the President has provided notice of the proposed transfer of defense articles or provision of defense services to the appropriate congressional committees.

(2) CONTENTS.—Such notification shall include—

(A) a description of the amount and type of each defense article to be transferred or defense services to be provided;

(B) a statement describing the current value of such article and the estimated replacement value of such article;

(C) an identification of the military department from which the defense articles being transferred are drawn;

(D) an identification of the element of the military or security force that is the proposed recipient of each defense article to be transferred or defense service to be provided;

(E) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(F) a certification by the President that—

(i) the Secretary of Defense has determined that—

(I) the defense articles to be transferred are no longer required by United States forces in Iraq;

(II) the proposed transfer of such defense articles will not adversely impact the military preparedness of the United States;

(III) immediately before the transfer, the defense articles to be transferred were being used to support operations in Iraq;

(IV) the defense articles to be transferred were present in Iraq as of the date of enactment of this Act; and

(V) the defense articles to be transferred are required by the military and security forces of Iraq or the military and security forces of Afghanistan, as applicable, to build their capacity to restore and maintain peace and security in their country;

(ii) the government of the recipient country has agreed to accept and take possession of the defense articles to be transferred and to receive the defense services in connection with that transfer; and

(iii) the proposed transfer of such defense articles and the provision of defense services in connection with such transfer is in the national interest of the United States.

(f) QUARTERLY REPORT.—Not later than 90 days after the date of the report provided under subsection (d), and every 90 days thereafter during fiscal year 2010, the Secretary of Defense shall report to the appropriate congressional committees on the implementation of the authority under subsection (a). The report shall include the replacement value of defense articles transferred pursuant to subsection (a), both in the aggregate and by military department, and services provided to Iraq and Afghanistan during the previous 90 days.

(g) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) DEFENSE ARTICLES.—The term ''defense articles'' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) DEFENSE SERVICES.—The term ''defense services'' has the meaning given the term in section 644(f) of such Act (22 U.S.C. 2403(f)).

(4) MILITARY AND SECURITY FORCES.—The term ''military and security forces'' means national armies, national air forces, national navies, national guard forces, police forces and border security forces, but does not include non-governmental or irregular forces (such as private militias).

(h) EXPIRATION.—The authority provided under subsection (a) may not be exercised after September 30, 2010.

(i) EXCESS DEFENSE ARTICLES.—

(1) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by Section 516 of the Foreign Assistance Act of 1961.

(2) AGGREGATE VALUE.—The value of excess defense articles transferred to Iraq during fiscal year 2010 pursuant to Section 516 of the Foreign Assistance Act of 1961 shall not be counted against the limitation on the aggregate value of excess defense articles transferred contained in subsection (g) of such Act.

AMENDMENT NO. 1601

(Purpose: To require a report on simplifying defense travel)

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON DEFENSE TRAVEL SIMPLIFICATION.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this

Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive plan to simplify defense travel.

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

(1) A comprehensive discussion of aspects of the Department of Defense travel system that are most confusing, inefficient, and in need of revision.

(2) Critical review of opportunities to streamline and simplify defense travel policies and to reduce travel-related costs to the Department of Defense.

(3) Options to leverage industry capabilities that could enhance management responsiveness to changing markets.

(4) A discussion of pilot programs that could be undertaken to prove the merit of improvements identified in accomplishing actions specified in paragraphs (1) and (2), including recommendations for legislative authority.

(5) Such recommendations and an implementation plan for legislative or administrative action as the Secretary of Defense considers appropriate to improve defense travel.

AMENDMENT NO. 1738

(Purpose: To provide for an annual comprehensive report on the status of United States efforts and the level of progress achieved to counter and defeat Al Qaeda and its related affiliates and undermine long-term support for the violent extremism that helps sustain Al Qaeda's recruitment efforts)

At the appropriate place, insert the following:

SEC. ____. ANNUAL COUNTERTERRORISM STATUS REPORTS.

(a) SHORT TITLE.—This section may be cited as the ''Success in Countering Al Qaeda Reporting Requirements Act of 2009''.

(b) ANNUAL COUNTERTERRORISM STATUS REPORTS.—

(1) IN GENERAL.—Not later than July 31, 2010, and every July 31 thereafter, the President shall submit a report, to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, which contains, for the most recent 12-month period, a review of the counterterrorism strategy of the United States Government, including—

(A) a detailed assessment of the scope, status, and progress of United States counterterrorism efforts in fighting Al Qaeda and its related affiliates and undermining long-term support for violent extremism;

(B) a judgment on the geographical region in which Al Qaeda and its related affiliates pose the greatest threat to the national security of the United States;

(C) a judgment on the adequacy of interagency integration of the counterterrorism programs and activities of the Department of Defense, the United States Special Operations Command, the Central Intelligence Agency, the Department of State, the Department of the Treasury, the Department of Homeland Security, the Department of Justice, and other Federal departments and agencies;

(D) an evaluation of the extent to which the counterterrorism efforts of the United States correspond to the plans developed by the National Counterterrorism Center and the goals established in overarching public statements of strategy issued by the executive branch;

(E) a determination of whether the National Counterterrorism Center exercises the authority and has the resources and expertise required to fulfill the interagency strategic and operational planning role described in section 119(j) of the National Security Act of 1947 (50 U.S.C. 404o), as added by section 1012 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458);

(F) a description of the efforts of the United States Government to combat Al Qaeda and its related affiliates and undermine violent extremist ideology, which shall include—

(i) a specific list of the President's highest global counterterrorism priorities;

(ii) the degree of success achieved by the United States, and remaining areas for progress, in meeting the priorities described in clause (i); and

(iii) efforts in those countries in which the President determines that—

(I) Al Qaeda and its related affiliates have a presence; or

(II) acts of international terrorism have been perpetrated by Al Qaeda and its related affiliates;

(G) a specific list of United States counterterrorism efforts, and the specific status and achievements of such efforts, through military, financial, political, intelligence, paramilitary, and law enforcement elements, relating to—

(i) bilateral security and training programs;

(ii) law enforcement and border security;

(iii) the disruption of terrorist networks; and

(iv) the denial of terrorist safe havens and sanctuaries;

(H) a description of United States Government activities to counter terrorist recruitment and radicalization, including—

(i) strategic communications;

(ii) public diplomacy;

(iii) support for economic development and political reform; and

(iv) other efforts aimed at influencing public opinion;

(I) United States Government initiatives to eliminate direct and indirect international financial support for the activities of terrorist groups;

(J) a cross-cutting analysis of the budgets of all Federal Government agencies as they relate to counterterrorism funding to battle Al Qaeda and its related affiliates abroad, including—

(i) the source of such funds; and

(ii) the allocation and use of such funds;

(K) an analysis of the extent to which specific Federal appropriations—

(i) have produced tangible, calculable results in efforts to combat and defeat Al Qaeda, its related affiliates, and its violent ideology; or

(ii) contribute to investments that have expected payoffs in the medium- to long-term;

(L) statistical assessments, including those developed by the National Counterterrorism Center, on the number of individuals belonging to Al Qaeda and its related affiliates that have been killed, injured, or taken into custody as a result of United States counterterrorism efforts; and

(M) a concise summary of the methods used by National Counterterrorism Center and other elements of the United States Government to assess and evaluate progress in its overall counterterrorism efforts, including the use of specific measures, metrics, and indices.

(2) INTERAGENCY COOPERATION.—In preparing a report under this subsection, the President shall include relevant information maintained by—

(A) the National Counterterrorism Center and the National Counterproliferation Center;

(B) Department of Justice, including the Federal Bureau of Investigation;

(C) the Department of State;

(D) the Department of Defense;

(E) the Department of Homeland Security;

(F) the Department of the Treasury;

(G) the Office of the Director of National Intelligence;

(H) the Central Intelligence Agency;

(I) the Office of Management and Budget;

(J) the United States Agency for International Development; and

(K) any other Federal department that maintains relevant information.

(3) REPORT CLASSIFICATION.—Each report required under this subsection shall be—

(A) submitted in an unclassified form, to the maximum extent practicable; and

(B) accompanied by a classified appendix, as appropriate.

AMENDMENT NO. 1703

(Purpose: To reauthorize the SBIR program and the STTR program, and for other purposes)

(The amendment is printed in the RECORD of Wednesday, July 22, 2009, under ''Text of Amendments.'')

AMENDMENT NO. 1656

(Purpose: To require a report on the recruitment and retention of members of the Air Force in nuclear career fields)

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

SEC. 652. REPORT ON RECRUITMENT AND RETENTION OF MEMBERS OF THE AIR FORCE IN NUCLEAR CAREER FIELDS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on the efforts of the Air Force to attract and retain qualified individuals for service as members of the Air Force involved in the operation, maintenance, handling, and security of nuclear weapons.

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

(1) A description of current reenlistment rates, set forth by Air Force Specialty Code, of members of the Air Force serving in positions involving the operation, maintenance, handling, and security of nuclear weapons.

(2) A description of the current personnel fill rate for Air Force units involved in the operation, maintenance, handling, and security of nuclear weapons.

(3) A description of the steps the Air Force has taken, including the use of retention bonuses or assignment incentive pay, to improve recruiting and retention of officers and enlisted personnel by the Air Force for the positions described in paragraph (1).

(4) An assessment of the feasibility, advisability, utility, and cost effectiveness of establishing additional bonuses or incentive pay as a way to enhance the recruitment and retention by the Air Force of skilled personnel in the positions described in paragraph (1).

(5) An assessment of whether assignment incentive pay should be provided for members of the Air Force covered by the Personnel Reliability Program.

(6) An assessment of the long-term community management plan for recruitment and retention by the Air Force of skilled personnel in the positions described in paragraph (1).

(7) Such other matters as the Secretary considers appropriate.

AMENDMENT NO. 1523

(Purpose: To amend provisions relating to Federal civilian employee retirement, and for other purposes)

(The amendment is printed in the RECORD of Tuesday, July 14, 2009, under ''Text of Amendments.'')

AMENDMENT NO. 1647

(Purpose: To express the sense of the Senate on costs for health care for members of the Armed Forces and their families)

On page 213, between lines 14 and 15, insert the following:

SEC. 706. SENSE OF THE SENATE ON HEALTH CARE BENEFITS AND COSTS FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Career members of the Armed Forces and their families endure unique and extraordinary demands, and make extraordinary sacrifices, over the course of 20-year to 30-year careers in protecting freedom for all Americans.

(2) The nature and extent of these demands and sacrifices are never so evident as in wartime, not only during the current combat operations, but also during the wars of the last 60 years when current retired members of the Armed Forces were on continuous call to go in harm's way when and as needed.

(3) A primary benefit of enduring the extraordinary sacrifices inherent in a military career is a range of retirement benefits, including lifetime health benefits, that a grateful Nation provides for those who choose to subordinate their personal life to the national interest for so many years.

(4) Currently serving and retired members of the uniformed services and their families and survivors deserve benefits equal to their commitment and service to our Nation.

(5) Many employers are curtailing health benefits and shifting costs to their employees, which may result in retired members of the Armed Forces returning to the Department of Defense, and its TRICARE program, for health care benefits during retirement, and contribute to health care cost growth.

(6) Defense health costs also expand as a result of service-unique military readiness requirements, wartime requirements, and other necessary requirements that represent the ''cost of business'' for the Department of Defense.

(7) While the Department of Defense has made some efforts to contain increases in the cost of the TRICARE program, too many of those efforts have been devoted to shifting a larger share of the costs of benefits under that program to retired members of the Armed Forces who have earned health care benefits in return for a career of military service.

(8) In some cases health care providers refuse to accept TRICARE patients because that program pays less than other public and private payors and imposes unique administrative requirements.

(9) The Department of Defense records deposits to the Department of Defense Military Retiree Health Care Fund as discretionary costs to the Department in spite of legislation enacted in 2006 that requires such deposits to be made directly from the Treasury of the United States.

(10) As a result, annual payments for the future costs of servicemember health care continue to compete with other readiness needs of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of Defense and the Nation have an obligation to provide health care benefits to retired members of the Armed Forces that equals the quality of their selfless service to our country;

(2) past proposals by the Department of Defense to impose substantial fee increases on military beneficiaries have failed to acknowledge properly the findings addressed in subsection (a); and

(3) the Department of Defense has many additional options to constrain the growth of health care spending in ways that do not disadvantage retired members of the Armed Forces who participate or seek to participate in the TRICARE program, and should pursue any and all such options rather than seeking large increases for enrollment fees, deductibles, and copayments for such retirees, and their families or survivors, who do participate in that program.

AMENDMENT NO. 1662

(Purpose: To expand the provision authorizing special compensation for members of the uniformed services with certain injuries or illnesses incurred in the line of duty)

Strike section 617 and insert the following:

SEC. 617. SPECIAL COMPENSATION FOR MEMBERS OF THE UNIFORMED SERVICES WITH SERIOUS INJURIES OR ILLNESSES REQUIRING ASSISTANCE IN EVERYDAY LIVING.

