

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     |
| Burriss   | 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  | Voivovich   |
| 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 min-

utes, 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

thank our leadership on both sides of the aisle and all Senators for their role in keeping the tradition going.

Our committee's bipartisanship also makes this moment possible. I am proud to serve with Senator MCCAIN. I am grateful for his partnership and his friendship. To all of the committee members—we have one of our committee members presiding at the moment—your work on a bipartisan basis the entire year is most appreciated.

I want to thank not only our subcommittee chairs and ranking members but give special thanks to the six new members who joined our committee this year. We work together in committee. We did not allow our differences on this bill to divide us; we reported the bill unanimously. And to Charlie Armstrong in the Office of Senate Legislative Counsel, after drafting hundreds of amendments to this bill again this year, many, many special thanks to you.

Our committee staff members, if they are still here—many of them are—many of them are still in Russell working tonight—you deserve much more than heartfelt thanks, but that is all we can offer to you right now. They were led by Rick DeBobes, our committee staff director, and Joe Bowab, our Republican staff director. Our staff unselfishly sacrifices and works incredibly hard on this bill.

So please go home now, staff, enjoy a couple of hours—no more than 3, please—of sleep and enjoy a nonmicrowave meal for a change. We know you will be back at 6 o'clock in the morning fully rested and ready to tackle the conference with your talents, ability, and teamwork. We could not be where we are now without you.

They deserve our recognition as a tribute to their professionalism. And as a further expression of our gratitude, I ask that all of their names appear in the RECORD at this point.

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

SENATE ARMED SERVICES COMMITTEE STAFF

Adam J. Barker, Professional Staff Member; June M. Borawski, Printing and Documents Clerk; Joseph W. Bowab, Republican Staff Director; Leah C. Brewer, Nominations and Hearings Clerk; Joseph M. Bryan, Professional Staff Member; Pablo E. Carrillo, Minority Investigative Counsel; Jonathan D. Clark, Counsel; Ilona R. Cohen, Counsel; Christine E. Cowart, Chief Clerk; Madelyn R. Creedon, Counsel; Kevin A. Cronin, Staff Assistant; Richard D. DeBobes, Staff Director; Gabriella Eisen, Counsel; Richard W. Fieldhouse, Professional Staff Member; Richard H. Fontaine, Jr., Deputy Minority Staff Director; Creighton Greene, Professional Staff Member; Mary C. Holloway, Staff Assistant; and Gary J. Howard, Systems Administrator.

Paul J. Hubbard, Staff Assistant; Paul C. Hutton IV, Professional Staff Member; Mark R. Jacobson, Professional Staff Member; Jessica L. Kingston, Research Assistant; Jennifer R. Knowles, Staff Assistant; Michael V. Kostiw, Professional Staff Member; Michael J. Kuiken, Professional Staff Member; Mary

J. Kyle, Legislative Clerk; Christine G. Lang, Staff Assistant; Terence K. Laughlin, Professional Staff Member; Gerald J. Leeling, Counsel; Daniel A. Lerner, Professional Staff Member; Peter K. Levine, General Counsel; Gregory R. Lilly, Executive Assistant for the Minority; Thomas K. McConnell, Professional Staff Member; William G. P. Monahan, Counsel; David M. Morriss, Minority Counsel; and Lucian L. Niemeyer, Professional Staff Member.

Michael J. Noblet, Professional Staff Member; Christopher J. Paul, Professional Staff Member; Cindy Pearson, Assistant Chief Clerk and Security Manager; Roy F. Phillips, Professional Staff Member; John H. Quirk V, Professional Staff Member; Brian F. Sebold, Staff Assistant; Arun A. Seraphin, Professional Staff Member; Russell L. Shaffer, Counsel; Travis E. Smith, Special Assistant; Jennifer L. Stoker, Security Clerk; William K. Sutey, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Mary Louise Wagner, Professional Staff Member; Richard F. Walsh, Minority Counsel; Breon N. Wells, Staff Assistant; and Dana W. White, Professional Staff Member.

Mr. LEVIN. I again offer my special thanks to my very dear friend, the Senator from Arizona, Mr. MCCAIN, who has amazing energy and passion for this subject. He is an inspiration to all of us that he serves as he does on this Armed Services Committee.

