

If the leadership of the Pentagon thinks that "defense transformation" means getting Congress to stick its head in the sand, count me out. My idea of transformation means spending smarter to build a stronger military, not turning a blind eye to Executive Branch power grabs.

It is our fault. I can understand how the executive branch seeks to grab power. The executive branch is operating 24 hours a day every day, 365 days a year. Everywhere its imprint is seen throughout the globe, Congress sleeps.

The flexibilities in this bill are the antitheses of accountability. For each new "flexible authority" that Congress hands over to the Secretary of Defense—any Secretary of Defense—Congress signs away one more lever that should be used to compel the Secretary to build a smarter defense plan.

The Commander in Chief beats his chest and throws down the gauntlet, saying, "Bring them on," in front of the TV cameras, but pictures of the fallen dead coming home to Dover are not allowed.

Oh, we don't want to display the pictures of bringing back the caskets at Dover, DE. No. The American people must not see that side of the war. This is a stubborn course that we have chosen that could tie down our forces in Iraq for months and months and months, and years even to come, and it is a course that I oppose today. It is a course I have opposed from the beginning. This ill-advised invasion and occupation of a Middle Eastern country stands to sap—sap—our military power through the attrition of our brave men and women in uniform. The effects of such a toll could affect our national security for decades to come.

The United States cannot afford to shelve—to place on the shelf—efforts to leap forward a generation in military power by investing in a smarter defense plan. If our country does not prioritize efforts to change our military to respond to the asymmetric warfare of the 21st century—whether those threats emanate from North Korea, or a belligerent China, or Iran—the long-term toll of the adventure in Iraq could weaken our military for years to come, just as our Armed Forces were found to be hollow in the years after Vietnam.

I will vote against the conference report to the Defense authorization bill. It transfers vast unchecked powers to the Defense Department while avoiding any break with the business-as-usual approach to increasing defense spending. It dodges the most important issues facing our national defense posture, and I cannot support such a bill.

I yield the floor. 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

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#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will proceed to the consideration of the conference report to accompany H.R. 1588, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 1588, an act to authorize appropriations for fiscal year 2004 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes equally divided prior to a vote on the conference report.

Mr. REID. Madam President, if the manager will yield, it is my understanding the leadership is going to extend the time for the vote another 10 minutes.

Mr. WARNER. Madam President, the distinguished minority leader is correct that the time has been extended. The vote is to occur, I understand, at 2:45. The 30 minutes intervening is under the control equally of the distinguished Senator from Michigan, Mr. LEVIN, and myself.

Mr. REID. Madam President, I ask consent that that be the order. We have a caucus going on now.

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

Mr. WARNER. Madam President, I encourage any and all Senators who desire to address this bill to avail themselves of the opportunity. To the extent that I have control over the 15 minutes, I am happy to accommodate Senators as they come to the floor.

I yield such time as the distinguished Senator may require. I hope it will be around 5 or 6 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I apologize to our distinguished chairman for not having been down here during this discussion. As he well knows, I chair the Environment and Public Works Committee. I am proud to say we were able to get a bill out, the reauthorization bill. I feel very good about that. It will be coming to the floor. It is a good compromise but it required my attendance.

I want to be on record to say that our chairman and the ranking member have done a very good job. We have

worked closely together during the development of the authorization bill. We are making great headway. We are turning in the right direction. I particularly applaud those who participated in the ultimate compromise that we agreed on having to do with the lease program, the 767s. We all understand we have a crisis in our tanker fleet. Our KC-135s are getting old and there is controversy over how much longer they can be used. Nonetheless, our pilots who are performing this significant mission of refueling need to have the very best. We are addressing that problem.

In the area of TRICARE, we have made some advancements that are long overdue. I know in my State of Oklahoma, we probably have one of the highest populations of retired military, many of them in Lawton and scattered throughout the State. I know there are very serious concerns we have gone a long way to meet.

Environmental issues bother me a great deal, and maybe I am more concerned about what has happened to our ability to train our troops, because I happen to also chair the Environment and Public Works Committee. So we deal with the environmental issues.

But it is very disheartening when you go down to your part of the country and see what has happened in some of the endangered species programs and how we are addressing those.

In Fort Bragg, in Camp Lejeune, for example, we are spending such an inordinate amount of money protecting the suspected habitat of the red-cockaded woodpecker that it is having a very deteriorating effect on our ability to train. This is something that does concern me greatly, and we are starting to address that, I know, in relation to the issue of endangered species. We have clarified the law that is going to perhaps, hopefully, stop some of the injunctions that have been taking place. I think we are making some progress there.

I am glad we are addressing end strength—not as much as I would like to or our chairman would like to because this is a compromise situation, but we have to recognize that we allowed our end strength to deteriorate, in terms of numbers, to the point that we are OPTEMPO of our regular services, we are OPTEMPO for our Guard and the Reserves. It is at an unacceptable high rate.

I do not think there is one Member of this Senate who does not go home and talk to his Guard and Reserve units, only to find out that critical MOS, military occupation specialties, are being lost because they are just overworked. You cannot expect someone who is in a citizens militia to have to be full time. Essentially, that is what is happening right now.

So we are starting to address that, and I think we need to go much further in the future. When I see that we did have a problem all during the 1990s, that I articulated on this Senate floor,

when we had a lowering in the amount of attention that was given to our military in terms of end strength, in terms of modernization, in terms of national missile defense, these things were very disturbing to me. I know we are now recognizing it.

I hate to say it in this way, but I really think those who subscribe to the idea—or did subscribe to the idea prior to 9/11—that the cold war is over and we need not have the size military we once did are just dead wrong. I look wistfully back at those days when we knew what our enemies had. We had one major superforce out there, and that superforce was predictable.

Now we have the proliferation of both weapons of mass destruction throughout the world and the delivery system. We know what countries have a delivery system that could reach us here in Washington, DC. We need to make up for what was lost during that period of time.

Lastly, I would agree with Secretary Rumsfeld who at one of our earlier meetings suggested that throughout the entire 20th century, the percentage of our GDP that went to defense was about 5.7 percent, and that dropped down in the 1990s to about 2.7 percent. We are up to 3.4 percent approximately.

I think we need to stop and rethink that as an overall picture of a plan for the future, perhaps it should be somewhere around 4, 4.5, or 5 percent because the nature of the threat that is out there is more expensive. I think we need to address it. So I think this bill goes a long way in that direction.

I am very pleased with the product we have. We have a long way to go, and I hope we can join hands and do that in the future.

Again, I applaud our chairman and the ranking member for the efforts they have put forth in making this legislation a reality.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank my distinguished colleague for his steadfast service on our committee these many years, and particularly in this past year when we were confronted with a number of very serious issues. And I recognize the consideration of this conference report coincides with his markup in the Environment and Public Works Committee on which I am privileged to serve with him. But, I say to the Senator, you manage to do both quite well.

Mr. INHOFE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank Senator INHOFE also for his service, his work on the committee. He travels to visit with our troops. He is totally dedicated to our troops and the national defense. I thank him for his kind words, but also for that commitment.

#### SECTION 336

Mr. HATCH. Mr. President, I was hoping that my friend, the distin-

guished chairman of the Armed Services Committee, might yield for a question.

Mr. WARNER. I would be happy to yield to my friend.

Mr. HATCH. As I was reading the Defense authorization bill, I noticed that under section 336, entitled "Pilot Program for Best-Value Source Selection for Performance of Information Services," the conference committee had modified the normal examination procedures for determining the source, either public or private, for the performance of information technology services. My question therefore is: Does section 336 modify, change or interfere, in any way with provisions of Title 10 §2460, §2464, or §2466 commonly referred to as "Core" and "50/50"?

Mr. WARNER. I thank the Senator for his question. The answer is no. It was not the intent of the conference committee to make any modification to Title 10 §2460, §2464, and §2466 which address the requirements for the Department of Defense to maintain an organic core logistics capability and ensure that at least 50 percent of depot level maintenance is performed by employees of the Department of Defense. The Department of Defense must still abide by these statutory provisions when they make any decision or action provided for in section 336.