(a) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 439. Special compensation: members of the uniformed services with serious injuries or illnesses requiring assistance in everyday living

''(a) MONTHLY COMPENSATION.—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

''(b) COVERED MEMBERS.—A member eligible for monthly special compensation authorized by subsection (a) is a member who—

''(1) has been certified by a licensed physician to be in need of assistance from another person to perform the personal functions required in everyday living;

''(2) has a serious injury, disorder, or disease of either a temporary or permanent nature that—

''(A) is incurred or aggravated in the line of duty; and

''(B) compromises the member's ability to carry out one or more activities of daily living or requires the member to be constantly supervised to avoid physical harm to the member or to others; and

''(3) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.

''(c) AMOUNT.—(1) The amount of monthly special compensation payable to a member under subsection (a) shall be determined under criteria prescribed by the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard), but may not exceed the amount of aid and attendance allowance authorized by section 1114(r)(2) of title 38 for veterans in need of aid and attendance.

''(2) In determining the amount of monthly special compensation, the Secretary concerned shall consider the following:

''(A) The extent to which home health care and related services are being provided by the Government.

''(B) The extent to which aid and attendance services are being provided by family and friends who may be compensated with funds provided through the monthly special compensation.

''(d) PAYMENT UNTIL MEDICAL RETIREMENT.—Monthly special compensation is payable under this section to a member described in subsection (b) for any month that begins before the date on which the member is medically retired.

''(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

''(f) BENEFIT INFORMATION.—The Secretary of Defense, in collaboration with the Secretary of Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

''(g) REGULATIONS.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.''.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense (and the Secretary of Homeland Security, with respect to the Coast Guard) shall submit to Congress a report on the provision of compensation under section 439 of title 37, United States Code, as added by subsection (a) of this section.

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

(A) An estimate of the number of members of the uniformed services eligible for compensation under such section 439.

(B) The number of members of the uniformed services receiving compensation under such section.

(C) The average amount of compensation provided to members of the uniformed services receiving such compensation.

(D) The average amount of time required for a member of the uniformed services to receive such compensation after the member becomes eligible for the compensation.

(E) A summary of the types of injuries, disorders, and diseases of members of the uniformed services receiving such compensation that made such members eligible for such compensation.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

''439. Special compensation: members of the uniformed services with serious injuries or illnesses requiring assistance in everyday living.''.

AMENDMENT NO. 1741

(Purpose: To require the Secretary of Defense to report on the status of the Air National Guard and the Air Force Reserve)

At the end of subtitle E of title III, add the following:

SEC. 342. REPORT ON STATUS OF AIR NATIONAL GUARD AND AIR FORCE RESERVE.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Air Force, the Chief of the National Guard Bureau, the Director of the Air National Guard, the Chief of the Air Force Reserve, and such other officials as the Secretary of Defense considers appropriate, shall submit to Congress a report on—

(1) the status of the Air National Guard and the Air Force Reserve; and

(2) the plans of the Department of Defense to ensure that the Air National Guard and the Air Force Reserve remain ready to meet the requirements of the Air Force and the combatant commands and for homeland defense.

AMENDMENT NO. 1746

(Purpose: To require reports on the service life and replacement of AC-130 gunships of the Air Force)

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 90 days after the date of the enactment of this Act, the Secretary of the Air Force, in consultation with the United States Special Operations Command, 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.

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

(d) ANALYSIS OF ALTERNATIVES.—The Secretary of the Air Force, in consultation with the United States Special Operations Command, shall conduct an analysis of alternatives for any gunship modernization requirements identified by the 2009 quadrennial defense review under section 118 of title 10, United States Code. The results of the analysis of alternatives shall be provided to the congressional defense committees not later than 18 months after the completion of the 2009 quadrennial defense review.

AMENDMENT NO. 1543

(Purpose: To authorize the service Secretaries to increase the end strength of the Selected Reserve by two percent)

On page 100, between lines 2 and 3, insert the following:

SEC. 417. AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR SELECTED RESERVE END STRENGTHS.

Section 115(g) of title 10, United States Code, is amended to read as follows:

''(g) AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

''(A) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength; and

''(B) increase the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for the Selected Reserve of the reserve component of any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength.

''(2) Any increase under paragraph (1) of the end strength for an armed force or the Selected Reserve of a reserve component of an armed force shall be counted as part of the increase for that armed force or Selected Reserve for that fiscal year authorized under subsection (f)(1) or subsection (f)(3), respectively.''.

AMENDMENT NO. 1740

(Purpose: To require a plan for sustaining the land-based solid rocket motor industrial base)

On page 435, between lines 14 and 15, insert the following:

SEC. 1083. PLAN FOR SUSTAINMENT OF LAND-BASED SOLID ROCKET MOTOR INDUSTRIAL BASE.

(a) IN GENERAL.—The Secretary of Defense shall review and establish a plan to sustain the solid rocket motor industrial base, including the ability to maintain and sustain currently deployed strategic and missile defense systems and to maintain an intellectual and engineering capacity to support next generation rocket motors, as needed.

(b) SUBMISSION OF PLAN.—Not later than March 1, 2010, the Secretary of Defense shall submit to the congressional defense committees the plan required under subsection (a), together with an explanation of how fiscal year 2010 funds will be used to sustain and support the plan and a description of the funding in the future years defense program plan to support the plan.

AMENDMENT NO. 1687

(Purpose: To require a national security interest certification for Coalition Support Fund reimbursements provided to the Government of Pakistan)

On page 475, between lines 2 and 3, insert the following:

SEC. 1211. CERTIFICATION REQUIREMENT FOR COALITION SUPPORT FUND REIMBURSEMENTS.

Section 1232(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 392), as amended by section 1217 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4634), is amended—

(1) in paragraph (1)(A), by striking ''the Secretary of Defense shall submit'' and inserting ''the Secretary of Defense, after consultation with the Secretary of State, shall submit''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting each clause, as so redesignated, 6 ems from the left margin;

(B) by striking ''shall include an itemized description'' and inserting the following: ''shall include the following:

''(A) An itemized description''; and

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

''(B) A certification that the reimbursement—

''(i) is consistent with the national security interests of the United States; and

''(ii) will not adversely impact the balance of power in the region.''.

AMENDMENT NO. 1702

(Purpose: To require the Secretary of Defense and the Secretary of Veterans Affairs to submit to Congress a report on the use of alternative therapies in the treatment of post-traumatic stress disorder, including the therapeutic use of animals)

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

SEC. 733. REPORT ON USE OF ALTERNATIVE THERAPIES IN TREATMENT OF POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—Not later than December 31, 2010, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on research related to post-traumatic stress disorder.

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

(1) The status of all studies and clinical trials that involve treatments of post-traumatic stress disorder conducted by the Department of Defense and the Department of Veterans Affairs.

(2) The effectiveness of alternative therapies in the treatment of post-traumatic stress disorder, including the therapeutic use of animals.

(3) Identification of areas in which the Department of Defense and the Department of Veterans Affairs may be duplicating studies, programs, or research with respect to post-traumatic stress disorder.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Veterans' Affairs of the House of Representatives.

AMENDMENT NO. 1717

(Purpose: To carry out a pilot program to assess the feasibility and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities)

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

SEC. 1083. PILOT PROGRAM ON USE OF SERVICE DOGS FOR THE TREATMENT OR REHABILITATION OF VETERANS WITH PHYSICAL OR MENTAL INJURIES OR DISABILITIES.

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

(1) The United States owes a profound debt to those who have served the United States honorably in the Armed Forces.

(2) Disabled veterans suffer from a range of physical and mental injuries and disabilities.

(3) In 2008, the Army reported the highest level of suicides among its soldiers since it began tracking the rate 28 years before 2009.

(4) A scientific study documented in the 2008 Rand Report entitled ''Invisible Wounds of War'' estimated that 300,000 veterans of Operation Enduring Freedom and Operation Iraqi Freedom currently suffer from post-traumatic stress disorder.

(5) Veterans have benefitted in multiple ways from the provision of service dogs.

(6) The Department of Veterans Affairs has been successfully placing guide dogs with the blind since 1961.

(7) Thousands of dogs around the country await adoption.

(b) PROGRAM REQUIRED.—Not later than 120 days after the date of the enactment of this

Act, the Secretary of Veterans Affairs shall commence a three-year pilot program to assess the benefits, feasibility, and advisability of using service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities, including post-traumatic stress disorder.

(c) PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary shall carry out the pilot program by partnering with nonprofit organizations that—

(A) have experience providing service dogs to individuals with injuries or disabilities;

(B) do not charge fees for the dogs, services, or lodging that they provide; and

(C) are accredited by a generally accepted industry-standard accrediting institution.

(2) REIMBURSEMENT OF COSTS.—The Secretary shall reimburse partners for costs relating to the pilot program as follows:

(A) For the first 50 dogs provided under the pilot program, all costs relating to the provision of such dogs.

(B) For dogs provided under the pilot program after the first 50 dogs provided, all costs relating to the provision of every other dog.

(d) PARTICIPATION.—

(1) IN GENERAL.—As part of the pilot program, the Secretary shall provide a service dog to a number of veterans with physical or mental injuries or disabilities that is greater than or equal to the greater of—

(A) 200; and

(B) the minimum number of such veterans required to produce scientifically valid results with respect to assessing the benefits and costs of the use of such dogs for the treatment or rehabilitation of such veterans.

(2) COMPOSITION.—The Secretary shall ensure that—

(A) half of the participants in the pilot program are veterans who suffer primarily from a mental health injury or disability; and

(B) half of the participants in the pilot program are veterans who suffer primarily from a physical injury or disability.

(e) STUDY.—In carrying out the pilot program, the Secretary shall conduct a scientifically valid research study of the costs and benefits associated with the use of service dogs for the treatment or rehabilitation of veterans with physical or mental injuries or disabilities. The matters studied shall include the following:

(1) The therapeutic benefits to such veterans, including the quality of life benefits reported by the veterans partaking in the pilot program.

(2) The economic benefits of using service dogs for the treatment or rehabilitation of such veterans, including—

(A) savings on health care costs, including savings relating to reductions in hospitalization and reductions in the use of prescription drugs; and

(B) productivity and employment gains for the veterans.

(3) The effectiveness of using service dogs to prevent suicide.

(f) REPORTS.—

(1) ANNUAL REPORT OF THE SECRETARY.—After each year of the pilot program, the Secretary shall submit to Congress a report on the findings of the Secretary with respect to the pilot program.

(2) FINAL REPORT BY THE NATIONAL ACADEMY OF SCIENCES.—Not later than 180 days after the date of the completion of the pilot program, the National Academy of Sciences shall submit to Congress a report on the results of the pilot program.

AMENDMENT NO. 1521

(Purpose: To enable State homes to furnish nursing home care to parents any of whose children died while serving in the Armed Forces)

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

SEC. 1083. EXPANSION OF STATE HOME CARE FOR PARENTS OF VETERANS WHO DIED WHILE SERVING IN ARMED FORCES.

In administering section 51.210(d) of title 38, Code of Federal Regulations, the Secretary of Veterans Affairs shall permit a State home to provide services to, in addition to non-veterans described in such subsection, a non-veteran any of whose children died while serving in the Armed Forces.

AMENDMENT NO. 1768

(Purpose: To authorize the Secretary of Defense to carry out a pilot program for providing cognitive rehabilitative therapy services under the TRICARE program)

Strike section 731 and insert the following:

SEC. 731. PILOT PROGRAM FOR THE PROVISION OF COGNITIVE REHABILITATIVE THERAPY SERVICES UNDER THE TRICARE PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense may, in consultation with the entities and officials referred to in subsection (d), carry out a pilot program under the TRICARE program to determine the feasibility and advisability of expanding the availability of cognitive rehabilitative therapy services for members or former members of the Armed Forces described in subsection (b).

(b) COVERED MEMBERS AND FORMER MEMBERS.—A member or former member of the Armed Forces is described in this subsection if—

(1) the member or former member—

(A) is otherwise eligible for medical care under the TRICARE program;

(B) has been diagnosed with a moderate to severe traumatic brain injury incurred in the line of duty in Operation Iraqi Freedom or Operation Enduring Freedom;

(C) is retired or separated from the Armed Forces for disability under chapter 61 of title 10, United States Code; and

(D) is referred by a qualified physician for cognitive rehabilitative therapy; and

(2) cognitive rehabilitative therapy is not reasonably available to the member or former member through the Department of Veterans Affairs.

(c) ELEMENTS OF PILOT PROGRAM.—The Secretary of Defense shall, in consultation with the entities and officials referred to in subsection (d), develop for inclusion in the pilot program the following:

(1) Procedures for access to cognitive rehabilitative therapy services.