Mr. MCCAIN. Mr. President, I would like to thank Senator LEVIN and the staff as well on both sides of the aisle and thank Senator LEVIN for his patience, for his perseverance, his knowledge, and his commitment to the security of this Nation and the men and women who serve it. I am honored to have the opportunity to serve with him. I share his praise for our staffs. In addition, I also thank our floor staffs who make our machinery run when it comes to a grinding halt from time to time. I am grateful for their help, their assistance, and the hard work they have given us as well.

I think we have a managers' package, and we will be done for this year. Again, my sincere appreciation to the chairman whom I had the great honor and privilege now of serving with for nearly a quarter of a century.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Arizona for thanking our floor staff. I overlooked that. Even though we look at them hour after hour after hour, somehow or other we manage to overlook that, their great service when it comes to thanking everybody who is involved. We do thank the floor staffs for their phenomenal work.

Mr. MCCAIN. Particularly Lula.

Mr. LEVIN. Particularly Lula.

AMENDMENTS NOS. 1572; 1802; 1801; 1606, AS MODIFIED; 1808; 1705; 1797, AS MODIFIED; 1732; 1753; 1758; 1751; 1661; 1653; 1811; 1516, AS MODIFIED; 1812; 1658; 1796, AS MODIFIED; 1533, AS MODIFIED, EN BLOC

Mr. LEVIN. Mr. President, we have 18 amendments at the desk, and I understand these have been approved now by

both Senator MCCAIN and I and the two leaders. They have all approved these 18 amendments. Under the previous unanimous consent agreement, these amendments now are part of the managers' package and, with the approval of the four I have identified, I understand that these are now part of the bill. Is my understanding correct?

The PRESIDING OFFICER. The Senator is correct.

The amendments were agreed to, as follows:

AMENDMENT NO. 1572

(Purpose: To provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces)

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

**SEC. 652. TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS MEMBER OF ALASKA TERRITORIAL GUARD DURING WORLD WAR II.**

(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106-259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 61, 71, 371, 571, 871, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after the date of the enactment of this Act. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term "World War II" has the meaning given that term in section 101(8) of title 38, United States Code.

AMENDMENT NO. 1802

(Purpose: To extend the monthly special pay benefit for members of the reserve components of the Armed Forces to include time spent performing pre-deployment and reintegration duty)

Beginning on page 184, line 20, strike "serves on active duty" and all that follows through "serves on active duty" on page 185, line 6, and insert the following: "serves on active duty in the Armed Forces or active status in a reserve component of the Armed Forces, including time served performing pre-deployment and reintegration duty regardless of whether or not such duty was performed by such a member on active duty in the Armed Forces, or has the member's eligibility for retirement from the Armed Forces suspended, as described in that subsection.

(b) COVERED MEMBERS.—A member of the Armed Forces described in this subsection is any member of the Army, Navy, Air Force, or Marine Corps (including a member of a reserve component thereof) who, at any time during the period beginning on October 1, 2009, and ending on June 30, 2011, serves on active duty in the Armed Forces or active status in a reserve component of the Armed Forces, including time served performing pre-deployment and reintegration duty regardless of whether or not such duty was performed by such a member on active duty in the Armed Forces,

## AMENDMENT NO. 1801

(Purpose: To require the Secretary of the Navy to solicit competing bids for the procurement of steam turbines for the ships service turbine generators and main propulsion turbines for the Ohio-class submarine replacement program)

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

**SEC. 115. COMPETITIVE BIDDING FOR PROCUREMENT OF STEAM TURBINES FOR SHIPS SERVICE TURBINE GENERATORS AND MAIN PROPULSION TURBINES FOR OHIO-CLASS SUBMARINE REPLACEMENT PROGRAM.**

The Secretary of the Navy shall take measures to ensure competition, or the option of competition, for steam turbines for the ships service turbine generators and main propulsion turbines for the Ohio-class submarine replacement program in accordance with section 202 of the Weapons Systems Acquisition Reform Act of 2009 (Public Law 111-23; 10 U.S.C. 2430 note).