Mr. HATCH. I thank the Senator for that answer.

#### TANKER PROVISION

Mr. MCCAIN. Madam President, I would like to review with my colleagues section 135 of the National Defense Authorization Act for fiscal year 2004. Under the leadership of Senate Armed Services Committee Chairman WARNER, and Ranking Member LEVIN, Congress recently agreed to modify the manner in which the Air Force may acquire Boeing 767 aerial refueling tankers. This compromise is contained in section 135.

In the words of Chairman WARNER on October 23, 2003, this compromise sought to put this program back into the traditional budget, procurement, and authorization process. Section 135 replaces the current authorization for the Air Force to lease 100 aircraft, with an authorization for the Air Force to lease no more than 20 tankers, and to buy no more than 80 aircraft using multiyear procurement authority and incremental funding. The original proposal to lease 100 tankers would have cost taxpayers \$6.7 billion more than buying them outright, according to the Congressional Budget Office.

Mr. WARNER. The Senator from Arizona's understanding is correct. By providing for the lease of only 20 planes, and by putting the bulk of this acquisition back into the traditional budget, procurement and authorization process, this compromise is estimated to save taxpayers over \$4 billion.

I would like to take this opportunity to correct the legislative record. In a colloquy in the House among Chairman HUNTER and Congressmen DICKS and

TIAHRT, it was stated that this compromise codified an agreement with the administration as set forth in a November 5, 2003, letter to me from Deputy Secretary Wolfowitz. For the record, the compromise does not endorse or codify any such agreement. The compromise is intended to ensure that Defense Department acquires tankers in a manner that meets its own needs, but also the needs and interests of taxpayers. While the Air Force maintained that its original lease proposal achieved this goal, it clearly did not. I fully expect the Defense Department to execute the terms of this compromise in a manner that fully protects American taxpayers' interests.

Mr. MCCAIN. I am grateful to the Senator from Virginia for his leadership on this issue. Three of the four defense committees that were required to approve the original proposal to lease 100 tankers, did so without sufficiently examining the proposal or its effects on taxpayers. It was the Senate Armed Services Committee that put the brakes on that costly and misguided procurement plan.

By buying those tankers that it requires rather than leasing them, the Air Force can realize very significant savings. The Air Force can avoid paying the cost of borrowing the funds from the private market to build and acquire the planes, as originally proposed. The Air Force can also avoid paying the lease-specific costs that were apparently included in the price that it had previously agreed to pay for the tankers. Documents we have reviewed suggest that these lease-specific costs could be as high as \$5.5 million per tanker. Arranging for a purchase of the tankers will also allow the Defense Department to question many of the other terms and conditions of the Air Force's original lease proposal, such as the maintenance and training costs, and whether the planes we are buying should be FAA-certified.

Mr. WARNER. I thank the Senator from Arizona for his steadfast leadership and vigilance on this critical issue. There could be no doubt as to the Senator's sincerity in always protecting the interests of taxpayers.

Mr. NICKLES. Mr. President, I commend the Senators from Arizona and Virginia for their leadership on this important issue. When the Air Force's original proposal to lease 100 tankers looked like a done deal a couple of months ago, both of these Senators stood up and made us consider the proposal in ways that we likely would not have, but for their commitment for the interests of both the warfighter and the taxpayer. In so doing, we now have before us, among other things, Section 135 of the National Defense Authorization Act for Fiscal Year 2004. As I understand this provision, the Air Force will be authorized to use the special non-confirming lease methodology to lease no more than 20 tankers, and buy the balance, not to exceed 80, under a

multiyear procurement/incremental funding methodology.

Mr. MCCAIN. The Senator is correct.

Mr. NICKLES. The Senator's rationale for agreeing to this compromise, whereby the total number of tankers to be leased was reduced by 80 percent, relied on the Congressional Budget Office's conclusion that the fewer planes that the Air Force leased, the greater the savings to taxpayers.

Mr. MCCAIN. The Senator is correct. The intent was to maximize savings to taxpayers. If the Defense Department, in the words of Senator WARNER, puts this program in the traditional budget, procurement, and authorization process, the taxpayer will see significant savings.

Mr. NICKLES. I understand that the Congressional Budget Office has concluded that if the Air Force implements the compromise by acquiring the tankers under two separate contracts, gets budget authority at the time it orders its planes, and pays progress payments, taxpayers will see \$5.3 billion in savings over the Air Force's original proposal to lease 100 tankers.

Mr. MCCAIN. Yes. On the other hand, if the Air Force executes under a single contract—presumably under the current proposed contract—and pays at delivery, taxpayers will see savings cut nearly in half, according to Congressional Budget Office estimates. Unfortunately, I have every reason to believe that the Air Force will proceed in this manner, which fundamentally belies the compromise proposal. By proceeding accordingly, the Air Force succeeds in deferring having to make hard budget decisions to acquire tankers it says it "urgently" needs. Boeing locks the Air Force into a contract to acquire 100 tankers, and the investment bank gets its cut for setting up any financing and providing other financial services associated with the deal. All of this is done at an unnecessarily high cost to taxpayers—just as under the original proposal.

Mr. NICKLES. I agree. If the Defense Department proceeds accordingly, namely under the current contact, it will be attempting to meet its priorities through very many of the same convoluted means that were proposed under the original agreement—means that would cost more than necessary, thereby further increasing the deficit to unnecessarily high levels. Unfortunately, in the absence of a guarantee from the Defense Department that it will not implement Section 135 as suggested by the Defense Deputy Secretary's letter of November 5, 2003 and the recent colloquy in the House, I share your concern.

Additionally I want to reinforce your statement that it is not the intention of Congress, nor does this legislation reflect an agreement for the Air Force Secretary to implement the current contract on acquiring 100 tankers. We have heard testimony and the Institute of Defense Analysis has reported, and I

quote, "We believe that the \$120.7 million is a conservative, robust estimate of a reasonable purchase price for the KC-767A aircraft . . . and . . . should satisfy Boeing and its shareholders." We should not agree to a purchase price of \$138.4 million which is significantly higher, because it includes lease unique costs.

I take the opportunity to highlight for our colleagues that the Congressional Budget Office has scored this transaction as an \$18 billion direct purchase, requiring full budget authority up front. Ordinarily, under these circumstances, I would make a budgetary point of order. I will not raise that point of order now. But, what I will do is call upon the Secretary of Defense to implement the compromise provision in a way that accurately reflects the intent of the conference—acquire its tankers for the Air Force in a way that maximizes savings to taxpayers. It is anomalous that the Congress would have intended to have taxpayers see only half the savings and not touch the \$6.4 billion maintenance and training contract—a contract that was never competed for. In the spirit of compromise, under Section 135, the Congress has provided the Department with tools to acquire the tankers responsibly and in a way that protects the interests of taxpayers.

At the end of the day, whatever legislation comes out of this body, the administration is responsible for implementing it as the Congress intended. After months of investigation, inquiry and debate, there can be little doubt that the intent here is to best protect the interests of the taxpayer.

Mr. MCCAIN. I thank the Senator for his continuing, active concern on this most important issue.

Mr. FITZGERALD. Mr. President, I understand that preliminary estimates suggest that buying no more than 80 tankers in a way that avoids lease-specific costs could save taxpayers as much as \$5.3 billion over the Air Force's original proposal to lease 100 tankers.

Mr. MCCAIN. The anticipated savings under the compromise as described in Section 135 of the National Defense Authorization Act for Fiscal Year 2004 are very significant. The original proposal to lease 100 tankers was extraordinarily costly, and the compromise allows us to avoid those costs. For example, the original proposal would have had us pay \$7.4 million per plane in private construction financing costs. The compromise provides for the Air Force to make progress payments to build the planes, and in so doing, to avoid this significant and unnecessary cost.

