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## Senate

The Senate met at 9 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

### PRAYER

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

You have kept Your promises to us, Almighty God, and our hearts sing praises to You. You continue to supply our needs, to keep us from falling, and to work everything for our good. You prevent the weapons that are formed against us from prospering, surrounding us with the shield of Your favor.

Lord, give wisdom and knowledge to our lawmakers today. Show them Your ways and guide them by Your spirit. Lead them in the path of Your truth so that they will abide in the shadow of Your providence and permit Your constant love to sustain them.

We pray in Your great Name. Amen.

### NOTICE

If the 111th Congress, 2d Session, adjourns sine die on or before December 23, 2010, a final issue of the *Congressional Record* for the 111th Congress, 2d Session, will be published on Wednesday, December 29, 2010, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-59 or S-123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Wednesday, December 29. The final issue will be dated Wednesday, December 29, 2010, and will be delivered on Thursday, December 30, 2010.

None of the material printed in the final issue of the *Congressional Record* may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

CHARLES E. SCHUMER, *Chairman*.

### PLEDGE OF ALLEGIANCE

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

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 22, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUE,  
*President pro tempore*.

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



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

#### RECOGNITION OF THE ACTING MAJORITY LEADER

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

#### SCHEDULE

Mr. LEVIN. Mr. President, on behalf of the leader, today the Senate will resume consideration of the New START treaty. Yesterday, cloture was invoked on the treaty, which limits debate to 30 hours. He hopes some of the postcloture debate time can be yielded back so we can complete action on it early this afternoon.

In addition to the treaty, the majority leader would like the Senate to consider the Department of Defense authorization bill, the 9/11 health legislation for first responders, and a number of executive nominations, including that of James Cole to be Deputy Attorney General, before we leave for the holidays. Senators will be notified when any votes are scheduled.

#### IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS- CAL YEAR 2011

Mr. LEVIN. Mr. President, in legislative session and in morning business, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 717, H.R. 6523, the Department of Defense authorization bill, that a Levin-McCain amendment that is at the desk be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCAIN. Reserving the right to object, and I will not object, a lot of people may not understand that unanimous consent request that was just made by the chairman of the Armed Services Committee.

Am I correct, I ask my friend from Michigan, that this is in order to pass the National Defense Authorization Act? We have gone, I believe, 48 years and passed one, and there are vital programs, policies, and pay raises for the men and women in the military and other policy matters that are vital to successfully carrying out the two wars we are in and providing the men and women who are serving with the best possible equipment and capabilities to win those conflicts. Am I correct in assuming that is what this agreement is about?

Mr. LEVIN. The Senator from Arizona is correct. It is the bill—slightly reduced to eliminate some of the con-

troversial provisions, which would have prevented us from getting to this point, but this is the Defense authorization bill, and 90 to 95 percent of the bill is the bill we worked so hard on in committee on a bipartisan basis. I am very certain that our men and women in uniform, as this Christmas season comes upon us, will be very grateful indeed that we did this in the 49th year—and if the House will move swiftly today and pass this bill, as we have done in the previous 48 years—passed an authorization bill—which is so essential to their success.

Mr. MCCAIN. I will not object.

Finally, I thank the chairman of the Senate Armed Services Committee. I assure my colleagues that the controversial aspects of this legislation have been removed, and only the essential parts remain. I thank the Senator from Michigan. I hope we will move forward and get this done today so that we can again provide our men and women who are serving with the best capability to defend this Nation.

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

The amendment (No. 4921) was agreed to, as follows:

(Purpose: To strike title XVII)

Strike title XVII and the corresponding table of contents on page 18.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6523), as amended, was passed.

#### KC-X TANKER COMPETITION

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the esteemed chairman of the Senate Armed Services Committee, Senator LEVIN.

Mr. President, I recognize that there are objections to bringing up a bill dealing with the Air Force KC-X tanker competition requiring the Secretary of Defense to take into account any unfair competitive advantages given to any of the competitors for the contract. This provision has passed twice on the House side now by overwhelming majorities and I am shocked that the same language cannot be included in the Defense authorization bill or passed as a stand-alone bill. These are legitimate concerns being brushed under the rug rather than dealt with head on. I recognize that with such a short amount of time left in this Congress we will have trouble convincing our colleagues that we are allowing a terrible precedent to be set and an expensive injustice is being done to American workers and taxpayers. In the last competition, GAO found multiple instances of uneven treatment that when compiled showed a pervasive bias in support of EADS/Airbus. Unfortunately, we now are seeing a similar pattern of behavior emerging and I have concerns about the conduct of the competition by the Pentagon for this U.S. taxpayer-funded \$35 billion con-

tract. At every turn, it seems the Pentagon has gone out of its way to advantage EADS/Airbus for example, the Pentagon has structured the competition in ways that minimize the cost advantages of an American-made tanker; extended deadlines to accommodate EADS/Airbus; adjusted analytical models in the competition in ways that favor only the EADS/Airbus tanker; and, most recently decided to continue using the so-called IFARA war scenario model in the competition despite having inadvertently released proprietary information that disclosed Boeing's scores to EADS/Airbus. In recent press stories EADS/Airbus officials claimed they did not look at Boeing's proprietary information but it has now come out that in fact EADS/Airbus did look at it. This type of behavior is unacceptable.

In light of the serious national security and economic implications of the KC-X Tanker competition, I am respectfully requesting that the chairman of the Armed Services Committee initiate an investigation into these issues—in particular the inadvertent release of proprietary data—to determine whether or not laws and fair competition regulations have been appropriately followed. Further, I am seeking the chairman's assurance today that he intends to call departmental witnesses before the Armed Services Committee to ensure that the committee is fully informed on the progress, status, and conclusions regarding the aforementioned investigation and any other DOD investigations into this and related matters.

Mr. LEVIN. I am prepared to direct staff immediately to initiate an investigation into the release of proprietary data to determine if laws and fair competition regulations have been appropriately followed. I also intend to hold one or more hearings by February 1 to consider these issues and to review the propriety of the procurement process of the KC-X tanker competition as it relates to this issue.

#### PAY FOR NONREGULAR SERVICE

Mr. CHAMBLISS. Mr. President, I rise to comment on a provision in the fiscal year 2011 NDAA which the Senate passed today.

Section 635 of H.R. 6523, The Ike Skelton National Defense Authorization Act for fiscal year 2011, contains a sense of Congress concerning age and service requirements for retired pay for nonregular service. The sense of Congress serves to clarify a provision which I authored and which is contained in section 647 of the fiscal year 2008 National Defense Authorization Act. I appreciate the committee's desire to clarify the intent of that provision and ensure proper credit is given to members of the Reserve.

As can be inferred from the title of the provision in the fiscal year 2008 NDAA, the intent of the provision is to provide earlier retired pay to members of the Ready Reserve who serve in active Federal status or perform active