## AMENDMENT 1606, AS MODIFIED

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

**SEC. 3136. SENSE OF THE SENATE ON PRODUCTION OF MOLYBDENUM-99.**

(a) FINDINGS.—The Senate makes the following findings:

(1) There are fewer than five reactors around the world currently capable of producing molybdenum-99 (Mo-99) and there are no such reactors in the United States that can provide a reliable supply of Mo-99 to meet medical needs.

(2) Since November 2007, there have been major disruptions in the global availability of Mo-99, including at facilities in Canada and the Netherlands, which have led to shortages of Mo-99-based medical products in the United States and around the world.

(3) Ensuring a reliable, supply of medical radioisotopes, including Mo-99, is of great importance to the public health.

(4) It is also a national security priority of the United States, and specifically of the Department of Energy, to encourage the production of low-enriched uranium-based radioisotopes in order to promote a more peaceful international nuclear order.

(5) The National Academy of Sciences has identified a need to establish a reliable capability in the United States for the production of Mo-99 and its derivatives for medical purposes using low-enriched uranium.

(6) There also exists a capable industrial base in the United States that can support the development of Mo-99 production facilities and can conduct the processing and distribution of radiopharmaceutical products for use in medical tests worldwide.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) radioisotopes and radiopharmaceuticals, including Mo-99 and its derivatives, are essential components of medical tests that help diagnose and treat life-threatening diseases affecting millions of people each year; and

(2) the Secretary of Energy should continue and expand a program to meet the need identified by the National Academy of Sciences to ensure a source of Mo-99 and its derivatives for use in medical tests to help ensure the health security of the United States and around the world and promote peaceful nuclear industries through the use of low-enriched uranium.

## AMENDMENT NO. 1808

(Purpose: To provide to members of the Armed Forces and their families comprehensive information on benefits for members of the Armed Forces and their families)

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

**SEC. 573. PROVISION TO MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES OF COMPREHENSIVE INFORMATION ON BENEFITS FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.**

(a) PROVISION OF COMPREHENSIVE INFORMATION REQUIRED.—The Secretary of the military department concerned shall, at each time specified in subsection (b), provide to each member of the Armed Forces and, when practicable, the family members of such member comprehensive information on the benefits available to such member and family members as described in subsection (c), including the estimated monetary amount of such benefits and of any applicable offsets to such benefits.

(b) TIMES FOR PROVISION OF INFORMATION.—Comprehensive information on benefits shall be provided a member of the Armed Forces and family members at each time as follows:

(1) Within 180 days of the enlistment, accession, or commissioning of the member as a member of the Armed Forces.

(2) Within 180 days of a determination that the member—

(A) has incurred a service-connected disability; and

(B) is unfit to perform the duties of the member's office, grade, rank, or rating because of such disability.

(3) Upon the discharge, separation, retirement, or release of the member from the Armed Forces.

(c) COVERED BENEFITS.—The benefits on which a member of the Armed Forces and family members shall be provided comprehensive information under this section shall be as follows:

(1) At all the times described in subsection (b), the benefits shall include the following:

(A) Financial compensation, including financial counseling.

(B) Health care and life insurance programs for members of the Armed Forces and their families.

(C) Death benefits.

(D) Entitlements and survivor benefits for dependents of the Armed Forces, including offsets in the receipt of such benefits under the Survivor Benefit Plan and in connection with the receipt of dependency and indemnity compensation.

(E) Educational assistance benefits, including limitations on and the transferability of such assistance.

(F) Housing assistance benefits, including counseling.

(G) Relocation planning and preparation.

(H) Such other benefits as the Secretary concerned considers appropriate.

(2) At the time described in paragraph (1) of such subsection, the benefits shall include the following:

(A) Maintaining military records.

(B) Legal assistance.

(C) Quality of life programs.

(D) Family and community programs.

(E) Such other benefits as the Secretary concerned considers appropriate.

(3) At the times described in paragraphs (2) and (3) of such subsection, the benefits shall include the following:

(A) Employment assistance.

(B) Continuing Reserve Component service.

(C) Disability benefits, including offsets in connection with the receipt of such benefits.

(D) Benefits and services provided under laws administered by the Secretary of Veterans Affairs.

(E) Such other benefits as the Secretary concerned considers appropriate.

