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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mrs. DOLE. Mr. President, I wonder if I might engage the distinguished Chairman in a brief colloquy.

Mr. WARNER. Certainly.

Mrs. DOLE. I thank my colleagues. Mr. President, as a member of the Personnel Subcommittee, I am acutely sensitive to the enormous challenges confronting our National Guard and Reserve forces, and their families, as they are called upon to defend our Nation in the war on terrorism. North Carolina is at the forefront of National Guard and Reserve mobilizations, with 31 percent of our State's 23,300 National Guard and Reserve members currently mobilized.

The University of North Carolina, in partnership with a wide range of universities and community organizations, is developing a National Demonstration Program for Citizen-Soldier Support to augment, strengthen, and refine the existing framework of support for National Guard and Reserve personnel, and their families. The objectives of the demonstration program are to strengthen communication and information dissemination; strengthen community support systems; strengthen support systems for children and adolescents; strengthen health and mental health care systems; strengthen employment support networks; and address proactively emerging issues of importance to our personnel and their families. This National Demonstration Program of Citizen-Soldier Support has been presented to a wide variety of civilian and military leaders, and has been uniformly supported as timely, substantive, and highly promising as an adjunct to existing Department of Defense programs and services.

Unfortunately, as a relatively new initiative, this National Demonstration Program for Citizen-Soldier Support was not included as part of the President's budget request and was not authorized within the bill now before the Senate. It is my understanding that the decision to not include the National Demonstration Program for Citizen-Soldier Support in the FY05 Defense Authorization bill was not made with prejudice to the program but, rather, was based on the emerging nature of the structure and deliverables associated with this program—a program that is focusing on how to best assist our Reservists and their families in their newly emerging roles in the war on terror.

Mr. WARNER. Mr. President, the Senator from North Carolina is correct. At the time that the Armed Services Committee was preparing its mark, there was not sufficient data available concerning the specific elements of the proposed program, and its interrelationship with other existing and emerging programs within the Department, to fully assess the merits of the National Demonstration Program for Citizen-Soldier Support. The absence of this proposed program in the bill should not be interpreted as a negative assessment.

Mrs. DOLE. I thank the Chairman. I might also ask the Chairman if he would agree with me that our Nation's security depends on the mission-readiness and retention of our citizen-soldiers, and that for the total force to function effectively, we must make certain that these men and women, their families, and employers have needed support while they prepare for, carry out, and eventually return from active military service.

Mr. WARNER. I would agree wholeheartedly with the Senator from North Carolina's statement. At at time when we are relying more and more on our National Guard and Reserve forces to defend our national security, we must continue to provide direct and substantive support to these personnel and their families.

Mrs. DOLE. I thank the distinguished Chairman. Given this concurrence on the importance of ensuring necessary and effective support for our National Guard and Reserve families, I ask the Chairman if he would be willing to support my effort to bring this proposed Demonstration Program for Citizen-Soldier Support to the attention of the appropriate Department of Defense offices. This effort will require modifying elements of the proposed program, where appropriate, to maximize synergies with ongoing Department of Defense initiatives and exploring options within the defense budget for funding implementation of the program.

Mr. WARNER. I commend the distinguished Senator from North Carolina for her steadfast advocacy for our men and women in uniform, and their families, and I would be pleased to work with her on this important issue.

Mrs. DOLE. I thank the distinguished Chairman for his courtesy.

Mr. ALLEN. Mr. President, I wonder if I might take just a minute to ask the Chairman whether I am correct that developing a reliable, automated three-dimensional facial recognition capability has significant implications for our fight against terrorism and would be of great interest to the defense, intelligence and transportation security agencies.

Mr. WARNER. Yes, that is certainly my understanding.

Mr. ALLEN. I also understand that one very promising approach would be to use laser radar to acquire such a three-dimensional image. This technology is highly accurate, and is already used in industrial applications to measure such things as minute imperfections in airplane wings. Unlike more traditional photography, it also would work in a greater variety of lighting

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

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conditions and at a much greater distance. It also has the advantage of avoiding allegations of racial profiling because it makes no use of skin color, instead measuring facial features.

Mr. WARNER. I understand that accuracy has been a problem with some systems developed to date so new approaches would be welcomed.

Mr. ALLEN. Does the Chairman agree it would be worthwhile to explore taking existing industrial technology and applying it to the problem of quickly and reliably identifying at a distance moving individuals at such locations as airports and border crossings?

Mr. WARNER. Yes, I think that if there were funding for such a development project it offers the prospect of significant security benefits.

AFRTS

Mr. WARNER. In discussions with my good friend and colleague, Senator INHOFE, I have been made aware of the fact that questions have arisen about the intent of amendment 3316 regarding the American Forces Radio and Television Service, or AFRTS, submitted by Senator HARKIN. That amendment to the pending legislation was accepted on June 14, 2004.

Mr. INHOFE. That is correct. Numerous concerns have been expressed from my home State, and, I believe, many other States, about this amendment. There is a belief that this amendment is intended to be critical of the AFRTS and the manner in which it makes current programming decisions regarding radio and television shows featuring political commentary.

Mr. WARNER. Thank you for offering me the opportunity to clarify this point. In my view, the intent of this amendment was not to call into question the performance of the AFRTS. Indeed, as my staff and I examined the proposed amendment originally submitted by Senator HARKIN, we saw that it called for the establishment of a Presidential Advisory Board to examine the manner in which AFRTS carries out its mission and to submit recommendations on how the AFRTS should carry out programming. As we looked at the manner in which the Office of the Secretary of Defense for Public Affairs and AFRTS perform its mission, however, it became clear that the case had not been made that changes were necessary or that such an Advisory Board was needed.

Mr. INHOFE. Is it correct to say, then, that this Harkin amendment expressing the sense of the Senate was actually intended to be an expression of support for the current approach of the Department of Defense to the AFRTS which provides programming representing a cross-section of popular American radio and television offerings and emulating stateside programming seen and heard in the United States?

Mr. WARNER. Absolutely. The amendment cites word for word relevant portions of the current Department of Defense Directive concerning AFRTS, including a statement of the mission to be accomplished and the key principles that should be followed in order to provide a free flow of political programming from U.S. commercial and public networks. The amendment specifically states that the mission statement is appropriate. Recognizing that there are several hundred satellite stations or ''outlets'' around the globe at which programming decisions are made on a daily basis, the amendment goes on to recommend that the Secretary of Defense ensure that these important principles, which can be summarized as fairness and balance in presenting shows on various topics, including political commentary, are being accomplished.

Mr. INHOFE. Is it correct to say that those who make the programming decision for AFRTS have an obligation to consider the popularity and desirability of radio and television programming? In other words, should the AFRTS take note of national commercial ratings as well as local and worldwide formal audience surveys as to what their audience desires to see and hear on their AFRTS programming?

Mr. WARNER. Yes. That would clearly be one factor among several that should be considered, consistent with the goal of providing the same type and quality of American radio and television news, information, and entertainment that would be available to military personnel and their families if they were in the continental United States. Other factors should also be considered in achieving the AFRTS goals of fairness and balance in presenting all sides of important public questions, and the amendment was intended to underscore the importance of those goals.

Mr. INHOFE. I thank the chairman for that clarification.

AIR NATIONAL GUARD

Mr. BIDEN. I would like to take a moment to engage the Senator from Michigan in a discussion about information operations in the Air National Guard. Before we begin, I would also like to thank my colleague for his willingness to have this discussion on an issue of great importance to national security and to many of the Air National Guard personnel in my State.

Let me start by saying that I think most of my colleagues understand that while the world today has changed, some things have stayed the same. When you are trying to stop terrorists, just like organized crime, you have to follow the money. These days, in order to follow the money, you have to have the very best in information operations skills. You have to understand the computerized financial networks and security systems used by financial institutions. In addition, you have to be able to protect your own information. This is a critical aspect of the war on terrorism and one where the Government needs more capability.

Last year, the Defense Authorization Conference Report provided 30 additional Air Guard personnel that we had hoped would be used to stand up a new unit in Delaware to do this mission. This year, Senator CARPER and I had hoped to finish that work by providing a total of 60 personnel for that unit. Unfortunately, we are not able to do that because the Department of Defense has not evaluated this proposal to determine whether it is a mission that should be assigned to the Air National Guard.

We understand that the Department of Defense has an established process for assigning missions and determining the manning necessary to support those missions. Expanding the information operations capability of a unit or units within the Air National Guard has not been considered through this process.

Mr. LEVIN. My colleague from Delaware is correct. The Department of Defense has a rigorous process for determining whether a new mission should be assumed as a military mission and that expansion of the information operations capability of the Air National Guard has not been considered by this process. Additionally, the Department of Defense is conducting a complete review of the Guard's roles and missions right now.

Mr. BIDEN. I hope that we can agree that the Department's review should include an examination of using the Air National Guard for emerging missions like information operations.

Mr. LEVIN. I can commit to the Senator from Delaware that I will do all that I can to ensure that this area is included in the Department's review and given full consideration.

Mr. BIDEN. I also hope that we will have their input regarding the mission and its suitability for the Air Guard before we take up next year's Defense Authorization bill. I would also like to make sure that the consideration of this particular mission takes into account the unique skills present in the Delaware Air National Guard and the work that they have already done in this area.

Mr. LEVIN. Again, I commit to my colleague that we will work with him and the Department of Defense to get that thorough and timely consideration.

Mr. BIDEN. I thank my colleague for those assurances and look forward to working with him over the next year to make sure our information operations needs are met.

Now, let me explain why I think it is so important to stand this unit up in Delaware.

Delaware is uniquely situated to provide the skills needed for information assurance and financial tracking. Delaware is host to 7 of the top 10 banking institutions in the U.S. Delaware also has the highest amount of computer networking per capita of any State. In addition, major research companies like DuPont and Astra-Zeneca make their headquarters in Delaware. Last, Delaware has the highest number of

scientists and engineers per capita in the U.S.

All of those statistics mean that many members of Delaware's Air National Guard have civilian employment in banks or other institutions. They understand what is required to protect financial information and to track it. They are on the cutting-edge of information protection today.

Their skills cannot be used by the Government, however, because banks and financial institutions are very sensitive about the employees of other banks reviewing their financial transactions. To do this type of work, a person must be a Government employee. One of the best ways to provide the benefit of these private sector skills to Government agencies fighting terror is through the National Guard. Guard personnel stay on the cutting edge of these skills because of their private sector jobs. They can then provide that knowledge to the Government, something that a civilian government employee cannot do.

In 2003, the National Security Agency and the Air Intelligence Agency recognized their shortfalls in information assurance and tracking skills and started asking some of these Delaware Guardsmen and women to help them meet their requirements. NSA will have spent $945,000 between 2003 and 2004 to make use of the Delaware Air Guard's expertise. They would like to spend an additional $900,000 in 2005. AIA is spending $150,000 in 2004 on these missions. They are spending this money because a real need exists.

Last year, the Senate, and then the full Congress, agreed that this mission needed support and a full-time unit. Thirty personnel were added to the Air National Guard's end-strength to create this new information operations unit. This year, we had hoped to finish the job by providing the full complement of 60 personnel needed for the mission and the $3.997 million needed to fully fund this unit. That is $2.75 million for personnel costs and $1.247 million for operations and maintenance. Unfortunately that will not be possible.

Some may wonder why we sought an amendment to add the personnel and funding needed. The reason is simple. The Delaware Air National Guard is too small to move people to this mission and still do their primary tactical airlift mission. The 166th tactical airlift wing has had its C–130s fully tasked to support operations in Afghanistan and Iraq. When I wrote Lieutenant General James at the Guard Bureau about standing up this new unit, he replied that he thought Delaware's Guard was well-postured for the mission, but his ''end strength cap makes it challenging to resource new initiatives.'' Our amendment would have taken care of that challenge.

Up to now, the personnel who have been working with NSA and AIA so far have been working three jobs. Let me say that again, three jobs. It is simply not sustainable. They cannot continue to do their regular Air Guard mission in the 166th tactical airlift wing, their civilian job, and the third job of helping NSA and AIA. With a new unit, we can provide the critical information operations skills needed to fight terrorism without harming the on-going tactical airlift mission that is supporting troops in Afghanistan and Iraq.

I know end strength increases are controversial, but we need to look at the big picture. Remember, Congress agreed that a new unit was needed to do these missions last year. The facts on the ground have not changed. This is exactly the type of new mission the Air Guard should be doing. Only with the Guard can you get the commercial expertise and cutting edge knowledge needed to protect information systems and to track financial transactions. I look forward to hearing the Pentagon's thoughts about this new mission.

Again, I think it's important to stress that information assurance and financial information operations are critical to the war on terrorism and to a transformed military. This is a growing area, not a shrinking one. We have looked carefully at all of our opportunities to provide the needed highly-skilled personnel to the fight. It is my belief that we can only do this if we create a unit to take advantage of the experienced and knowledgeable personnel available. No matter how patriotic people are, they cannot continue to work three jobs for years on end. Creating the new 166th information operations unit in the Delaware Air National Guard will enhance national security. It was the right thing to do last year and it's still the right thing to do. I hope that the Air Force will recognize that as we move forward in the war on terrorism.

JOINTSTARS

Mr. CHAMBLISS. Mr. President, I rise today to discuss the heavily tasked, high value asset of the E–8C JointSTARS fleet, which provides real-time surveillance and targeting for our armed forces. This critical asset, operated by an integrated wing located in my home State of Georgia, has worldwide commitments and is essential to the effective execution of the combined air-land strategy and tactics for our forces. However, the current engines do not provide sufficient power for the E–8C JointSTARS fleet to meet all of its operational requirements.

Mr. WARNER. The Senator from Georgia is quite correct in his observation and assessment and our committee has urged the Department to move forward with its economic analysis of engine alternatives for this critical fleet of aircraft. The Senator from Georgia should be proud of the 116th wing of the Georgia Air National Guard, as the work that this integrated wing performs on a daily basis is responsible for saving many soldiers' lives. As he stated, the E–8C JointSTARS fleet provides critical airborne battle management command and control.

Mr. CHAMBLISS. As the chairman has mentioned, the conference report on the fiscal year 2004 National Defense Authorization Act required the Secretary of Defense to submit a report to the congressional defense committees providing an economic analysis comparing the options of maintaining the current engines on the E–8C JointSTARS aircraft, purchasing and installing new engines, and leasing and installing new engines. This report was to have been submitted by February 13, 2004, but has yet to be received.

The engines that currently power the E–8C JointSTARS aircraft fleet are the same engines we have gone to great lengths to replace over the last decade in the Air Force's tanker fleet. The engines are old, provide marginal power to support the E–8C's taskings, and are expensive to operate and maintain compared to new engines currently available in the commercial market. These are not just my observations. Let me quote from a recent memorandum from the Vice Commander of Air Combat Command to the Air Force Vice Chief of Staff:

> This letter provides a brief update on our efforts to re-engine JSTARS, which continues to be one of our top initiatives for the E–8. The current TF–33–102C engines do not satisfy desired safety margins or meet operational needs. An Air Force Flight Standards Agency critical field length waiver is required to support takeoffs with current engines. Additionally, Operations ALLIED FORCE, ENDURING FREEDOM, AND IRAQI FREEDOM highlighted significant JSTARS engine performance shortfalls. A lack of thrust and fuel efficiency combined to reduce mission operating altitudes and on-station times. The current TF33 engines are the number one driver of the Non-Mission Capable for Maintenance rate and are the leading cause of sortie aborts and code-3 landings. It is projected that re-engining will reduce the NMCM rate by 10 percent and positively increase the overall system Mission Capable rates by four percent. E–8C crews have also experienced several instances of engine over temps on takeoffs, which have mandated reduced thrust takeoffs. Re-engining JSTARS makes sense operationally and from a sustainability perspective.

We have included language in the report accompanying this bill that states should the Secretary of Defense recommend in his report that a re-engining program be pursued for the E–8C, the committee encourages the Air Force to initiate this program, taking into account the recommendations of the Secretary's report on how best to implement it. I am optimistic that the Air Force report will be delivered to the committee in the near term. I am hopeful that as our bill moves from floor consideration and to conference with the House, we can work to ensure that this re-engine initiative is given every consideration based on the data and analysis provided for our consideration.

There are many aspects to consider in taking care of our soldiers, sailors, airmen and marines who are sent into harm's way. In times like these, preserving the assets that help to ensure the well-being of our men and women

in uniform should be given the investment necessary to see that the equipment is the best that we can provide and at the best value for our armed forces.

Mr. WARNER. I thank the Senator from Georgia for his leadership on this issue, and I look forward to working with him on this important issue.

Mr. CHAMBLISS. We owe it to the men and women who crew the E–8C JointSTARS to ensure that these aircraft are powered by engines that provide desired safety margins and on-station operating times that accomplish the aircraft's mission without degradation. At the same time we owe it to the taxpayers of this Nation to ensure that these aircraft are powered by engines that are fuel efficient and supportable for our armed forces.

COMPETITIVE SOURCING

Mr. THOMAS. Mr. President, I would like to take a moment to engage with the distinguished Senator from Virginia regarding some of the measures included in this very important bill. First, I want to commend the Senator from Virginia for his tireless efforts in managing this bill. He is always very fair and considerate, and his outstanding leadership is appreciated.

Mr. President, I am concerned that some amendments adopted by Unanimous Consent may have a negative impact on the President's Competitive Sourcing Initiative, and ultimately adversely impact the President's ability to administer the bureaucracy of the Department of Defense. As a longtime supporter of a more accountable and responsible federal government, I strongly support President Bush's competitive sourcing initiative which seeks to improve the way federal agencies operate. However, I recognize how critical it is in these times of war that we move this bill quickly and not allow it to be held up further by partisan politics. So I do not object to accepting these measures in the larger interest of getting a Defense bill through the Senate.