One of the reasons that the compromise authorizes the Air Force Secretary to use incremental funding to buy no more than 80 tankers is to allow the Air Force to get the tankers it needs in a manageable way that protects taxpayers.

Senator WARNER has said that, contrary to the statements of our House

colleagues, the compromise does not codify or endorse the tanker acquisition plan that Deputy Secretary Wolfowitz described in his November 5, 2003, letter. The reason the compromise does not codify this approach is because paying for the tankers on delivery as the Deputy Secretary proposes could be very costly and could dramatically slash the savings that this compromise intends to provide—an outcome that is unacceptable.

Mr. FITZGERALD. As I stated during a Commerce Committee hearing on September 2, 2003 regarding this issue, the original lease transaction is nothing more than a complex, byzantine transaction that obscured the true cost of the tankers, reduced the transparency of the arrangement, and would unnecessarily cost American taxpayers billions of dollars. I commend the Senator from Arizona for his watchful eye over the negotiation and execution of this tanker deal. I also commend Senators WARNER and LEVIN for brokering the compromise agreement and putting the public interest ahead of a powerful special interest.

Mr. HATCH. Mr. President, today I rise in support of the fiscal year 2004 Defense authorization conference report. This report is not only a tribute to the Congress's hard work, in particular that of my good friend, Chairman JOHN WARNER, but it is also a reaffirmation of our commitment to meet the challenges of this War on Terror.

The conference report contains a number of provisions designed to alleviate some of the burdens placed on our fighting men and women. For example, I am proud to state that the report deals directly with a concern of many service members, including Utah National Guard and Utah-based Reserve families, by continuing payment through December 31, 2004, of special pay for duty while subject to hostile fire or imminent danger in the amount of \$225 a month and \$250 a month for family separation allowance. Additionally, all service members will receive at least a 3.7 percent pay raise. In order to help retain our mid-career service members, their pay will be increased between 5.25 and 6.25 percent. The burden for many of our Reserve forces will also be lifted regarding healthcare. The report provides TRICARE coverage for members, and their families, of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve, if they do not already have health insurance.

Keeping our word to our Nation's veterans is vital to maintaining the honor of our country. No other issue is as important to our veterans as that of concurrent receipt, that is, simultaneously paying veterans a military pension and providing them with disability benefits. Under the current law, many veterans' retirement pay is reduced or offset dollar-for-dollar for any disability benefit they receive. Unfortunately, proposals to remedy this situation remain controversial due to cost. Therefore, I must commend and congratulate

Chairman WARNER once again for devising a compromise plan that boldly expands upon his previous efforts by providing full concurrent receipt for those veterans suffering disabilities from combat or combat-related operations and by phasing in this benefit, over a 10-year period for those retirees whose disability is rated at 50 percent or greater.

This legislation is also important because it reaffirms our transformation policy. Many at home will ask what is "transformation" and what does it mean to the future of our Nation's military? Simply put, transformation is a process of reform that will revolutionize the way the military conducts operations. We saw a glimpse of this emerging reality during the Iraqi conflict where information was gathered from a variety of sensors, whether on the ground or in the air, and that information was transmitted very quickly to commanders who could then exploit the weakness of our enemy. It was a remarkable operation and it reflects the high level of competence and expertise of our Nation's service men and women.

This Defense bill will accelerate transformation and ensure that our forces maintain their decisive edge. It is an important accomplishment and the chairman, ranking minority member and all the members of the committee deserve our thanks. Their efforts to make military transformation a reality have led them to fund the research and development of such revolutionary systems as the Army's Future Combat System, or FCS. FCS will allow our forces to deploy an army brigade anywhere in the world within 96 hours. The DDX and the Littoral Combat Ship will also be revolutionary in their stealth characteristics, automation systems, and command and control capabilities. The committee is also continuing its support for the Joint Strike Fighter, which will bring a stealth fighter to all of our air and naval/marine air forces.

That being said, I was disappointed to see that the President's request for full funding of the F/A-22 did not occur, although the report did authorize the President's request for the procurement of 22 F/A-22s. This is a system that is a transformational aircraft at its core. The F/A-22's supercruise engines allow for extended supersonic flight—a magnitude longer than its after-burner predecessors. Using stealth capabilities, the F/A-22 is able to penetrate an opponent's airspace and engage enemy aircraft at great ranges. Additionally, unlike our current air superiority fighter the F-15C, the F/A-22 will be able to engage integrated surface-to-air missile systems. Once again using stealth technology, the F/A-22 will be able to approach these missile sites and destroy them, utilizing internally carried GPS-guided bombs. The F/A-22, using this bombing capability, will also have the ability to track and launch attacks against

ground-fixed and mobile targets. However, the truly transformational aspect of the aircraft is that it can accomplish all of these missions almost simultaneously. Paraphrasing the Air Force's motto, no aircraft comes close to the F/A-22's capabilities. I cannot say how proud I am and the rest of the State of Utah is that the sustainment and maintenance work on this extraordinary aircraft will be handled at Hill Air Force Base/Ogden Air Logistics Center.

I am also grateful that the committee was able to maintain the momentum toward transformation regarding our industrial policies. Instead of reverting to a protectionist posture, the report enables the Department of Defense and Congress to gather information on this issue. I believe that as the cost of research and development of our Nation's weapons systems continues to grow that it will become increasingly in our interests to harness the strengths of other nations in joint ventures. The future belongs to programs such as the Joint Strike Fighter, where the United States has been joined by the United Kingdom, Canada, the Netherlands, Italy, Turkey, Singapore and Israel to develop this stealthy and capable aircraft that will protect the forces of freedom at an affordable price. I commend the committee for its foresight on this matter.

As I close, once again I wish to congratulate my colleagues on the Armed Services Committee, especially Chairman WARNER, on this fine piece of legislation. It was a hard road, but once again the committee has risen to the challenge and supported our men and women in uniform. The Nation is in their debt.

Mr. HOLLINGS. Mr. President, I rise today to commend the chairman and ranking member of the Armed Services Committee for bringing the 2004 Defense Authorization Conference Report to the floor today. The conference report before us comes at a critical time in our national history with our troops engaged in conflict throughout the world.

The committee's leaders have demonstrated patience and grace under pressure, navigating a difficult legislative process. I know firsthand how difficult this process can be; I have walked a mile in their shoes. I have served as the chairman of the Committee on Commerce, Science, and Transportation and now serve as its ranking member. It is in this capacity that I rise to express my dismay to learn that the bill agreed to by the conference committee includes significant changes to legislation under Commerce Committee jurisdiction—the Marine Mammal Protection Act, MMPA. The changes include modifications to some of the most fundamental standards providing protection of marine mammals under the MMPA.

I am proud to have been one of the original authors of the MMPA back in 1972. Overall, it has worked extremely

well in balancing the need to protect marine mammals while allowing other important activities, including the defense of our Nation, to move forward.

I firmly believe that the U.S. is capable of having both the strongest military force in the world, and at the same time, some of the best conservation laws of any country. I have been a great supporter of our Nation's military, having served on the Defense Appropriations Subcommittee for three decades.

The Committee on Commerce, Science, and Transportation, on which I currently serve as the ranking member, has jurisdiction over issues relating to marine mammals, including authorizations for and oversight of the MMPA. The Commerce Committee plans to take up reauthorization of the entire MMPA this Congress. Towards this effort, we have held hearings and numerous briefings with the many different entities who have an interest in the MMPA, including the Department of Defense, the National Oceanic and Atmospheric Administration, NOAA, the Fish and Wildlife Service, private industry, the scientific research community, and nongovernmental organizations. Many of these entities have offered comments, including some serious concerns, with respect to the MMPA language now included in the DOD authorization bill.