(d) BIENNIAL NOTICE TO MEMBERS OF THE ARMED FORCES ON THE VALUE OF PAY AND BENEFITS.—

(1) BIENNIAL NOTICE REQUIRED.—The Secretary of each military department shall

provide to each member of the Armed Forces under the jurisdiction of such Secretary on a biennial basis notice on the value of the pay and benefits paid or provided to such member by law during the preceding year. The notice may be provided in writing or electronically, at the election of the Secretary.

(2) ELEMENTS.—Each notice provided a member under paragraph (1) shall include the following:

(A) A statement of the estimated value of the military health care, retirement benefits, disability benefits, commissary and exchange privileges, government-provided housing, tax benefits associated with service in the Armed Forces, and special pays paid or provided the member during the preceding 24 months.

(B) A notice regarding the death and survivor benefits, including Servicemembers' Group Life Insurance, to which the family of the member would be entitled in the event of the death of the member, and a description of any offsets that might be applicable to such benefits.

(C) Information on other programs available to members of the Armed Forces generally, such as access to morale, welfare, and recreation (MWR) facilities, child care, and education tuition assistance, and the estimated value, if ascertainable, of the availability of such programs in the area where the member is stationed or resides.

(e) OTHER OUTREACH.—

(1) IN GENERAL.—The Secretaries of the military departments shall, on a periodic basis, conduct outreach on the pay, benefits, and programs and services available to members of the Armed Forces by reason of service in the Armed Forces. The outreach shall be conducted pursuant to public service announcements, publications, and such other announcements through general media as will serve to disseminate the information broadly among the general public.

(2) INTERNET OUTREACH WEBSITE.—

(A) IN GENERAL.—The Secretary of Defense shall establish an Internet website for the purpose of providing the comprehensive information about the benefits and offsets described in subsection (c) to members of the Armed Forces and their families.

(B) CONTACT INFORMATION.—The Internet website required by subparagraph (A) shall provide contact information, both telephone and e-mail, that a member of the Armed Forces and a family member of the member can use to get personalized information about the benefits and offsets described in subsection (c).

(f) REPORTS.—

(1) INITIAL REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the requirements of this section by the Department of Defense. Such report shall include a description of the quality and scope of available online resources that provide information about benefits for members of the Armed Forces and their families.

(2) RECORDS MAINTAINED.—The Secretary of Defense or the military department concerned shall maintain records that contain the number of individuals that received a briefing under this section in the previous year disaggregated by the following:

(A) Whether the individual is a member of the Armed Forces or a family member of a member of the Armed Forces.

(B) The Armed Force of the members.

(C) The State or territory in which the briefing occurred.

(D) The subject of the briefing.

## AMENDMENT NO. 1705

(Purpose: To extend the deadline for the completion of the independent study of concepts and systems for boost-phase missile defense)

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

**SEC. 245. EXTENSION OF DEADLINE FOR STUDY ON BOOST-PHASE MISSILE DEFENSE.**

Section 232(c)(1) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4392) is amended by striking "October 31, 2010" and inserting "March 1, 2011".

## AMENDMENT NO. 1797, AS MODIFIED

(Purpose: To reauthorize the Maritime Administration, and for other purposes)

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

## AMENDMENT NO. 1732

(Purpose: To provide for an additional duty for the advisory panel on Department of Defense capabilities for support of civil authorities after certain incidents)

At the end of subtitle F of title X, insert the following:

**SEC. 1059. ADDITIONAL DUTY FOR ADVISORY PANEL ON DEPARTMENT OF DEFENSE CAPABILITIES FOR SUPPORT OF CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS.**

Section 1082(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 337) is amended by—

(1) redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) in paragraph (4), by striking "other department" and inserting "other departments"; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) assess the adequacy of the process and methodology by which the Department of Defense establishes, maintains, and resources dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

"(8) assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces for conducting operations described in paragraph (1);".