Every president for the last 50 years, Republican and Democrat alike, has endorsed the elimination of commercial functions in the federal workforce, but their plans were not vigorously implemented or enforced. As a result, nearly half of today's civilian federal workforce is doing work that could be done more efficiently by the private sector.

Mr. WARNER. I believe we looked to remedy this with the FAIR Act in 1998. Am I not correct in stating that this law basically says that federal agencies should inventory government services that are commercial in nature, and then review whether these activities should continue to be performed in the public sector?

Mr. THOMAS. That's correct. The Clinton Administration did the first inventory and found that more than 850,000 Federal employees out of 1.8 million were in jobs that were commercial in nature. The federal government was paying individuals to do jobs that could also be found in the Yellow Pages. Unfortunately, the Clinton Administration did not follow up. These positions should have been reviewed and solutions explored to return these jobs to where they belonged—the private sector. Unfortunately, there were no follow up reviews. It was only when George W. Bush was elected that a program was implemented to actually do the reviews of these 850,000 positions. Competitive sourcing could then be employed to see if it would be more effective and accountable to have these activities performed by the private sector.

Contrary to misinformation by some of our colleagues and labor unions, competitive sourcing is not about eliminating or privatizing federal workers. Simply put, competitive sourcing, which relies on the A–76 Circular for public-private competitions, is a useful tool that allows federal agencies to evaluate whether or not commercial functions should be performed in the future by federal employees or the private sector. As it is now, many federal employees who work in commercial functions are stuck in inefficient bureaucracies performing activities that are non-inherently governmental.

The competitive sourcing process is good government. As numerous independent reports to Congress have shown, competitive sourcing saves taxpayers between 10 to 40 percent—regardless of who wins. The record is that every position reviewed by competitive sourcing shows savings regardless of whether that position stays in-house or gets contracted. Federal employees win an overwhelming majority of the competitions. But clearly, the taxpayer is the real winner in this process. Inefficient monopolies that waste taxpayer dollars and divert much-needed federal resources from our government's most pressing programs should always be examined. There are activities which are inherently governmental, and should be performed by the government. No one would argue this. However, government should not be engaged in activities which are already offered in the private sector. As we look for ways to reduce its size, cost and scope, we need always remember that government should be the provider of last resort with the free enterprise system being the provider of the first choice. To do otherwise is a disservice to the American taxpayer. Would the Senator from Virginia agree with us?

Mr. WARNER. Mr. President, I certainly agree with my friend from Wyoming that we should continue to evaluate the way the federal government operates. Competitive sourcing is an important tool available to the government to ensure that high quality governmental services are acquired at the lowest cost to the taxpayer.

I believe the Senator wanted to share some of his concerns with an amendment offered by the Senator from Massachusetts and the Senator from Georgia.

Mr. THOMAS. I do. The amendment offered by Senators KENNEDY and CHAMBLISS would all but eliminate use of the streamlined process contemplated under the revised Office of Management and Budget Circular A–76. This process applies to competitions of 65 or fewer full-time equivalents. By making the use of A–76 competitions arbitrary, as opposed to strategic, the Department of Defense's necessary flexibility in procurement is removed. The amendment also includes provisions designed to give in-house employees unfair advantages over the private sector in the competitive sourcing process and makes it difficult for small businesses to be competitive in job contests.

Unfortunately, with the country at war, I'm afraid that these measures would be very counterproductive, costly, and present unnecessary hurdles for the Department in this very crucial period of time. In fact, the Administration, in a statement of administration policy issued by OMB, has declared its opposition to any final defense measure that limits DOD's competitive sourcing flexibility. The White House has, in fact, threatened to veto this bill if it contained these provisions. I am sure the distinguished Senator from Virginia is well aware of the importance the President places on this issue.

Mr. WARNER. Yes, I am. I certainly understand the Senator's concerns, and I can tell him that I am hopeful that as we move forward and reconcile this very important bill with that of the House in conference, we will take a very careful look at these measures and work out acceptable language that will not burden the DOD or hamper the President in his role as administrator of the federal bureaucracy in these critical times.

Mr. THOMAS. I think it is very important that we revisit these proposals. In the interest of moving this defense bill in a time of war, we have forgone an important debate. So I thank the Chairman for his attention to this matter and again say to him that I appreciate his strong leadership.

MANUFACTURING EXTENSION PARTNERSHIP

Mr. KOHL. Mr. President, Senator REED and I filed an amendment to ensure the soundness of our Nation's defense supply chains through the support of the Manufacturing Extension Partnership, MEP, Centers. We would like to thank our colleagues, Senators WARNER, LEVIN, GREGG, HOLLINGS and MCCAIN for accepting the modified amendment. Senator REED and my amendment clarifies that the Department of Commerce has the ability to transfer and reprogram $21.8 million to the MEP Program in fiscal year 2004.

The vitality and viability of our Nation's small manufacturers has tremendous consequences for our Nation. Without a strong manufacturing base, we risk losing wealth for our Nation,

we risk good jobs for our citizens, and we risk irreparably harming our Nation's defense supply base at a critical time.

The MEP assists America's small manufacturers and helps boost productivity, sales, investment in modernization, and employment. I have a very simple, but vital, message to deliver—manufacturing matters—MEP matters. But I am worried that President Bush does not understand this simple message. This fiscal year 2004, the administration's budget slashed the MEP Program by 88 percent. Due to the efforts of Senators GREGG and HOLLINGS, the Senate fiscal 2004 appropriations bill restored funding for the program to $106 million. However, the Omnibus Appropriations Act for fiscal year 2004 reduced that level to only $39.6 million.

As a Federal-State-private partnership, MEP is a network of over 60 centers with 400 locations across the country and Puerto Rico providing technical assistance and business support services to small manufacturers. These not-for-profit centers employ more than 2,000 professionals who work with manufacturers to help them adopt and use the latest and most efficient technologies, processes, and business practices. As a result, our small manufacturers are better able to compete with low wage countries, maintain jobs in America, and continue driving a higher standard of living in the U.S. In fiscal year 2002, MEP's clients reported sales of $2.8 billion, 35,000 new or retained workers, $681 million in cost savings, and $941 million invested in new plant and equipment as a direct result of their MEP projects.

However, funding constraints and budget cuts have forced every MEP Center in the country to downsize. According to a recent Modernization Forum survey, MEP Centers have closed 58 regional offices and reduced staffing by 15 percent, which will leave small manufacturers across the country without the invaluable technical and business assistance that helps them remain competitive edge in the global marketplace.

Senator REED's and my amendment will help address this issue by clarifying that the Secretary of Commerce can reprogram $21.8 million to the MEP Program this year. Fifty-five Senators requested that the Secretary reprogram funding to the MEP Centers this year. Unfortunately, the Department refused this request; leaving the MEP Centers and small manufacturers without the resources they need. In a response to the Senate request for reprogramming, Secretary Evans implied that the Department of Commerce does not consider it worthwhile to reprogram funding to the MEP program because the appropriations act would only allow the transfer and reprogramming of $3.9 million. In discussions with the Appropriations Committee and the Congressional Research Service, however, this appears to be a very narrow reading of the statute by the Department of Commerce. The appropriate level of funding that can, and should, be transferred and reprogrammed is $21.8 million. This amendment clarifies that level of funding for transfer and reprogramming.

The administration needs to make resources available to help our Nation's small manufacturers. That is why I, along with my colleague Senator REED, continue to call on the administration to reprogram $21.8 million to support the MEP Centers this year. And we call on the administration to send a Budget Amendment to Congress to support $106.9M for the MEP Program in fiscal 2005.

Mr. REED. Mr. President, I thank my colleagues Senators WARNER, LEVIN, GREGG, HOLLINGS and MCCAIN for working with Senator KOHL and I on this important amendment preserving the Manufacturing Extension Partnership, MEP, Program. I particularly want to thank Senators HOLLINGS and GREGG for their strong support of the MEP Program and their efforts to restore funding to a program that is vital to our Nation's small manufacturers. I look forward to working with them this year to ensure funding is restored in fiscal year 2005.

Senator KOHL and my amendment clarifies that the Secretary of Commerce has the ability to transfer and reprogram $21.8 million to the MEP Program this fiscal year in order to assist our nation's small manufacturers. Senator GREGG, HOLLINGS, KOHL and I believe that the Secretary already has the ability to transfer and reprogram this funding; however, rather than honor the request of 55 Senators and work with the Senate and Congress to help reprogram funds, the Department of Commerce has chosen to hide behind a legal interpretation that it lacks such authority.

Small manufacturers have a direct impact on national security. Small manufacturers are the backbone of our defense production capacities. Firms with fewer than 500 employees comprise more than 80 percent of the defense supply chains. Small businesses are responsible for a significant share of defense contracting. They receive 21 percent of prime contracts and 41 percent of the subcontracts awarded to businesses by, or on behalf of, the Department of Defense.

The National Coalition for Advanced Manufacturing in a 2002 report identified five key challenges that confront the defense industrial base. First, the loss of small and medium-sized firms that participate in the defense supply chain is taking its toll on our Nation's defense readiness as many makers of components and spare parts for the larger defense contractors have left the marketplace or are ill-prepared to respond to swift increases in orders. There is no known source of supply for over 11,000 products used by the Department of Defense. Second, our Nation needs to maintain sufficient surge production capacity to meet unanticipated national defense needs. The production of platform systems, components and munitions is constrained by the surge capacity of prime contractors and the capabilities of the supplier base. Being able to provide for these defense needs is vital to our military. Third, outdated and aging manufacturing systems and processes are involved in the production of major weapon systems. The need for quality and technology improvements along with increased productivity and cost reduction makes the shortage of capable small manufacturers more problematic. Fourth, large defense companies often have the knowledge and resources to make investments in productivity and efficiency improvements; however, small manufacturers frequently lack the necessary technical knowledge, staff and resources to take advantage of new techniques and technology. Lastly, to increase participation in defense production, small manufacturers need assistance adapting commercial production practices and techniques to the needs of the defense industrial base.

The MEP program can help our Nation address these challenges. MEP Centers have a strong track record of solving supply management issues. MEP helps preserve and strengthen domestic production of unique defense technologies and provides a strong strategic edge over threats to national security. MEP is active within U.S. defense supply chains assisting small subtier suppliers to cut costs, boost productivity, integrate technology and accelerate delivery times. Officials from Boeing, General Dynamics, Lockheed Martin, Northrop Grumman, and Raytheon expressed their reliance on MEP for cost and quality improvements at small manufacturing firms on which they rely for component parts and assemblies.

To date, the actions of the Department of Commerce have been unacceptable. The administration needs to make resources available to help our Nation's small manufacturers. The administration should immediately reprogram $21.8 million to support the MEP Centers this year as directed by Senator KOHL and my amendment. Given the broad bipartisan and national support for this program, the administration should send a Budget Amendment to Congress to support $106.9M for the MEP program in fiscal 2005.

FUEL CELL PROGRAM

Mr. AKAKA. Mr. President, I wonder if I might discuss an important matter with the Chairman of the Armed Services Committee regarding the program to advance fuel cell technology for support of armed forces.

Mr. WARNER. Mr. President, I would be happy to discuss this issue with the Senator from Hawaii.

Mr. AKAKA. Mr. President, the Senate report accompanying National Defense Authorization Act for Fiscal Year 2005 included language on a program to

demonstrate proton exchange membrane (PEM) fuel cell designs at Department of the Navy installations. In particular, the language referred to an uninterruptible substation using fuel cells based on proton exchange membrane technology. This was a program that the Congress supported last year.

I believe that the program the Committee intended to support this year was somewhat more narrowly focused on the developing technology to improve the membranes for those fuel cells that might be used in the substation program that was the subject of discussion last year or for other important Defense Department applications.

Mr. WARNER. Mr. President, I agree with the Senator from Hawaii that improving the membrane technology for fuel cells was the program for which the Committee recommended an addition to the Defense authorization this year.

Mr. AKAKA. Mr. President, I thank the chairman of the Committee for clarifying this situation.

Mr. BENNETT. 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. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. HATCH. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The DOD authorization.

Mr. HATCH. Thank you, Mr. President. That is what I want to talk about today, in part.

I rise today to respond to a few of the comments made yesterday by several of my Democratic colleagues. They have attacked the President and the administration for not being forthcoming in releasing documents notwithstanding the fact that the White House just declassified and released approximately 260 pages of legal memoranda that they sent to Senator LEAHY and myself.

Let me take a moment to review the history.

On June 8, 2004, the Judiciary Committee held an oversight hearing of the Department of Justice. During the course of the hearing, Senator KENNEDY asked the Attorney General for any legal memoranda that had been leaked to the public. Contrary to the suggestions of some, the Attorney General at no time refused to answer any question posed by Senators on the committee. He just gave answers with which my Democratic Colleagues did not agree.

Specifically, the Attorney General declined to agree—on the spot—to produce internal executive branch legal memoranda citing the President's right to have confidential advice from his staff. The Attorney General believed he did not have authority to release these documents. He believed that only the President could release them.

Instead, that same day after the hearing, the Department of Justice wrote a detailed letter responding to the inquiries of the ranking Democratic member of the Judiciary Committee on legal issues related to wartime decisions. The letter summarizes the Justice Department's legal opinion on whether various statutes and treaties apply on this war on terror, including the Uniform Code of Military Justice, the Special Maritime and Territorial Jurisdiction, the Military Extraterritorial Jurisdiction Act, the torture statute, Geneva Conventions, and the War Crimes Act.

These topics are precisely the subject matter of the documents at issue in the hearing. The Attorney General is not trying to cover up anything. There can be no question that the Justice Department wanted to be responsive to the committee but it was not in a position to release the documents without further consultation within the administration, including the White House and the Defense Department. That is only fair. It is prudent during time of war when some of the documents reveal potential interrogation techniques.

Yet they made the Attorney General of the United States a punching bag, which they have done consistently day in, day out in the Judiciary Committee on various markup days and hearings as well.

It is as though they literally hate the Attorney General of the United States. A man who I think is doing a bang-up, tremendous job. In fact, last week the Attorney General and the White House counsel both assured me that they would work with me to fairly resolve the matter. I represented that to the committee members and that wasn't enough. I was sarcastically challenged on that by more than one member of the committee on the Democratic side. I just calmly said: Give them a little time. They said they would work with us, and they will. And Mr. President, they did.

Last Tuesday, the Democratic members of the Judiciary Committee submitted a letter to the Attorney General, not just seeking the three documents mentioned at the hearing that Senator KENNEDY made an issue of in the hearing, but seeking a total of 23 legal memoranda.

In addition to that, they provided a laundry list of document requests so broad that it could take a year to search the files of the entire Federal Government to comply with such a request. We would have to go all the way back to the Spanish-American War to give every document that has ever been brought forth, if you followed the kind of reasoning that they had.

Let me give you some examples. They asked for ''any other memoranda or documents from Alberto Gonzales, William Haynes, William Howard Taft, IV, or any senior administration, and in the possession of the Department of Justice, regarding the treatment or interrogation of individuals held in the custody of the U.S. Government.''

Any other senior administration official? That involves hundreds, if not thousands, of people. Come on.

For each of the 23 requested memos, the Democratic Senators wanted to know what has been redacted and why. They want an explanation for each classification status, and they want an indication of to whom each was circulated with copies of all cover letters and transmittal sheets.

When is it going to end? That kind of stuff is way out of bounds. It was an incredibly imprudent request. It was so broad that nobody in his or her right mind would try to fulfill it—and certainly not a White House that is responsible.

In addition to the 23 requested memos, this request includes 19 other broadly worded questions that require lengthy investigation and responses. They want all of this by June 30. That is in just 15 days, as if they were entitled to all of that.

This document request appears to be an old-fashioned fishing expedition of the lowest order. Any objective observer would have to conclude that this is not a legitimate exercise of our oversight function. They just want to use the typical go-to-the mattresses, scorched earth, litigation-like tactics to bury the Attorney General with a request so broad that no one could possibly comply with it.

Last Wednesday, before the ink was dry on the document request letter submitted last Tuesday, the ranking minority member circulated a proposed resolution to formally subpoena documents from the Department of Justice.

The Democrats did not even give the Attorney General the courtesy of a few days to respond to the original document request.

Yet, while the Democrats were engaging in this conspiracy, I was working with the White House and the Department of Justice. I told the entire committee of all my efforts last week. In fact, it is because of my efforts and the efforts of the President and the Department of Defense and the Justice Department that these documents have been declassified and disseminated so quickly.

Significantly, the three documents originally at issue in the Attorney General's hearing have been produced—that is, the actual documents that they called for in the hearing where you heard so much bad-mouthing of the Attorney General.

I got the cooperation of both the Attorney General and Alberto Gonzales himself last week.

I have put up with continual complaints by our friends on the other side of the aisle on the Judiciary Committee as to how poorly the committee is being run. I am sick and tired of it.

It is about time we got rid of some of these snotty, ridiculous, demeaning,

and below-the-belt type of tactics and start respecting the President of the United States, the Attorney General, the Secretary of Defense, our young men and women overseas, and quit undermining what they are doing. We gave them the three documents they asked for and now there are all kinds of requests for more. We will never satisfy these types of voracious, problem-seeking people.

Of course, it is not good enough for some of my colleagues to just give them the documents they asked for. The administration could have sent 1,000 memos and some of my Democratic colleagues would still not have been satisfied. Talk about transparency, their strategy is transparent. No matter what is sent, some will no doubt scream and complain it is not good enough, and they will get on this floor, with their holier-than-thou language, and say we must have transparency because that is the way we in the United States are.

If that is true, we do not need the CIA, we do not need the 15 intelligence agencies, and we do not need to protect our young men and women overseas anymore. We just have to have transparency. That is so ridiculous it is hard for me to believe how the American people can even give any kind of consideration to that kind of talk. Yet we are getting that kind of nonsense on the Senate floor almost constantly from people on the other side of the aisle.