I regret to say that many of the provisions included in the bill before us simply don't make sense. For example, we have had testimony from respected scientists this year in hearings before our committee, as well as before the Senate Armed Services Committee, that the standard for "harassment" of marine mammals, now included in this bill, is scientifically indefensible. Moreover, some of the provisions included in the bill go far beyond DOD activities, including all research done by or on behalf of the Federal Government. Although no changes to the MMPA were in the bill that passed the Senate, the Senate leadership on the conference committee apparently felt that such changes would be acceptable.

The National Marine Fisheries Service, which along with the Fish and Wildlife Service, implements the MMPA, estimates that about 38 percent of all of the "small take" permits that it has issued under the MMPA were issued to the Department of Defense. That is over one-third of all such activities, and we know that there are numerous other defense activities for which no permit has even been sought. Yet not once did the leadership of the Senate Armed Service Committee reach out to consult with me or my staff on these provisions that will affect over one-third of the activities that it regulates.

We still plan to take up reauthorization of the MMPA in our committee, and we still have oversight of its implementation. I intend to work with my colleagues on the committee to carefully monitor how these changes are

interpreted, to ensure that activities that could have real impacts on marine mammals do not fall off the radar screen, as it were. MMPA was written the way it was because we are still learning about how various activities may impact marine mammals. We must ensure that under these new standards, the lack of perfect science is not used as a basis to avoid the mitigation of potential impacts.

Mrs. MURRAY. Madam President, as we work to complete the Defense authorization bill, we are reminded of our obligation to the brave men and women of our military. They are protecting us at home and abroad.

Congress must make sure they have the equipment and resources they need.

Two years ago, our country was attacked. Suddenly, we have to project sustained military force around the world, and we had to protect our skies at home—and we had to do it quickly.

But as our tanker fleet embarked on more than 30,000 air refueling missions, we found that our 43-year-old tanker fleet was outdated, too often down for repairs, and too expensive to maintain.

This conference report provides the Air Force with the ability to begin recapitalizing this crucial fleet, with 100 new KC-767 air refueling tankers. These tankers will enable our air crews to do their jobs more effectively, more efficiently and more safely.

Success has many authors, and I thank my colleagues, including: Chairman WARNER and Senator LEVIN for their vigilance on this issue and their willingness to work with my Senate colleagues and me to ensure the Air Force gets these 100 tankers: Senators STEVENS, INOUYE, CANTWELL, ROBERTS, BROWNBACK and CONRAD for their unwavering support for this program over the last 2 years; and, on the House side, I thank Congressmen DICKS, LARSEN, and MURTHA, as well as Chairman HUNTER and Speaker HASTERT.

Fairchild Air Force Base outside of Spokane, Washington is home to the 92nd Air Refueling wing.

I have been to Fairchild. I have visited with the families and talked with the brave men and women who fly these tankers. I know the difficult missions these crews handle for each of us every day.

I promised to give them the best equipment we could, and today we're delivering on that promise.

After 2 years of work, I am proud that this legislation provides the authority needed for the Air Force to enter into a contract for 100 KC-767s.

Section 135, of this conference report authorizes the Air Force to enter into a contract for the combined lease and purchase of 100 tanker aircraft under the terms and conditions of Section 8159 of the FY02 Defense Appropriations Act.

This section specifically authorizes the Air Force to enter into one contract for 100 aircraft, 20 by lease and 80 by purchase, or if necessary, more than one contract for the same combination of aircraft.

In their joint report language, the conferees agree that this section would—quote—“authorize the secretary to enter into a multiyear procurement program, using incremental funding” for the 100 aircraft pilot program.

This language means the multiyear procurement program authorized by Section 135 would allow the Air Force to make payments as agreed to in the contract.

Furthermore, the language states that the Air Force would not be required to have the full budget authority required to purchase an aircraft in order to place an order for that aircraft under the contract.

I would like to point out that Section 135 was written after extensive negotiations between the Congress and the Department of Defense.

The agreement reached on Section 135 is based in part upon a letter sent on November 5, 2003 to the chairman and ranking member of the Senate Armed Services Committee by the Deputy Secretary of Defense, Mr. Wolfowitz.

The language included in Section 135 of this conference report represents a common understanding between the conferees, the Congress and the Administration on the agreement under which the Air Force will execute this 100 aircraft pilot program.

In closing, I again thank my colleagues for their help in fulfilling the promise I made to the brave men and women of the 92nd Air Refueling Wing.

Within 3 short years, Fairchild Air Force Base will be home to the first four of the 100 KC-767 air refueling tankers authorized in this bill.

Fairchild will get another 16 of these state-of-the-art aircraft just 1 year later.

I ask unanimous consent that the Wolfowitz letter be printed in the RECORD.

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

WASHINGTON, DC,  
November 5, 2003.

Hon. JOHN WARNER,  
*Chairman, Committee on Armed Services,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you again for your consideration of the Department of Defense's proposal to lease 100 KC-767A aircraft. As you know, there has been a vigorous debate on the best way to get this program started. Your most recent amendment would allow the Air Force to lease no more than 20 of the 100 tankers. The Air Force has developed a proposal to implement that arrangement, and I hope that you will find it acceptable.

Our proposal strikes a necessary balance between the critical need for new air-refueling tankers and the constraints on our budget. As reflected in the enclosed chart, we intend to lease the initial 20 aircraft and then buy aircraft at a steady rate of 11 to 13 aircraft per year until delivery of the 100th. We commit to add \$2.4B, in Fiscal Years (FYS) 2008 through 2010, to the funding profile for the original proposal to lease 100 aircraft. We also will add \$1.4B in FY 2012 to 2013. The combination of these added funds achieves

an immediate start to the program and allows us to purchase the last 80 aircraft at time of delivery.

I appreciate the support that you have provided in the past and look forward to working you in the future. If you require further information, please do not hesitate to contact me. A similar letter has been sent to the chairmen and ranking minority members of each of the defense committees.

Sincerely,

PAUL WOLFOWITZ,  
*Deputy Secretary of Defense.*

Ms. MIKULSKI. Mr. President, I am here to stand up for our troops. I am going to vote for the Defense Authorization Act because it will give our troops the tools they need to fight the battles today and in the future. Every day our soldiers are fighting a war on many fronts, including in Iraq and Afghanistan. In Iraq soldiers are risking their lives every day, while their loved ones at home are praying for their safe return. Our troops are making grave sacrifices, some losing their lives in service to our Nation. Their families, their husbands and wives, parents and children, are also making sacrifices. It is the responsibility of Congress to provide the weapons, vehicles, and tools that our soldiers need to be an effective fighting force.

But I also stand up for those who are protecting the United States of America—our brave, our gallant Federal employees who are out there every day on the front line. I am here to defend the rights of hard-working civilian employees in the Department of Defense. When I stand up for America, I want to be able to stand up for what America believes in. And that includes basic rights for workers.

I think it is terrible that the DOD is using its budget, which is so vital for our troops, as a cover for undermining the basic rights of dedicated employees. This bill creates a completely new—and completely unfair—personnel system for civilian Defense Department employees. The new system undermines the collective bargaining rights of civilian personnel. It weakens the rights of DOD employees to appeal personnel decisions to an independent body. It rejects the current salary system, and seeks to replace it with one that will leave workers vulnerable to the whims of their supervisors. It even takes away the guarantee of overtime, weekend, holiday, and hazardous duty pay. We should not put a system in place that distracts Federal employees from doing their jobs and requires them to play office politics.

This new civilian personnel system will seriously undermine morale, and opens the door to cronyism and political patronage. I am tired of the attempts by this administration to replace our effective civil service system with one that rejects the rights of workers. The thousands of civilian Federal employees at the Department of Defense are concerned about the security of our country, and work hard every day to ensure that our fighting forces are the best in the world. Many

have served on the front line in the war on terrorism, and have lost their lives in the terrorist attacks of September 11, 2001. I am ashamed that the Defense Department wants to take away their basic rights as workers.

