There being no objection, the Senate proceeded to consider the resolution.

Mr. PORTMAN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 493) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

Mr. PORTMAN. I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MCCONNELL. Mr. President, before the Senator from Ohio leaves the floor, I had an opportunity to listen to his tribute to our former colleague, Senator Voinovich, and he was indeed a stunningly successful public servant. I mean, just thinking about any Republican getting elected mayor of Cleveland, it is hard to imagine such a thing, and then to be so extraordinarily successful at every step in his career.

I was privileged to get to know him when he came to the Senate. My colleague from Ohio knew him a lot longer than I did, but I wanted, on behalf of all of us who served with George, to thank the Senator for that extraordinary tribute to his outstanding life.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

NATIONAL DEFENSE AUTHORIZATION BILL

Mr. DURBIN. Mr. President, 2 and a half years ago, I chaired a hearing of the Defense Appropriations Subcommittee in which the chief executives of the two top rocket makers, the United Launch Alliance and SpaceX, testified on the need for competition in launching government satellites.

Not long after that hearing, Russia began its aggression against Ukraine. These two issues—the threat against Ukraine and the launch of U.S. satellites—intersected because one company is reliant on rocket engines made in Russia.

Defense appropriations bills since then have included nearly half a billion dollars to build a new, American-made engine to end this reliance on Russian engines as quickly as a replacement can be built and tested.

Defense authorization bills have taken a different approach, by putting strict limits on the number of Russian engines that can be purchased before the new, American-made rocket will be ready.

Our top national security leaders, including the Secretary of Defense, the Director of National Intelligence, and the Secretary of the Air Force, have warned that laws that halt access to Russian engines will endanger our ability to launch important defense and intelligence satellites.

To cut-off access to Russian engines would force the Defense Department to buy rockets that are not cost-competitive with SpaceX because SpaceX's rockets cannot launch our largest satellites. The cost to the American taxpayer would be more than $1.5 billion, and it would be a risk to our national security.

As vice chairman of the Defense Appropriations Subcommittee, I believe these costs and risks are too high. Many of my colleagues agree with this view. The chairman of the Armed Services Committee, Senator MCCAIN, has a different view. He argued forcefully that we should pass strong laws restricting the use of these engines. We crossed swords many times on the floor of the Senate on this issue. Even though we still do not see eye-to-eye on this issue, the product of this debate is better because of it.

The Nelson-Gardner amendment provides the Department of Defense with sufficient time to develop and test a replacement for the Russian rocket engine. The amendment limits the use of Russian engines for competitive launches to a maximum of 18, allows for a responsible transition to an American-made engine, and, consistent with existing law, does not impact the use of Russian engines purchased to support the EELV block buy.

These provisions increase the pressure on DOD and the United Launch Alliance to keep its new rocket R&D program on-track and push them to use only those Russian engines that are needed to support our national security.

This amendment protects the American taxpayer by avoiding billions in additional spending on sole-source contracts for more expensive rockets. It protects our national security by guaranteeing that there will not be a gap in our ability to launch satellites. And it protects our national interests by increasing the pressure to have an American-made replacement engine ready as soon as possible.

I would like to thank the Senators who worked tirelessly to see that this amendment was adopted with a strong vote in the U.S. Senate: Senators NELSON, GARDNER, BENNET, SHELBY, COCHRAN, DONNELLY, SESSIONS, and INHOFE deserve great credit for their efforts.

I am proud to have worked with them on this issue, and I am pleased that we were able to find a responsible solution that protects our national security and the American taxpayer.

Mr. LEAHY. Mr. President, today the Senate approved a Defense authorization bill of tremendous scope and containing a number of harmful provisions. I was against the decision by the majority leader to end debate on this bill after a period of consideration that resulted in consideration of only a handful of the over 600 amendments filed. Now, I am disappointed by its passage in the Senate. A bill this big deserves substantial, open, public debate.

With less than 2 weeks of debate on legislation that authorizes nearly $600 billion, I continue to believe that the Senate was unable to properly consider the bill. Not only was more time needed to explore and debate this lengthy bill, during the brief period of consideration it was given, many on both sides of the aisle, myself included, determined that the Defense authorization contains an assortment of harmful language.

This is unfortunate, because the Defense authorization also contains provisions that I support. It authorizes spending to promote our national interests, provides vital resources to our military personnel, and reaffirms our commitment to partners abroad. It also furthers our military readiness through investment in next-generation technology. It is this kind of reasonable content that should be the universal rule for a defense authorization. Regrettably, that is only a portion of this bill.

This year's Defense authorization will once again prevent the President from closing the detention facility at Guantanamo Bay. The bill would extend the unnecessary prohibition on constructing facilities within the United States to house Guantanamo detainees, continue the counterproductive ban on transferring detainees to the United States for detention and trial, and maintain the onerous certification requirements to transfer detainees to foreign countries. Regrettably, the bill also adds several new restrictions, including a provision to bar detainee transfers to any country subject to a travel warning by the State Department. This sweeping prohibition is unnecessary and would even include some of America's allies. While this year's bill does contain some modest improvements to current law, the Defense authorization once again fails to provide the Obama administration with the flexibility it needs to finally close the detention facility at Guantanamo. With the costs of more than $4 million per year per detainee to keep the detention facility at Guantanamo open, I agree with our retired military leaders who tell us that it is in our national security interest to close the detention facility. Doing so is the morally and fiscally responsible thing to do, and I strongly oppose the needless barriers to closing Guantanamo contained in this bill.