This lack of good faith suggests this is more about trying to attack the Attorney General and the administration than about obtaining documents necessary for legitimate exercise of oversight. It is clear they want to subpoena to build a case to hold the Attorney General in contempt of Congress. Why they hate this former Member of Congress, this former Member of the Senate, I will never understand. There is not a more decent, honorable, religious, kind person I know than John Ashcroft, but he is being treated like dirt. This threatens to rapidly devolve into a political witch hunt of the worst order.

It is sad to see this blatant political posturing. It is particularly sad to see this uncalled-for partisan wrangling over an issue of national security in an election year. I don't think they are fooling anybody by their histrionics, and we sure had a lot of them over the last number of days—even the last couple of weeks. Really, you can go back in time, ever since President George Bush was elected.

The amendment offered yesterday by the Senator from Nevada and the amendment offered here is not limited to the three documents that were at issue in the hearing. Those documents have already been produced. It has not been limited to the 23 documents listed in the first part of their document request. It is a broadly worded subpoena that would encompass all documents and records on this subject since January 20, 2001, regardless of whether the documents were written by someone at the Department of Justice.

Talk about a fishing expedition, we are talking here about deep sea fishing—and the worst type. Do you know how many people work at the Department of Justice? It would take forever just to ask each of the 112,000 individuals at the Justice Department if they possessed any relevant documents. That is how ridiculous the request is.

Moreover, the Justice Department subpoena is poorly written, as I have been saying. It requests all documents and records ''describing, referring, or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or physical control of the United States Government . . . in connection with the investigation of terrorist activity.'' And the subpoena is not limited to Justice Department records but also records possessed by the Department of Justice, written by other agencies, including the CIA or any military branch. This is simply too broad and they know it.

In addition, the subpoena requires records relating to the treatment of prisoners. That broad term would appear to include all the interrogation or treatment records and all of the medical records of Zacarias Moussaoui and any other individual DOJ has prosecuted or is prosecuting on terror-related charges subsequent to 2001. This could include any interrogation, medical records shared between the Department of Defense and the FBI relating to detainees held at Guantanamo Bay or in Iraq, Afghanistan, or elsewhere. This information request can involve hundreds, if not thousands, of POW and other enemy combatants and hundreds of thousands of pages of records.

That is the type of base political activity that is going on in this body right now. It demeans, insults, and undermines our young men and women overseas fighting for us and risking their lives every day. I, for one, am sick and tired of it. I hope the American people wake up to this type of foolish conduct all in the interest of Presidential politics or just politics in general.

I don't see the practical utility of providing all of these records pertaining to individual detainees to the Judiciary Committee. Under the proposed subpoena, this information could conceivably include prosecution strategy memos. Can you imagine? Surveillance materials. Can you imagine? Information provided by and the identities of confidential informants. Can you imagine that? As well as FISA, that is, the Foreign Intelligence Surveillance Act materials. We normally do not get these types of documents in either Democrat or Republican administrations. And there is a good reason. Because this place is a sieve. You can't keep anything secret up here. It is easy to see why administrations do not like to give confidential, secret, or top secret or covert information, you name it, classified information, to people up here.

Their language is simply too broad. I am also troubled by the way in which the language appears to stray far away from general policy questions concerning the legal status of certain classes of detainees such as suspected al-Qaida members into matters affecting ongoing intelligence gathering and the prosecution of individual terrorist subjects.

Give me a break. Let's give our country a break. Let's give our President a break. Let's give our Attorney General a break. Above all, let's give our young men and women overseas a break from these types of partisan, political activities.

Let me say when the shoe was on the other foot, the Democrats have advocated just as I have. Four years ago, when President Clinton was in office, my colleague from Vermont, advocated the following practice:

> Our standard practice should be to issue subpoenas only when attempts to obtain documents by other means have failed. At a minimum, we should at least request documents in writing before attempting to compel their production. . . . As part of this duty, the Committee should take every reasonable effort to see whether subpoenas are actually necessary before publicly requesting them.

That is the distinguished ranking member of the Judiciary Committee from Vermont speaking. Let's go through that one more time. When the shoe was on the other foot, and our side was asking for some documents, the quote was:

> Our standard practice should be to issue subpoenas only when attempts to obtain documents by other means have failed.

That is a quote.

The fact is, they didn't even give the Attorney General time to even think about it before they were slapping a subpoena down in last week's markup, just a few days after. And then, four years ago my colleague from Vermont continued:

> At a minimum, we should at least request documents in writing before attempting to compel their production.

I guess 2 days in writing is more than an ample request in their eyes now that they are in the minority and now that John Ashcroft is Attorney General.

> As part of his duty, the committee should take every reasonable effort to see whether subpoenas are actually necessary before publicly requesting them.

No, they pursued a subpoena. We had to vote on it. It was a party-line vote. I guess they thought they could get at least one Republican to allow their nefarious scheme to go forward. They did not try to use every reasonable effort to see whether subpoenas were actually necessary. And I am sure the reason, they will say, is because John Ashcroft has not appeared before the committee in a long time.

My gosh, the man almost died this year. And I don't blame anybody for

not wanting to come up in front of this bunch when all you do is get demeaned, with implications that you are a liar, that you are not cooperative, that you are not doing a good job, and many other implications, as well, that are derogatory in nature.

When are we going to start treating administration people with respect and dignity? Here the Democrats are not making any reasonable effort to attempt to obtain any of the documents by other means. They did not even give the Justice Department a day to respond to their written questions before drafting a subpoena. What kind of bullying tactic is that? We know what the Democrats are up to because the Senator from Vermont told us what the purpose of a subpoena was just 4 years ago.

He said:

[I]ssuing subpoenas may make for a good show of partisan force by the majority but certainly continues the erosion of civil discourse that has marked this Congress. Why is that true then but not now? Let me suggest that my Democratic colleagues are trying to take this one step further, as well. The minority is attempting to make a show of partisan force by distorting the facts for the American public.

Especially where the administration has indicated its willingness to be cooperative, issuing a subpoena would not merely continue the erosion of civil discourse; it would accelerate it by exponential proportions.

To suggest that the Senate issue a subpoena before the deadline to comply with a document request has even passed irreparably debilitates the credibility of my colleagues and shows they are merely grandstanding and not pursuing a legitimate oversight function, in spite of the holier-than-thou approach that some of them use.

Now, we have seen holier-than-thou approaches on both sides, I suppose, but I have never seen it worse than it is right now.

Yesterday, the President released not only the three documents at issue in the DOJ oversight hearing but 260 pages of documents, at my request—something I said I thought I could get them to do, after having talked with the Attorney General of the United States and Judge Gonzales. That was not good enough at the time. They were moaning and picking and groaning at me, saying they would never do it. But they did.

Thus far, the administration has released 13 lengthy memoranda relating to the treatment or interrogation of detainees, including relevant documents that were not specifically requested by the committee.

Come on. This administration has bent over backwards, and they will never satisfy these naysayers on the other side who want to make political points and who want to damage the Attorney General of the United States, the Secretary of Defense, and, above all, the President of the United States. I have to say, they are really good at playing this political game. They have a lot of help in our media in this country that seems to just go right along with it.

This may not be the end of the document production by the Departments of Justice and Defense, et cetera. The Department of Justice has until June 30, 2004, to respond to the Democrats' document request. It may well be that after June 30, 2004, there may be additional documents that we will need to see. But to seek such a broadly worded subpoena prematurely makes absolutely no sense. It flies in the face of reasonableness.

But let me say that it appears from what we know now—and I will expect the administration to correct me if I am wrong on this point—we have already gotten the most important documents. But I guess they just have not given the Democrats enough fodder with which they can attack the Attorney General and the President and others in this administration. After all, most of them were legal documents, legal opinions, where you can differ, and in most cases where they say, well, this is what the law is, but there is another side to it that could be argued, and the courts might find something to it. That is what you expect in a legal opinion. But they not only ask for the legal opinions; they ask for the preparatory documents that were leading up to the legal opinions.

I heard my colleague from Vermont mention, repeatedly: Like water, government policy flows downhill. I must say that I agree with him. Clearly, the most important document of those released by the White House is the one that the President of the United States signed on February 7, 2002. You do not get any higher than the President in this country, from a political standpoint.

In that memo, the President acknowledged that even though he was advised that he was not legally obligated to provide the protections of the Geneva Conventions to the Taliban or to the detainees at Guantanamo Bay, Cuba, that he intended to do so anyway.

But that is not enough for them. Here is the now unclassified White House memorandum for the Vice President, the Secretary of State, the Secretary of Defense, the Attorney General, the chief of staff to the President, the Director of Central Intelligence, the assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff.

These are documents that are usually never given up by Presidents, by the way.

The subject: ''Humane Treatment of al Qaeda and Taliban Detainees.'' The part shown at the bottom on this page of the letter is in yellow. Let me read the paragraph just above that. Let me read No. 2:

Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

Now, this is a finding, by the way:

a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

I think that sounds pretty logical to a logical person. But look at this:

b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

There is good reason why he reserved the right to exercise this authority—a very good reason—and that is, we are not fighting a conventional war; we are fighting a war in the most unconventional way, against people who do not wear uniforms, who do not represent a particular country, who are helter-skelter all over the world, who are vicious, brutal killers and murderers and terrorists, who have more than shown us how vicious they are. They do not deserve, in the eyes of many legal minds, the type of protections that Geneva would provide. But he is going to provide it to them anyway.

But that is not good enough over here. They have to find something, in some documents, in these hundreds of pages of documents, that can help to bring down this President.

Well, look, go to No. 3:

Of course, our values as a nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment.

Our Nation has been, and will continue to be, a strong supporter of Geneva and its principles. As a matter of policy, the U.S. Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

I do not know how you say it much more clearly than that. But you have read all the newspapers condemning the President. Yet the President is following Geneva. But he did. To hear the other side, you would think that he did not.

Look at No. 5:

I hereby reaffirm the order previously issued by the Secretary of Defense—

''[P]reviously issued by the Secretary of Defense''—

to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

I do not know what my colleagues need further, but that is what the President signed. My gosh, there is the

President's signature right at the bottom of this letter.

I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

My gosh, what is this all about? I will tell you what it is all about. It is about politics, pure and simple. They cannot win fairly, so they do it by distorting what is going on.

If they could win by distorting, that would be great, hunky-dory for them, I suppose. Well, it is not for me.

Paragraph 2b:

I accept the legal conclusion of the Attorney General . . .

This is the fellow they are maligning all the time. This awful Attorney General, John Ashcroft. But he says:

I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to exercise that authority at this time.

He determines that the provisions of the Geneva will apply.

Of course, our values as a Nation, values that we share with the other nations in the world, call for us to treat detainees humanely . . .

The fact is some of our knuckleheads—darn few of them—have treated detainees inhumanely. You would think the President himself went over there and did those awful things, or that Donald Rumsfeld, who has done a fantastic job in helping to change the whole military structure in many ways in this country for the better, had gone over there and done this, or General Abizaid.

That letter blows away these types of phony arguments.

After hundreds of pages of analysis, after months of research and writing, the most severe punishment the Secretary of Defense authorized is the ''use of mild, noninjurious physical contact such as grabbing, poking in the chest with the finger and light pushing.''

I could tell you, having studied it, there is a whole panoply of acceptable Geneva interrogation techniques. I can tell you not all of them were used. The top level of very stressful ones were not authorized to be used.

Everything I have seen says that. Why this body would want to issue a subpoena that, one, failed in committee—they couldn't get it through committee because everybody there recognized it was a political exercise, brought very prematurely, without giving the administration a chance to comply, in disregard of the committee chairman's, my, offer to bring about a release of documents, and with a release of documents that is, by any measure, impressive—and two, is not ripe since the deadline to respond to the document request has not even come and gone. Why they would do that is beyond me.

I said earlier today I am one of the few people who has gone to and gone completely through Guantanamo. I can only speak for the time I was at Guantanamo and that was a few weeks ago. But I went and witnessed their interrogation techniques. I saw two interrogations that were not staged for me—one with a very uncooperative al-Qaida member they would occasionally get something from and another with another one who has been very cooperative because of the techniques that have been used, that have been fair and reasonable, within the Geneva Conventions rules and techniques. I saw how they handled the prisoners. I saw the incentive systems to get the detainees to try to cooperate.

I saw the assault record of some of these vicious detainees who I think some on the other side would like to coddle right to bed every night. Dozens of assaults made against our soldiers, including, since these are open wire cells, on a number of occasions throwing urine and feces all over the soldiers who have to walk up and down the halls.

I don't know about you, but if somebody did that to me, I wouldn't be very happy. If I recall correctly, there have only been three times where they have had to discipline soldiers because the rest of them stood and took it, even though that is one of the most offensive things that could be done to somebody, three times. One was acquitted, the other two suffered severe punishment.

In other words, we have punished our soldiers for getting mad because somebody threw feces and urine on them. I would be mad. I am for our soldiers. I wish—I am not going to second-guess the military courts, but I wish they had not been punished other than maybe reprimanded. There are some down there who are so vicious they would kill our soldiers if they had a chance. And they have done things like this repeatedly. Dozens and dozens of assaults on our young men and women down there.

What bothers me, almost more than anything else, is I have described one of the Presidential findings, and there are others that are being read on the sides of mountains by Zarqawi and by Osama bin Laden, top secret documents that have been given up because of these types of shenanigans. These types of things put our young men and women at risk. These political games are putting young men and women at risk. To disclose anything about interrogations puts our young men and women at risk. That does not mean we should not prosecute those who have violated the President's order of humane treatment. But interestingly enough, in the Abu Ghraib prison situation, the minute it became known these types of activities were going on, investigations started and prosecutions have resulted. But that is not good enough because there is a demand that they have to go right up to the top which means even the President, as if he were over there in Abu Ghraib himself, or Rumsfeld was over in Abu Ghraib or General Abizaid, they should be punished, or there should at least be some responsibility on their part for this aberration of conduct by so few in the Abu Ghraib prison.

Let me tell you, I am getting sick of it. I am getting sick of this partisan activity. I don't have much of a voice right now because I am so doggone sick of it. Frankly, it is beneath the dignity of the Senate. I think there might come a time for subpoenas, if there had been no cooperation, if there had been plenty of honorable time given to the administration to comply, if there had been no compliance, if there hadn't been any effort by the chairman to try and obtain these documents, if there had been no response by the White House counsel or the White House itself, or if there had been no desire on the part of the Attorney General to cooperate. They now have all the documents they asked for at that hearing. And now we get a request, a broad request for so many more that would tie up all of these important people to such a degree that I think it damages our young men and women not only in Iraq but Afghanistan as well.

Why? Why is it? Why do we hear these holier than thou rantings? Because we have to make sure this administration does its job because we don't trust them, I guess. At least that seems to be the tenor of the argument, and that this administration must be doing something wrong because it had legal memoranda and legal opinions that indicated maybe the Geneva Conventions don't apply in this unconventional war, with unconventional, murderous, and vicious terrorists.

Well, let me say, I am disappointed they ignore these types of documents. I am disappointed we get all these documents and they are not satisfactory. I am disappointed there is a call for transparency of all these things. I guess Osama bin Laden can read these things as well, or even Zarqawi, and know everything we are thinking, everything we do. He ought to be able to cut off a lot of heads with the knowledge we are giving him.

The fact is, almost any time anything is released here, it shows up in the liberal media. It shows up to the disadvantage of our country, to the disadvantage of our young men and women over there. I don't think anybody on this side is saying we should not be transparent in the ways we should be transparent, but to use that transparent argument and push it to its ultimate extreme means we should not have 15 intelligence agencies where we have classified information to protect our country. If you push it to the extreme, that is what you are saying. I believe it has been pushed to exactly that extreme.

I believe the demands have been extreme. They are unconscionable in some ways—not all of them. That is

why the documents are being given to them. It was important to meet the reasonable requests for those three documents. They have been given. I don't see anything wrong with that.

I also believe we ought to respect the need to keep some matters from transparency in the best interests of our young men and women. I have to say I know that not all of our servants act appropriately. Everybody makes mistakes. Certainly, the things that happened in Abu Ghraib and in Afghanistan should never have happened. They need to be investigated, and, where appropriate, prosecutions have to take place. Nobody should be spared who participated in those wrongful, illegal activities that fly in the face of what the President approved and what the Secretary of Defense approved. I stand with my colleagues on the other side with regard to that. There is no doubt in my mind about that.

But when it comes to just playing crass politics and demanding more and more so it can be released to the public so ''transparency'' can be had over documents that should not be released to the public, then I have to call it what it is. It is crass political activity that flies in the face of what is right. I think directly and indirectly it hurts our young men and women overseas.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the chairman of the Judiciary Committee, my friend, has spoken for about 55 minutes, which leaves little time for the ranking member of the Judiciary Committee, the person going to offer the amendment. I will not offer a unanimous consent agreement until such time as the manager of the bill or someone from the majority is able to respond, but I am going to ask unanimous consent that the Senator from Vermont be allowed to speak until the hour of 9:45.

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. REID. 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. REID. Mr. President, I ask unanimous consent that the order be extended to allow the Senator from Vermont to speak for 15 minutes, and that following his speech, we vote on the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, we want to accommodate the Senator. Whatever happened, happened. We are glad to, in an equitable way, offer him this time. I will try to take the floor in the area of 9:40, if that is convenient.

Mr. LEAHY. How about 9:45?

Mr. WARNER. OK. Thank you.

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

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I appreciate the continuing courtesy of my dear friend, the senior Senator from Virginia. I said earlier on the floor of the Senate that he and I have been friends for over a quarter of a century. I have aged in that time, but he has not. I do appreciate his continuing courtesies.

Mr. WARNER. I thank my colleague. We have served together these 26 years now in this body.