(2) Qualifications and supervisory requirements for licensed and certified health care professionals providing such services.

(3) A methodology for reimbursing providers for such services.

(d) ENTITIES AND OFFICIALS TO BE CONSULTED.—The entities and officials referred to in this subsection are the following:

(1) The Secretary of Veterans Affairs.

(2) The Defense Centers of Excellence for Psychological Health and Traumatic Brain Injury.

(3) Relevant national organizations with experience in treating traumatic brain injury.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report—

(1) evaluating the effectiveness of the pilot program in providing increased access to safe, effective, and quality cognitive rehabilitative therapy services for members and former members of the Armed Forces described in subsection (b); and

(2) making recommendations with respect to the effectiveness of cognitive rehabilitative therapy services and the appropriateness of including such services as a benefit under the TRICARE program.

(f) TRICARE PROGRAM DEFINED.—The term ''TRICARE program'' has the meaning given that term in section 1072(7) of title 10, United States Code.

(g) FUNDING.—Of the amount authorized to be appropriated by section 1403 for the Defense Health Program, not more than $5,000,000 may be available to carry out the pilot program under this section.

AMENDMENT NO. 1752

(Purpose: To reduce the minimum distance of travel necessary for reimbursement of covered beneficiaries of the military health care system for travel for specialty health care and to provide an offset)

At the end of subtitle B of title VII, insert the following:

SEC. 713. REDUCTION OF MINIMUM DISTANCE OF TRAVEL FOR REIMBURSEMENT OF COVERED BENEFICIARIES OF THE MILITARY HEALTH CARE SYSTEM FOR TRAVEL FOR SPECIALTY HEALTH CARE.

(a) REDUCTION.—Section 1074i(a) of title 10, United States Code, is amended by striking ''100 miles'' and inserting ''50 miles''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply with respect to referrals for specialty health care made on or after such effective date.

(c) OFFSET.—The amount authorized to be appropriated by section 301(a)(5) for operation and maintenance for Defense-wide activities is hereby decreased by $14,000,000, with the amount of the decrease to be derived from unobligated balances.

AMENDMENT NO. 1739, AS MODIFIED

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

SEC. 1083. FEDERAL EMPLOYEES RETIREMENT SYSTEM AGE AND RETIREMENT TREATMENT FOR CERTAIN RETIREES OF THE ARMED FORCES.

(a) INCREASE IN MAXIMUM AGE LIMIT FOR POSITIONS SUBJECT TO FERS.—

(1) LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS.—Section 3307(e) of title 5, United States Code, is amended—

(A) by striking ''(e) The'' and inserting ''(e)(1) Except as provided in paragraph (2), the''; and

(B) by adding at the end the following:

''(2) The maximum age limit for an original appointment to a position as a firefighter or law enforcement officer (as defined by section 8401(14) or (17), respectively) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department of Veterans Affairs instead of such retired or retainer pay.''.

(2) OTHER POSITIONS.—The maximum age limit for an original appointment to a position as a member of the Capitol Police or Supreme Court Police, nuclear materials courier (as defined under section 8401(33) of title 5, United States Code), or customs and border protection officer (as defined in section 8401(36) of title 5, United States Code) shall be 47 years of age, in the case of an individual who on the effective date of such appointment is eligible to receive retired pay or retainer pay for military service, or pension or compensation from the Department

of Veterans Affairs instead of such retired or retainer pay.

(b) ELIGIBILITY FOR ANNUITY.—Section 8412(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by adding ''or'' at the end; and

(3) by inserting after paragraph (2) the following:

''(3) after becoming 57 years of age and completing 10 years of service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, customs or border protection officer, or any combination of such service totaling 10 years, if such employee—

''(A) is originally appointed to a position as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, or customs and border protection officer on or after the effective date of this paragraph under section 1083(e) of the National Defense Authorization Act for Fiscal Year 2010;

''(B) on the date that original appointment met the requirements of section 3307(e)(2) of this title or section 1083(a)(2) of the National Defense Authorization Act for Fiscal Year 2010.

(c) MANDATORY SEPARATION.—Section 8425 of title 5, United States Code, is amended—

(1) in subsection (b)(1), in the first sentence, by inserting '', except that a law enforcement officer, firefighter, nuclear materials courier, or customs and border protection officer eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period;

(2) in subsection (c), in the first sentence, by inserting '', except that a member of the Capitol Police eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period; and

(3) in subsection (d), in the first sentence, by inserting '', except that a member of the Supreme Court Police eligible for retirement under 8412(d)(3) shall be separated from service on the last day of the month in which that employee becomes 57 years of age'' before the period.

(d) COMPUTATION OF BASIC ANNUITY.—Section 8415(d) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''total service as'' and inserting ''civilian service as a law enforcement officer, member of the Capitol Police or Supreme Court Police, firefighter, nuclear materials courier, customs and border protection officer, or air traffic controller that, in the aggregate,''; and

(2) in paragraph (2), by striking ''so much of such individual's total service as exceeds 20 years'' and inserting ''the remainder of such individual's total service''.

(e) EFFECTIVE DATE.—This section (including the amendments made by this section) shall take effect 60 days after the date of the enactment of this Act and shall apply to appointments made on or after that effective date.

AMENDMENT NO. 1775

(Purpose: To support freedom of the press, freedom of speech, freedom of expression, and freedom of assembly in Iran, to support the Iranian people as they seek, receive, and impart information and promote ideas in writing, in print, or through any media without interference, and for other purposes)

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 1735

(Purpose: To express the sense of Congress regarding the development of manned airborne irregular warfare platforms)

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 should, with regard to the development of manned airborne irregular warfare platforms, coordinate requirements for such weapons systems with the military services, including the reserve components.

AMENDMENT NO. 1564

(Purpose: To enhance travel and transportation benefits for survivors of deceased members of the uniformed services for purposes of attending memorial ceremonies)

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

SEC. 635. TRAVEL AND TRANSPORTATION FOR SURVIVORS OF DECEASED MEMBERS OF THE UNIFORMED SERVICES TO ATTEND MEMORIAL CEREMONIES.

(a) ALLOWANCES AUTHORIZED.—Subsection (a) of section 411f of title 37, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) The Secretary concerned may provide round trip travel and transportation allowances to eligible relatives of a member of the uniformed services who dies while on active duty in order that the eligible relatives may attend a memorial service for the deceased member that occurs at a location other than the location of the burial ceremony for which travel and transportation allowances are provided under paragraph (1). Travel and transportation allowances may be provided under this paragraph for travel of eligible relatives to only one memorial service for the deceased member concerned.''.

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section is amended—

(1) by striking ''subsection (a)(1)'' the first place it appears and inserting ''paragraphs (1) and (2) of subsection (a)''; and

(2) by striking ''subsection (a)(1)'' the second place it appears and inserting ''paragraph (1) or (2) of subsection (a)''.

AMENDMENT NO. 1773

(Purpose: To require the Comptroller General to conduct a study on the stockpile stewardship program)

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

SEC. 3136. COMPTROLLER GENERAL STUDY OF STOCKPILE STEWARDSHIP PROGRAM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the stockpile stewardship program established under section 4201 of the Atomic Energy Defense Act (50 U.S.C. 2521) to determine if the program was functioning, as of December 2008, as envisioned when the program was established.

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

(1) An assessment of whether the capabilities determined to be necessary to maintain the nuclear weapons stockpile without nuclear testing have been implemented and the extent to which such capabilities are functioning.

(2) A review and description of the agreements governing use, management, and support of the capabilities developed for the stockpile stewardship program and an assessment of enforcement of, and compliance with, those agreements.

(3) An assessment of plans for surveillance and testing of nuclear weapons in the stockpile and the extent of the compliance with such plans.

(4) An assessment of—

(A) the condition of the infrastructure at the plants and laboratories of the nuclear weapons complex;

(B) the value of nuclear weapons facilities built after 1992;

(C) any plans that are in place to maintain, improve, or replace such infrastructure;

(D) whether there is a validated requirement for all planned infrastructure replacement projects; and

(E) the projected costs for each such project and the timeline for completion of each such project.

(5) An assessment of the efforts to ensure and maintain the intellectual and technical capability of the nuclear weapons complex to support the nuclear weapons stockpile.

(6) Recommendations for the stockpile stewardship program going forward.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing the results of the study required by subsection (a).

AMENDMENT NO. 1774

(Purpose: To extend the sunset for the Congressional Commission on the Strategic Posture of the United States and to require an additional report)

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

SEC. 1083. EXTENSION OF SUNSET FOR CONGRESSIONAL COMMISSION ON THE STRATEGIC POSTURE OF THE UNITED STATES.

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

(1) Congress is grateful for the service and leadership of the members of the bipartisan Congressional Commission on the Strategic Posture of the United States, who, pursuant to section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 319), spent more than one year examining the strategic posture of the United States in all of its aspects: deterrence strategy, missile defense, arms control initiatives, and nonproliferation strategies.

(2) The Commission, comprised of some of the most preeminent scholars and technical experts in the United States in the subject matter, found a bipartisan consensus on these issues in its Final Report made public on May 6, 2009.

(3) Congress appreciates the service of former Secretary of Defense William Perry, former Secretary of Defense and Energy James Schlesinger, former Senator John Glenn, former Congressman Lee Hamilton, Ambassador James Woolsey, Doctors John Foster, Fred Ikle, Keith Payne, Morton Halperin, Ellen Williams, Bruce Tarter, and Harry Cartland, and the United States Institute of Peace.

(4) Congress values the work of the Commission and pledges to work with President Barack Obama to address the findings and review and consider the recommendations of the Commission.

(b) EXTENSION OF SUNSET.—Section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 319) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) in subsection (h), as redesignated by paragraph (1), by striking ''September 30, 2009'' and inserting ''September 30, 2010''; and

(3) by inserting after subsection (e) the following new subsection:

''(f) FOLLOW-ON REPORT.—Following submittal of the report required in subsection

(e), the Commission may conduct public outreach and discussion of the matters contained in the report.''.

AMENDMENT NO. 1795

(Purpose: To express the sense of Congress on continued support by the United States for a stable and democratic Republic of Iraq)

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

SEC. 1232. SENSE OF CONGRESS ON CONTINUED SUPPORT BY THE UNITED STATES FOR A STABLE AND DEMOCRATIC REPUBLIC OF IRAQ.

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

(1) The men and women of the United States Armed Forces who have served or are serving in the Republic of Iraq have done so with the utmost bravery and courage and deserve the respect and gratitude of the people of the United States and the people of Iraq.

(2) The leadership of Generals David Petraeus and Raymond Odierno, as the Commanders of the Multi-National Force Iraq, as well as Ambassador Ryan Crocker, was instrumental in bringing stability and success to Iraq.

(3) The strategy known as the surge was a critical factor contributing to significant security gains and facilitated the economic, political, and social gains that have occurred in Iraq since 2007.

(4) The people of Iraq have begun to develop a stable government and stable society because of the security gains following the surge and the willingness of the people of Iraq to accept the ideals of a free and fair democratic society over the tyranny espoused by Al Qaeda and other terrorist organizations.

(5) The security gains in Iraq must be carefully maintained so that those fragile gains can be solidified and expanded upon, primarily by citizens of Iraq in service to their country, with the support of the United States as appropriate.

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

(1) a stable and democratic Republic of Iraq is in the long-term national security interest of the United States;

(2) the people and the Government of the United States should help the people of Iraq promote the stability of their country and peace in the region; and

(3) the United States should be a long-term strategic partner with the Government and the people of Iraq in support of their efforts to build democracy, good governance, and peace and stability in the region.

AMENDMENT NO. 1788

(Purpose: To express the sense of Congress that flexible spending arrangements should be established for members of the uniformed services)

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

SEC. 652. SENSE OF CONGRESS ON ESTABLISHMENT OF FLEXIBLE SPENDING ARRANGEMENTS FOR THE UNIFORMED SERVICES.

(a) IN GENERAL.—It is the sense of Congress that, the Secretary of Defense, with respect to members of the Army, Navy, Marine Corps, and Air Force, the Secretary of Homeland Security, with respect to members of the Coast Guard, the Secretary of Health and Human Services, with respect to commissioned officers of the Public Health Service, and the Secretary of Commerce, with respect to commissioned officers of the National Oceanic and Atmospheric Administration, should establish procedures to implement flexible spending arrangements with respect to basic pay and compensation, for health care and dependent care on a pre-tax basis in accordance with regulations prescribed under sections 106(c) and 125 of the Internal Revenue Code of 1986.

(b) CONSIDERATIONS.—It is the sense of Congress that, in establishing the procedures described by subsection (a), the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Secretary of Commerce should consider life events of members of the uniformed services that are unique to them as members of the uniformed services, including changes relating to permanent changes of duty station and deployments to overseas contingency operations.