## AMENDMENT NO. 1753

(Purpose: To require the Department of Defense to ensure full access to mental health care for family members of members of the National Guard and Reserve who are deployed overseas)

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

**SEC. 557. FULL ACCESS TO MENTAL HEALTH CARE FOR FAMILY MEMBERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO ARE DEPLOYED OVERSEAS.**

(a) EXPANDED INITIATIVE TO INCREASE ACCESS TO MENTAL HEALTH CARE.—

(1) IN GENERAL.—The Secretary of Defense shall expand existing Department of Defense initiatives 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 expanded initiatives, which shall build upon and be consistent with ongoing efforts, shall include the following:

(A) Programs and activities to educate the 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) Guidelines for mental health counselors at military installations in communities with large numbers of mobilized members of the National Guard and Reserve to expand the reach of their counseling activities to include families of such members in such communities.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and at such times as the Secretary deems appropriate thereafter, 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 accredited 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. 1758

(Purpose: To require a report on enabling capabilities for Special Operations forces)

On page 429 between lines 8 and 9, insert the following:

**SEC. 1073. REPORT ON ENABLING CAPABILITIES FOR SPECIAL OPERATIONS FORCES.**

(a) REPORT REQUIRED.—Not later than 270 days after the date of the enactment of this Act, the Commander of the United States Special Operations Command, jointly with the commanders of the combatant commands and the chiefs of the services, shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff a report on the availability of enabling capabilities to support special operations forces requirements.

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

(1) An identification of the requirements for enabling capabilities for conventional forces and special operations forces globally, including current and projected needs in Iraq, Afghanistan, and other theaters of operation.

(2) A description of the processes used to prioritize and allocate enabling capabilities to meet the mission requirements of conventional forces and special operations forces.

(3) An identification and description of any shortfalls in enabling capabilities for special operations forces by function, region, and quantity, as determined by the Commander of the United States Special Operations Command and the commanders of the geographic combatant commands.

(4) An assessment of the current inventory of these enabling capabilities within the

military departments and components and the United States Special Operations Command.

(5) An assessment of whether there is a need to create additional enabling capabilities by function and quantity.

(6) An assessment of the merits of creating additional enabling units, by type and quantity—

(A) within the military departments; and

(B) within the United States Special Operations Command.

(7) Recommendations for meeting the current and future enabling force requirements of the United States Special Operations Command, including an assessment of the increases in endstrength, equipment, funding, and military construction that would be required to support these recommendations.

(8) Any other matters the Commander of the United States Special Operations Command, the commanders of the combatant commands, and the chiefs of the services consider useful and relevant.

(c) REPORT TO CONGRESS.—Not later than 30 days after receiving the report required under subsection (a), the Secretary of Defense shall forward the report to the congressional defense committees with any additional comments the Secretary considers appropriate.

## AMENDMENT NO. 1751

(Purpose: To authorize a study on the suitability and feasibility of designating the National D-Day Memorial in Bedford, Virginia, as a unit of the National Park System)

At the appropriate place, insert the following:

**SEC. . NATIONAL D-DAY MEMORIAL STUDY.**

(a) DEFINITIONS.—In this section:

(1) AREA.—The term "Area" means in the National D-Day Memorial in Bedford, Virginia.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the Area to evaluate the national significance of the Area and suitability and feasibility of designating the Area as a unit of the National Park System.

(2) CRITERIA.—In conducting the study required by paragraph (1), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System in section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

(3) CONTENTS.—The study required by paragraph (1) shall—

(A) determine the suitability and feasibility of designating the Area as a unit of the National Park System;

(B) include cost estimates for any necessary acquisition, development, operation, and maintenance of the Area; and

(C) identify alternatives for the management, administration, and protection of the Area.

(c) REPORT.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct of the study required by this section, except that the study shall be submitted to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 3 years after the date on which funds are first made available for the study.

## AMENDMENT NO. 1661

(Purpose: To include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay)

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

**SEC. 652. INCLUSION OF SERVICE AFTER SEPTEMBER 11, 2001, IN DETERMINATION OF REDUCED ELIGIBILITY AGE FOR RECEIPT OF NON-REGULAR SERVICE RETIRED PAY.**

Section 12731(f)(2)(A) of title 10, United States Code, is amended—

(1) by striking “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008” and inserting “September 11, 2001”; and

(2) by striking “in any fiscal year after such date” and inserting “in any fiscal year after fiscal year 2001”.