Mr. LEAHY. Mr. President, I have listened to some of the debate in the last 30 or 40 minutes, and it is sort of like a tempest in a teapot—a great deal of shouting and carrying on, but not really hitting the central point.

I spent years as a prosecutor. It was one of the best jobs I ever had. I had the great opportunity to try a lot of cases. I was in the courtroom several days every week in Burlington, VT. We had a saying there, as we do in many States, that if you have the facts on your side, you pound the facts. If you have the law on your side, you pound the law. Of course, if you have neither on your side, you pound the table. We have heard a lot of table pounding tonight.

The fact is that every American, Republican or Democrat, knows that some terrible things happened at Abu Ghraib prison. Some apparently happened in Afghanistan and some in Guantanamo. These are acts that are beneath a great and wonderful country such as the United States, a country blessed with a Constitution and laws and values that serve as a shining beacon for much of the rest of the world.

This did not happen here, and it is not answered by going out and cashiering a couple of corporals or a couple of privates and saying: There, look what we have done.

We all know that the 140,000 American men and women serving in Iraq and in Afghanistan and Guantanamo are obeying the laws, and upholding the best ideals of the United States. And many of our soldiers have been told they are going to serve much longer than their Government originally told them they would have to.

There are some, however, who did the same wrong things in Iraq as they did in Afghanistan and as they did in Guantanamo. Who gave them the green light? Don't tell me it is just a handful of bad actors. If so, those few bad actors must have a wonderful frequent flyer program to be able to show up in Abu Ghraib one day, Afghanistan the next, and Guantanamo the next. Somewhere there was some core permission given. It went to those who were willing to follow a wrong order.

My colleagues can table my amendment, but it will aid the coverup of what has become an international prisoner abuse scandal. If this amendment is tabled, as it may be, it says that the Republican Senators have decided to join the Republican administration in circling the wagons of the unfolding prisoner abuse scandal.

The American public—Republicans, Democrats, and Independents—are sick and tired of being lied to. They are sick of the secrecy. They are demanding answers all over this Nation, but the wagons continue to circle.

My amendment would require the administration to cooperate with a thorough congressional investigation into the abuse of prisoners in U.S. custody by releasing all documents relevant to the scandal. We call for the release of all relevant documents, not a tiny subset of documents selected by the administration when the political heat was on.

The question for us as Senators is, Are we content to see the Senate serve as an arm of the executive branch, or are there some of us—at least a majority of us—who actually read the Constitution and realize we are an independent branch of Government? The distinguished senior Senator from West Virginia has reminded us that we do not serve under Presidents, we serve with Presidents. He has reminded us that there are three branches of Government, each independent of the other. Nonetheless, we hear arguments on the floor that we can't ask for these documents because the executive branch does not want to show them to us. But, we are independent Senators, all 100 of us.

Somewhere in the upper reaches of this administration, a process was set in motion that seeped forward until it produced this awful scandal. So to put the scandal behind us—which all of us want to do—we have to understand what happened.

The President of the United States has said they want to get to the bottom of this. So do I, but you cannot get to the bottom of this until you have a clear picture of what is on the top. We have heard the party line on this scandal. The Senator from Alabama argued that the whole thing boils down to just a few people on the midnight shift in Abu Ghraib prison who got out of control. He said that a few people came in at midnight and somehow they got out of control. That line has become harder and harder to swallow as every day new evidence surfaces that the abuses were widespread.

The photographs may be limited to a small group of soldiers at Abu Ghraib, but the abuses were not. It is not right for any of us to claim this was just a small thing when every one of us has seen how extensive the photographs are, those that have been revealed to the public and those that have not.

I question the idea that it was only in Abu Ghraib. As I said, somebody must be getting frequent flyer miles because the same thing was happening at Abu Ghraib prison, Afghanistan, and Guantanamo. Just last week, a Federal grand jury indicted a CIA contractor for brutally beating a prisoner in Afghanistan in June of last year. Why did they indict him? Because the prisoner died the day after he was beaten.

The Army has opened a criminal investigation into injuries suffered by a U.S. soldier who was posing as an uncooperative detainee during training with military police at Guantanamo Bay. That soldier suffered traumatic brain injury. This was a brave American soldier who went into a training program. Suddenly, apparently, the rules changed, He used a code word to stop it. He said: I am an American soldier. They kept on doing what somebody higher up had given them the order to do, and he suffered traumatic brain injury.

I could go on and on about this. My point is, it is not just a few bad apples in Abu Ghraib. These things have happened in Afghanistan, Iraq, and Guantanamo. Does anybody seriously think that the American public is going to fall for a lie that it is a coincidence that a bunch of MPs in Iraq were abusing prisoners with the very same tactics that were being debated at the highest levels of Government, such as the use of hoods, the use of dogs, the removal of clothing? Do we think these people are somehow telepathic, that they can read the minds of those at the White House or the Pentagon?

Yesterday, the White House released a tiny subset of the materials we sought. This was not all the material we requested. It was a tiny subset. All of those documents should have been provided earlier to Congress. Much more remains held back from public view.

The documents that were released raised more questions than they answered.

After January 2002, did the President sign any other orders or directives? Did he sign any with regard to prisoners in Iraq? Why did Secretary Rumsfeld issue and later rescind interrogation techniques?

How did these interrogation techniques come to be used in Iraq even though the administration has maintained it followed the Geneva Conventions there?

Why is the White House withholding relevant documents produced after April 2003?

Where is the remaining 95 percent of the materials requested by members of the Senate Judiciary Committee?

We have heard on the floor there was a broad-brush request made for the documents. But it was actually a request for 23 specific documents. The White House gave 3 of the 23 and said that it had complied. Incidentally, of those three, two had already appeared on the Internet. The press had found them out before the White House gave them to us.

So even though they gave only one that had not been made public before, I will give them credit for all three. Where are the other 20?

When are we, as Senators, going to stop sitting on our hands, becoming a rubberstamp for an administration cloaked in secrecy?

We have the legal right, we have the constitutional obligation, and I remind Senators we have the moral authority to ask questions and demand answers today.

We have been blessed in this country with a great and wonderful country, but that is a blessing that comes with some responsibilities. We are not maintaining that responsibility unless we keep the pressure on, until we get honesty and we get answers.

So I urge my colleagues, vote down the motion to table. Let us show the Senate is willing to stand up. Let us do what Senators have done in the past. We did it during the Watergate era. We have done it at other times. Let us stand up and ask the questions the American public wants us to ask.

The press seems to be doing it for us. After extensive investigation, the Guardian uncovered widespread evidence of violent abuse and sexual humiliation of prisoners at Baghram and other U.S. detention centers around Afghanistan. We should have found that out, and we should have stopped it. As I said before, a Federal grand jury indicted a CIA contractor for brutally assaulting a detainee in Afghanistan June 2003. We should have found that out. Instead, we turned a blind eye.

Defense Secretary Rumsfeld admitted in November 2003 that he ordered a prisoner be held incommunicado, off the prison rolls, and out of the sight of the Red Cross. This ghost detainee got lost in the system for 7 months. Despite his high intelligence value, this ghost detainee received only a cursory initial interview while in detention.

Major General Taguba later criticized the practice of keeping ghost detainees as deceptive, contrary to Army doctrine, and in violation of international law.

The New York Times reported that military lawyers and some colonels received memos citing complaints of abuse at Abu Ghraib in November 2003, 2 months before photographic evidence of abuse prompted the military to launch an investigation. At the same time, the letters I had written to the Department of Defense and others about what we had heard were not answered.

In fact, it turns out now that the majority of detainees at Guantanamo Bay are not the worst of the worst, as the administration asserted, but rather low-level recruits or even innocent men swept up in the chaos of war. This is why, after years, not a single one has been brought before a military tribunal. This is not the mark of a great country. This is not the mark of a moral country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. I ask unanimous consent that materials provided under the amendment be printed in the RECORD.

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

The materials provided under the amendment should include, at a minimum, the following:

(A) Memorandum for Timothy E. Flannigan, Deputy Counsel to the President, from John Yoo, Deputy Assistant Attorney General, Office of Legal Counsel, Re: The President's constitutional authority to conduct military operations against terrorists and nations supporting them (Sept. 25, 2001);

(B) Memorandum for Alberto Gonzales, Counsel to the President, from Patrick F. Philbin, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Legality of the use of military commissions to try terrorists (Nov. 6, 2001);

(C) Memorandum for William J. Haynes, General Counsel, Department of Defense, from John Yoo, Deputy Assistant Attorney General, and Patrick F. Philbin, Deputy Assistant Attorney General, Re: Possible habeas jurisdiction over aliens held in Guantanamo Bay (Dec. 28, 2001);

(D) Draft Memorandum for William J. Haynes, General Counsel, Department of Defense, from John Yoo, Deputy Assistant Attorney General, and Robert J. Delahunty, Special Counsel, Office of Legal Counsel, Re: Application of treaties and laws to al Qaeda and Taliban detainees (Jan. 9, 2002), and any final version of this Draft Memorandum;

(E) Memorandum from William Howard Taft IV, Department of State Office of Legal Advisor, Re: Response to the January 9 Yoo/Delahaunty memo (Jan. 11, 2002);

(F) Draft Memorandum for the President from Alberto Gonzales, Counsel to the President, Re: Decision re application of the Geneva Convention on Prisoners of War to the conflict with al Qaeda and the Taliban (Jan. 25, 2002), and any final version of this Draft Memorandum;

(G) Memorandum for Alberto Gonzales, Counsel to the President, from Secretary of State Colin Powell, Re: Response to the Gonzales draft memo of January 25, 2002 (Jan. 26, 2002);

(H) Memorandum for John Yoo, Deputy Assistant Attorney General, Office of Legal Counsel, from James C. Ho, Attorney-Advisor, Office of Legal Counsel, Re: Possible interpretations of Common Article 3 of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War (Feb. 1, 2002);

(I) Memorandum for Alberto Gonzales, Counsel to the President, from William Howard Taft IV, Department of State Office of Legal Advisor, Re: Comments on your paper on the Geneva Convention (Feb. 2, 2002);

(J) Memorandum for William J. Haynes, II, General Counsel, Department of Defense, from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, Re: The President's power as Commander in Chief to transfer captured terrorists to the control and custody of foreign nations (Mar. 13, 2002);

(K) Memorandum for Daniel J. Bryant, Assistant Attorney General, Office of Legal Counsel, from Patrick F. Philbin, Deputy Assistant Attorney General, Office of Legal Counsel, Re: Swift Justice Authorization Act (Apr. 8, 2002);

(L) Memorandum for General James T. Hill from Defense Secretary Rumsfeld, Re: Coercive interrogation techniques that can be used with approval of the Defense Secretary (Apr. 2003);

(M) Memorandum from CJTF–7, Re: Applicability of Army Field Manual 34–52 and sensory deprivation (Sept. 10, 2003);

(N) Directive of Lt. General Ricardo Sanchez entitled ''Interrogation and Counter-Resistance Policy'' (Sept. 12, 2003);

(O) Memorandum from CJTF–7 on interrogations (Sept. 28, 2003);

(P) Memorandum for MI personnel at Abu Ghraib, Re: Interrogation rules of engagement (Oct. 9, 2003);

(Q) Memorandum for Commander of MI Brigade from Lt. General Ricardo Sanchez, Re: Order giving military intelligence control over almost every aspect of prison conditions at Abu Ghraib with the explicit aim

of manipulating the detainees' ''emotions and weaknesses'' (Oct. 12, 2003);

(R) Memorandum for Review and Appeal Board at Abu Ghraib from Detainee Assessment Branch (Nov. 1, 2003 through Jan. 31, 2004);

(S) Memorandum for MP and MI personnel at Abu Ghraib from Colonel Mac Warren, the top legal adviser to Lt. General Ricardo Sanchez, Re: New plan to restrict Red Cross access to Abu Ghraib (Jan. 2, 2004);

(T) Memorandum for Superiors from Maj. General Antonio Taguba, Re: Results of investigation into the 800th MP Brigade's actions in Abu Ghraib (Mar. 12, 2004);

(U) Memorandum from the Department of Justice, Re: Liability of interrogators under the Convention Against Torture and the Anti-Torture Act when a prisoner is not in U.S. custody.

(V) Review, study, or investigation report by LTC Chamberlain, Re: State of prisons in Iraq (addressing the high proportion of innocent people in the prisons and the lack of release procedures for detained Iraqis).

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The distinguished Senator from Utah will address the Senate. We are ready to go to votes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I move to table the underlying Leahy amendment and 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 the motion.

The clerk will now call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''yes.''

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—45

Alexander	Crapo	McConnell
Allard	Dole	Miller
Allen	Domenici	Murkowski
Bennett	Ensign	Nickles
Bond	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hatch	Snowe
Cochran	Hutchison	Stevens
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NAYS—50

Akaka	Bayh	Boxer
Baucus	Biden	Breaux
Byrd	Graham (FL)	McCain
Cantwell	Graham (SC)	Mikulski
Carper	Hagel	Murray
Clinton	Harkin	Nelson (FL)
Conrad	Inouye	Nelson (NE)
Corzine	Jeffords	Pryor
Daschle	Johnson	Reed
Dayton	Kennedy	Reid
DeWine	Kohl	Rockefeller
Dodd	Landrieu	Sarbanes
Dorgan	Lautenberg	Schumer
Durbin	Leahy	Specter
Edwards	Levin	Stabenow
Feingold	Lieberman	Wyden
Feinstein	Lincoln	

NOT VOTING—5

Bingaman	Hollings	Sununu
Brownback	Kerry	

The motion was rejected.

AMENDMENT NO. 3485

Mrs. FEINSTEIN. Mr. President, I rise this evening in support of Senator LEAHY's second-degree amendment which seeks to compel, by law, the Executive Branch to provide certain important documents to Congress.

I wish to focus on one particular issue that has been raised by those who oppose this effort—that provision of these documents will endanger our national security by informing our enemies of the details of our interrogation tactics.

I believe this objection is misplaced and the danger of compromising national security can be easily and simply eliminated.

I am a member of the Select Committee on Intelligence, and as my colleagues know, that committee regularly receives information of the highest classification involving our Intelligence community. Similarly, the Armed Services Committee receives information about the most sensitive of our military secrets. The Judiciary Committee receives information about extremely sensitive law enforcement matters. In short, the Congress and its committees are regularly provided the most sensitive of our Nation's secrets.

In the present case I accept that some of the documents we have sought from the Department of Justice and Department of Defense about the law, policy and procedures governing interrogations may be properly classified. In other words, I quote from the governing executive order, Executive Order 12958, which describes ''top secret'' as being information ''the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.''

But the question of classification is unrelated to the question of whether the Congress should have access to information which is needed. We have procedures, administered by the Office of Senate Security, which ensures that such information is handled properly, safely, and securely. simply put, providing information to the Congress is not the same as making it public, or providing it to terrorists.

As some of my colleagues know, I asked the Attorney General directly whether any of the material which he was refusing to provide to the Congress was classified. He did not answer my question, but if the answer is yes, then the Congress has the ability to receive such information.

It is important to focus on the issue at hand, which is what information should, and must, be provided to Congress so it can perform its constitutional role to legislate and conduct oversight. The issue is not what information to provide to the terrorists.

Mr. DURBIN. Mr. President, I rise today in support of the Leahy second-degree amendment. I am proud to cosponsor the Leahy second-degree amendment. The Leahy amendment would require the administration to provide the Senate with all documents in the Justice Department's possession relating to the treatment and interrogation of detainees.

Since the world learned about the horrible abuses at Abu Ghraib prison, there has been mounting evidence that high-ranking members of this administration authorized the use of interrogation tactics that violate our longstanding treaty obligations. There is increasing pressure on the administration to come clean and provide the Congress with all documents related to the use of torture.

Yesterday, in a transparent effort to stop the pressure for full disclosure, the administration provided Congress with a 2-inch stack of documents. But a cursory review of these documents reveals that the administration is withholding a lot of crucial information. If anything, the documents that were released yesterday make it even more clear that we need complete disclosure from the administration. As the Chicago Tribune reported today:

> The memos left unanswered at least as many questions as they answered. White House officials acknowledged that the documents provided only a partial record of the administration's actions concerning treatment of prisoners.

What do the documents that were released show? In a January 2002 memo, the President concluded that ''new thinking in the law of war'' was needed. Under our Constitution, it is Congress's job to make the laws. If the President wants to change the law of war, which has served our country well since the time of President Abraham Lincoln, he must come to the Congress and ask us, the people's representatives, to change the law. He cannot change the law by executive fiat. The memo from the President was stamped for declassification in 2012, so clearly this administration had no intention to consult with Congress or the American people about their plans to change the law of war.

In response to the President's mandate, in August 2002, the Justice Department sent a memo to the White House on the use of torture. It makes unprecedented claims about the President's power that violate basic constitutional principles. The Justice Department concludes that the torture statute, which makes torture a crime,

does not apply to interrogations conducted under the President's Commander in Chief authority. They also adopt a new, very restrictive definition of torture. They state that torture involves:

. . . intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result.

This contradicts what Attorney General John Ashcroft told the Judiciary Committee just 2 weeks ago. He said that it is Congress's job to define torture and that the administration had not adopted a new definition of torture.

The Defense Department, relying on the Justice Department's work, also responded to the President's call for new thinking about the law of war. In a November 2002 memo, Defense Secretary Rumsfeld approved the use of coercive interrogation techniques at Gauantanamo Bay. These included ''removal of clothing,'' using dogs to intimidate detainees, sensory deprivation, and placing detainees in stress positions, including forced standing for up to 4 hours. Rumsfeld's only comment on these procedures was a personal note at the bottom of the approval memo, ''I stand for 8–10 hours a day. Why is standing limited to four hours?''

Let me answer that question.

