

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the amendment.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.**

**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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. GILLIBRAND  
to the amendment (No. 1715) proposed by Mrs. GILLIBRAND

Viz:

In lieu of the matter proposed to be inserted, insert  
the following:

1 **SEC. 706. TREATMENT OF AUTISM UNDER THE TRICARE**  
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 1079 of title 10, United  
4 States Code, is amended—

5 (1) in subsection (a), by adding at the end the  
6 following new paragraph:

1           “(18) In accordance with subsection (r), treat-  
2           ment for autism spectrum disorders shall be made  
3           available to dependents who are diagnosed with au-  
4           tism spectrum disorders.”; and

5           (2) by adding at the end the following new sub-  
6           section:

7           “(r)(1) For purposes of subsection (a)(18), treatment  
8           for an autism spectrum disorder may include the use of  
9           applied behavior analysis or other structured behavior pro-  
10          grams, as the Secretary determines appropriate.

11          “(2) The Secretary may not consider the use of ap-  
12          plied behavior analysis or other structured behavior pro-  
13          grams under this section to be special education for pur-  
14          poses of subsection (a)(9).

15          “(3)(A) This subsection shall not apply to a medi-  
16          care-eligible beneficiary (as defined in section 1111(b) of  
17          this title).

18          “(B) Except as provided in subparagraph (A), noth-  
19          ing in this subsection shall be construed as limiting or oth-  
20          erwise affecting the benefits provided to a medicare-eligi-  
21          ble beneficiary under—

22                  “(i) this chapter;

23                  “(ii) part A of title XVIII of the Social Security  
24          Act (42 U.S.C. 1395c et seq.); or

25                  “(iii) any other provision of law.

1 “(4) In carrying out this subsection, the Secretary  
2 shall ensure that—

3 “(A) a person who is authorized to provide ap-  
4 plied behavior analysis or other structured behavior  
5 programs is licensed or certified by a State, the Be-  
6 havior Analyst Certification Board, or other accred-  
7 ited national certification board; and

8 “(B) if applied behavior analysis or other struc-  
9 tured behavior program is provided by an employee  
10 or contractor of a person authorized to provide such  
11 treatment, the employee or contractor shall meet  
12 minimum qualifications, training, and supervision  
13 requirements consistent with business best practices  
14 in the field of behavior analysis and autism services  
15 and in accordance with regulations prescribed by the  
16 Secretary.

17 “(5) In this section, the term ‘autism spectrum dis-  
18 orders’ includes autistic disorder, Asperger’s syndrome,  
19 and any of the pervasive developmental disorders as de-  
20 fined by the most recent edition of the Diagnostic and Sta-  
21 tistical Manual of Mental Disorders.”.

22 (b) REGULATIONS.—Not later than 180 days after  
23 the enactment of this Act, the Secretary of Defense shall  
24 prescribe such regulations as may be necessary to carry  
25 out subsections (a)(18) and (r) of section 1079 of title

1 10, United States Code, as added by subsection (a) of this  
2 section.

3 (c) REPORT.—Not later than 180 days after the im-  
4 plementation of subsections (a)(18) and (r) of section  
5 1079 of title 10, United States Code, as added by sub-  
6 section (a) of this section, the Secretary of Defense shall  
7 submit to the Committees on Armed Services of the Sen-  
8 ate and the House of Representatives a report on the im-  
9 plementation of such subsections and the effect of such  
10 subsections on access to quality applied behavioral anal-  
11 ysis services for military families and their dependents  
12 with autism spectrum disorders.

13 (d) APPLICABILITY TO OTHER PROVISIONS.—Noth-  
14 ing in this section shall be construed to alter or affect the  
15 requirement under section 553 of this Act to develop and  
16 implement a policy for the support of military children  
17 with autism and their families.

18 (e) ADDITIONAL AMOUNT FOR TRICARE PRO-  
19 GRAM.—The amount authorized to be appropriated by sec-  
20 tion 1403(1) for the Defense Health Program for oper-  
21 ation and maintenance is hereby increased by  
22 \$50,000,000, with the amount of the increase to be avail-  
23 able to carry out subsections (a)(18) and (r) of section  
24 1079 of title 10, United States Code, as added by sub-  
25 section (a) of this section.

1           (f) OFFSET.—The amount authorized to be appro-  
2   priated by section 301(a)(5) for operation and mainte-  
3   nance for Defense-wide activities is hereby decreased by  
4   \$50,000,000, with the amount of the decrease to be de-  
5   rived from unobligated balances.