AMENDMENT NO. 1780

(Purpose: To require a report on the Yellow Ribbon Reintegration Program and plans for further implementation)

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

SEC. 557. REPORT ON YELLOW RIBBON REINTEGRATION PROGRAM.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the various reintegration programs being administered in support of National Guard and Reserve members and their families.

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

(1) An evaluation of the initial implementation of the Yellow Ribbon Reintegration Program in fiscal year 2009, including an assessment of the best practices from pilot programs offered by various States to provide supplemental services to Yellow Ribbon and the feasibility of incorporating those practices into Yellow Ribbon.

(2) An assessment of the extent to which Yellow Ribbon funding, although requested in multiple component accounts, supports robust joint programs that provide reintegration and support services to National Guard and Reserve members and their families regardless of military affiliation.

(3) An assessment of the extent to which Yellow Ribbon programs are coordinating closely with the Department of Veterans Affairs and its various veterans' programs.

(4) Plans for further implementation of the Yellow Ribbon Reintegration Program in fiscal year 2010.

AMENDMENT NO. 1782

(Purpose: To require a report on the feasibility of requiring post-deployment health assessments of Guard and Reserve members deployed in connection with contingency operations at their home stations or counties of residence)

On page 220, between lines 4 and 5, insert the following:

SEC. 713. REPORT ON POST-DEPLOYMENT HEALTH ASSESSMENTS OF GUARD AND RESERVE MEMBERS.

(a) REPORT REQUIRED.—Not later than March 1, 2010, the Secretary of Defense shall submit to the congressional defense committees a report on post-deployment health assessments of Guard and Reserve members.

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

(1) An assessment of the feasibility of administering a Post-Deployment Health Assessment (PDHA) to each member of a reserve component of the Armed Forces returning to the member's home station from deployment in connection with a contingency operation at such home station or in the county of residence of the member within the following timeframes:

(A) In the case of a member of the Individual Ready Reserve, an assessment administered by not later than the member's release from active duty following such deployment or 10 days after the member's return to such station or county, whichever occurs earlier.

(B) In the case of any other member of a reserve component of the Armed Forces returning from deployment, by not later than the member's release from active duty following such deployment.

(2) An assessment of the feasibility of requiring that Post-Deployment Health Assessments described under paragraph (1) be performed by a practitioner trained and certified as qualified to participate in the performance of Post-Deployment Health Assessments or Post-Deployment Health Reassessments.

(3) A description of—

(A) the availability of personnel described under paragraph (2) to perform assessments described under this subsection at the home stations or counties of residence of members of the reserve components of the Armed Forces; and

(B) if such personnel are not available at such locations, the additional resources necessary to ensure such availability within one year after the date of the enactment of this Act.

AMENDMENT NO. 1779

(Purpose: To provide for the notification of certain individuals regarding options for enrollment under Medicare part B)

On page 213, between lines 14 and 15, insert the following:

SEC. 706. NOTIFICATION OF CERTAIN INDIVIDUALS REGARDING OPTIONS FOR ENROLLMENT UNDER MEDICARE PART B.

Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"SEC. 1111. NOTIFICATION OF CERTAIN INDIVIDUALS REGARDING OPTIONS FOR ENROLLMENT UNDER MEDICARE PART B.

''(a) IN GENERAL.—The Secretary of Defense shall establish procedures for identifying individuals described in subsection (b). The Secretary of Defense shall immediately notify individuals identified under the preceding sentence that they are no longer eligible for health care benefits under the TRICARE program under chapter 55 of title 10, United States Code, and of any options available for enrollment of the individual under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.). The Secretary of Defense shall consult with the Secretary of Health and Human Services to accurately identify and notify individuals described in subsection (b) under this subsection.

''(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual who is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code) at the time the individual is entitled to part A of title XVIII of the Social Security Act under section 226(b) or section 226A of such Act (42 U.S.C. 426(b) and 426–1) and who is eligible to enroll but who has elected not to enroll (or to be deemed enrolled) during the individual's initial enrollment period under part B of such title.''.

AMENDMENT NO. 1785

(Purpose: To require a report on the defense modeling and simulation industrial base)

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON MODELING AND SIMULATION ACTIVITIES OF UNITED STATES JOINT FORCES COMMAND.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this

Act, the Secretary of Defense, working through the Director for Defense Research and Engineering, the Assistant Secretary of Defense for Manufacturing and Industrial Base, and the Commander of the United States Joint Forces Command, shall submit to the congressional defense committees a report that describes current and planned efforts to support and enhance the defense modeling and simulation technological and industrial base, including in academia, industry, and government.

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

(1) An assessment of the current and future domestic defense modeling and simulation technological and industrial base and its ability to meet current and future defense requirements.

(2) A description of current and planned programs and activities of the Department of Defense to enhance the ability of the domestic defense modeling and simulation industrial base to meet current and future defense requirements.

(3) A description of current and planned Department of Defense activities in cooperation with Federal, State, and local government organizations that promote the enhancement of the ability of the domestic defense modeling and simulation industrial base to meet current and future defense requirements.

(4) A comparative assessment of current and future global modeling and simulation capabilities relative to those of the United States in areas related to defense applications of modeling and simulation.

(5) An identification of additional authorities or resources related to technology transfer, establishment of public-private partnerships, coordination with regional, State, or local initiatives, or other activities that would be required to enhance efforts to support the domestic defense modeling and simulation industrial base.

(6) Other matters as determined appropriate by the Secretary.

AMENDMENT NO. 1806

(Purpose: To include additional members and additional duties for the independent panel assessing the 2009 quadrennial defense review)

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

SEC. 1083. ADDITIONAL MEMBERS AND DUTIES FOR INDEPENDENT PANEL TO ASSESS THE QUADRENNIAL DEFENSE REVIEW.

(a) FINDING.—Congress understands that the independent panel appointed by the Secretary of Defense pursuant to section 118(f) of title 10, United States Code, will be comprised of twelve members equally divided on a bipartisan basis.

(b) SENSE OF CONGRESS ON INDEPENDENT PANEL.—It is the sense of Congress that the independent panel appointed by the Secretary of Defense pursuant to section 118(f) of title 10, United States Code, should be comprised of members equally divided on a bipartisan basis.

(c) ADDITIONAL MEMBERS.—

(1) IN GENERAL.—For purposes of conducting the assessment of the 2009 quadrennial defense review under section 118 of title 10, United States Code (in this section referred to as the ''2009 QDR''), the independent panel established under subsection (f) of such section (in this section referred to as the ''Panel'') shall include eight additional members to be appointed as follows:

(A) Two by the chairman of the Committee on Armed Services of the House of Representatives.

(B) Two by the chairman of the Committee on Armed Services of the Senate.

(C) Two by the ranking member of the Committee on Armed Services of the House of Representatives.

(D) Two by the ranking member of the Committee on Armed Services of the Senate.

(2) PERIOD OF APPOINTMENT; VACANCIES.—Any vacancy in an appointment to the Panel under paragraph (1) shall be filled in the same manner as the original appointment.

(d) ADDITIONAL DUTIES OF PANEL FOR 2009 QDR.—In addition to the duties of the Panel under section 118(f) of title 10, United States Code, the Panel shall, with respect to the 2009 QDR—

(1) conduct an independent assessment of a variety of possible force structures of the Armed Forces, including the force structure identified in the report of the 2009 QDR; and

(2) make any recommendations it considers appropriate for consideration.

(e) REPORT OF SECRETARY OF DEFENSE.—Not later than 30 days after the Panel submits its report with respect to the 2009 QDR under section 118(f)(2) of title 10, United States Code, the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall submit to the congressional defense committees any comments of the Secretary on the report of the Panel.

(f) TERMINATION.—The provisions of this section shall terminate on the day that is 45 days after the date on which the Panel submits its report with respect to the 2009 QDR under section 118(f)(2) of title 10, United States Code.

AMENDMENT NO. 1803

(Purpose: To require the Secretary of the Army to conduct a comparative evaluation of extended range modular sniper rifle systems)

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

SEC. 252. EVALUATION OF EXTENDED RANGE MODULAR SNIPER RIFLE SYSTEMS.

(a) IN GENERAL.—Not later than March 31, 2010, the Assistant Secretary of the Army for Acquisition, Logistics, and Technology shall conduct a comparative evaluation of extended range modular sniper rifle systems, including .300 Winchester Magnum, .338 Lapua Magnum, and other calibers. The evaluation shall identify and demonstrate an integrated suite of technologies capable of—

(1) extending the effective range of snipers;

(2) meeting service or unit requirements or operational need statements; or

(3) closing documented capability gaps.

(b) FUNDING.—The Assistant Secretary of the Army for Acquisition, Logistics, and Technology shall conduct the evaluation required by subsection (a) using amounts appropriated for fiscal year 2009 for extended range modular sniper rifle system research (PE # 0604802A) that are unobligated.

(c) REPORT.—Not later than April 30, 2010, the Assistant Secretary of the Army for Acquisition, Logistics, and Technology shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the evaluation required by subsection (a), including—

(1) detailed ballistics and system performance data; and

(2) an assessment of the operational capabilities of extended range modular sniper rifle systems to meet service or unit requirements or operational need statements or close documented capabilities gaps.

AMENDMENT NO. 1727

(Purpose: To require the report on the global defense posture realignment to include information relating to the effect of the comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations on United states security commitments under international security treaties and the current security environments in the combatant commands)

On page 549, strike line 9 and all that follows through ''any comments resulting'' on line 16 and insert the following: ''congressional defense committees and the Committee on Foreign relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy and the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations. The report shall address the following:

(1) How the plans would support the security commitments undertaken by the United States pursuant to any international security treaty, including, the North Atlantic Treaty, The Treaty of Mutual Cooperation and Security between the United States and Japan, and the Security Treaty Between Australia, New Zealand, and the United States of America.

(2) The impact of such plans on the current security environments in the combatant commands, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises.

(3) Any comments of the Secretary of Defense resulting

AMENDMENT NO. 1706

(Purpose: To require the Secretary of Defense and the Secretary of Transportation to develop a plan for providing access to the national airspace for unmanned aircraft)

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

SEC. 933. PLAN ON ACCESS TO NATIONAL AIRSPACE FOR UNMANNED AIRCRAFT.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Transportation shall, after consultation with the Secretary of Homeland Security, jointly develop a plan for providing access to the national airspace for unmanned aircraft of the Department of Defense.

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

(1) A description of how the Department of Defense and the Department of Transportation will communicate and cooperate, at the executive, management, and action levels, to provide access to the national airspace for unmanned aircraft of the Department of Defense.

(2) Specific milestones, aligned to operational and training needs, for providing access to the national airspace for unmanned aircraft and a transition plan for sites programmed to be activated as unmanned aerial system sites during fiscal years 2010 through 2015.

(3) Recommendations for policies with respect to use of the national airspace, flight standards, and operating procedures that should be implemented by the Department of Defense and the Department of Transportation to accommodate unmanned aircraft assigned to any State or territory of the United States.

(4) An identification of resources required by the Department of Defense and the Department of Transportation to execute the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall submit to the congressional defense committees, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a).

AMENDMENT NO. 1749, AS MODIFIED

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

SEC. 904. 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 a grade decided by the Secretary of Defense.

''(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''.

AMENDMENT NO. 1799

(Purpose: To require the Department of Defense to improve access to mental health care for family members of members of the National Guard and Reserve who are deployed overseas)

In lieu of the matter proposed to be inserted, insert the following:

SEC. 557. IMPROVED ACCESS TO MENTAL HEALTH CARE FOR FAMILY MEMBERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO ARE DEPLOYED OVERSEAS.

(a) INITIATIVE TO INCREASE ACCESS TO MENTAL HEALTH CARE.—

(1) IN GENERAL.—The Secretary of Defense shall develop and implement a plan to expand existing initiatives of the Department of Defense to increase access to mental health care for family members of members of the National Guard and Reserve deployed overseas during the periods of mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

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

(A) Programs and activities to educate family members of members of the National Guard and Reserve who are deployed overseas on potential mental health challenges connected with such deployment.

(B) Programs and activities to provide such family members with complete information on all mental health resources available to such family members through the Department of Defense and otherwise.

(C) Efforts to expand counseling activities for such family members in local communities.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and at such times thereafter as the Secretary of Defense considers appropriate, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on this section.

(2) ELEMENTS.—Each report shall include the following:

(A) A current assessment of the extent to which family members of members of the National Guard and Reserve who are deployed overseas have access to, and are utilizing, mental health care available under this section.

(B) A current assessment of the quality of mental health care being provided to family members of members of the National Guard and Reserve who are deployed overseas, and an assessment of expanding coverage for mental health care services under the TRICARE program to mental health care services provided at facilities currently outside the network of the TRICARE program.