In the 1930s, Stalin's secret police forced dissidents to stand for prolonged periods to coerce confessions for show trials. In 1956, experts commissioned by the CIA documented the effects of forced standing. They found that ankles and feet swell to twice their normal size, the heart rate increases, some people faint, and the kidneys eventually shut down.

After military officers raised moral and legal concerns about the tactics Rumsfeld has approved, he rescinded his approval while the Pentagon conducted an internal review.

In an April 2003 memo, Rumsfeld issued revised rules. These allowed for interrogation tactics with truly Orwellian names. These included:

''Sleep adjustment,'' which the DOD claims is not the same as sleep deprivation;

''Dietary manipulation,'' which DOD claims is not the same as food deprivation; and

''Environmental manipulation,'' which DOD acknowledges ''some nations'' may view as ''inhumane.''

White House Counsel Alberto Gonzales said these memos show that the administration engaged in a ''thorough and deliberative process'' on interrogation practices.

There is just one problem: Congress was not involved in the process. Article 1 of the Constitution says that it is Congress that makes the laws, not the President. The President cannot change the law of war or the definition of torture. Only Congress can.

The memos that were released yesterday leave many questions unanswered. They include directives related to Defense Department interrogations of detainees at Guantanamo Bay. But they do not tell us what interrogation techniques were approved for use by the CIA or other government agencies. They do not tell us what interrogation techniques were approved for use in Iraq. Yesterday, White House Counsel Gonzales said, ''We categorically reject any connection'' between the Administration's torture memos and abuses at Abu Ghraib.

But how can the administration reject these connections when the techniques that Rumsfeld approved for use in Guantanamo were also used in Abu Ghraib prison? And what about the Justice Department torture memo? According to press reports today, the administration is now disavowing the memo.

But what does that mean? The memo was apparently vetted by the Justice Department, sent to the White House, and was the basis for the Defense Department's memos on torture.

Who requested the Justice Department memo and what was done in response to the memo? Were the legal arguments contained in the memo used to justify the use of torture?

Yesterday, the President said, ''We do not condone torture. I have never ordered torture. I will never order torture.''

What definition of torture is the President using? Is it the one that the Justice Department created? What about other forms of cruel treatment that are prohibited by the Constitution, treaties and laws of the United States?

This is a very serious issue for our Nation. The world is watching us. They are asking whether the United States will stand behind its treaty obligations in the age of terrorism.

The Senate has an obligation to the Constitution and the American people to answer these questions The only way to do that is to obtain all of the relevant documents from the administration.

The great challenge of our age is combating terrorism while remaining true to the principles upon which our country was founded—liberty and the rule of law. Our laws must not fall silent during time of war.

I urge my colleagues to support the Leahy amendment.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3485

Mr. WARNER. Mr. President, the Senate now turns to the second-degree amendment and an up-or-down vote.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to Amendment No. 3485.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. BROWNBACK) would vote ''no.''

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

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—46

Akaka	Durbin	Lieberman
Baucus	Edwards	Lincoln
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Boxer	Graham (FL)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Landrieu	Stabenow
Dayton	Lautenberg	Wyden
Dodd	Leahy	
Dorgan	Levin	

NAYS—50

Alexander	Dole	McConnell
Allard	Domenici	Miller
Allen	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

NOT VOTING—4

Bingaman	Kerry
Brownback	Sununu

The amendment (No. 3485) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3387

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3387.

The amendment (No. 3387) was agreed to.

AMENDMENT NO. 3468

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I believe the veterans health care amendment is next; is that correct?

The PRESIDING OFFICER. There are 2 minutes of debate evenly divided.

Mr. DASCHLE. Mr. President, one of the surprising aspects of the debate about the amendment now pending has been the testimonials from some colleagues who say they like the current VA funding system.

If you believe you can look veterans in the eye and tell them they are well

served by the current VA health care system, then my amendment is not for you.

If you are satisfied with telling 500,000 veterans they cannot enroll at the VA, then this amendment is not for you.

If you think the system is performing well that results in hundreds of thousands of veterans waiting months, sometimes years, to see a doctor to get prescription drugs, then vote no on this amendment.

If you feel good about voting to ask veterans to contribute more than a billion dollars out of pocket for their health care costs and send out the bill collectors to hunt them down and make sure it works, this amendment is not for you.

Lastly, if you think it is appropriate to ask hundreds of thousands of men and women to sacrifice everything for their country and not ensure that they can get access to health care when they return, my amendment is not for you.

Those considering opposing my amendment should take a look around. President Bush's own veterans health care task force, as well as the chairman and ranking member of the House Committee on Veterans Affairs, believe the current system is broken and that it urgently needs fixing and have endorsed the concept underlying this amendment. Every single veterans group in the country has done so as well.

If you believe we have an obligation to our troops, I urge you to back it up with action by voting for this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment. This amendment creates a new entitlement program, set up by a formula designed to add benefits based on eligible people. My father-in-law is eligible, but he doesn't receive VA benefits. Now we are going to set that up as an entitlement that would cost $300 billion—three-fourths of the cost of the Medicare bill expansion last year? We have a lot of people saying we believe in paying for these. This was not paid for. This would increase the deficit by $300 billion.

We are doing a lot for veterans right now. If you look at it, we didn't do a lot during the Clinton administration, but we have done a lot under the Bush administration—up 50 percent in the last few years. We are going from 2004, $61 billion, to $70 billion in 2005, a 15-percent increase. Yet some people say that is still not enough.

I think this amendment is not so much about helping veterans. I think it is trying to help politicians. I urge my colleagues to sustain the budget point of order.

The pending amendment offered by the Senator from South Dakota, Mr. DASCHLE, increases mandatory spending and, if adopted, would cause the underlying bill to exceed the committee's allocation section 302(a) allocation. Therefore, I raise a point of order against the amendment pursuant to 302(f) of the Congressional Budget Act of 1974.

Mr. DASCHLE. Mr. President, I move to waive the relevant sections of the Budget Act for my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''nay.''

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—49

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Graham (FL)	Nelson (NE)
Boxer	Harkin	Pryor
Breaux	Hollings	Reed
Byrd	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Collins	Kohl	Snowe
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—48

Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Ensign	McConnell
Bennett	Enzi	Miller
Bond	Feinstein	Murkowski
Bunning	Fitzgerald	Nickles
Burns	Frist	Roberts
Campbell	Graham (SC)	Santorum
Chafee	Grassley	Sessions
Chambliss	Gregg	Shelby
Cochran	Hagel	Smith
Coleman	Hatch	Stevens
Cornyn	Hutchison	Talent
Craig	Inhofe	Thomas
Crapo	Kyl	Voinovich
DeWine	Lott	Warner

NOT VOTING—3

Brownback	Kerry	Sununu

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Virginia.

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

Mr. REID. 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 Virginia.

AMENDMENT NO. 3467 WITHDRAWN

Mr. WARNER. Mr. President, I ask unanimous consent to vitiate the action on the Ensign second-degree amendment No. 3467 and withdraw it. That is a technical requirement.

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

AMENDMENT NO. 3121

Mr. ALEXANDER. Mr. President, I have submitted an amendment that makes sure that military families don't lose eligibility for Head Start, the School Breakfast and Lunch Programs, Child Care and Development Block Grants, and the Low Income Energy Assistance Program when a parent is sent off to war.

Currntly, military families living on the margin, who qualify for Federal benefits, are at risk of losing those benefits if the service member in the family qualifies for special pay. If, for example, an active duty parent is deployed to a combat zone, and begins to receive additional combat pay, the temporary increase in income may result in his or her family losing eligibility for vital social services. My amendment would preclude additional military pay, specifically combat pay and the family separation allowance, from being counted as income for purpose of determining eligibility for certain federal benefits.

The Federal programs that are affected are those that are available to all Americans and where Federal law determines eligibility and generally provide food, child care, educational, and energy assistance to needy families. More specifically, the programs that would be affected are: The School Breakfast and Lunch Programs, Child Care and Development Block Grants, Head Start, and the Low Income Energy Assistance Program.

The Subcommittee on Children and Families, which I chair, in cooperation with the Armed Services Subcommittee on Personnel, chaired by the Senator from Georgia, Mr. CHAMBLISS, has put a special focus on helping military parents raising children. Together we have held six hearings since June of last year—five in the field, and one here in Washington. A number of issues have come to the attention of Senators through these hearings. This amendment addresses one of them.

Among the many military personnel I have head from during this process are Sergeant First Class Luis Rodriguez, his wife Lilliam, and their two young daughters. Sgt. Rodriguez, with the 101st Airborne, stationed out of Fort Campbell, and his family line in Clarksville, TN. When Sgt. Rodriguez and his family moved to Fort Campbell, they tried to get one of their daughters, who was 4 years old at the time, enrolled in their local Head Start program before Sgt. Rodriguez

was shipped out to Iraq. However, the Rodriguezes were informed that they couldn't access Head Start because they were over-income because of receiving the special pay. Sgt. Rodriguez left for Iraq and in November the truck he was driving in Mosul hit an improvised explosive device, and he lost most of his right leg. Currently, he is recovering down the road at Walter Reed Medical Center, and Lilliam is spending her time among traveling up here to see her husband, tending to her girls in Tennessee, and trying to help provide for her family. I am sure if you went to Walter Reed and talked to Lilliam or Luis, they would tell you that there is something wrong when those who wear our country's uniform and their families can no longer benefit from Head Start, the School Lunch Program, or some other federal program because they've become ineligible due to the additional special pay received when they're off in harm's way protecting our country.

I thank the distinguished chairman of the Armed Services Committee for his assistance in crafting this amendment. I look forward to continuing to work with the chairman on the issue of military families, and how best to help them shoulder the burdens they face.

We rely on our servicemen and women to defend our freedom and America's interests overseas, but at times, we forget that our soldiers have a support structure of their own: their families. We should do all we can to support our service members and their families in these tough times.

AMENDMENT NO. 3441

Mr. McCAIN. Mr. President, why is this amendment needed? Congressional guidance is needed where the Air Force's conduct on its Tanker Lease Program has, to date, been unacceptable.

First, the Air Force has provided Congress inaccurate information in an attempt to justify its original proposal to lease 100 Boeing KC–767As. For example, Air Force Secretary Jim Roche has repeatedly advised Congress that, in the existing KC–135 fleet, ''corrosion is significant, pervasive, and represents an unacceptable risk.'' Secretary Roche has also emphasized to Congress increased operating costs in the current fleet as a basis for entering into the tanker lease. Air Force leadership has indicated that these elements create an ''urgent'' need to recapitalize the fleet. However, a Defense Science Board, DSB, task force found that the Air Force's claims of unmanageable corrosion problems and cost growth were overstated.

Remarkably, the task force recommended that corrosion not be cited as a justification for tanker recapitalization. As such, the task force concluded that ''[t]here is no compelling material or financial reason to initiate a replacement program prior to the completion of the [Analysis of Alternatives (AoA)] and the [Mobility Capabilities Study (MCS)].'' Thus, the task force jettisoned the ''dominant reason'' Secretary Roche first cited in his July 10, 2003, report to Congress as the basis for having taxpayers pay billions of dollars more for leasing tankers than they would for buying them. The Air Force's representations on this issue remains a matter of continuing investigative concern.

In another example, to comply with the original authorizing statute, the Air Force misrepresented to Congress that its proposal to lease 100 Boeing KC–767 tankers was merely an operating lease. This would have obviated the requirement that the White House obtain advance budget authority for the whole lease proposal. But, the DOD-Office of the Inspector General, OIG, and Program Analysis and Evaluation, PA&E, as well as the Congressional Budget Office, CBO, and the General Accounting Office, GAO, found that the procurement of these tankers is, in fact, a lease-purchase. In addition, facts surrounding the original lease proposal made it clear that the transaction was a lease-purchase: under the original proposal, the Air Force conceded that the DOD is ''committed to earmark[ing] an additional $2B in fiscal year 2008 and fiscal year 2009 for the purchase of aircraft covered by the multiyear program under the terms of the proposed contract'' to head off a funding spike over the Future-Years Defense Program.

Second, the DOD–OIG and the National Defense University, NDU, concluded that the Air Force's commercial item procurement strategy ''prevented any visibility into Boeing's costs and required the Air Force to use a fixed-price type contract . . . The strategy also exempted [Boeing] from the requirement to submit cost or pricing data. The strategy places the Department at high risk for paying excessive prices and precludes good fiduciary responsibility for DOD funds.'' The NDU similarly concluded that ''[i]n a sole source, monopoly commercial environment, the government is not served well with limited price data'' and suggested that the Air Force neglected its fiduciary/stewardship responsibilities.

Third, the DOD–OIG and the NDU also concluded that the operational requirements document, ORD, for tankers was not tailored, as it should have been, to the requirements of the warfighter, but rather to closely correlate to the Boeing KC–767A. The DOD–OIG found that senior Air Force staff directed that the ORD closely correlate to the Boeing KC–767A that was being developed for a foreign government, in anticipation of the authorizing legislation. This is particularly troubling where, according to an internal Boeing document regarding the ORD, Boeing planned to ''[e]stablish clearly defined requirements in ORD for the USAF Tanker configuration that results in an affordable solution that meets the USAF mission needs and will prevent an AOA from being conducted.'' Under the current proposal, the first 100 tankers produced will not be capable of, among other things, interoperability with Navy, Marine, or coalition assets, or simultaneously refueling more than one receiver aircraft. Rear Adm. Mark P. Fitzgerald recently suggested that in theater, such a limitation restricts the Navy's long-range striking capability and fosters a needlessly risky aerial refueling environment.

Finally, documents suggest that the Air Force allowed Boeing to modify the requirements in the ORD while it was being developed. Documents also reflect that the Air Force induced the Joint Requirements Oversight Council, JROC, into approving and validating the corrupted ORD by falsely representing that it was not tailored to a specific aircraft. This is of continuing investigative interest to the Committee.

As I've described, the history of the Air Force's attempt to recapitalize its tanker fleet has been riddled with corporate scandal, public corruption and political controversy.

This amendment attempts to make sure that any effort by the Air Force to replace its fleet of tankers is done responsibly. The amendment achieves this by doing six things.

First, the amendment seeks to have the Secretary of Defense ensure that the Air Force Secretary not acquire any aerial refueling aircraft for the Air Force, by lease or contract, either with full or open competition, until at least 60 days after the Secretary of Defense has reviewed all documentation for the acquisition, including the completed AoA, the completed aerial refueling portion of the MCS, a new, validated capabilities document and the approval of a Defense Acquisition Board. And until the Secretary of Defense has submitted to the congressional defense committees a written determination that the acquisition is in compliance with all currently applicable laws and regulations.

Among the authorities with which the acquisition decision must comply is OMB Circular A–11, revised for 2003. In other words, without substantial private-party participation, any third-party financing arrangement, particularly those structured around a ''special purpose entity,'' will be deemed to be a transaction of the government. So, under OMB Circular A–11, the transaction must be reflected in the President's budget the year that obligations arising from it are incurred. The DOD–OIG, the Congressional Budget Office, the Congressional Research Service, and others have concluded that the proposed lease of tankers is a lease-purchase—for which renegotiation of the current contract or independent authorization may be required. Therefore, under OMB Circular A–11, budget authority would be needed for the entire obligation in the first year of the lease term.

Second, not less than 45 days after the Secretary of Defense submits this

determination, the Comptroller General and the DOD–OIG shall submit to the congressional defense committees a report on whether the acquisition complies with all currently applicable laws and regulations, as well as the requirements of the amendment itself, and is consistent with the AoA and the other documentation referred to in this amendment.

Third, the acquisition by lease or contract of any aerial refueling aircraft for the Air Force beyond low-rate initial production shall be subject to (and the Secretary of Defense will comply with) the requirements of sections 2366 and 2399 of title 10, United States Code.

Fourth, before selecting the provider of integrated support for the tanker fleet, the Secretary of Defense shall perform all analysis required by law of the costs and benefits of the alternative of using Federal Government personnel and contractor personnel to provide such support. The amendment also requires the Secretary to conduct all analysis required by law of the core logistics requirements, the use of performance-based logistics and the length of the contract period. The Secretary of Defense shall then select the provider on the basis of fair, full and open competition as defined by the Office of Federal Procurement Policy Act.

Fifth, before the Secretary of Defense commits to any acquisition of aerial refueling aircraft, the Secretary shall require the manufacturer to provide, with respect to commercial items covered by the lease or contract, information on the prices at which the same or similar items have been sold that is adequate for evaluating the reasonableness of the price for those, and other commercial, items.

Finally, the Secretary of the Air Force shall contact the DOD–OIG for the review and approval of any Air Force use of non-Federal audit services for any acquisition of aerial refueling aircraft.

A few notes about the amendment.

First, this amendment opens the process to oversight by getting the DOD–OIG, the DOD–Comptroller General, and the Defense Acquisition Board, DAB, actively involved in the process. Indeed, everyone who has independently looked into how the original proposal went through had major problems with the lack of transparency. For example, DAB was completely cut out of the process. As the NDU noted, if allowed to participate, the DAB would have exercised responsibility over the selection of a preferred system alternative, acceptance of the overall acquisition strategy, and compliance with applicable policies and statutes. This amendment deals the DAB back in the process to discharge its vital function in providing comprehensive senior management review.

As another example, under this amendment, the DOD–OIG will determine, among other things, whether the data provided by the aircraft and engine manufacturer is sufficient to determine the reasonableness of the price of those items. Coupled with the amendment's requirement that the DOD–OIG approve the Air Force's use of an outside auditor, the taxpayers' interests will be protected. Furthermore, I believe that the DOD–OIG's, the NDU's, and Institute for Defense Analyses' recommendations that the Air Force Secretary negotiate the price of the engines for the tankers with the engine manufacturers need to be implemented.

The bottom line here is this. The amendment does much to inject much needed sunlight in a program whose development has been largely insulated from public scrutiny. In so doing, the amendment allows us to discharge our oversight obligations the next time around on this multi-billion dollar procurement proposal, responsibly and effectively.