I think it is terrible that I must choose between supporting our troops and supporting our civilian Federal employees. I am tired of the cynical manipulation of this process. I feel like I am being set up—that if we stand up for the workers, we are somehow or another getting in the way of national security. I am going to support the 2004 Department of Defense Authorization because it is important to our Armed Forces. You can count on me to continue to fight for everyone who is making sacrifices for our Nation. Our troops and our civilian Federal employees deserve no less.

Mr. KENNEDY. The Defense authorization bill contains many provisions that provide essential support for our military personnel, especially when we are asking so much from them in Iraq and around the world.

We have demonstrated our great appreciation for them by providing an across-the-board military pay raise of 3.7 percent, and a larger raise for mid-career personnel, raising the average increase to 4.1 percent. The separate increases already available for imminent danger pay and the family separation allowance are extended through December 2004.

The bill also recognizes the contributions of our Reserve personnel, by authorizing an allowance of up to \$1,000 per month for Active and Reserve personnel who experience unusually high deployments. We expand commissary privileges for Guard and Reserve family members and we expand health care coverage both for Guard and Reserve personnel and for their families.

The bill increases benefits for families whose loved ones have made the ultimate sacrifice, by doubling the death benefit to \$12,000 and by authorizing Survivor Benefit Plan annuities for surviving spouses of Guard and Reserve personnel who die on inactive duty training.

The bill recognizes the toll of these deployments on children, by providing \$35 million in supplemental impact aid to assist schools with large numbers of children of military families.

The legislation also eases the path to citizenship for immigrants who serve in our Armed Forces and provides immigration benefits to surviving family members of those killed in service. 37,000 men and women in the Army, Navy, Marines, Air Force, and Coast Guard have the immigration status of permanent residents serving in our Armed Forces. Another 12,000 permanent residents are in the Reserves and the National Guard.

The legislation also improves access to naturalization for lawful permanent residents serving in the military. It provides expedited naturalization for members of the Selected Reserves dur-

ing military conflicts. It protects spouses, children, and parents of soldiers killed in action, by preserving their ability to file for permanent residence in the United States.

Over a dozen immigrant soldiers have been killed in Iraq and these benefits are well deserved. These immigration provisions in the bill are a tribute to the sacrifices that these future Americans are already making for their adopted country. They deserve recognition for their bravery and loyalty to the basic ideals and freedoms of our country. Unfortunately, although the bill provides many needed benefits for our men and women in uniform, it lets down their civilian counterparts.

Many of us are extremely disappointed that the bill undermines fundamental protections for the 700,000 civilian employees of the Department of Defense.

Specifically, the report undermines collective bargaining, premium pay, the pay and classification system, third party review, and the appeals process. Many of the provisions are disguised as improvements, when in fact they undermine years of civil service protections.

Nearly 40 percent of Defense Department employees affected are veterans who have served the nation proudly. More than 8,000 are activated reservists serving in Iraq and other parts of the world. They are protecting us and we owe it to these patriotic Americans to protect their rights. They take pride in their work, their love their country, and they have served it with distinction, often for decades.

The Bush administration has demonstrated its intention to undermine workers' again and again. They have proposed privatizing up to half the Federal workforce. They have created a Department of Homeland Security that doesn't allow its employees to join a union.

Earlier this year, the administration stripped clerical and other workers in the Department of Justice and the U.S. Attorney's offices of their long-held union membership. They have even proposed taking overtime protections away from more than 8 million hard-working men and women.

It is an affront to these dedicated Federal workers to deprive them of their rights, even though no restrictions are placed on the rights of employees of government contractors performing similar jobs. Under the administration's proposal, we could well see Federal workers working alongside private workers with the Federal workers denied the same fundamental rights and protections that the private workers continue to have.

These workers repair planes, ships, and tanks. They manage the storage and distribution of weapons and supplies. They manage computer networks, provide training, analyze intelligence, investigate crimes, acquire major weapons systems, perform research on cutting-edge technologies,

test munitions, care for children, operate hospitals and laboratories, and treat patients. Defense employees deserve civil service and collective bargaining rights, just as other Federal workers do. The administration is wrong to use this must-pass bill as a vehicle to deny these workers their basic rights, and I intend to do all I can to see that Congress repeals this unfair assault on these dedicated civilian workers of the Department of Defense.

Mr. FEINGOLD. Mr. President, first and foremost, I want to thank the members of the United States Armed Forces for their service to our country. These service men and women are performing admirably in the global fight against terrorism and the war in Iraq. They and their families are making great sacrifices for the American people. I am voting for this authorization legislation to support these people who are serving the country with such courage.

But this is not an easy vote for me. This legislation contains a number of good provisions, such as much-deserved pay raises for our men and women in uniform, expansion of TRICARE health insurance to some of the members of our Guard and Reserve, concurrent receipt for disabled veterans, 12 WMD Civil Support Teams, and "Buy American" provisions. However, the bill also contains two particularly bad policies: the elimination of civil service protections for Department of Defense, or DOD, civilian employees, and the environmental exemptions granted to DOD.

I am deeply troubled by the provisions included in the conference report that will effectively eliminate existing civil service protections for the more than 746,000 civilian Department of Defense employees. While I think we all can agree that some reforms are needed to the civil service system, I am concerned about the administration's approach to dismantling this system, in a seemingly department by department manner. I opposed the weakening of the civil service system during consideration of the bill that created the Department of Homeland Security, and I would have opposed the provisions in this bill if the Senate had considered them independently of this conference report.

The civil service system was put into place in order to end the corrupt patronage system that had permeated Government hiring and advancement. The provisions included in this conference report will put salary decisions into the hands of managers, which could be a slippery slope back to the bad old days of cronyism. I am also concerned that this new system will limit appeal rights.

Some in the administration have argued that the civil service system is rigid and could prevent the administration from acting quickly in the face of an imminent threat. This is not the case. The existing civil service system already provides the administration with broad flexibility, while at the

same time ensuring that Federal workers have a consistent framework of basic protections, including appeal rights.

In addition, I support the right of workers to join a union, and I am troubled by the implication that union membership is somehow a threat to our national security. The conference report that we are considering today will undermine existing union representation and collective bargaining agreements by allowing the Secretary to create a new labor relations system.

The expected enactment of these provisions, coupled with the ongoing implementation of the new employment system that was created for the Department of Homeland Security, will result in more than half of the Federal civilian workforce not being covered by the basic protections of the civil service system.

I am equally troubled by the provisions included in the conference report that exempt the DOD from several environmental laws. The Senate version of this bill struck a fair balance between the need to protect the environment and the need for military readiness. It allowed for some exemptions to the Endangered Species Act if the Secretary of Interior found that the DOD's resource management plan effectively conserved the threatened or endangered species and that DOD would fund the plan. The conference version destroys this balance by merely requiring that the DOD's management plan confer "a benefit" to threatened or endangered species. There is no mention of the need for DOD to fund its management plan. The new language means that the DOD will get exemptions from the ESA merely by having an integrated management plan on paper. The purpose of the critical habitat designation provisions of the ESA is to attempt full recovery of species by preserving habitat. The current bill falls short of that promise.

The assault on our environmental laws goes further. This conference report exempts the DOD from key provisions of the Marine Mammal Protection Act, MMPA. It allows, among other things, the Secretary of Defense to waive its provisions for 2 years if the Secretary believes it necessary for national security.

I am committed to supporting a strong Endangered Species Act, particularly because of the successes Wisconsin has had in rehabilitating endangered and threatened wildlife and plants. Recent news accounts of sensitive whale population deaths caused by high-frequency Navy sonar systems also trouble me. Our troops in Afghanistan and Iraq were expertly trained at DOD facilities that complied with environmental laws. It is my understanding that the DOD has never requested an exemption to the Endangered Species Act. DOD already has the authority to request exemptions from the ESA for national security reasons and this new provision in the conference report is

unnecessary. I agree with Senator JEFFORDS that the Defense appropriations bill is not the appropriate place to have this debate.

The administration sought even more environmental exemptions than are contained in this authorization bill. Although I am disappointed with the included exemptions, I am thankful that my colleagues were able to limit the damage.