## AMENDMENT NO. 1653

(Purpose: To require a report on Taiwan’s Air Force)

At the end of subtitle B of title XII, add the following:

**SEC. 1222. REPORT ON TAIWAN’S AIR FORCE.**

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

(1) According to the Department of Defense’s (DoD) 2009 Annual Report on Military Power of the People’s Republic of China, the military balance in the Taiwan Strait has been shifting in China’s favor since 2000, marked by the sustained deployment of advanced military equipment to the Chinese military regions opposite Taiwan.

(2) Although the DoD’s 2002 Report concluded that Taiwan “has enjoyed dominance of the airspace over the Taiwan Strait for many years,” the DoD’s 2009 Report states this conclusion no longer holds true.

(3) China has based 490 combat aircraft (330 fighters and 160 bombers) within unrefueled operational range of Taiwan, and has the airfield capacity to expand that number by hundreds. In contrast, Taiwan has 390 combat aircraft (all of which are fighters).

(4) Also according to the DoD’s 2009 Report, China has continued its build-up of conventional ballistic missiles since 2000, “building a nascent capacity for conventional short-range ballistic missile (SRBM) strikes against Taiwan into what has become one of China’s primary instruments of coercion.” At this time, China has expanded its SRBM force opposite Taiwan to seven brigades with a total of 1,050 through 1,150 missiles, and is augmenting these forces with conventional medium-range ballistic missiles systems and at least 2 land attack cruise missile variants capable of ground or air launch. Advanced fighters and bombers, combined with enhanced training for nighttime and overwater flights, provide China’s People’s Liberation Army (PLA) with additional capabilities for regional strike or maritime interdiction operations.

(5) Furthermore, the Report maintains, “the security situation in the Taiwan Strait is largely a function of dynamic interactions among Mainland China, Taiwan, and the United States. The PLA has developed and deployed military capability to coerce Taiwan or attempt an invasion if necessary. PLA improvements pose new challenges to Taiwan’s security, which has historically been based upon the PLA’s inability to project power across the 100 nautical-mile Taiwan Strait, natural geographic advantages of island defense, Taiwan’s armed forces’ technological superiority, and the possibility of U.S. intervention”.

(6) The Taiwan Relations Act of 1979 requires that, in furtherance of the principle of maintaining peace and stability in the West-

ern Pacific region, the United States shall make available to Taiwan such defense articles and defense services in such quantity “as may be necessary to enable Taiwan to maintain a sufficient self-defense capability,” allowing that “the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan . . .”.

(b) REPORT TO CONGRESS ON TAIWAN’S CURRENT AIR FORCE AND FUTURE SELF-DEFENSE REQUIREMENTS.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form, containing the following:

(1) A thorough and complete assessment of the current state of Taiwan’s Air Force, including—

- (A) the number and type of aircraft;
- (B) the age of aircraft; and
- (C) the capability of those aircraft.

(2) An assessment of the effectiveness of the aircraft in the face of a full-scale concerted missile and air campaign by China, in which China uses its most modern surface-to-air missiles currently deployed along its seacoast.

(3) An analysis of the specific weapons systems and platforms that Taiwan would need to provide for its self-defense and maintain control of its own air space.

(4) Options for the United States to assist Taiwan in achieving those capabilities.

(5) A 5-year plan for fulfilling the obligations of the United States under the Taiwan Relations Act to provide for Taiwan’s self-defense and aid Taiwan in maintaining control of its own air space.

## AMENDMENT NO. 1811

(Purpose: To extend and enhance reporting requirements related to United States contributions to the United Nations)

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

**SEC. 1222. REPORT ON UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS.**

Section 1225 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2424) is amended—

(1) in subsection (a), by striking “until December 31, 2010, the President shall submit” and inserting “(but not later than the first of each May), the Director of the Office of Management and Budget shall submit”; and

(2) by adding at the end the following:

“(c) PUBLIC AVAILABILITY OF INFORMATION.—The Director of the Office of Management and Budget shall post a public version of each report submitted under subsection (a) on a text-based searchable and publicly available Internet Web site.”.