Second, the amendment gives the Secretary of Defense sufficient flexibility to pursue a lease only after, among other things, an AoA is completed. The Secretary has already committed to not going forward on replacing the current fleet until an AoA (and a MCS) are completed. While giving the Secretary appropriate flexibility, the amendment requires that the Air Force go through certain hoops to make sure that any acquisition of tankers in the future, is done the right way. These hoops were loosely drawn from the recommendations of the DOD–OIG, the DSB, and the NDU, whose input the Secretary specifically asked for. I will have printed a list of findings, conclusions, and recommendations by each at the end of this statement. They must all be fully considered before any decision to recapitalize the tanker fleet is made.

Third, it generally requires the DOD and the Air Force to do nothing more than comply with currently applicable statutes, regulations and OMB Circulars. Those who looked into the Air Force's conduct regarding the original proposal agreed that the Air Force did not comply extant statutory requirements. This amendment forces the Air Force to do that.

I ask unanimous consent that the list to which I referred be printed in the RECORD.

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

DEPARTMENT OF DEFENSE INSPECTOR GENERALS ACQUISITION OF THE BOEING KC–767A TANKER AIRCRAFT

RECOMMENDATIONS

Fully develop system engineering requirements to convert the commercial non-developmental aircraft into an integrated military configuration. Without fully developed system engineering requirements the Boeing KC–767A Tanker aircraft may not meet operational requirements for a 40-year service life as well as command, control, communications computers, and intelligence (C4I) support plan requirements, etc.

Tailor the first spiral or increment of the Operational Requirements Document (ORD) to warfighter requirements in the mission needs statement (MNS) for future aerial refueling aircraft not a specific aircraft. As a result, the first 100 KC–767A Tankers will not meet the operational requirement for interoperability and will not meet the mission capabilities in the Operational Requirements Document to conduct secondary missions, such as cargo/passenger, aeromedical evacuation mission, etc.

The Tanker Lease Program must comply with Sections 2366 and 2399 of title 10, United States Code for determining the operational effectiveness, suitability, and survivability of the Boeing 767A tanker aircraft before proceeding beyond low-rate initial production (LRIP). By not complying with the statutory provisions in Sections 2366 and 2399, the Boeing KC–767A tanker aircraft delivered to the warfighter may not be operationally effective, suitable, and survivable.

Discontinue the commercial item procurement strategy for the Boeing KC–767A Tanker Lease Program and replace fixed-price contracts for initial development, modification, and integrated fleet support with cost or fixed-price incentive type contracts that would require Boeing to provide cost or pricing data as appropriate.

Require that Boeing provide cost or pricing data for the Boeing 767–200ER aircraft, and require DOD to negotiate prices for aircraft engines directly with the engine manufacturers.

Require that the Air Force contact the Office of the Inspector General for the Department of Defense for review and approval of non-federal audit services in any lease or other contract.

Reduce the negotiated price calculated for integrated fleet support by $465 million for the misapplication of KC–10 support costs and ''performance aircraft availability.''

Perform statutory analyses of the costs and benefits of organic or contractor support, core logistics requirements, performance based logistics, and contract length before selecting a provider for integrated fleet support.

Not enter into the proposed lease for 20 Boeing KC–767A Tanker aircraft until after either obtaining new statutory authority to enter into a lease-purchase contract or renegotiating lease terms to meet Office of Management and Budget Circulars No. A–11 and A–94 requirements for an operating lease.

Determine whether leasing rather than purchasing 20 Boeing KC–767A Tanker aircraft represents the best value to the government.

Ensure the General Counsel of the Department of Defense review the limitation of earning clause and determine whether it creates a prohibited cost-plus-a-percentage-of-cost system of contracting and review clauses C–016 ''Aircraft Quantity,'' C–024 ''Anti-Deficiency Act,'' and C–103 ''Termination for Convenience—Pre-Construction Aircraft'' in the proposed contract to determine whether the contract clauses and audit rights provide sufficient controls to adequately define the extent of the Government's termination liability and to prevent a possible Anti-Deficiency Act violation if less than the full quantity of aircraft and fleet support years are leased and purchased.

Ensure that the Program Director, KC–767A System Program Office:

Establishes a process to develop a performance metric for verifying that the tanker aircraft will meet the 40-year service life requirement.

Revises the system specification for the proposed tanker aircraft to include a requirement for protective measures to control corrosion and to include requirements in the Operational Requirements Document (ORD)

for interoperability with other systems, integration of secure communications, and combat identification.

Completes the command, control, communications, computers, and intelligence support plan for the tanker aircraft; include it in the statement of work before award of the contracts and resolve issues identified before the system acceptance testing.

Ensure that the system specifications developed for the first spiral of the air refueling aircraft include at least all key performance parameters (KPPs) and that spiral two and three requirements are subsequently included in the first 100 and future aerial refueling aircraft.

Comply with the statutory provisions by conducting operational and survivability testing on production representative aircraft before committing to the production of all 100 Boeing KC–767A tanker aircraft.

DEFENSE SCIENCE BOARD TASK FORCE FINDINGS AND RECOMMENDATIONS ON AERIAL REFUELING

FINDINGS

Corrosion can be controlled.

KC–135 tanker Operation and Support (O&S) cost growth is not as large as was once projected. The Air Force overstated the case for an increase in these costs for KC–135 tankers.

The total requirement for tankers is uncertain; the Mobility Capabilities Study (MCS) needs to resolve this issue.

There is a need to embark on a tanker recapitalization program upon the completion of the Analysis of Alternatives (AOA) and the Mobility Capabilities Study (MCS); which doesn't necessarily mean acquiring new aircraft.

RECOMMENDATIONS

Do not use corrosion as a justification for tanker recapitalization.

Air Force has a robust corrosion control program.

Depot Major Structural Repairs (MSRs) appear to be decreasing.

Consensus view on corrosion is that it is manageable—DSB structural experts, commercial entities (i.e., FEDEX), other government entities (Department of the Navy (DON), U.S. Air Force 2001 Extended Service Life Study (ESLS), Congressional Research Service (CRS), General Accounting Office (GAO)).

Corrosion can be controlled with proper maintenance procedures to help reduce the cost of replacement.

Basic field level maintenance and inspection;

60-month (or shorter) cycle for depot maintenance;

Innovative procedures have reduced time in maintenance; and

Further improvements possible (i.e., sheltering, basing rotation, etc.).

It is acceptable to tolerate manageable growth in KC–135 Operation & Support (O&S) costs and defer major near-term recapitalization investments.

2001 USAF ESLS estimated—0.9% increase in O&S cost per year.

Corrosion is manageable.

Very recent USAF projection shows O&S peaked in FY04 and may turn down.

Update Tanker Requirements Study 05 (TRS05) to accommodate new tanker CONOPS.

Tanker Requirements Study 05 (TRS05) completed in FY01 was never promulgated.

TRS 05 concluded 500–600 tankers are adequate for current contingencies.

TRS 05 needs to be updated for changing tanker CONOPS.

Potential increases in requirements—''Efficiency tanking'' for loitering aircraft in kill boxes;

New planning scenarios;

Homeland defense needs—could this requirement be contracted out (i.e., Omega Air, etc.); and

Potential decreases in requirements (i.e., re-engining of B–52's, F–22/JSF CONOPS, etc.).

Consider 2001 Defense Science Board Task Force recommendation to re- engine KC–135Es and February 2004 Defense Science Board Task Force recommendation which reconfirmed value of B–52 re-engining: 10,000 mile mission (US to Afghanistan and return) would only require one refueling versus two; Fuel offload demand declines from 276K pounds to 118K pounds; and F–22/JSF capabilities may allow refueling on mission egress only.

No compelling material or financial reason to initiate a replacement program prior to the completion of the Analysis of Alternatives (AoA) and the Mobility Capabilities Study (MCS).

Resolve long-term requirements through a thorough Mobility Capabilities Study (MCS).

Consider the following near-term options: lease/buy a new tanker aircraft, re-engine the KC–135Es, convert retired commercial aircraft, encourage commercial sources for CONUS tanking.

Consider refurbishing KC–10's in the near-term:

FEDEX has converted retired DC–10s for use as cargo carriers with 20-year life for $25–$30 million per aircraft. Northwest Airlines is flying 22 DC–10s with average cycles less than 20,000.

The design service goal for DC–10s is 42,000 cycles. There are 37 large DC–10s currently in the desert with average cycles of only 18,500 cycles. Cost to refurbish KC–10s in the desert is $1–$7 million.

Aerial refueling capability installation costs based on the Institute for Defense Analyses (IDA) estimate is $20M per airframe.

We should replace the 63 remaining KC–135Es with 25 refurbished KC–10s. Dutch KDC–10 tanker conversion total cost approximately $30–$45M each. One KC–10 is the equivalent of 2.4 KC–135Es equivalents.

Consider a potential hybrid recapitalization tanker program:

Consider retiring 61 KC–135Es in the near-term, under the USAF plan and make the KC–135E tanker aircraft available to commercial entities for use as commercial tankers for CONUS missions such as training and homeland defense operations.

Phase out the remaining 63 KC–135E tankers by FY 2011 and replace them with converted KC–10s by leveraging the mothballed DC–10s in the desert and the Northwest Airlines fleet.

Work with major airframe manufacturers to develop new tanker options with more modern airframes versus the more than 20-year old Boeing 767 design.

INDUSTRIAL COLLEGE OF THE ARMED FORCES, NATIONAL DEFENSE UNIVERSITY TANKER LEASE PROGRAM ACQUISITION ''LESSONS LEARNED'' OR ''THE INNOVATOR'S DILEMMA''

FINDINGS

The enactment of Section 8159 of the FY 2002 Appropriations Act authorized a previously unarticulated requirement and specified the use of an operating lease, when it should not have done so.

The DOD budget process was by-passed with considerable risk, especially with the lost opportunity of vetting legitimate competing needs and beginning to identify total tanker program costs.

Leases, by their very nature, cost more than purchases.

The Operational Requirements Document (ORD) was not capabilities-based, as it should have been. Contractor selection was a foregone conclusion and was tailored to the Boeing 767 in the Joint Requirements Oversight Council (JROC) based on perceived guidance in the FY 2002 Appropriations Act, Section 8159.

There is a need to establish a definitive, consistent early requirements statement addressing warfighter needs founded on substantive analysis—this was not done in the Tanker Lease Program.

A program that operates in a sole source, commercial environment is especially hard pressed to carry out its charge of ensuring the government receives a fair price.

Defense program personnel do have adequate tools or training to obtain the fullest understanding of relevant commercial buying practices in acquisition of military items.

Innovation requires top-level management's constant involvement including direction, consultation and responsibility plus timely and frequent meetings of the empowered and the informed.

It should be clear that certain regulatory/statutory requirements were waived in the Tanker Lease Program: testing, independent cost estimates, Analysis of Alternatives, DAB approval, etc.

The Leasing Review Panel (LRP) was not a substitute for the Defense Acquisition Board (DAB).

RECOMMENDATIONS

Although leasing is not a preferred strategy, if DOD would pursue a lease, it needs to publish more explicit guidance on leasing in acquisition policy directives and the FAR/DFAR, at a minimum, to include the requirement to:

Formulate an early, transparent, comprehensive acquisition processes to be utilized and those to be bypassed with an assessment of associated internal and external risks.

Develop an early definitive, consistent requirements statement founded on substantive analysis and supported by a subsequent Analysis of Alternatives (AOA).

Establish an acceptable lease financing plan supported by an independent cost estimate (i.e., DOD IG, Comptroller General, etc.)

Develop a plan to maximize competition.

In all cases, convene a Defense Acquisition Board to provide for comprehensive senior management review.

DOD needs to understand when and how commercial buying practices are appropriate to satisfy military needs, if ever.

There is a need to establish procedures or authority to require both cost and pricing data for significant sole source, commercial leases or where supplier monopoly power is present. The government is not well served with only price data, particularly in a monopoly-monopsony relationship. Absent real competitive market forces, one cannot rely on pricing data to determine the appropriateness of a transaction. Legitimate monopolies are regulated by detailed cost data and prices are set on that basis. To do otherwise is to place too great a reliance for fair dealing on profit maximizing firms and to ignore the reality that firms appropriately act in their best interest.

Regardless of the foregoing, due diligence and fiduciary/stewardship responsibilities cannot be waived.

Ensure that an Analysis of Alternatives (AOA) is completed: A less than rigorous exploration/evaluation of alternative solutions than a formal Analysis of Alternatives (AOA) is unsatisfactory. There is no such thing as an ''informal'' AOA.

Authors of innovation need to develop action plans to ''accommodate'' those internal

and external stakeholders who have a legitimate interest or say in the program. Ignoring such stakeholders, even if allowed by an appropriations act or management direction, is done with some peril and consequence as the stakeholders' unanswered or discounted objections may be encountered later as the program progresses.

There is no one, uniform commercial market. Each market has unique features that must be understood in order to obtain the best contract conditions, tailored to each buyer's needs.

Ensure the Leasing Panel focuses on ways and means of leasing.

The Tanker Lease Program should be approved by a Defense Acquisition Board (DAB) in accordance with DOD regulations.

A Defense Acquisition Board (DAB) would have exercised responsibility over the substantive acquisition review issues such as: The selection of the preferred system alternative; acceptance of the overall acquisition strategy; compliance with policy and statute; and would have required a substantial review and documentation to support analyses.

Relying on Section 8159 of the FY 2002 Defense Appropriations Act, the USAF/DoD bypassed many elements of the ''normal'' acquisition system. The Tanker Lease Program system solution and the acquisition strategy (i.e., Boeing 767 & operating lease scenario) were foregone conclusions based on Section 8159 of the FY 2002 Appropriations Act. The Leasing Review Panel was not an adequate substitute for the Defense Acquisition Board (DAB), which was never convened. Furthermore, the Leasing Review Panel (LRP) never recommended the lease of 100 Boeing 767 tankers.

DOD needs to follow cost and pricing guidelines.

There should be discussion and debate, within DOD, whether a realistic price was arrived at.

The government should not have very limited cost and pricing data.

The government should expend considerable time and resources to acquire commercial pricing analysis skills.

The Tanker Lease Program approved by DOD made only limited use of considerable government buying power and leverage to obtain maximum discounts.

DOD needs to utilize competitive processes, including negotiating directly with the engine manufacturer for engines, the contractor logistics support (CLS) function and the tanker modification. The USAF appeared to rely on Section 8159 of the FY 2002 Appropriations Act for commercial sole source authority. Competitive processes were not used in the February 2002 RFI to Boeing and EADS (also a finding of the DOD IG), because there was informal information gathering, and little expectation that Congress would allow leasing of Airbus aircraft. Competitive processes were not used June 2002 for the JROC briefing and the Operational Requirements Document (ORD) was written for a specific aircraft. (i.e., Boeing KC–767) and not based on the best capabilities for the warfighter.

Publish explicit DOD guidance on leasing to include policy directives and the FAR/DFAR.

Innovation requires more, not less up-front planning (e.g., development of an acquisition strategy establishing work-arounds for processes, requirements and stakeholders that are planned to be by-passed.)

Establish procedures to require both cost and pricing data on sole source or monopoly, commercial leases.

Big ticket acquisitions is a public process, despite the level of innovation, managers must always exercise good stewardship and fiduciary responsibility—this was not the case in the Tanker Lease Program.

It is prudent, at a minimum, to develop a full operational testing plan, to perform a much more substantive analysis of alternatives, and to do an independent cost estimate based on cost, not price.

Mr. LEAHY. Mr. President, I rise today to speak about a very simple amendment that everyone should support. This amendment requires the Inspector General of the Department of Defense, DOD–IG, in consultation with the Inspectors General of the State Department and the CIA, to conduct a comprehensive investigation into the programs and activities of the Iraqi National Congress, INC.

Over the last 10 years, we have seen funds from the United States Government spent in highly questionable, if not fraudulent, ways including money spent on oil paintings and health club memberships. But this is only the tip of the iceberg. A number of serious questions remain unanswered. Here are a couple of examples:

First, the INC spent millions in setting up offices around the world, including London, Prague, Damascus, and Tehran. The State Department's internal documents indicate that they really had no idea of what was happening in some of these offices—especially Tehran. In light of the recent press reports about INC intelligence sharing with Iran, I think the DOD–IG should take a look at this issue and see what was happening in the Tehran office. We need to get to the bottom of this.

Second, the INC spent millions to set up radio and television broadcasting inside Iraq. The radio program seemed redundant as the U.S. Government was, at the time, funding Radio Free Iraq. A New York Times article questioned the effectiveness of the TV broadcasting program. Kurdish officials indicated that, despite repeated attempts, they could never pick up the INC's TV broadcast inside Iraq. This, again, raises questions about how this money was being spent. The IG should examine this issue. We need to get to the bottom of this.

Third, the INC's Information Collection Program—funded initially by the State Department and later by the Defense Department—continues to be a source of controversy and mystery. I have a memo written by the INC to Appropriations Committee staff, detailing the INC's Information Collection Program. In this memo, the INC claims to have written numerous reports to senior administration officials, who are listed in this memo, on topics including WMD proliferation. The administration disputes this claim. Again, we need to get to the bottom of this.

I could go on and on. However, in the interest of time, I will simply say that there are many serious unanswered questions about the INC's activities. What was the INC doing with U.S. taxpayer dollars? What was going on in the Tehran office? Did the Information Collection Program contribute to intelligence failures in Iraq? Were the broadcasting programs at all effective in gathering support for U.S. efforts in Iraq?

To be sure, there have been a few investigations into INC. However, these have been incomplete offering only a glimpse of what occurred. A few years ago, the State Department Inspector General issued two reports the INC. But these reports only covered $4.3 million and examined only the Washington and London offices. The State Department IG informed my office yesterday that these are the only two audits they conducted and have no plans to conduct future audits on this issue.