(C) Such recommendations for legislative or administration action as the Secretary considers appropriate in order to further assure full access to mental health care by family members of members of the National Guard and Reserve who are deployed overseas during the mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

AMENDMENT NO. 1620

(Purpose: To amend the Small Business Act to create parity among certain small business contracting programs)

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

SEC. 838. SMALL BUSINESS CONTRACTING PROGRAMS PARITY.

Section 31(b)(2)(B) of the Small Business Act (15 U.S.C. 657a(b)(2)(B)) is amended by striking ''shall'' and inserting ''may''.

AMENDMENT NO. 1688

(Purpose: To create parity among small business contracting programs, and for other purposes)

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

SEC. 1083. CONTRACTING IMPROVEMENTS.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the terms ''HUBZone small business concern'', ''small business concern'', ''small business concern owned and controlled by service-disabled veterans'', and ''small business concern owned and controlled by women'' have the same meanings as in section 3 of the Small Business Act (15 U.S.C. 632).

(b) CONTRACTING OPPORTUNITIES.—Section 31(b)(2)(B) of the Small Business Act (15 U.S.C. 657a(b)(2)(B)) is amended by striking ''shall'' and inserting ''may''.

(c) CONTRACTING GOALS.—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the fourth sentence by inserting ''and subcontract'' after ''not less than 3 percent of the total value of all prime contract''.

(d) MENTOR-PROTEGE PROGRAMS.—The Administrator may establish mentor-protege programs for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, and HUBZone small business concerns modeled on the mentor-protege program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

AMENDMENT NO. 1765

(Purpose: To require a report on the re-engining of E–8C Joint Surveillance and Target Attack Radar System (Joint STARS) aircraft)

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

SEC. 125. REPORT ON E-8C JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM RE-ENGINING.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on replacing the engines of E-8C Joint Surveillance and Target Attack Radar System (Joint STARS) aircraft. The report shall include the following:

(1) An assessment of funding alternatives and options for accelerating funding for the fielding of Joint STARS aircraft with replaced engines.

(2) An analysis of the tradeoffs involved in the decision to replace the engines of Joint STARS aircraft or not to replace those engines, including the potential cost savings from replacing those engines and the operational impacts of not replacing those engines.

(3) An identification of the optimum path forward for replacing the engines of Joint STARS aircraft and modernizing the Joint STARS fleet.

(b) LIMITATION ON CERTAIN ACTIONS.—The Secretary of the Air Force may not take any action that would adversely impact the pace of the execution of the program to replace the engines of Joint STARS aircraft before submitting the report required by subsection (a).

Mr. McCAIN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1759

Mr. CONRAD. Mr. President, I would like to speak today about an amendment I have offered to the National Defense Authorization Act, No. 1759, to provide $16.8 million in funding for the research and development of a program called ''1760 in the Bay,'' which will allow for our B–52 fleet to carry GPS-guided ''smart weapons'' internally in the bomb bay.

Currently, the B–52 can only carry these important weapons externally, on its wing pylons. Giving the B–52 this expanded capability would allow for an increase in the aircraft's overall bomb-load capacity, or for an increase in its fuel efficiency and range by using an internal-only weapons load.

As early as 1993, the Air Force documented the requirement for internal carriage of precision-guided munitions in its B–52H Conventional Upgrade Operational Requirements Document. The Air Force reaffirmed its belief in the need for this requirement in 2005, and Congress continued to fund the program in 2006 and 2007. The program is on the Air Force's fiscal year 2010 unfunded priorities list.

My amendment would provide $16.8 million in R&D funding to complete required hardware and software development and testing for an electrical upgrade to ''military standard 1760,'' which provides a common electrical and digital interface between weapons and aircraft. The MIL–STD–1760 connecter is used to transfer guidance information to weapons including the GBU–32 JDAM, the AGM–154, and the CBU–103, CBU–104, and CBU–105. This technology upgrade will also make it easier to add WCMD, JSOW, and JASSM weapons to the B–52 in the future.

This is exactly the kind of investment we need to be making in the B–52, an aircraft that is indispensable to maintaining an effective bomber force. It is unmatched in its range and payload ability. It is the most cost-effective and reliable component of our Nation's bomber force. It is a plane that we are going to be using more than 30 years from now. It is truly the ''best bomb truck for the buck.'' Particularly in light of the decision by the President and Secretary Gates to delay procurement of the next-generation bomber, it is critical that we continue to outfit each B–52 with new technology like the ''1760 in the Bay'' program.

AMENDMENT NO. 1656

Mr. President, I want to take a moment to talk about an amendment I have offered to the National Defense Authorization Act, No. 1656, that would require a study and report on the recruitment and retention of members of the Air Force in nuclear career fields.

One of the key lessons learned from the nuclear incidents that occurred a couple of years ago is that we need to be able to keep our best and brightest in the nuclear force. Working with America's nuclear arsenal is one of the most demanding jobs in the Air Force. It takes special people with unique skills to maintain and safeguard our nation's most powerful weapons. That is why the Air Force has stated that one of its biggest priorities is reinvigorating the nuclear mission.

In recent months, I have heard from a number of senior Air Force leaders working in the nuclear mission that interest among airmen in the nuclear career field is very high, in part due to sustained leadership attention to the nuclear force. Right now, the best and the brightest are flocking to this career field. However, I remain concerned about the long-term outlook of this important area of work. I want to be sure that interest in the field will not wane if the Air Force's top priority shifts to other issues.

There is absolutely no doubt that leadership at every level of the Air Force understands that our nuclear weapons are one of our Nation's most critical assets. By deterring America's enemies, assuring our allies, and dissuading potential future adversaries, our nuclear personnel are at war every single day. This is the message of Air Force and Department of Defense leadership, and it is the message of the Senate and the Congress. But it is not enough for our airmen to simply hear that message. They must be given evidence to demonstrate that it is more than words.

Few needs are more critical than the ongoing effort to determine the best ways to make the systemic change necessary to ensure that every airman working on the nuclear mission believes each and every day that his job is critical to the strength and security of the United States. The standup of the Strategic Deterrence and Nuclear Integration Office on the Air Staff and the new Global Strike Command major command are important steps. But steps must also be taken to make sure that the message is understood at every level, even to the youngest cadet.

I believe it is necessary to examine what incentives could or should be built into the system in order to ensure that we continue to be able to recruit, retain, and develop highly trained and motivated nuclear personnel. That is why I have introduced this amendment to ask the Air Force to provide a report on the steps it has taken to improve recruiting and retention and to gauge the potential impact that new retention bonuses or assignment incentive pay could have on the attractiveness of serving in the nuclear mission, and, in turn, on the effectiveness of the force.

AMENDMENT NO. 1780

Mrs. SHAHEEN. Mr. President, I wish to speak about an amendment that I have filed to the National Defense Authorization Act of 2010. The amendment is an attempt to improve our Nation's support system for our National Guard and Reserve members and their families. The amendment requires evaluating the Yellow Ribbon Reintegration Program, and identifying programs that will make the program truly comprehensive.

Today, our military and our country have come to rely heavily on the men and women of our National Guard and Reserves to protect our national security. More and more, these citizen-soldiers and their families have gone above and beyond the call of duty to serve our country's interests, engaging in multiple deployments in dangerous regions all over the world. Since 9/11, we have seen this increasing reliance on our Guard and Reserves in States throughout the country. New Hampshire is no exception. Thousands of Guardsmen and women have already deployed overseas into combat areas. And more than 1,100 members of the 197th Fires Brigade were recently notified that they will be deployed to the Middle East sometime in the next year. This will represent the single largest deployment in New Hampshire's history. Although our Guardsmen and Reservists show unwavering passion and courage no matter their assignment, these men and women and their families did not sign up for this high number of dangerous deployments. It is our responsibility to make sure servicemembers and their families receive the proper services before, during and after deployment so that they can return to their normal lives.

The Yellow Ribbon Reintegration Program provides important support services to Guard and Reserve members through informational events and activities throughout the predeployment and deployment phases, as well as after 30, 60, and 90 days upon their return. However, these programs—often held in an impersonal group setting—are not enough.

The National Guard in New Hampshire came to realize that, despite their best efforts, many of those who deployed continued to fall through the cracks upon their return. They realized that they needed a more intensive, more personal, professional, and persistent program which catered to individual family needs. The New Hampshire National Guard developed a pilot program to provide each National Guard and Reservist a professional ''care coordinator'' who is responsible for the kind of personal attention and support that is required to identify and support those who are struggling.

Though the names have been changed, the real-life stories of the New Hampshire Guard who have participated in the program are moving and demonstrate a clear need for creating a seamless, nationwide program.

In his twenties and a self-employed mechanic by trade, Sergeant Joe served in Iraq from 2006 to 2007. Prior to his deployment, he set up his girlfriend and her children in a rental apartment and gave his savings to support her while he has in Iraq. When he

returned to New Hampshire, he suffered from ongoing back pain and PTSD that went undiagnosed; he found that his girlfriend had squandered his savings and defaulted on the rent; and that his business partner had closed up shop. Distraught but not defeated, he rented a room and tried to reestablish his business. Despite his best efforts, he has faced a series of jobs losses, bills he could not pay, increasingly severe PTSD, and, ultimately, eviction. The New Hampshire National Guard Chaplain eventually found out about Joe's circumstances and connected him immediately with a care coordinator. His personal care coordinator helped Joe turn his life around: she used emergency funds to provide a modest income and secure temporary housing; she connected him with medical and mental health services through the VA; and paired him with the Easter Seals job placement services that helped Joe get a less physically demanding, full-time job with benefits. Because of this safety net, Joe recently bought a home and is continuing treatment for his PTSD.

Because of the New Hampshire National Guard's unique partnership with the New Hampshire Department of Health and Human Services, Easter Seals in New Hampshire and 22 other civilian and veteran service organizations, Guard members and Reservists like Sergeant Joe are able to reenter civilian life.

However, there is a clear need to provide counseling and support services predeployment as well. As shown in the story of Staff Sergeant Mary, a single mother of two who is slated for deployment later this year, predeployment services create a foundation for parents and families to adjust to deployment while minimizing disruptions to their lives.

Mary, upon learning of her deployment, feared that she could not leave her children with her ex-husband and that she would be unable to fulfill her duty with the New Hampshire National Guard despite her desire to serve alongside her colleagues. Hesitant to take help from a stranger, she initially resisted meeting with her care coordinator. The coordinator persisted, slowly built a close bond with Mary, and designed a plan to address Mary's concerns. The care coordinator connected Mary to legal representation to negotiate how the children will be cared for while she is in Iraq—a necessary step to create a positive environment for Mary to leave her children. The coordinator also went to the children's school, met with the teachers and administration personally, and provided them with a direct link for communication and concerns while Mary is deployed. She also arranged counseling for the children so that they will have extra support while grappling with their mother's absence. Mary says that her care coordinator is a ''beacon of light'' who helps guide her through the challenges of being a single parent and deploying soldier. She finds comfort in knowing she has one person by her side throughout her deployment.

Unfortunately, the problems Adam and Mary faced are not unique. National Guard and Reservists nationwide face similar problems, and without programs like the New Hampshire National Guard pilot program they may fall between the cracks.

My amendment requires the Secretary of Defense to evaluate the nationwide Yellow Ribbon Reintegration Program and to closely examine how states have filled gaps in the program to better serve our National Guard and Reserve members and their families. Furthermore, the amendment seeks to identify the best programs so that they can be replicated nationwide.

As we call on the National Guard and Reserve to protect the Nation at home and abroad, I call on my colleagues in the Senate to protect these brave men and women and their families to the best of our ability. We need to make sure our policies and programs are worthy of the great sacrifice of our citizen-soldiers.

Mr. SANDERS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

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

Mr. LEVIN. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

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

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

AMENDMENT NO. 1799, AS MODIFIED

Mr. LEVIN. First, Mr. President, I ask unanimous consent to modify a previously agreed to amendment, No. 1799.

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

The amendment (No. 1799), as modified, is as follows:

AMENDMENT NO. 1799, AS MODIFIED

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

SEC. 557. IMPROVED ACCESS TO MENTAL HEALTH CARE FOR FAMILY MEMBERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO ARE DEPLOYED OVERSEAS.

(a) INITIATIVE TO INCREASE ACCESS TO MENTAL HEALTH CARE.—

(1) IN GENERAL.—The Secretary of Defense shall develop and implement a plan to expand existing initiatives of the Department of Defense to increase access to mental health care for family members of members of the National Guard and Reserve deployed overseas during the periods of mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

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

(A) Programs and activities to educate family members of members of the National Guard and Reserve who are deployed overseas on potential mental health challenges connected with such deployment.

(B) Programs and activities to provide such family members with complete information on all mental health resources available to such family members through the Department of Defense and otherwise.

(C) Efforts to expand counseling activities for such family members in local communities.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and at such times thereafter as the Secretary of Defense considers appropriate, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on this section.

(2) ELEMENTS.—Each report shall include the following:

(A) A current assessment of the extent to which family members of members of the National Guard and Reserve who are deployed overseas have access to, and are utilizing, mental health care available under this section.