I will vote for this bill and for the good provisions it contains for our men and women in uniform and their families. However, I remain deeply concerned about the administration's policy on civil service reform and protection of the environment. I will support this flawed bill, but I do so with some reluctance and in the hope that the Senate will revisit these seriously flawed provisions next year in the proper committees.

Mr. BIDEN. Mr. President, the fiscal year 2004 Department of Defense Authorization Conference Report provides important benefits as our military personnel continue to do battle in Iraq, Afghanistan, the Balkans, South America, and elsewhere. It is not, however, a perfect bill. I voted for it because I believe that in a time of war we need to take care of our military personnel and our veterans. But, I am concerned that this bill unnecessarily undercuts important environmental protection measures and civil service protections. I am also troubled by some of the nuclear weapons provisions of the bill. First let me describe some of the key provisions that I do support in this bill.

This bill provides a 3.7 percent across-the-board pay increase and, because of some of the targeted pay raises for mid-career personnel, an average pay raise of 4.1 percent. It also authorizes increases in the critical pay bonus areas of family separation, hostile fire, and imminent danger pay from October of this year until next December. These increases are much needed and well-deserved.

I am also pleased that the bill would allow the Army to add 2,400 additional personnel. I supported adding 10,000 and would still like to see the number grow, but this is, at least, a start.

Perhaps most important as we create new veterans daily, this bill starts to live up to our promises to our veterans. I have long believed that the commitment we make to the retirement benefits of a veteran and the commitment we make to care for those veterans injured while serving should not be mutually exclusive. This bill takes a very real step toward allowing veterans full concurrent receipt. Military retirees with 20 years of service, active duty or Reserve Component, and a Purple Heart or a combat related disability will be eligible for full concurrent receipt as of January 1, 2004. The remaining retirees who are disabled at 50 percent and above will get full concurrent receipt phased in over the next 10 years.

In addition to the important personnel benefits of this bill, I am also

pleased that the bill makes a common sense commitment on strategic airlift. The bill prohibits any decision to retire C-5 As until an A-model is completely modernized under the Avionics Modernization Program and Reliability and Re-Engineering Program and then tested for its operational capability. This will allow decisionmakers to have the facts about what capability can be gained from the modernization programs. In addition, the Senate has required a March report updating the military's strategic airlift requirement. We know that the old requirement, defined pre-9-11, pre-Afghanistan, and pre-Iraq, is too low. Until we have a more accurate sense of what is really needed, it will be hard for Congress and the military to determine the best way to meet the need.

Let me now detail my concerns with the environmental and civil service provisions of this legislation. I believe it is important to balance our national security needs with the rights of our children and grandchildren to live in a country that has clean air and water. America is the home to tremendous natural bounty and diversity. Those natural treasures are something we hold in trust, not something we should allow destroyed for expediency. As the Nation has advanced, we have striven to find ways to balance environmental protection with our economic and military needs. We have done this in our environmental protection laws, most of which carry national security waiver provisions. It is still not clear to me why the conferees felt it was appropriate to make changes to two key environmental protection laws without taking into account the advice and wisdom of those who oversee that legislation daily.

Let me start by saying that I believe realistic military training is absolutely critical to the survival of our military personnel. Until now, we have managed to balance that need with our desire to safeguard our environment. This bill allows the Department of Defense to get around the Endangered Species Act, ESA, and to make enforcement of Marine Mammal Protection Act, MMPA, extremely difficult. With respect to ESA it is particularly troubling since, again, there is a national security waiver provision in that law. In the Senate, we were able to craft a compromise that allowed the Defense Department to avoid making any new critical habitat designations on installations that had Integrated Natural Resources Management Plans that the Secretary of the Interior had determined would in fact conserve the species on the installation and would be adequately resourced. This bill does not provide that safeguard.

In the case of MMPA, this bill provides a weaker definition of "harassment." More extraordinary than that, the new weaker definition applies not just to military activities, but rather to any scientific research conducted by or on behalf of the Federal Government. We have been given no rationale

or justification for making it easier for federally funded scientists to harm marine mammals. The bill makes it easier for the Navy to get permits if their activities will have no more than a “negligible impact” on marine mammals. I also do not see why legitimate Naval activities should not receive the same full scrutiny they have always received. Again, we were not given good justifications for making such a change. At the end of the day, I am very disappointed that the conferees agreed to basically allow the Department of Defense to begin making their own environmental rules. While they have done a very good job managing many environmental issues, their track record is not one that suggests complete self-regulation is warranted or desirable. Their job is to fight and win our nation’s wars. As a democracy, it is our job to provide them the legal framework that allows them to do their job while not sacrificing the nation’s natural treasures. This bill is a step backwards.

In the area of civilian personnel reform at the Department of Defense, I am again troubled that this bill opens the door to cronyism and discrimination, things from which we have long sought to insulate our civil service. While I am open to the notion that civil service reform may be in order, I am again concerned that it is being done in an ad hoc fashion and without the proper input from the committees that oversee the entire civil service. I believe that we must be wary of the potential politicization of our workforce. The employees of the Defense Department are highly dedicated professional, and they must be free from political pressure. I will be taking a close look at how the administration goes forward with its new authorities. I will be watchful that the employees are free from political retaliation and secure in their jobs so that they can perform their vital tasks to the highest of professional standards.

Finally, let me say a few words about some of the nuclear weapons provisions in this bill. This conference report does a good job, on balance, of providing for our cooperative threat reduction and non-proliferation assistance programs in the former Soviet Union. It provides roughly the funding requested by the President and, in particular, a needed Presidential waiver provision so that we can continue to help build a chemical weapons destruction facility in Shchuch’ye, Russia. It requires the Secretary of Energy to study and report on the possibility of purchasing and safeguarding excess weapons-grade uranium and plutonium from the independent states of the former Soviet Union, so as to ensure that such dangerous material cannot be diverted to rogue states or terrorists. And it allows the President to use some Nunn-Lugar and non-proliferation funds for projects outside the former Soviet Union, if he determines that this will assist in the resolution of a critical

emerging proliferation threat or permit the United States to achieve long-standing nonproliferation goals.

I regret that the Congress agreed to repeal the Spratt-Furse prohibition of work on low-yield nuclear weapons. I am pleased, however, that the conference report states that such work may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress. I am also pleased that the Secretary of Energy is barred from commencing the engineering development phase, phase 6.3, of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.

Again, I voted for this bill because it contains many important provisions, particularly in this time of war. But I am very concerned that some of the provisions agreed to by the conferees are ill-advised and premature. I hope that we will be able to reconsider them next year.

Ms. SNOWE. Mr. President, I rise today to speak briefly on the fiscal year 2004 National Defense Authorization conference report.

I want to acknowledge the leadership of the senior Senator from Virginia, Senator JOHN WARNER, Chairman of the Armed Services Committee in bringing this bill to final passage. Of course, I must also recognize the ranking member, Senator CARL LEVIN. I had the privilege of working with them on the Committee for several years and I can attest that each year they work together tirelessly to pass the defense authorization bill because they understand how absolutely vital this legislation is to the effectiveness and well-being of our armed forces.

For that matter, let me also recognize every Senator on the committee for their efforts because this conference report authorizes the equipment, the training, and the operational funds necessary to support our troops who are right now operating across the globe to make our Nation and the world more secure.

It also reflects the service and sacrifice of our troops by making a solid investment in their quality of life by increasing their pay and enhancing educational and health care opportunities for our active duty military members, our National Guard and Reserve troops and their family members. And that is only right, for today we are asking a great deal of our gallant young men and women as they guard our Nation at home and abroad and, of course, risk their lives every day to restore freedom and prosperity to the oppressed peoples of Iraq and Afghanistan.

This legislation also recognizes that we owe a continuing debt to those who have served honorably by phasing-in for those with a service connected disability rated at 50 percent or more the same benefit available to every other

retired Federal employee—the ability to collect full retirement pay and disability entitlements without offsets. There is much work to be done before we achieve the full equity of concurrent receipt for all disabled military retirees and I will continue to support these efforts until we finally achieve the goal of full concurrent receipt.