## AMENDMENT NO. 1516, AS MODIFIED

(Purpose: To provide certain requirements with respect to public-private competitions)

On page 77, strike lines 1 through 26 and insert the following:

**SEC. 323A. PUBLIC-PRIVATE COMPETITION REQUIRED BEFORE CONVERSION OF ANY DEPARTMENT OF DEFENSE FUNCTION PERFORMED BY CIVILIAN EMPLOYEES TO CONTRACTOR PERFORMANCE.**

(a) REQUIREMENT.—Section 2461(a)(1) of title 10, United States Code, is amended—

(1) by striking “A function” and inserting “No function”;

(2) by striking “10 or more”; and

(3) by striking “may not be converted” and inserting “may be converted”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a function for which a public-private competition is commenced on or after the date of the enactment of this Act.

**SEC. 323B. TIME LIMITATION ON DURATION OF PUBLIC-PRIVATE COMPETITIONS.**

(a) TIME LIMITATION.—Section 2461(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) The duration of a public-private competition conducted pursuant to Office of Management and Budget Circular A-76 or any other provision of law for any function of the Department of Defense performed by Department of Defense civilian employees may not exceed the period specified in paragraph (B), commencing on the date on which funds are obligated for contractor support of the preliminary planning for the public-private competition begins through the date on which a performance decision is rendered with respect to the function.

“(B) The period referred to in paragraph (A) is . . . months with respect to a single formation activity and 30 months with respect to a multi-formation activity.

“(C) The time period specified in subparagraph (A) for a public-private competition does not include any day during which the public-private competition is delayed by reason of a protest before the Government Accountability Office or the United States Court of Federal Claims.

“(D) In this paragraph, the term ‘preliminary planning’ with respect to a public-private competition means any action taken to carry out any of the following activities:

“(i) Determining the scope of the competition.

“(ii) Conducting research to determine the appropriate grouping of functions for the competition.

“(iii) Assessing the availability of workload data, quantifiable outputs of functions, and agency or industry performance standards applicable to the competition.

“(iv) Determining the baseline cost of any function for which the competition is conducted.”.

(b) EFFECTIVE DATE.—Paragraph (5) of section 2461(a) of title 10, United States Code, as added by subsection (a), shall apply with respect to a public-private competition covered by such section that is being conducted on or after the date of the enactment of this Act.

**SEC. 323C. TERMINATION OF CERTAIN PUBLIC-PRIVATE COMPETITIONS FOR CONVERSION OF DEPARTMENT OF DEFENSE FUNCTIONS TO PERFORMANCE BY A CONTRACTOR.**

(a) TERMINATION OF CERTAIN STUDIES.—Any Department of Defense public-private competition that exceeds the time limits established in §2461(a) shall be reviewed by the Secretary of Defense and considered for termination. If the Secretary of Defense does not terminate the competition, he shall report to Congress on the reasons for his decision.

## AMENDMENT NO. 1812

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

**SEC. 1232. REPORT ON FEASIBILITY AND DESIRABILITY OF ESTABLISHING GENERAL UNIFORM PROCEDURES AND GUIDELINES FOR THE PROVISION OF MONETARY ASSISTANCE BY THE UNITED STATES TO CIVILIAN FOREIGN NATIONALS FOR LOSSES INCIDENT TO COMBAT ACTIVITIES OF THE ARMED FORCES.**

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the feasibility and the desirability of establishing general uniform procedures and guidelines for the provision by the United States of monetary assistance to civilian foreign nationals for losses, injuries, or death (hereafter “harm”) incident to combat activities of the United States Armed Forces during contingency operations.

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

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

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

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

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

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

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

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

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

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

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

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

types of nonmonetary assistance, if any, should be authorized.

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

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

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

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

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

#### AMENDMENT NO. 1658

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

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

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

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

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

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

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

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

(4) The funding allocated to such assistance.

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

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

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

(8) The different standards and criteria used by different programs of the Department of Defense for providing such assistance with respect to child care providers and

the potential impact differences in such standards and criteria may have on the access of such members to such assistance.

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

#### AMENDMENT NO. 1796, AS MODIFIED

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

In section 123, insert:

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

#### AMENDMENT NO. 1533, AS MODIFIED

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

On page 323, beginning on line 19, strike "or" and all that follows through line 22, and insert the following:

"(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

"(C) is a member of al Qaeda".

#### MORNING BUSINESS

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

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

#### TREATY MAKING PROCESS

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

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