(B) A current assessment of the quality of mental health care being provided to family members of members of the National Guard and Reserve who are deployed overseas, and an assessment of expanding coverage for mental health care services under the TRICARE program to mental health care services provided at facilities currently outside the network of the TRICARE program.

(C) Such recommendations for legislative or administration action as the Secretary considers appropriate in order to further assure full access to mental health care by family members of members of the National Guard and Reserve who are deployed overseas during the mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

INTERCONTINENTAL BALLISTIC MISSILE.

Mr. CONRAD. Mr. President, I rise to engage in a colloquy with my esteemed colleague Senator ENZI, the cochairman of the Senate ICBM Coalition, about an amendment the coalition has offered to express the sense of Congress on the strategic importance of the intercontinental ballistic missile.

I am happy to offer this amendment on behalf of the members of the Senate ICBM Coalition, including my cochairman Senator ENZI, as well as Senators HATCH, TESTER, BENNETT, BAUCUS, BARRASSO, and DORGAN.

This amendment, No. 1682, expresses the sense of the Congress that we must maintain the long-term vitality of the triad, that the land-based nuclear force is the most stabilizing portion of our nuclear arsenal, and that our robust ICBM force must be retained to advance our Nation's strategy of deterrence, assurance, and dissuasion.

I strongly believe that all three legs of the triad must be maintained in order to retain a highly reliable and credible nuclear force, and we particularly believe that our ICBM force takes on even greater importance as we draw down our nuclear force.

As GEN Larry Welch and others have argued, our land-based nuclear force is the most stabilizing portion of our nuclear arsenal, and it becomes even more so as total warhead numbers shrink. The readiness, broad dispersion, numbers, and low warhead loading of the ICBM force make a successful disarming attack nearly impossible. That deters attack from near-peer competitors and dissuades future adversaries from building their nuclear forces. It also eliminates the pressure to maintain a launch-on-warning posture.

While almost everyone agrees with us that the ICBM is an essential part of the triad, some believe that the size of the force can or should be reduced. I strongly oppose cutting the ICBM force below its current force structure of 3 wings of 150 missiles each. A reduction in the size of the force below 3 wings would make it increasingly difficult to recruit, retain, and develop highly trained and motivated people. That would have a tremendous impact on the effectiveness of the force.

Finally, in light of the serious fiscal challenges facing our Nation, it is worth noting that ICBMs are by far the most cost-effective leg of the nuclear triad, coming in at about one-fifth the annual operating cost of the submarine-launched leg. What is more, ICBM costs will be stable for many years to come, while an extremely expensive replacement program for the Ohio-class submarine is just about to begin.

I support President Obama's efforts to negotiate a new arms control treaty with Russia to replace the expiring Strategic Arms Reduction Treaty. However, we must be very careful that reductions to our nuclear forces are conducted in a way that avoids creating unnecessary risks. Our ICBM force dramatically decreases the risk of nuclear war by providing a stabilizing constant in our nuclear posture, and it ought to be maintained at its current levels as an essential part of our nation's nuclear force.

I thank my colleague Senator ENZI for his work as cochair of the ICBM Coalition.

Mr. ENZI. I would echo my colleague's remarks, and I share his concern about a reduction in the current ICBM force. The current force of 3 missile wings of 150 missiles is appropriate for our national needs.

America's dispersed and alert Minuteman III ICBM force is a critical element of the nuclear triad and represents our most responsive, stabilizing, and cost-effective strategic force.

The strategic nuclear forces that deterred Soviet aggression and kept the limited conflicts of the Cold War era from escalating continue to play a critical role in deterring aggression and dissuading new near-peer competitors. At its present size, our ICBM force represents a nearly insurmountable hedge against strategic surprise. That force, because of its broad dispersion and high survivability, is nearly impossible to preempt or disarm. Additionally, the current ICBM force offers a high level of crisis stability. This capability also helps to reduce the risk of regional arms races that could encourage friends and allies to develop their own nuclear capabilities.

As our Nation proceeds to analyze and make decisions on future strategic posture and U.S. nuclear policy, I believe that ICBMs will continue to be the most responsive and stabilizing element of the nuclear triad. Minuteman III is a robust, cost-effective, and highly capable system.

I also thank my colleague, Senator CONRAD, for his work on behalf of the coalition on this issue.

Mr. CONRAD. Mr. President, I thank my friend Senator ENZI and each member of the ICBM Coalition for their support for this amendment.

NATIONAL GUARD—STATE PARTNERSHIP PROGRAM

Mr. VOINOVICH. Mr. President, I would like to thank the chairman and ranking member for their leadership and courtesy regarding my amendment to provide budget authority for the National Guard—State Partnership Program. I understand that this amendment as accepted would provide the program with budget authority for fiscal year 2010. I urge the committee to consult with the Department of Defense, our combatant commanders in the field, and our State adjutant generals regarding the efficacy of permanent authority for the program as the committee prepares next year's defense bill.

Mr. LEVIN. Mr. President, I appreciate the efforts of my friend from Ohio on this issue. I know that the committee will continue to consider the views of all stakeholders about this program. I encourage the Department of Defense to include a request for formal authority in its annual legislative proposal to the committee should they find permanent authority necessary.

Mr. AKAKA. Mr. President, I would like to thank Chairman LEVIN and Ranking Member MCCAIN for their leadership and my colleagues on the Senate Armed Services Committee for working in a bipartisan fashion to craft the National Defense Authorization Act for Fiscal Year 2010. This bill provides our troops with the resources, training and equipment they need to fulfill their mission. It takes care of our troops and their families, including a 3.4-percent across-the-board pay raise. Additionally, it authorizes fiscal year 2010 end strengths to allow for the expansion of our Armed Forces and provide a greater time period between deployments, which will ease some of the burden placed on our troops and their families.

This bill includes important language to ensure that the Iraqi and Afghan governments take more responsibility for ensuring their own security and stability. It provides nearly $7.5 billion to train and equip the Afghan National Army and National Police Force; extends for one year the authority for the Department of Defense—DOD—to support State Department programs for security and stabilization assistance; emphasizes the need to establish comprehensive measures of progress for the administration's strategy in Afghanistan and Pakistan and report regularly to Congress on progress in the region; and provides funding for the Commanders' Emergency Response program in Iraq and Afghanistan to enable Commanders to quickly fund humanitarian relief and reconstruction projects and authorizes funds to promote Afghan-led local development.

I am pleased that this bill provides our brave men and women in uniform the equipment, training and support they require. The bill fully funds readiness and depot maintenance programs to ensure that forces are trained and their equipment deployment ready. This bill provides $6.7 billion for the Mine Resistant Ambush Protected Vehicle Fund to protect our troops in Iraq and Afghanistan. The bill also provides full funding for the Joint Improvised Explosive Device Defeat Organization. This is very timely as there have been reports of stepped up use of Improvised Explosive Devices—IED—in Afghanistan. In light of the recent missile tests conducted by North Korea, the authorization to convert six additional Aegis ships for missile defense capabilities and field additional Terminal High Altitude Air Defense—THAAD—and Standard Missile 3—SM–3—missile defense capabilities is very timely. As a long time proponent of corrosion control for DOD systems, I am happy to note that this bill provides for corrosion protection to keep equipment working effectively for a longer period of time. This is especially important in light of our current budget situation. If we can protect our systems from the detrimental effects of corrosion and make them last longer, it will save valuable resources.

As stewards of taxpayer dollars, we must ensure that there is thorough oversight of the Department of Defense's programs and activities. This bill takes important steps to accomplish this including, enhancing the ability of the DOD IG to conduct audits by authorizing the IG to subpoena witnesses; requiring DOD to justify all sole-source contract awards in excess of $20 million; and improving DOD financial management by requiring the Department to engage in business process reengineering before it approves a new business system modernization program.

One of my priorities as a member of the Senate Armed Services Committee and chairman of the Senate Veterans' Affairs Committee is to ensure our servicemembers and veterans receive the health care services they need, including treatment for invisible wounds of war such as post-traumatic stress disorder. I am pleased that this bill

takes some important steps in caring for our troops. For example, it: Requires the Secretary of Defense to develop and implement a plan to increase the number of military and civilian behavioral health personnel and to consider the feasibility of additional officers and enlisted specialties as behavioral health counselors; authorizes the service secretaries to detail up to 25 officers each year as students to study for doctorate degrees in clinical psychology; requires person-to-person mental health assessments at designated intervals for servicemembers deployed in connection with contingency operations; requires an assessment of case management services for behavioral health care under TRICARE; authorizes travel and transportation allowances for up to three individuals to travel with seriously injured or wounded individuals during their inpatient stay; authorizes compensation to caregivers for the assistance they provide to servicemembers with combat-related catastrophic injuries or illnesses requiring assistance in daily living; and, requires the Department of Defense to initiate a process of reform and improvement of the TRICARE system. It extends eligibility for TRICARE Standard to gray area retirees.

I have also worked to improve the collaboration and cooperation between the Department of Defense and the Department of Veterans Affairs to help smooth the transition from military to civilian life. I applaud the inclusion of language in this bill that requires the Secretary of Defense to report on the exchange of medical data between the Department of Defense and the Department of Veterans Affairs, an issue I have worked on with Chairman LEVIN. In addition, the bill authorizes the Department of Defense and the Department of Veterans Affairs to jointly operate a Federal Health Care Center to showcase its ability to work in unison to serve current and former servicemembers.

This bill exemplifies what can be achieved when we put aside our party differences and work together to support our military. Moreover, it demonstrates our commitment to provide our troops and their families with the support that they require and deserve.

Mr. LEAHY. Mr. President, Senator KIT BOND and I have worked for many years together as cochairs of the Senate National Guard Caucus. With the assistance of Chairman LEVIN, we were able to enact landmark legislation in the fiscal year 2008 Defense authorization bill that among other actions elevated the chief of the National Guard from three-star general to full general. That so-called National Guard Empowerment Act was designed to ensure that the Guard has a seat at the table in major budget and policy decisions.

There were some important lessons learned as the Department of Defense moved forward with executing the important changes for the Guard implemented in the fiscal year 2008 Defense bill. One glaring omission in the reorganization of the Guard Bureau was the absence of a vice chief.

This evening, Senator BOND and I have again worked closely with Chairman LEVIN and the Armed Services Committee to address this situation. We have proposed and the Senate has adopted an amendment to create the position of vice chief at the National Guard Bureau. This position is critical to the National Guard Bureau and will further improve the day-to-day operations of the National Guard organizing, training and equipping over 460,000 soldiers, airman and civilian forces serving in the United States and overseas.

Since the elevation of the chief of the National Guard Bureau to a full general, the roles and responsibilities of the chief have greatly expanded. Much as there is a vice chairman of the Joint Chiefs of Staff, it became apparent that the National Guard chief needs a senior general officer serving as a vice chief to adequately assist the chief with the demands of that new elevated role.

In its new capacity as a joint activity, the National Guard bureau has a greater number of joint and interagency responsibilities assigned to it. The vice chief will provide essential support to the chief to execute these responsibilities.

I join with Senator BOND in thanking Chairman LEVIN, the Armed Services Committee and all of our Senate colleagues for adopting this amendment to create a vice chief at the National Guard Bureau. Over the past 10 years, our nation has called on our Guard forces at home and abroad like never before. The Senate is again recognizing the role the Guard serves in our national defense by passing this important amendment.

Ms. SNOWE. Mr. President, in 2005, the Base Realignment and Closure—the so-called BRAC—Commission released a final report recommending the closure of 33 military installations and the realignment of 29 other bases. While many of us in Congress and communities across the country fought against these closures, the report was approved in September 2005—an approval that resulted in dozens of cities and towns nationwide facing a new overwhelming, onerous burden in redeveloping these shuttered bases. According to the data contained in the 2005 base-closing round, nearly 33,000 civilian jobs will be lost in base closures and realignments, 6,500 of which are projected to occur at the Brunswick Naval Air Station, BNAS, in my home State of Maine.

These communities must be equipped with tools—not hamstrung by obstacles—to recover from such a dramatic event as a base closing. And so, I rise today to advocate that when this bill goes to conference, the conferees should retain language included in the House Armed Services Committee's, HASC, version of the National Defense Authorization Act for Fiscal Year 2010 which would encourage the use of no-cost economic development conveyances, EDCs, when disposing of excess military property, in order to assist these communities with the difficult process of base closures. This language was based on a provision I originally authored in the Defense Communities Assistance Act of 2009, which was cosponsored by Senators PRYOR, COLLINS, COCHRAN, and CORNYN.