A GAO report, published earlier this year, summarized the different grant agreements that the State Department entered into with the INC, but this report did not attempt to answer the myriad questions that remain about the INC.

Another GAO report is underway, but this looks only at the narrow question of whether the INC violated U.S. laws concerning the use of taxpayer funds to pay for publicity or propaganda.

Finally, according to press reports, the Intelligence Committee is looking into a few issues related to the INC. My amendment is consistent with these investigations. The DOD–IG does not have to re-invent the wheel. It can build off this existing body of work to answer questions that will remain long after these investigations have been completed.

My amendment is about transparency. My amendment is about accountability. My amendment is about getting to the bottom of one of the most mismanaged programs in recent history. Most importantly, my amendment is about learning from our mistakes so we do not repeat them in the past. I urge my colleagues to support my amendment.

AMENDMENT NO. 3399, AS MODIFIED

Mr. FEINGOLD. Mr. President, I thank the chairman and the ranking member of the Armed Services Committee for working with me to accept this amendment, which represents a first step toward enhancing and strengthening transition services that are provided to our military personnel. I also thank my cosponsor, the Senator from Maine, Ms. SNOWE, for her contributions to this amendment.

As we debate the Department of Defense authorization bill today, thousands of our brave men and women in uniform are in harm's way in Iraq, Afghanistan, and elsewhere around the globe. These men and women serve with distinction and honor, and we owe them our heartfelt gratitude.

We also owe them our best effort to ensure that they receive the benefits to which their service in our Armed Forces has entitled them. I have heard time and again from military personnel and veterans who are frustrated with the system by which they apply for benefits or appeal claims for benefits. I have long been concerned that

tens of thousands of our veterans are unaware of Federal health care and other benefits for which they may be eligible, and I have undertaken numerous legislative and oversight efforts to ensure that the Department of Veterans Affairs makes outreach to our veterans and their families a priority.

While we should do more to support our veterans, we must also ensure that the men and women who are currently serving in our Armed Forces receive adequate pay and benefits, as well as services that help them to make the transition from active duty to civilian life. I am concerned that we are not doing enough to support our men and women in uniform as they prepare to retire or otherwise separate from the service or, in the case of members of our National Guard and Reserve, to demobilize from Active Duty assignments and return to their civilian lives while staying in the military or preparing to separate from the military. We must ensure that their service and sacrifice, which is much lauded during times of conflict, is not forgotten once the battles have ended and our troops have come home.

For those reasons, last month, I introduced the Veterans Enhanced Transition Services Act, VETS Act, which would improve transition services for our military personnel. My legislation would help to ensure that all military personnel receive the same services by making a number of improvements to the existing Transition Assistance Program/Disabled Transition Assistance Program, TAP/DTAP, and to the Benefits Delivery at Discharge program, by improving the process by which military personnel who are being demobilized or discharged receive medical examinations and mental health assessments, and by ensuring that military and veterans service organizations and State departments of veterans affairs are able to play an active role in assisting military personnel with the difficult decisions that are often involved in the process of discharging or demobilizing.

I am pleased that my original legislation is supported by a wide range of groups that are dedicated to serving our men and women in uniform and veterans and their families. These groups include: the American Legion; the Enlisted Association of the National Guard of the United States; the Paralyzed Veterans of America; the Reserve Officers Association; the Veterans of Foreign Wars; the Wisconsin Department of Veterans Affairs; the Wisconsin National Guard; the American Legion, Department of Wisconsin; Disabled American Veterans, Department of Wisconsin; the Wisconsin Paralyzed Veterans of America; the Veterans of Foreign Wars, Department of Wisconsin; and the Wisconsin State Council, Vietnam Veterans of America. I will continue to work with these and other veterans and military organizations on these important issues.

The amendment that I am offering today on behalf of myself and Senator SNOWE is based on that legislation. This amendment will require the General Accounting Office, GAO, to undertake a comprehensive analysis of existing transition services for our military personnel that are administered by the Departments of Defense, Veterans Affairs, and Labor and to make recommendations to Congress on how these programs can be improved.

This study will focus on two issues: how to achieve the uniform provision of appropriate transition services to all military personnel, and the role of postdeployment and predischarge health assessments as part of the larger transition program.

I have heard from a number of Wisconsinites and members of military and veterans service organizations that our men and women in uniform do not all have access to the same transition counseling and medical services as they are demobilizing from service in Iraq, Afghanistan, and elsewhere. I have long been concerned about reports of uneven provision of services from base to base and from service to service. All of our men and women in uniform have pledged to serve our country, and all of them, at the very least, deserve to have access to the same services in return.

This amendment will require GAO to conduct an analysis of transition programs, including a history of how the programs were intended to be used when they were created and how they are being used now; whether the programs adequately address the specific needs of military personnel, including members of the National Guard and Reserve; and how transition programs differ among the services and across military installations. The GAO will also be required to make recommendations on how these programs can be improved, including an analysis of additional information that would be beneficial to members participating in transition briefings.

Under current law, the Department of Defense, together with the Departments of Veterans Affairs—VA—and Labor, provide preseparation counseling for military personnel who are preparing to leave the service. This counseling provides service members with valuable information about benefits that they have earned through their service to our country such as education benefits through the GI Bill and health care and other benefits through the VA. Personnel also learn about programs such as Troops to Teachers and have access to employment assistance for themselves and, where appropriate, their spouses.

Currently, participation in this program is encouraged, but not mandatory. Thus, most of the responsibility for getting information about benefits and programs falls on the military personnel themselves. Participation in preseparation counseling through a TAP/DTAP program is a valuable tool for personnel as they transition back to civilian life. The Department of Defense should make every effort to ensure that all members participate in this important program, and my amendment would require the GAO to analyze participation rates and make recommendations on how the Department of Defense could better encourage participation, and whether participation in a transition program should be mandatory.

In addition, GAO would be required to make recommendations on any information that should be added to the transition briefings, such as information on procurement opportunities for veterans with service-connected disabilities and for other veterans. I thank the Senator from Maine, Ms. SNOWE, the chairman of the Small Business Committee, for making the important point that Federal law requires that a certain percentage of contracts be awarded to firms owned by veterans with service-connected disabilities. Additionally, the Small Business Administration and other agencies administer programs to make all veterans aware of procurement opportunities. I agree with her that the transition process is a commonsense place to make these personnel aware of these opportunities. For that reason, our amendment also requires that the Department of Defense include information about these contracting opportunities in its transition program.

The amendment would also require the GAO to study how the transition programs administered by the VA and by the Department of Labor fit into this transition effort. This analysis would include a discussion of the joint DOD–VA Benefits Delivery at Discharge program, which assists personnel in applying for VA disability benefits before they are discharged from the military. This very successful program has helped to cut the redtape and to speed the processing time for many veterans who are entitled to VA disability benefits.

In addition, under current law, the Secretary of Defense may make use of the services provided by military and veterans service organizations as part of the transition process. But these groups tell me that they are not always allowed access to transition briefings that are conducted for our personnel. For that reason, this amendment would require GAO to include an analysis of the participation of military and veterans service organizations in preseparation briefings, including recommendations on how the Department of Defense could make better use of representatives of veterans service organizations who are recognized by the Secretary of Veterans Affairs for the representation of military personnel in VA proceedings.

The demobilization and discharge process presents our service members with a sometimes confusing and often overwhelming amount of information and paperwork that must be digested and sometimes signed in a very short period of time. The opportunity to

speak with fellow veterans who have been through this process and who have been accredited to represent veterans in VA proceedings by the VA can be invaluable to military personnel as they seek to wade through this maze of paperwork. These veterans can offer important advice about benefits and other choices that military personnel have to make as they are being discharged or demobilized. I commend the Senator from Louisiana, Ms. LANDRIEU, for offering an amendment which has already been accepted to this bill that reaffirms the importance of allowing veterans service organizations to participate in transition briefings and that also encourages their involvement in counseling members of the National Guard and Reserve who have been demobilized. The Landrieu amendment is consistent with provisions in my legislation, the VETS Act, and I am pleased that the Senate has gone on record in support of allowing these dedicated members of our veterans service organizations, who have taken the time to get accredited by the Secretary of Veterans Affairs in order to counsel and represent their fellow veterans, to participate in transition briefings.

In addition to the uneven provision of transition services, I have long been concerned about the immediate and long-term health effects that military deployments have on our men and women in uniform. I regret that, too often, the burden of responsibility for proving that a condition is related to military service falls on the personnel themselves. Our men and women in uniform deserve the benefit of the doubt, and should not have to fight the Department of Defense or the VA for benefits that they have earned through their service to our Nation.

Part of the process of protecting the health of our men and women in uniform is to ensure that the Department of Defense carries out its responsibility to provide postdeployment physicals for military personnel. I am deeply concerned about stories of personnel who are experiencing long delays as they wait for their postdeployment physicals and who end up choosing not to have these important physicals in order to get home to their families that much sooner. I am equally concerned about reports that some personnel who did not receive such a physical—either by their own choice or because such a physical was not available—are now having trouble as they apply for benefits for a service-connected condition.

I am pleased that the underlying bill contains a provision that would require postdeployment physicals for military personnel who are separating from Active-Duty service. I firmly believe, as do the military and veterans groups that support my VETS Act legislation, that our men and women in uniform are entitled to a prompt, high quality physical examination as part of the demobilization process. These individuals have voluntarily put themselves in harm's way for our benefit. We should ensure that the Department of Defense makes every effort to determine whether they have experienced—or could experience—any health effects as a result of their service.

I am also pleased that the Senate has already adopted an amendment offered by the Senator from New York, Mrs. CLINTON, and the Senator from Missouri, Mr. TALENT, that will help to improve the medical readiness of our men and women in uniform and to ensure their health is monitored before, during, and after deployments so that there is a record of any service-connected conditions or exposures.

Building on this effort, my amendment would require the GAO to include in its study of transition services an analysis of the use of postdeployment and predischarge health screenings and whether and how these screenings and the transition program could be integrated into a single, coordinated preseparation program for military personnel who are being discharged or released from active duty. The analysis would also include information on how postdeployment questionnaires are used, the extent to which military personnel waive physical exams, and how and the extent to which personnel are referred for followup health care.

I am also concerned about the implementation of current law with respect to the current requirement that postdeployment medical examinations include a mental health assessment. Our men and women in uniform serve in difficult circumstances far from home, and too many of them witness or experience violence and horrific situations that most of us cannot even begin to imagine. These men and women, many of whom are just out of high school or college when they sign up, may suffer long-term physical and mental fallout from their experiences and may feel reluctant to seek counseling or other assistance to deal with their experiences.

We can and should do more to ensure that the mental health of our men and women in uniform is a top priority, and that the stigma that is too often attached to seeking assistance is ended. To that end, this amendment requires that GAO include in its analysis a discussion of the current process by which mental health screenings are conducted, followup mental health care is provided for, and services are provided in cases of posttraumatic stress disorder and related conditions in connection with discharge and release from active duty. This will include an analysis of the number of persons treated, the types of interventions, and the programs that are in place for each branch of the Armed Forces to identify and treat cases of PTSD and related conditions.

As part of its study on these important issues, GAO is directed to obtain views from the Secretary of Defense and the Secretaries of the military departments; the Secretaries of Veterans Affairs and Labor; military personnel who have received the transition assistance programs covered by this study and personnel who have declined to participate in these transition programs; representatives of military and veterans service organizations; and persons with expertise in health care, including mental health care, provided under the Defense Health Program, including personnel from the Departments of Defense and Veterans Affairs and persons in the private sector.

Finally, in response to concerns I have heard from a number of my constituents, this amendment also directs the Secretaries of Defense and Labor to jointly report to Congress on ways in which DOD training and certification standards could be coordinated with Government and private-sector training and certification standards for corresponding civilian occupations.

Again, I thank the chairman and the ranking member of the committee for working with me to include these provisions in the bill. I will continue to work to ensure that we provide those serving in our Armed Forces with the help they need and deserve in making the often-difficult transition back to civilian life.

MILITARY HOUSING PRIVATIZATION

Mr. CHAMBLISS. Mr. President, I rise today to discuss a very important matter to me, to my home State of Georgia and to our Nation's military. A few years ago this Congress authorized the military housing privatization initiative. This program, which brings to bear private sector experience and financial strength to improve the quality of life for our soldiers, sailors, airmen, Marines and their families, has been a resounding success. To date, the U.S. Armed Forces have privatized over 60,000 housing units, leveraging more than $10 for every Government dollar invested. Out-dated, and World War II era, housing is being replaced with modern homes and amenities that our servicemen and women so richly deserve. This process is taking place across the country, from Camp Pendleton Marine Corps Base in California to Fort Bragg in North Carolina to Fort Benning, GA.

However, there is an issue which threatens the livelihood and progress of this program and which the Congress must act now to address. The way the Congressional Budget Office is scoring expenditures for this program causes the program to exceed the authorized spending cap. The CBO scoring assumes that the Government guarantees and the management of the housing projects in question have direct budget implications. However, military families sign leases and rent the units and private companies assume the investment risk, so the CBO scoring, incorrectly in my opinion, treats these costs as an obligation on behalf of the Government. I believe we need to either significantly raise the current cost cap for the program or eliminate it entirely in order to make available an

adequate funding stream to see this important project through to completion.

The Department of Defense has established a master plan which will privatize approximately 160,000–170,000, or over 70 percent, of existing family housing units. Currently, DoD is about half way towards completing that goal. We should allow this well-functioning program to continue for the benefit of our men and women in uniform, and we should follow the traditional scoring guidelines which we have used for the past 5 years in order to accurately determine the actual costs.

I thank the Chair for the opportunity to discuss this very important issue, and I look forward to working with my colleagues in the relevant committees to resolve this situation in a positive manner.

Mr. FEINGOLD. Mr. President, I support passage of this year's Defense authorization bill because it contains many provisions that our brave men and women in uniform need and deserve. But before I go into the details of why I am supporting this legislation, I must first thank the members of the United States Armed Forces for their service to our country. They are performing admirably under difficult circumstances all over the world. Our soldiers, sailors, airmen, and Marines, along with their families, are making great sacrifices in service to our country. I am voting for this legislation to support these people who are serving the country with such courage.

I strongly support the 3.5 percent across-the-board pay raise for military personnel that this bill provides. We must make sure that our professional military is paid a fair wage. This bill also makes permanent the increase in family separation allowance and imminent danger pay, another important policy for our men and women in uniform. Once again, I was proud to support the expansion of full-time TRICARE health insurance for our National Guard and Reserve. The reserve component is being used more than at any other time since World War II. Forty percent of our troops in Iraq are reserve component troops. These citizen soldiers face additional burdens when they transition in and out of their civilian life and providing them and their families with TRICARE is one way we can ease those burdens.

Another aspect of this bill that I strongly support is the increased funding for force protection equipment. Last year, concerned Wisconsinites contacted my office telling me that they or their deployed loved ones were fighting for their country in Iraq without the equipment they needed. This situation is unconscionable. I have repeatedly pressed the Pentagon to fix this situation and I and my colleagues went a long way in addressing these shortages in the supplemental spending bill for Iraq and Afghanistan. The $925 million for additional up-armored HUMVEES and other ballistic protection as well as the $600 million in force protection gear and combat clothing in this bill above what was in the President's proposed budget further ensures that our troops have the equipment they need to perform their duties on the ground.

I am pleased that the Senate approved my amendment to ensure that the Inspector General for the Coalition Provisional Authority will continue to oversee U.S. reconstruction efforts in Iraq after June 30 of this year as the Special Inspector General for Iraq reconstruction. The American taxpayers have been asked to shoulder a tremendous burden in Iraq, and we must ensure that their dollars are spent wisely and efficiently. Today, the CPA is phasing out, but the reconstruction effort has only just begun. As of mid-May, only $4.2 billion of the $18.4 billion that Congress appropriated for reconstruction in November had even been obligated. With multiple agencies involved and a budget that exceeds the entire foreign operations appropriation for this fiscal year, U.S. taxpayer-funded reconstruction efforts should have a focused oversight effort. My amendment will ensure that the Inspector General's office can continue its important work even after June 30, rather than being compelled to start wrapping up and shutting down while so much remains to be done. This is good news for the reconstruction effort, and good news for American taxpayers.

I also want to thank the chairman and the ranking member of the Armed Services Committee for working with me to accept the amendment that I offered with the Senator from Maine, Ms. SNOWE, which represents a first step toward enhancing and strengthening transition services that are provided to our military personnel. This amendment will require the General Accounting Office to undertake a comprehensive analysis of existing transition services for our military personnel that are administered by the Department of Defense, Veterans Affairs, and Labor and to make recommendations to Congress on how these programs can be improved. This study will focus on two issues: how to achieve the uniform provision of appropriate transition services to all military personnel, and the role of post-deployment and pre-discharge health assessments as part of the large transition program. I very much look forward to reviewing the results of this study.

The Senate version of the Defense authorization bill also includes a provision finally fulfilling a goal for which I have been fighting for years—making sure that every State and territory has at least one Weapons of mass Destruction Civil Support Team, WMD–CST. I was delighted earlier this year when Wisconsin was chosen as one of 12 States to receive a WMD–CST authorized and appropriated for in FY2004, but I was also disappointed that the President's proposed budget for FY2005 included funding for only 4 of the 11 outstanding teams. I, along with 28 of my colleagues, wrote the Senate Armed Services Committee chairman and ranking member asking them to fully fund all 11 remaining teams. The chairman and ranking member have been very supportive of my efforts in this area over the years, and I thank them again this year for funding all 11 remaining WMD–CSTs.