This \$401.3 billion dollar authorization provides \$74.3 billion for the critical procurement accounts. In particular, this bill makes some significant strides by providing almost \$12 billion in an area that is critical to the security of the Nation—our shipbuilding capacity. It has become more and more apparent that as we engage the forces of terrorism around the world we have become increasingly dependent on the ability of our Navy to not only deliver troops and munitions to the fight, but to act as the sea base from which our forces can operate without restrictions virtually anywhere in the world.

Yet, as a former Chair of the Seapower Subcommittee, I remain concerned about the Navy’s shipbuilding program, particularly with respect to the surface combatant force. As part of the 2001 Quadrennial Defense Review, the Navy and DoD approved a plan for maintaining a 310-ship Navy including 116 surface combatants—cruisers, destroyers and frigates. Partly because of continuing concerns about the Navy’s uncertainty regarding plans for future surface combatants, last year’s authorization directed that the Navy notify Congress should the number of active and reserve surface combatant ships drop below 116 and provide an operational risk assessment based on that number.

By the end of fiscal year 2003, the Navy’s surface combatant fleet had fallen to 106 ships and in the latest report submitted by the Navy in June of this year, the Navy notified Congress that by the end of fiscal year 2004, it was their intent to reduce the force of surface combatants to 103 ships. According to the Navy, accelerating the decommissioning of *Ticonderoga-* and *Spruance*-class ships will free up funds for next-generation destroyer programs without appreciably raising the operational risk level to our Naval forces because they are “significantly less capable than the more modern and survivable AEGIS-equipped DDG-51 class ships that are replacing them.”

Therefore, I am encouraged that this authorization provides \$3.2 billion for the construction of three DDG-51 *Arleigh-Burke* class destroyers for it is these ships, along with cruisers and frigates, that provide protection to the carriers and amphibious ships deployed to the Persian Gulf and around the world to prosecute the war on terrorism. Moreover, it adds \$20 million for the DDG Modernization program to begin the insertion of advanced technologies that will dramatically reduce operation and support costs to the fleet and mitigate the risk of back-fitting

these technologies on older ships. Above all, we must pursue every path necessary to provide technologies to our sailors that will ease their workload, enhance their training opportunities and increase the survivability of their ships.

In 2005, the Navy will complete the DDG-51 acquisition program, and the next generation of surface combatants, the DD(X) and the Littoral Combat Ship (LCS) are being funded in the research and development accounts. Although this authorization provides \$1 billion for the continued development of the DD(X) and \$183 million for the continued development of the LCS in the RDT&E accounts, there is a looming gap in the Shipbuilding and Conversion, Navy account for surface combatants. Without a focused effort on the part of the Navy to commit and invest in a robust surface combatant program, I am concerned not only about the ability of the Navy's surface combatant force to maintain current operating tempos but the continuing viability of our shipbuilding industrial base.

This trend not only applies to surface combatants but to our attack submarine fleet as well. Although the Navy and the Department of Defense has established a requirement of 55 attack submarines, the current inventory numbers only 54 of those ships. To compound the problem, the Navy continues to place submarines such as the USS *Jacksonville* on the list of submarines to be inactivated rather than funding their refueling as a solution to this force structure gap. The Senate wisely added \$248 million for the refueling of that submarine and I am pleased this report sustained that effort.

I am also disappointed that the conferees have included Section 319 in this bill, on Military Readiness and Marine Mammal Protection. Under the Senate Rules, the Committee on Commerce, Science, and Transportation has jurisdiction over issues relating to marine mammals, including authorizations for and oversight of the Marine Mammal Protection Act (MMPA). The Subcommittee on Oceans, Fisheries, and Coast Guard, which I chair, intends to work on reauthorizing the MMPA in its entirety this Congress, and we have held a hearing and numerous briefings with all concerned marine mammal interests, including the Navy and the National Oceanic and Atmospheric Administration.

By including Section 319 in this bill, the conferees have disregarded our jurisdiction and work on the reauthorization of the Marine Mammal Protection Act, and they have seriously altered marine mammal policy in the United States. I have serious concerns about their changes to the definition of harassment, the Department of Defense exemption from the MMPA, and the incidental takings language. Changes of this magnitude on behalf of the military requires oversight and review by the Commerce Committee, and the implications of these changes for other

regulated parties and interested MMPA stakeholders must be fully understood. Our Subcommittee will address these changes and many other marine mammal conservation issues as we proceed with full, comprehensive reauthorization of the MMPA.

Importantly, this bill sets aside \$63.4 billion in the research and development accounts to develop the advanced technologies our troops will use to maintain their technological superiority over their adversaries. Significantly, conferees authorized \$11 billion for the critical science and technology programs which brings us close to the goal of setting aside 3 percent of the defense budget to invest in the "seed corn" of our future military capability.

Much of that S&T investment will be executed at universities and colleges throughout America. For example, the University of Maine system has been on the forefront of the development of chemical and biological sensors and decontamination systems. The bill provides them with \$1 million this year to begin the development of an environmentally-friendly photo-catalytic decontamination agent that holds much promise for the safe and rapid decontamination of exposed personnel as well as for the remediation of chemical agent and manufacturing and storage facilities.

In addition, this bill also authorizes \$4 million for continued research at the University of Maine into the structural reliability of fiber-reinforced polymers composites in ship assemblies that will help define and ultimately control the significant property variations found in composite plates used in Navy ship construction.

One of the hallmarks of the Department of Defense is the interwoven nature of the military and civilian personnel who work together as our national security team. Civilian workers at DOD work alongside their military counterparts every single day, sometimes in the most hazardous conditions. For example, at the Portsmouth Naval Shipyard in Kittery, ME, workers hold a memorial service every year for the gallant crew of the USS *Thresher*, lost at sea in April, 1963 with 112 sailors and 17 fellow civilian workers from the shipyard. The civilian workers at the Department of Defense work and sacrifice to keep this Nation secure and we should recognize their dedication and professionalism.

While there are many positive provisions included in the bill, I am disappointed that the conferees did not include all of the personnel reform provisions put forward by my colleagues, Senators COLLINS, LEVIN, SUNUNU and VOINOVICH, instead adopting many of the provisions put forth by the Department. The current civilian personnel system was established over a period of decades in order to protect the rights of the civilian worker in areas such as merit-based hiring practices, equal pay for equal work, appeals of adverse personnel actions and collective bar-

gaining. As the new National Security Personnel System established in this bill is set in place, the Department must keep faith with its civilian employees and provide for third-party appeals, third-party dispute resolution as part of the collective bargaining process and a credible, transparent performance rating system.

I will be watching closely as the Department institutes this new personnel system to ensure that Federal employee's rights are not abrogated and that the highly-skilled civilian defense workforce can continue to stand arm-in-arm with their military counterparts to provide for the security of our Nation.

Finally, and most importantly, the bill continues our commitment to the men and women in the armed forces and their families through the enactment of several important pay and benefits provisions. First, it includes an across-the-board pay raise of 3.7 percent for all military personnel and once again provides an additional targeted pay raise of 5.25 percent to 6.25 percent for the senior non-commissioned officers and mid-career personnel who are the backbone of our military.

There are also a number of provisions that will directly aid the families of service members such as an increase in the family separation allowance from \$100 to \$250 per month and an increase in the special pay for those subject to hostile fire and imminent danger from \$150 to \$225 per month.

This authorization rightly recognizes that our reservists and National Guard troops play an increasingly vital role in the war on terrorism, and extends to them expanded benefits in critical areas such as medical care and special pay rates. For example, reservists and their families will now be provided access to enhanced TRICARE coverage including non-mobilized reservists and their families who are either unemployed or whose employers do not provide health coverage. In addition, reservists and their families will be granted the same commissary privileges as active duty personnel.