Undeniably, base closures have a devastating impact on local economies. In the wake of a closure, communities that have invested so much over the years to integrate servicemembers and their families invariably confront a sudden and sharp reduction in the number of townspeople. The children who have gone to their schools leave, threatening to lower the amount of funding their districts are eligible for and, in some cases, leading to layoffs of teachers who would no longer be required. Friends who have attended the same church, banked at the same financial institutions, and shopped at the same grocery store are gone. Tax revenues decrease and community programs suffer. The consequences of these changes are dramatic enough in even the best of economic times.

No-cost EDCs mitigate this harm by providing land in the hands of communities faster—and by transferring property at no cost to the community. By accelerating the transfer process, the Department of Defense—DOD—will be turning property over to communities faster, allowing them to redevelop and create jobs more quickly. This approach benefits everyone involved. The DOD saves both time and money that would otherwise be spent maintaining these facilities during protracted negotiations; communities receive the property at no cost to them and can begin the critical work of economic development and job creation in less time; the taxpayers spend less because the land does not remain in Federal ownership for a period of years—even a decade; and economic redevelopment helps diminish the number of unemployed.

Indeed, in 1999, with the help of the Clinton administration, we added no-cost EDCs to the DOD's property disposal toolbox. A January 2005 Government Accountability Office, GAO, report indicated that the change in policy to no-cost EDCs had yielded successful gains. The report stated that, according to Department of Defense and community officials, the use of economic development conveyances ''. . . had gained in popularity with the adoption of the no-cost provision, which, in addition to saving money for the new user, virtually eliminated the delays resulting from prolonged negotiations over the fair market value of the property and accelerated economic development and job creation.'' In other words, the change in policy garnered the desired effect. In fact, the rate of property transfer increased nearly 200 percent during the years following the no-cost provision.

Yet regrettably, in 2001, some in this body added a requirement to the Defense Base Closure and Realignment Act that stipulated that the Department of Defense, when using an EDC, should seek ''fair market value'' in return for the land being transferred. In the past four base-closure rounds, we have had 97 major base closures, along with 235 smaller closures and 55 major realignments, and we never asked for fair market value. Why we took steps backward to this requirement of ''fair market value'' when we succeeded in clearing the logjam makes no sense to me.

It is unfair to now begin placing such a high premium on fair market value for EDCs after four rounds that have spurred significant savings to the Department of Defense. Recognizing this problem, I introduced an amendment in 2005 to the Defense authorization bill that was far more stringent than the current House language. It would have essentially required all excess real and personal property to be transferred to communities at no-cost, with exceptions for national security reasons. That amendment received 36 votes then—even in its rather rigid form. In fact, then-Senator Obama voted for my amendment—an amendment that would have gone much farther in its scope than the language in the HASC bill.

Earlier this year, to once again stand up for these base communities, I introduced the Defense Communities Assistance Act of 2009. As I mentioned before, this vital legislation includes a provision to strike existing language stating that the DOD shall seek fair market value when disposing excess military property, and encourage the transfer of closed military installations to communities quickly by placing the no-cost economic development conveyance on a level playing field with other methods of disposal. I am pleased a modified version of my provision was included in the House Armed Services Committee's bill. The Senate Armed Services Committee, SASC, meanwhile, has included language in its version of the DOD authorization bill reiterating the Department's ability to use a range of property transfer options, including the no-cost EDC. Regrettably, the Sense of the Senate language, even as improved by the amendment Senator PRYOR and I have introduced, does not go far enough. That is why, moving forward, I urge my colleagues to support the House provision in conference.

Redeveloping base properties today and in the near future, our defense communities must address an economic landscape that is unlike any other we have witnessed in decades. The unemployment rate stands at 9.5 percent—the highest level in nearly 26 years. The economy shed 467,000 jobs in June alone. More than 14.7 million Americans are presently without jobs, and 6.5 million payroll jobs have been lost since the beginning of this recession in December 2007. We are in the worst economy since the Great Depression, one that contracted 5.5 percent in the first quarter of 2009.

As such, there is much concern—particularly among those communities enduring impending base closures—that without increased use of no-cost EDCs, communities will not be able to quickly bring back the jobs that will be lost and acres upon acres of property will sit fallow, more a hazard to the community than a benefit. They fear that time-consuming, costly delays will hamper their effective and meaningful redevelopment efforts as the DOD attempts to play realtor. As former DOD Deputy Under Secretary for Installations, Randall Yim, summarized in 1999, ''The No-Cost EDC authority provides an opportunity for a collaborative relationship by assisting communities with creating new jobs on the former installation and relieving the Department of needless caretaker expenses.'' And that is what the crux of the matter is—working with communities affected by the closure of a military installation to mitigate devastating economic consequences, and doing so in a timely manner that curbs the waste of taxpayer dollars.

I also would like to add that the House Armed Services Committee's provision would not eliminate the Department's ability to use other methods of disposal presently available in the toolbox—such as public auctions, public benefit conveyances, disposal for use by the homeless, negotiated sales, transfers to other Federal agencies, and leases of land. Instead, it would put the no-cost EDC on a level playing field with these other essential disposal mechanisms, so that communities may begin the urgent process of creating good, high-paying jobs while simultaneously saving the Defense Department from needless costs and waste of taxpayer dollars.

The No. 1 complaint I have heard over and over again from communities with BRAC-closed bases is the time-consuming, lengthy, and inefficient process with regard to property transfer. The House provision would take a giant step toward reversing these trends and help get communities back on their feet faster, particularly during the economic conditions our Nation presently faces. I hope we would respect the interests of the community that is directly affected. After all, they are the ones who are disproportionately bearing the costs of the base closure.

In closing, I want to again cite Secretary Yim, who, in reference to the job losses facing communities with base closures, eloquently wrote that, ''. . . these jobs were an economic engine . . . of enormous power for these communities, and these communities contributed in many ways to our mission, from building roads, schools, utility systems, to making educational and business and consumer and recreational opportunities readily available for our military. Some communities even went so far as to give us the property for free. We have an obligation to help mitigate the impacts caused by our base closure decisions.'' He continued by saying that, ''We view it as an investment, not a give-away, and a continuation of the tradition of taking care of our people before, during, and after our time of need.'' And, frankly, isn't that how we should view our defense communities that have time and again sacrificed so much for the good of the Nation? I certainly believe it is.

Mr. NELSON of Florida. Mr. President, I wish to speak in support of the Levin-McCain amendment, Senate amendment No. 1469, to the 2010 National Defense Authorization Act. Ending production of the F–22 and support for the Levin-McCain amendment reflects the best judgment of the President, Secretary of Defense Gates, Chairman of the Joint Chiefs of Staff Mullen, the unanimous Joint Staff including the Chief of Staff of the Air Force Schwartz and Secretary of Air Force Donley. These individuals have carefully considered and weighed the current and likely threats to the nation. They have considered the Nation's national security priorities, policies, and budget, including the defense budget, and have reached the unanimous conclusion to end production at 187 aircraft.

On July 16, Secretary Gates said in Chicago that ''the grim reality is that with regard to the defense budget, we have entered a zero-sum game. Every defense dollar devoted to—diverted to fund excess or unneeded capacity, whether for more F–22s or anything else, is a dollar that will be unavailable to take care of our people, to win the wars we are in, to deter potential adversaries, and to improve capabilities in areas where America is underinvested and potentially vulnerable. That is a risk I cannot accept and one that I will not take.''

I agree with Secretary Gates; therefore, I voted to strike the $1.75 billion to fund just seven more F–22 aircraft—not even a full squadron.

Not only do I support the administration's budget request in this regard, but I also support the excellent work of the Armed Services Committee. Under the leadership of Chairman LEVIN and Senator MCCAIN, the committee funded the urgent research and development priorities of the Air Force's Joint Strike Fighter Program; the high but unfunded priorities of the Navy; and the all-important operations and maintenance needs of the Army. As Secretary Gates said, ''we have entered a zero-sum game'' and every defense dollar counts.

If the $1.75 billion F–22 funding stayed in the bill it would cut $850 million from operations and maintenance—O&M—accounts—this is money that would be used to perform depot maintenance on our Navy aircraft and ships at Navy and industry locations

around the country including facilities located in Jacksonville, FL. The Chief of Naval Operations identified these funding priorities in the fiscal year 2010 unfunded programs list, UPL. Mr. President, I will ask to have printed in the RECORD the Chief of Naval Operations and the Navy's UPL. If we authorize and fund continued procurement of F–22, then these critical shortages will not be addressed.

Other accounts reduced to pay for the $1.75 billion unwanted F–22 procurement include funding for aircraft maintenance for the Air Force and mission support and training activities for Special Operations Command. Furthermore, $400 million would be cut from military personnel accounts. Reductions in military personnel funding will affect unit readiness by hindering the Services' ability to meet manning goals for end strength and operational units prior to deployment.

It has indeed become a zero-sum game; thus, I support the effort of Chairman LEVIN and Senator MCCAIN to restore funding for these vital accounts for readiness, support, and personnel. I support the military and professional judgments of the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Joint Staff to end the F–22 program at 187 aircraft.

Mr. President, I ask unanimous consent to have printed in the RECORD the Chief of Naval Operations and the Navy's UPL to which I referred.

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

DEPARTMENT OF THE NAVY,
CHIEF OF NAVAL OPERATIONS,
Washington, DC, May 19, 2009.

Hon. JOHN M. MCHUGH,
Ranking Member, Committee on Armed Services, House of Representatives, Washington. DC.

DEAR MR. MCHUGH; Thank you for your letter of April 21. 2009. concerning the Navy's Fiscal Year 2010 Unfunded Programs. Our unfunded list includes both aviation and ship depot maintenance actions totaling $395M. A brief summary of details are provided on the enclosed list. Nothing in these Unfunded Requirements is of a higher priority than anything contained in Navy's Fiscal Year 2010 Budget Submissions.

Thank your for your Committee's interest in addressing the Navy's needs. If I may be of further assistance. please let me know.

Sincerely.

G. ROUGHEAD,
Admiral, U.S. Navy.

Enclosure: 1. Fiscal Year 2010 Unfunded Programs List.

FY 10 UNFUNDED PROGRAMS LIST

Title (program/issue)	FY10	Justification
Aviation Depot Maintenance	$195M	Program funded 87% of goal. Accepted risk to goal in order to balance across portfolio. Funds 86 deferred airframes/314 deferred engines.
Ship Depot Maintenance	200M	Program funded 96% of goal. Accepted risk to goal in order to balance across portfolio. Funds 20 surface ship availabilities.
Total Unfunded Programs List:.	395M	

Ms. COLLINS. Mr. President, I rise today in strong support of the Fiscal Year 2010 National Defense Authorization Act. Let me begin by thanking the committee's distinguished chairman, Senator LEVIN, and ranking member, Senator MCCAIN, for their leadership in crafting this bill and for their strong commitment to our Nation's Armed Forces.

This legislation will provide essential training, equipment, and support to our troops as they engage in combat overseas and in exercises at home. The legislation will provide critical force protection to our men and women in uniform; help restore our military's readiness; and continue the development of technologies to counter existing and emerging threats. This is a critical time in our nation's history and the committee has, once again, demonstrated its strong support of our soldiers, airmen, sailors, and marines and their families.

It also offers an important opportunity for continued debate as to our Nation's strategy in Afghanistan. The legislation we are now debating contains an amendment that Senator BEN NELSON and I offered during committee markup to express the sense of Congress that the administration should review any previously established measures of progress and establish further measures of progress for both Afghanistan and Pakistan.

Our proposal was approved unanimously by the Senate Armed Services Committee. It represents a significant bipartisan call for the administration to establish clearly defined policy objectives for Afghanistan as our nation sends more troops and billions of additional dollars to the region.

Time and again, I have expressed serious reservations about sending more troops to Afghanistan without clear, specific benchmarks. The President needs to provide clear, measurable goals for Afghanistan and the region. I have raised my concerns with top Pentagon officials, including Commander of U.S. Central Command General David Petreaus and Commander of U.S. Forces in Afghanistan General Stanley McChrystal about the risks in sending additional troops to Afghanistan. I have no doubts at all about the courage and skill of our men and women in uniform. They are simply the best in the world. I have considerable doubts about whether the President's strategy can succeed.

The legislation before us also includes a strong commitment to strengthening Navy shipbuilding. A robust Navy budget is of critical importance. Our nation needs a strong and modern naval fleet in order to counter existing and emerging threats.

For several years, military leaders have documented a minimum national requirement for 313 ships to support our Navy and Marine Corps. Unfortunately, however, the Navy's fleet has declined to 283 ships. I am deeply concerned by the decreasing size of the Navy fleet and have worked to increase the funding allocated to shipbuilding. This legislation is an important step toward reversing that troubling decline.

As the threats from around the world continue to grow, it is vitally important that the Navy have the best fleet available to counter those threats, keep the sealanes open, and to defend our Nation. Bath Iron Works and the shipyards of this country are ready to build whatever ships the Navy needs. It is vitally important that there not be a gap in shipbuilding that jeopardizes our industrial base. That is what this legislation works to accomplish.