This authorization bill addresses the grave threat our Nation faces from unsecured nuclear materials. It includes $409 million for the Cooperative Threat Reduction program and $1.3 billion for the Department of Energy nonproliferation programs. I was also proud to cosponsor the amendment offered by Senator DOMENICI and Senator FEINSTEIN that authorizes the Department of Energy to secure the tons of fissile material scattered around the world. This bipartisan initiative aims to dramatically accelerate current efforts to the world. This bipartisan initiative aims to dramatically accelerate current efforts to secure this dangerous material so that it cannot fall into the hands of those who aim to harm us. Time is of essence, and I was pleased to hear that the administration is fully supportive of this efforts through the Global Threat Reduction Initiative.

I also voted for an amendment offered by Senator REED that boosts the Army's end strength by 20,000. I did so because it has become clear that the Army is currently overstretched, and I believe that we need to ensure readiness to handle threats in the future. A recent Brookings Institution report says that the military is being stretched so thin that if we don't expand its size, it could break the back of our all-volunteer Army. One does not have to support all of the deployment decisions that brought us to this point today to see that we need to have the capacity to handle multiple crises with sufficient manpower and strength. I do not take lightly the decision to lock in a significant increase in spending. The need is great, however, and the deliberative defense authorization process, not the emergency supplemental process, is the place to do it.

I must note that, unfortunately, this bill has many of the same problems that I've been fighting to fix for years. Once again, we are spending billions upon billions of dollars for weapons systems more suited for the Cold War than the fight against terrorism. I was very disappointed that the Senate did not agree to Senator LEVIN's amendment that would have used a small percentage of the over $10 billion authorized for missile defense for critical unfunded homeland defense needs. This amendment, which I cosponsored, would have used $515.5 million now slated for additional untested interceptors and spent it instead on the top unfunded Department of Defense homeland defense priorities, research and development programs, radiation detection equipment at seaports, and

other important defenses against terrorism. Budgeting is about setting priorities and I am sad to say that when the Senate failed to adopt Senator LEVIN's amendment, it missed a golden opportunity to adjust its priorities in order to face our country's most pressing threat—the threat of terrorism.

I was disappointed that the Senate failed to reduce the retirement age for those in the National Guard and Reserve from 60 to 55. Our country has placed unprecedented demands upon the Guard and Reserve since September 11, 2001, and will continue to do so for the foreseeable future. Considering the demands we are placing on them, it is time that we lower the Guard and Reserve's retirement age to the same level as civilian Federal employees.

Although my support for reducing the reserve component retirement age has been unwavering, because of the significant budgetary impact of this measure I had hoped that Congress would first receive reviews of reserve compensation providing all of the information that we need to address this issue responsibly. I patiently waited for several studies on this issue, including by the Defense Department, but when the studies came out they called for further study. This matter cannot continue to languish unaddressed indefinitely. As retired U.S. Air Force Colonel Steve Strobridge, government relations director for the Military Officers Association of America, MOAA, put it, ''It is time to fish or cut bait.'' I agree with MOAA's analysis that, ''Further delay on this important practical and emotional issue poses significant risks to long-term (Guard and Reserve) retention'' and I was proud to vote for the amendment offered by the Senator from New Jersey, Mr. CORZINE.

I also believe that the Senate missed an opportunity to provide a small but needed measure of relief to military families when it failed to adopt my Military Family Leave Act amendment. This amendment would have allowed a spouse, child, or parent who already qualifies for Family and Medical Leave Act, FMLA benefits—unpaid leave—to use those existing benefits for issues directly arising from the deployment of a family member. The Senate adopted a similar amendment by unanimous consent when I offered it to the Iraq supplemental spending bill. This amendment has the support of the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, the National Military Family Association, and the National Partnership for Women and Families.

I regret that a harmful second degree amendment was offered to my amendment and that I was not given the opportunity to have a straight up or down vote. Rather than taking up the Senate's time in a protracted debate about the second degree amendment, I withdrew my amendment so that this important Defense authorization bill could move forward. However, the need addressed by my amendment remains, and I will continue to fight to bring some relief to military families that sacrifice so much for all of us.

I want to bring attention to another element of the Defense Authorization bill that raises concerns for me. The Defense Authorization bill includes language that raises troop caps in Colombia from 400 to 800 military personnel and from 400 civilian contractors to 600. I am disappointed that Senator BYRD's amendment was not approved by the Senate, which would have limited the increases in these caps to the levels established by the bill. Most importantly, I worry about placing more Americans in harm's way in Colombia. Further deployments bring greater risks to an already overstretched military. We do not want to risk being drawn further into Colombia's civil war—certainly not without a thorough debate that the American people can follow. In addition, many of my constituents and I remain concerned that by raising these caps, the U.S. devotes greater resources to the military side of the equation in Colombia without balancing our approach through greater support for democratic institutions, increasing economic development, and supporting human rights.

There are other provisions in this bill with which I disagree, and the Senate rejected a number of amendments that would have made this bill better. However, on balance this legislation contains many good provisions for our men and women in uniform and their families and that is why I will vote for it.

Mr. MCCAIN. Mr. President, I strongly support the passage of S. 2400, the National Defense Authorization Act for Fiscal Year 2005. This legislation funds $422.2 billion for defense programs, which is a 3.4 percent increase or $20.9 billion above the amount approved by Congress last year. I commend the bill managers, Senators WARNER and LEVIN, for their leadership both in the Committee and on the floor these past weeks. This is a very important bill, and I am pleased we are about to proceed to final passage.

Yesterday, I had a lengthy statement on the Boeing 767 Tanker Lease Program so I will not take up more of the Senate's time now, except to say that the amendment that was included in this bill is critical because congressional guidance is needed where the Air force's conduct on its Tanker Lease Program has, to date, been unacceptable. With regard to the Boeing 767 Tanker Lease Program, the Department of Defense and the Air Force leadership have obfuscated, delayed, and withheld information from Congress and the taxpayers. Therefore, the tanker amendment attempts to make sure that any effort by the Air Force to replace its fleet of tankers is done responsibly. We should expect no less from the Air Force.

The adopted amendment does much to inject needed sunlight on a program whose development has been largely insulated from public scrutiny. It will allow us to discharge responsibly and effectively our oversight obligations the next time around on this multi-billion dollar procurement proposal.

The men and women of our nation's Armed Forces put their lives on the line every day to protect the very freedoms we as Americans hold dear. It is our obligation to provide key quality of life benefits to the members of our military. Great strides will be made by this bill towards accomplishing that goal. For example, this bill authorizes a 3.5 percent across-the-board pay raise for all military personnel. It also repeals the requirement for military members to pay subsistence charges while hospitalized, and adds $7.8 million for expanded care and services at the Walter Reed Amputee Patient Care Center. Also included in the legislation is a permanent increase in the rate of family separation allowance from $100 per month to $250 per month as well as a permanent increase in the rate of special pay for duty subject to hostile fire or imminent danger from $150 per month to $225 per month.

We continue to be increasingly reliant on the men and women of our Reserve forces and National Guard. In fact, 40 percent of all the ground troops in Iraq and Afghanistan are composed of National Guard and Reserve forces as well as nearly all of the ground forces in Kosovo, Bosnia, and the Sinai. Many of these soldiers and sailors leave behind friends, families, and careers to defend our Nation. Accordingly, it is the responsibility of policy makers to ensure that we look after the needs of these patriots. Included in the legislation is the authorization for full medical and dental examinations and requisite inoculations when reservists mobilize and demobilize as well as a new requirement for pre-separation physical examinations for members of the reserve component. This provision is critical to maintain, and in some circumstances, will help to increase the readiness of the Total Force.

The Senate also adopted an important amendment to authorize an increase in the size of our Army by 20,000. This increase is absolutely vital in our Army's ability to carry out its mission in the Global War on Terror. There is no shortage of evidence supporting an increase in Army end strength. Recently, the Army pulled 3,600 troops out of South Korea to fill critical needs in Iraq. The Army is also looking to deploy to Iraq the 11th Armored Calvary Regiment. This is an elite unit that serves in desert training exercises. In addition, for the first time in over 10 years, the Army is pulling people out of the Individual Ready Reserve to fill critical needs. The Department of Defense should be able to move troops around as needed to address critical needs, however, in this instance, we are sacrificing our readiness on the Korean

peninsula because we do not have enough soldiers serving in the Army.

After returning home for a short period of time, soldiers and Marines are already making preparations for their second tour in Iraq or Afghanistan in as many years. This is not good for morale, this is not good for retention, this is not good for readiness, and this is not good for the soldier's families. Eventually, recruitment will be seriously affected by these trends.

Additionally, the Army recently announced a new stop-loss policy. While I certainly recognize the Army's authority and necessity to issue stop loss orders, their issuance in this instance is yet another reason why we need to increase the size of the Army. For all the benefits in group cohesion that results from extended tours, the Army will be facing a serious crisis when it comes time for these soldiers to reenlist on their own accord. I am concerned about the effect that these stop-loss orders will have on the morale of our Army. While I still do not believe that we need a draft, we do need to increase the size of the Army to carry out important defense missions.

These are some aspects of this legislation that I do not support. For example, once again, this bill lent the opportunity for protectionist Buy America amendments. In a similar fashion as last year, the Senate had to beat back an amendment that sought to protect parochial interests at the cost of our defense industry and American jobs. It seems as if every year, we fight the same fight on the Senate floor.

A sound policy which the Senate has adopted in the past is that we need to provide American servicemen and women with the best equipment at the best price for the American taxpayer. This is the policy we need to continue to follow.

The international considerations of this amendment are immense. such an isolationist, go-it-alone approach would have serious consequences on our relationship with our allies. Furthermore, our country is threatened when we ignore our trade agreements. Currently, the U.S. enjoys a trade balance in defense exports of 6-to-1 in its favor with respect to Europe, and about 12-to-1 with respect to the rest of the world. We don't need protectionist measures to insulate our defense or aerospace industries. If we stumble down the road of protectionist policies, our allies will retaliate and the ability to sell U.S. equipment as a means to greater interoperability with NATO and non-NATO allies would be seriously undercut. Critical international programs, such as the Joint Strike Fighter and missile defense, would likely be terminated as our allies reassess our defense cooperative trading relationship.

On another important policy consideration, the Senate also successfully defeated an amendment aimed at canceling the upcoming BRAC round. BRAC has taken on a new significance in the War against Terror. Never has there been a time in recent memory when it has been more important not to waste money on non-essential expenditures. To continue to sustain an infrastructure that exceeds our strategic and tactical needs will make less funding available to the forces that we are relying on to destroy the international network of terrorism.

The Department of Defense has come out with very fair and reasonable criteria used to select what bases are chosen for BRAC. I have every confidence the Secretary of Defense will carry out this round of BRAC in a just and consistent manner. Sooner or later, surplus bases must be closed. Delaying or canceling BRAC would only make the process more difficult and painful than need be. The sooner the issue is addressed, the greater will be the savings that will ultimately go toward defense modernization and better pay and benefits for our hard-working service members.

I understand some of my colleagues may be concerned about the potential negative effects a base closure may have on their local economy. Previous base closure rounds have had many success stories. For example, after England Air Force Base closed in 1992, Alexandria, LA, benefited from the creation of over 1,400 jobs—nearly double the number of jobs lost. Across the U.S., about 60,000 new jobs have been created at closing military bases. At bases closed more than 2 years, nearly 75 percent of the civilian jobs have been replaced. This is not to say that base closures are easy for any community, but it does suggest that communities can and will continue to thrive.

Americans are blessed with nearly limitless freedoms and liberties. In exchange for all our country gives to us, it does not demand much in return. Yet throughout our history, millions of people have volunteered to give back to their nation through military service. The selfless acts of courage and sacrifice made by the men and women in our armed services have elevated our Nation to the greatness we enjoy today.

America is defined not by its power but by its ideals. One of the great strengths of the American public is the desire to serve a cause greater than our own self interest. All too often, our younger generations are accused of selfishness and an unwillingness to sacrifice. I disagree. I see generations of people yearning to serve and help their fellow citizens. Each year, thousands of our young Americans decide to dedicate a few years or even a full career to protecting the rights and liberties of others. They often do this with very real risks to their lives. They volunteer to do this not for profit, nor for self-promotion, but out of a sense of duty, service, and patriotism.

I urge my colleagues to support this important legislation.

Mr. WARNER. Mr. President, I wish to thank so many who made possible the next vote. First, our leadership and the members of our committee, our committee staff, and particularly my distinguished ranking member, with a special thanks to both the Democratic whip and the Republican whip for their special time on the floor.

I ask for the third reading of the bill.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be 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. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''yea.''

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—97

Akaka	Dole	Lott
Alexander	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Bunning	Graham (SC)	Reed
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lieberman	
Dodd	Lincoln	

NOT VOTING—3

Brownback	Kerry	Sununu

The bill (S. 2400) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. WARNER. 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.

Mr. WARNER. Mr. President, I ask unanimous consent that S. 2400 as amended be printed as passed.

The PRESIDING OFFICER. Without objection.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration en bloc of S. 2401 through S. 2403—Calendar Order Nos. 504, 505 and 506; that all after the enacting clause of those bills be stricken and the appropriate portion of S. 2400, as amended, be inserted in lieu thereof, according to the schedule which I am sending to the desk; that these bills be advanced to third reading and passed; that the motions to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

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

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The bill (S. 2401) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2005

The bill (S. 2402) to authorize appropriations for fiscal year 2005 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2005

The bill (S. 2403) to authorize appropriations for fiscal year 2005 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 as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. WARNER. Mr. President, with respect to H.R. 4200—Calendar Order No. 537—the House-passed version of the National Defense Authorization Act for Fiscal Year 2005, I ask unanimous consent that the Senate turn to its immediate consideration; that all after the enacting clause be stricken and the text of S. 2400, as passed, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the Senate insist on its amendment to the bill and request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees; that the motion to reconsider the above-mentioned votes be laid upon the table; and that the foregoing occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, we are not prepared to go to conference tonight. We will consult with some of our colleagues tomorrow morning, and we certainly have no intention of delaying conference. But it is our hope that we will have an opportunity to consult a little bit more about some of the issues we expect to be raised.

For that purpose, I object to the portion of the request which would allow the conference to begin.

The PRESIDING OFFICER. Objection is heard.

Without objection, H.R. 4200, as amended, is passed.

Mr. WARNER. Mr. President, that concludes the matters addressing the bill. I thank the leadership of both sides, members of our committee, and the wonderful, fine staff we have, particularly my staff, Mrs. Ansley, and my good colleague over here, my partner for these 26 years we have been in the Senate. Guess we landed another one, not necessarily in record time. Our calculation is 16 legislative days. So perhaps we have set something of a record as the days were fairly consecutive.

I thank the chief of staff sitting here. Thank you, Captain.

Mr. LEVIN. Mr. President, as always, the Senate is very much in the debt of our chairman, JOHN WARNER, an extraordinary human being and leader. This could not have happened without his leadership.

My staff, Dick Debobes, and all of our minority staff deserve extraordinary credit for getting this done. It would have taken twice as long but for our staff. I don't know—16 legislative days. It would have been double that number of days but for our staff, Judy Ansley and her staff. We thank them. Our staff worked together on a bipartisan basis. The Nation and our men and women in the Armed Forces owe them a huge debt. It is our staff—they will never know the names of our staff, probably, but they will be safer, more secure, better trained, better equipped, and have better benefits because of the work of our staff and the members of our committee who worked on a bipartisan basis under the leadership of JOHN WARNER.

Again, I take my hat off to our chairman. He has really done a wonderful job on this bill. It took a little longer than expected, but again we worked through a huge number of amendments, perhaps a record number of amendments.

Mr. WARNER. I thank my friend. These many years we have worked, really, as partners, and achieved one of the highest degrees of bipartisanship in the discharge of our respective responsibilities, together with the staffs.

Mr. LEVIN. Mr. President, we would not be at this point in our deliberations were it not for the extraordinary work and cooperation on a bipartisan basis of all of our committee members and all of our committee staff. Once again, our Committee and the Senate have put the interests of our country first and we all can be very proud of that.

I take just a moment to acknowledge and thank the minority staff members of the Committee on Armed Services for their extraordinary work on S. 2400, the National Defense Authorization Act for Fiscal Year 2005. You don't get to final passage of this massive and important bill without having staff who are willing to give hours and hours of hard work and make many personal sacrifices. The committee and the Senate are so fortunate to have men and women of their expertise and dedication so ably assisting us on this bill. Rick DeBobes leads our minority staff of seventeen. Though small in numbers, they all make huge contributions to the work of the committee each and every day. Mr. President, as a tribute to their professionalism and with my thanks, I recognize Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Rick DeBodes, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Creighton Greene, Jeremy Hekhuis, Bridget Higgins, Maren Leed, Gary Leeling, Peter Levine, Mike McCord, Bill Monahan, and Arun Seraphin.

Mr. WARNER. Mr. President, I ask unanimous consent to have the names of staff printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES

Judith A. Ansley, Charles W. Alsup, Michael N. Berger, June M. Borawski, Leah C. Brewer, Alison E. Brill, Jennifer D. Cave, L. David Cherington, Marie Fabrizio Dickinson, Regina A. Dubey, Andrew W. Florell, Brian R. Green, William C. Greenwalt, Ambrose R. Hock, Gary J. Howard, Jennifer Key, Gregory T. Kiley, Thomas L. MacKenzie, Elaine A. McCusker, Lucian L. Niemeyer, Cindy Pearson, Paula J. Philbin, Lynn F. Rusten, Joseph T. Sixeas, Scott W. Stucky, Diana G. Tabler, Richard F. Walsh, Bridget E. Ward, Nicholas W. West, and Pendred K. Wilson.

Mr. WARNER. I am happy at this time to yield the desk back to the majority leader. I hope I never see this again for another year.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I think the most recent tribute by each of the managers to each other is yet another illustration of the kind of bipartisanship that is so routinely achieved in the Armed Services Committee. Thanks for the extraordinary leadership and effort of