Also unfortunately, the Freedom of Information Act, FOIA, our Nation's premier transparency law, is directly

undermined by the Defense authorization. Just yesterday, the House of Representatives passed the Senate's FOIA Improvement Act, reaffirming our commitment to the principle that a government of, by, and for the people cannot be one that is hidden from them. However, just as we are about to bring more sunshine into the halls of power on FOIA's 50th anniversary, this Defense authorization bill threatens to cast a long and dangerous shadow over our efforts.

Without ever consulting the Senate Judiciary Committee, which has exclusive jurisdiction over FOIA, the Armed Services Committee included provisions in this bill that cut at the heart of FOIA. One particularly egregious provision would allow the Department of Defense to withhold from the public anything ''related to'' military ''tactics, techniques, or procedures.'' The terms ''tactic,'' ''technique,'' and ''procedure'' are either defined very broadly or not at all. The provision further states that this information can only be withheld if its disclosure would ''risk impairment'' to the Department of Defense's ''effective operation'' by ''providing an advantage to an adversary or potential adversary.'' But it is entirely unclear what if any limitation this language would impose, given that none of the operative terms—impairment, effective operation, advantage, or adversary—are anywhere defined. While the Department of Defense might call those ''terms of art,'' it is law and not art that the Congress passes.

Given the breadth of this language, this provision amounts to what could be a wholesale carveout for the Department of Defense from our Nation's transparency and accountability regime. If enacted, this bill would empower the Pentagon to withhold a wealth of information from the American public. For example, the Pentagon could withhold the legal justifications for drone strikes against U.S. citizens, preventing the American people from knowing the legal basis upon which their government can employ lethal force against them. It could withhold from disclosure documents memorializing civilian killings by U.S. forces, depriving the American people of knowledge about the human cost of wars fought in their name. And if enacted, the Pentagon could withhold information about sexual assaults in the military, masking the true extent of sexual violence against servicemembers who risk their lives defending our country.

In short, this bill could effectively drape a shroud of secrecy over all five corners of the Pentagon. It would unravel decades of work we have done to make our government more transparent to the American people and threaten the progress we have just made with the FOIA Improvement Act. This unprecedented disappearing act from our Nation's premier transparency law should have never been considered without a full consultation of the Senate Judiciary Committee. On the eve of FOIA's 50th anniversary, I urge all Senators to stand on the side of sunshine, not shadows, and oppose these provisions within the Defense authorization.

My concerns are not limited to Guantanamo Bay and FOIA. The bill also includes massive changes to our military's procurement and management systems, rolling back reforms that have been in place since Goldwater-Nichols and putting at risk Federal employees and businesses that sell to the Department. These specific sections include the elimination of the office that coordinates major acquisitions, separating development of new technology and plans for its long-term sustainment. The changes have been promoted under the guise of saving money and reducing bloated command structures, when they in fact only confuse an already complex process and will likely result in needless future waste.

I also remain deeply concerned about the impact of the caps on general officers to the National Guard. While I was grateful to see that adjutants general and assistant adjutants were exempted, there are other joint general officers within the Guard, and I am worried hard caps on the number of general officers will mean that the best man or woman for the job becomes less important than whether the Army or the Air Force has space under its respective cap. I am likewise concerned that decoupling the statutory requirement that the Vice Chief of the National Guard Bureau be a lieutenant general—a decoupling that did not occur for the vice of any other member of the Joint Chiefs of Staff—will force the Army or Air Force to give up a three-star position to someone who statutorily does not report to their service secretary. I am also concerned that by removing the statutory requirement that the commander or deputy commander of U.S. Northern Command be a member of the National Guard, we run the risk of entering a major national disaster without a leader of the principal Federal response force having any experience with how the States deal with disasters individually and together.

The bill includes a provision, section 1204, which would prohibit joint or multilateral exercises and conferences between the Department of Defense and the Government of Cuba, even though the Department and the Cubans have worked together on issues related to the security of Guantanamo for many years. Senator FLAKE and I, along with Senators CARDIN and DURBIN, proposed some exceptions to this provision in order to permit the Department to continue to engage with the Cubans on Guantanamo and to cooperate on other security matters, including search and rescue and counternarcotics. Unfortunately, Senator CRUZ, the author of section 1204, was unwilling to compromise, and we were not able to obtain a vote on our amendment.

Perhaps the most predictable flaw of this bill is that it continues the reliance on overseas contingency operations funds to operate the Department. The original intention of this fund has been routinely ignored, and it continues be used as a free-for-all spending pool. Borrowing to sustain our national defense objectives only increases the already significant burden placed on the working families who are most impacted by this irresponsible practice. We must put in place mechanisms to begin responsibly ridding ourselves of the growing debt, rather than continuing to employ irresponsible practices that only take us farther away from anything resembling a solution.

The National Defense Authorization Act provides the Senate with a yearly opportunity to responsibly address our security priorities and to take care of our men and women in uniform, while bolstering our overall military capabilities. However, this year's bill proposes too many damaging provisions far beyond the scope of the Department of Defense. Despite the agreeable content found within the bill, the damage that will be caused by many of these measures far outweighs the benefits of approving this authorization. For that reason, I cannot give it my support.

ARMS SALES NOTIFICATION

Mr. CORKER. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD–423.

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

DEFENSE SECURITY COOPERATION AGENCY,
Arlington, VA.

Hon. BOB CORKER,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16–25, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Government of Iraq for defense articles and services estimated to cost $181 million. After this letter is delivered to