The instability and inadequacy of previous naval shipbuilding budgets have had a troubling impact on our shipbuilding industrial base and has contributed to significant cost growth in the Navy's shipbuilding programs. The 313-ship plan, combined with more robust funding by Congress, will begin to reverse the decline in Navy shipbuilding.

This bill authorizes $1 billion in funding for construction of the third DDG–1000 and honors the agreement the Navy negotiated to build all three ships at Bath Iron Works, BIW. The Pentagon's preference to have BIW build all three of the DDG–1000s demonstrates confidence in BIW, should ensure stable work for the shipyard, and should also help to stabilize production costs for the Navy.

That same confidence was also demonstrated this May when Defense Secretary Robert Gates toured BIW, the first official tour of our shipyard by a Defense Secretary since the 1950s. Secretary Gates said that what impressed him most during his tour was BIW's ability to innovate and the pride and professionalism of its workforce. Maine has a long and proud history of innovation and creativity, and BIW represents Maine ingenuity at its best. Secretary Gates's statement that the men and women of BIW will have consistent work for years into the future was a very welcome acknowledgement of the yard's accomplishments.

In addition, this legislation authorizes $2.2 billion for continued DDG–51 procurement and nearly $150 million for the DDG–51 modernization program.

Our bill also includes a provision that repeals a requirement enacted in the National Defense Authorization Act for Fiscal Year 2008 that would require all future surface combatants to have nuclear propulsion systems. The provision allows the Navy to conduct analyses of requirements capabilities for new ship classes without biasing the analyses in favor of one propulsion option or another. Continuing this requirement would dramatically increase the costs of large surface combatants, reduce the overall number of ships that could be built at a time when the Navy is seeking to revitalize and modernize its fleet, and would undermine the Chief of Naval Operations 313-ship plan.

Our Senate bill also includes funding for additional littoral combat ships.

While this program has suffered a number of setbacks, the Navy, with the help of Congress, has taken significant steps in order to better oversee this program. These ships are important for the Navy in order to counter new, asymmetric threats, and the Navy needs to get these ships to the fleet soon.

The Senate's fiscal 2010 Defense authorization bill also includes funding for other defense-related projects that benefit Maine and our national security.

The bill authorizes $28 million for a new aircraft hangar at the Bangor Air National Guard base in Bangor, ME. This new hangar is essential for the Maine Air National Guard and will replace the 55-year-old building the guard now uses. With the construction of a new hangar, the Maine Air Guard will be able to better maintain its aircraft.

The bill also authorizes $7.1 million for Portsmouth Naval Shipyard to be used for security improvements at Gate No. 2. The money will be used to install new antiterrorism and protection measures at the guard house that will improve security.

Funding also is provided for machine guns and grenade launchers, both of which are manufactured by the highly skilled workers at Saco Defense in Saco, ME.

In addition, the legislation authorizes $10.5 million for the University of Maine. This funding would support continued research and development of light weight modular ballistic tent insert panels designed by the University of Maine's Army Center of Excellence in Orono. These panels provide crucial protection to servicemembers in temporary dining and housing facilities in mobile forward operating bases in Iraq and Afghanistan.

The funding would also support continued research and development of high temperature sensors for health monitoring of aerospace components. These sensors are capable of sensing physical properties such as temperature, pressure, corrosion and vibration in critical aerospace components.

And, the bill would also support continued research and development of cellulose nanocomposites panels for enhanced blast and ballistic protection as well as provide for woody biomass conversion to JP–8 Fuel.

Finally, I am pleased that this bipartisan Defense bill also authorizes a 3.4-percent across-the-board pay increase for servicemembers, half a percent above the President's budget request.

This bill provides the vital resources to our troops and our nation and recognizes the enormous contributions made by the State of Maine to our national security. The bill provides the necessary funding for our troops, and I offer it my full support.

Mr. LEVIN. Mr. President, I ask unanimous consent that no further amendments be in order other than the pending amendments; that upon disposition of the pending amendments and managers' amendments as noted below, the bill be read a third time, and the Senate then proceed to vote on passage of S. 1390, as amended; further, that upon passage of S. 1390, it be in order, en bloc, for the Senate to consider the following Calendar items: 90, 91, and 92; that all after the enacting clause of each bill be stricken and the following divisions of S. 1390, as passed by the Senate, be inserted as follows: Division A, S. 1391; Division B, S. 1392; Division C, S. 1393; that these bill be read a third time, passed, and the motions to reconsider be laid upon the table, en bloc; further, that the consideration of these items appear separately in the RECORD; further, that the Senate then proceed to the consideration of Calendar No. 96, H.R. 2647, the House companion; that all after the enacting clause be stricken and the text of S. 1390, as amended, and passed by the Senate be inserted in lieu thereof, the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that upon passage of H.R. 2647, as amended, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with the Armed Services Committee appointed as conferees; that notwithstanding passage of S. 1390, it still be in order for managers' amendments to be considered and agreed to if they have been agreed upon by the managers and the leaders; and that no points of order be considered waived by virtue of this agreement.

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

The majority leader.

Mr. REID. Mr. President, we will be in session tomorrow. We have some work to do. There will be no votes tomorrow. We received permission from everyone to move to the Energy and Water appropriations bill. We will do that sometime late Monday afternoon. We have to make sure the managers are available.

We have accomplished a great deal with this massive bill that is now before this body. We had a few rocky roads to begin with—hate crimes and gun legislation—but we were able to arrive at this point with the skill of the two managers, frankly. I appreciate very much Senator LEVIN and Senator MCCAIN for their brilliant work on this bill. We have 2 weeks after we come back. We have two appropriations bill to do. We have the Supreme Court nomination. We have to make sure we take action so the highway fund doesn't go dry. We have some FHA stuff that is important. We have some unemployment stuff. It appears at this time the House is going to send us a single package for that. We have travel promotion. All of these things I have spoken about in some detail with the Republican leader. Now that we have a pathway forward, I think we can have a very productive work period.

The Finance Committee is still working on a markup as it relates to health care, but that is a different issue, and I don't think we need to involve that tonight.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1657, AS FURTHER MODIFIED

Mr. LEVIN. Mr. President, I ask unanimous consent that amendment No. 1657, Senator SESSIONS amendment, be further modified and that we agree to it by voice vote.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment (No. 1657), as further modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. NO MIRANDA WARNINGS FOR AL QAEDA TERRORISTS.

(a) DEFINITIONS.—In this section—

(1) the term ''foreign national'' means an individual who is not a citizen or national of the United States; and

(2) the term ''enemy combatant'' includes a privileged belligerent and an unprivileged enemy belligerent, as those terms are defined in section 948a of title 10, United States Code, as amended by section 1031 of this Act.

(b) NO MIRANDA WARNINGS.—Absent an unappealable court order requiring the reading of such statements, no military or intelligence agency or department of the United States shall read to a foreign national who is captured or detained as an enemy combatant by the United States the statement required by Miranda v. Arizona, 384 U.S. 436 (1966), or otherwise inform such a prisoner of any rights that the prisoner may or may not have to counsel or to remain silent consistent with Miranda v. Arizona, 384 U.S. 436 (1966). No Federal statute, regulation, or treaty shall be construed to require that a foreign national who is captured or detained as an enemy combatant by the United States be informed of any rights to counsel or to remain silent consistent with Miranda v. Arizona, 384 U.S. 436 (1966) that the prisoner may or may not have, except as required by the United States Constitution. No statement that is made by a foreign national who is captured or detained as an enemy combatant by the United States may be excluded from any proceeding on the basis that the prisoner was not informed of a right to counsel or to remain silent that the prisoner may or may not have, unless required by the United States Constitution.

(c) This section shall not apply to the Department of Justice.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1657, as further modified.

Without objection, the amendment, as further modified, is agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

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 California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Ms. MIKULSKI), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The result was announced—yeas 87, nays 7, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—87

Akaka	Franken	McConnell
Alexander	Gillibrand	Menendez
Baucus	Graham	Merkley
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennet	Hagan	Nelson (NE)
Bingaman	Harkin	Nelson (FL)
Bond	Hatch	Pryor
Boxer	Hutchison	Reed
Brown	Inhofe	Reid
Brownback	Inouye	Risch
Bunning	Isakson	Roberts
Burr	Johanns	Schumer
Burris	Johnson	Sessions
Cantwell	Kaufman	Shaheen
Cardin	Kerry	Shelby
Carper	Klobuchar	Snowe
Casey	Kohl	Specter
Chambliss	Kyl	Stabenow
Cochran	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Udall (CO)
Corker	Levin	Udall (NM)
Cornyn	Lieberman	Voinovich
Crapo	Lincoln	Warner
Dodd	Lugar	Webb
Dorgan	Martinez	Whitehouse
Durbin	McCain	Wicker
Ensign	McCaskill	Wyden

NAYS—7

Barrasso	Enzi	Vitter
Coburn	Feingold	
DeMint	Sanders	

NOT VOTING—6

Bennett	Feinstein	Mikulski
Byrd	Kennedy	Rockefeller

The bill (S. 1390), as amended, was passed.

Mr. LEVIN. Mr. President, I move to reconsider that vote.

Mr. MCCAIN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 1390, as amended, is inserted in lieu of the language of H.R. 2647.

Without objection, the bill is considered read the third time and the bill is passed, as amended.

The bill (H.R. 2647), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The bill (S. 1391) to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, to prescribe military personnel strengths for such fiscal year, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill, as amended, will be printed in a future edition of the RECORD.)

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2010

The bill (S. 1392) to authorize appropriations for fiscal year 2010 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill, as amended, will be printed in a future edition of the RECORD.)

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2010

The bill (S. 1393) to authorize appropriations for fiscal year 2010 for defense activities of the Department of Energy, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The bill, as amended, will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House.

The Chair appointed Mr. LEVIN, Mr. KENNEDY, Mr. BYRD, Mr. LIEBERMAN, Mr. REED of Rhode Island, Mr. AKAKA, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. BAYH, Mr. WEBB, Mrs. MCCASKILL, Mr. UDALL of Colorado, Mrs. HAGAN, Mr. BEGICH, Mr. BURRIS, Mr. MCCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. CHAMBLISS, Mr. GRAHAM, Mr. THUNE, Mr. MARTINEZ, Mr. WICKER, Mr. BURR, Mr. VITTER, and Ms. COLLINS conferees on the part of the Senate.

Mr. LEVIN. I wonder now if the Senator from New York might be recognized for a brief colloquy with me which will last no more than 5 minutes.

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

Mrs. GILLIBRAND. Mr. President, I rise today to speak about an amendment which I had offered which was not included in the managers' package. It has passed in the House. It is about the issue of autism.

We have a significant issue with regard to autism in the military. The autism spectrum disorder affects 1 in every 150 American children, 1 in every 90 boys, more than pediatric cancer, diabetes, and AIDS combined. A new case of autism is diagnosed every 20 minutes, making it the fastest growing serious developmental condition in the United States. And if this continues, autism could reach 4 million Americans in the next 10 years.

In the military, autism is even more prevalent. There are currently over 13,000 children of Active-Duty servicemembers with autism. Representing about 1 percent of the Nation's total population, military families understand all too well the financial impact and the emotional burden of this disorder. Despite this, the Department of Defense has been unable to adequately provide autism therapy services to their families.

Currently, autism treatment is subject to a monthly cap under the health insurance system, TRICARE. It also has a very burdensome application process, which can delay critical care for our military families. My amendment is designed to change this, to make sure this cap no longer applies so that these military families have access to the care their children need.

One example. One family's son, Taylor, has autism, and he is 7 years old. They are dependent on the TRICARE autism treatment because his IQ is at 73, and the cutoff for the New York State program is 70. So they budget about $500 extra out of pocket per month to pay for Taylor's therapy. But it is far less than Taylor actually needs to achieve his potential.

So what we are hoping to do is ultimately make sure that children who have autism, whose mothers or fathers are serving in the military will have access to the number of hours of treatment doctors recommend. We hope that through these efforts, down the line we can begin to provide these resources for the men and women who put their lives on the line every day for our country.

Mr. LEVIN. Mr. President, let me commend the Senator from New York for identifying a very significant problem. She has always shown great sensitivity to the men and women in the Armed Forces.

There is a provision in the House bill—we are not sure exactly what it is—that relates to this issue and the need to provide for autistic kids. We will take a look at that in conference and see if there is anything we can do to move in the direction which the Senator from New York has so properly identified.

THANKING STAFF

The proud tradition that our committee has maintained every year since 1961 continues with the Senate's passage of this 48th consecutive national defense authorization bill. We are motivated to pass this bill, as we are every year. In fact, we are inspired to pass this bill for the men and women of our Armed Forces and their families. They give it everything they have 24/7. They never give up and they never give in. We always have to work long and hard to pass this bill, but it is worth every bit of effort we put into it. I