Overall, this authorization provides the men and women of our armed forces with the equipment they need to accomplish their mission, the quality of life they have earned and security for their families. I support this legislation and urge my colleagues to pass this conference report unanimously because in a year when our Nation is facing unprecedented security challenges and dangers, we can do no less.

Mr. LIEBERMAN. Mr. President, I am disappointed that some provisions in this legislation giving the Department of Defense additional personnel flexibility go too far in weakening the legal protections of DoD civilian employees, who are critical to the military's performance and to its fighting men and women. I pledge to actively monitor DoD's implementation of its new authority to guard against abuse.

Throughout the development of this legislation, the administration has tried to push a regressive agenda to do away with important worker safeguards—and, in the process, to risk opening up the workplace to politicization and unfair treatment and to close off important channels of communication between labor and management. Congress rejected much of this, but some risks remain.

On the Governmental Affairs Committee, where I serve as Ranking Member, we worked hard and forged a sensible bipartisan compromise on these issues for the department. This legislation, S. 1166, was approved by our committee by a 10 to 1 vote. The provisions of S. 1166 were considered by the conferees, and some of our compromises were incorporated into this conference report. However, at the insistence of House majority conferees and the administration, the conference agreement also includes a number of provisions that risk opening up the workplace to cronyism and arbitrariness and undermining established means for fairly resolving issues between labor and management, so it is important that Congressional intent be closely adhered to.

For example, in the area of collective bargaining, the conference agreement included the provision of S. 1166 stating that the Secretary of Defense has no authority to waive chapter 71 of civil service law, which governs labor-management relations. The conferees also retained an amendment, which I had offered in our committee, assuring that the Secretary of Defense cannot choose to bargain only with large national unions and refuse to bargain with others that do not represent large numbers of Defense Department employees.

However, the conferees also agreed to a new provision authorizing the Secretary of Defense, together with the Director of the Office of Personnel Management, to establish a “labor relations system” for the Department of Defense to address the “unique role” of the Department’s civilian workforce. As the conference report makes chapter 71 non-waivable, this new provision overrides chapter 71 only where the new provision and chapter 71 are directly inconsistent with each other. The new provision authorizing establishment of a labor relations system does not conflict with the statutory rights duties, and protections of employees, agencies, and labor organizations set forth in Chapter 71—including, for example, the selection by employees of labor organizations to be their exclusive representatives, the determination of appropriate bargaining units, the rights and duties of unions in representing employees, the duty to bargain in good faith, the prevention of unfair labor practices, and others—and such rights, duties, and protections will remain fully applicable at the department. The conference agreement provides that, in establishing a labor relations system, the Secretary will be

authorized to “provide for independent third party review of decisions, including defining what decisions are reviewable by the third party, what third party would conduct the review, and the standard or standards for that review.” The Secretary may use this provision to expedite the review of decisions, but not to alter the statutory rights, duties, and protections established in chapter 71 or to compromise the right of parties to obtain fair and impartial review of decision. The mutual trust required for productive labor-management relations requires a level playing field.

The conference report also includes other provisions, which weaken a number of safeguards that we had included in S. 1166, including the statutory mandate that DoD meet standards for the quality of its system for rating employee performance and that the department phase in its new personnel system to enable the department to get fair and objective processes in place. The conferees also included new provisions that would give the Secretary of Defense latitude to waive premium pay for employees working irregular schedules or in dangerous situations, and to disregard statutory checks against cronyism and politicization in promoting, reassigning, and laying off employees.

Finally, even aside from the weakened employee protections in the legislation itself, I am very concerned that the department may try to impose its new personnel authorities without adequate preparation and funding. Under the new system, the department wants to use employee performance, rather than seniority, to determine salary increases. To avoid arbitrary pay decisions, however, the department must establish personnel systems that can make meaningful distinctions in employee performance based on appropriate criteria, and managers must be adequately trained to use these new authorities. In evaluating this legislation last summer, GAO warned that the vast majority of DoD’s systems for appraising employee performance are not well-enough established to take on the task of supporting a meaningful performance-based pay system. Moreover, successful projects where pay is based on performance must be adequately funded, or else pay levels will be determined by budget constraints rather than by the competency and efforts of employees; and colleagues will be pitted against each other in competition for limited funding for performance pay, thereby disrupting unit cohesion and teamwork.

An experienced supervisor at the Defense Department, quoted in a news article today about this legislation, well expressed these risks in the following terms: “The changes are going to be swift and we’re going to go into this thing blind,” he said. “The worst thing we can do to the employees of the DoD . . . is to come in and demoralize them by putting in new pay systems that can’t be financed or executed.”

As the department, together with the Office of Personnel Management, proceeds to develop the regulations and the personnel systems to implement this legislation, I intend to watch closely. I expect the department to provide a fully open process, in close collaboration with its employees, for developing the regulations necessary to implement the new personnel authorities. And the department should not implement pay-for-performance or other authorities until personnel systems are in place, managers are trained, and funding is available, so that the risks of favoritism, politicization, and a demoralized workforce inherent in this legislation are kept to a minimum.

Mrs. BOXER. Mr. President, I support the fiscal year 204 Department of Defense authorization bill.

With so many of our young men and women deployed in Iraq, Afghanistan and throughout the world, it is very important that Congress support our troops and the important pay increases and personnel benefits in this bill.

This legislation authorizes a 3.7 percent across the board pay increase for all uniformed members of the armed services and targeted pay raises of 5.25 percent to 6.25 percent for mid-career servicemembers. I strongly support these provisions of the bill. These pay increases are well earned.

I am also pleased that imminent danger pay at the level of \$225 per month and family separation pay of \$250 per month was extended until December 31, 2004. With United States troops bearing so much of the burden in Iraq, many military families are having a difficult time making ends meet. Extending these benefits is the least we can do.

But let me be clear. This \$401 billion Defense authorization bill contains many troubling provisions that will make us less secure and that I oppose.

First, this legislation repeals a 1989 ban on the research and development of low-yield nuclear weapons and provides funding for research into new bunker-busting nuclear weapons. Developing new and low-yield nuclear weapons will not make us safer—it will only lead to a dangerous escalation in the arms race. These provisions send the wrong message to the rest of the world and are based on a flawed strategy developed by President Bush that contemplates scenarios for the preemptive use of nuclear weapons.

Second, this legislation significantly rolls back environmental safeguards on our military bases. The bill prohibits the Secretary of Interior from designating critical habitat under the Endangered Species Act on any lands owned or controlled by the Department of Defense if the lands are subject to a management plan developed by the military that provides a “benefit” to the species. The conference report also gives the military greater leeway to conduct activities that might disturb marine mammals, such as whales.

Under this bill, the Secretary of Defense may exempt any action or category of actions from the requirements of the Marine Mammal Protection Act, if the Secretary deems it is necessary for national defense. These environmental rollbacks are unfortunate. I urge the Department of Defense to take extra care not to abuse these new broad authorities.

Finally, I am concerned this bill did not do more to limit sole-source contracting by the Department of Defense. During Senate consideration of this bill, I offered an amendment stating that the Department of Defense should meet its own goal of replacing Halliburton's sole-source contract to reconstruct Iraq's oil industry with a fully competitive contract by August 31, 2003.

It is now November and Halliburton's sole source contract is still in place and a new competitive contract has not been awarded. I appreciate that the final bill contains a provision requiring a report within 30 days on why this sole-source contract has been allowed to continue. However, it is regrettable that conferees did not establish a deadline for the termination of Halliburton's sole-source contract.

Despite these concerns, I want to thank the chairman and the ranking member of the Senate Armed Services Committee for their hard work on this legislation. It is a bill that will help our military men and women who are serving to protect our Nation.

Ms. CANTWELL. Mr. President, I rise today to express my support for the Department of Defense authorization conference bill before us today. The bill will strengthen our Nation's military readiness, procure vitally important weapons systems and provide for our veterans. At the same time, I wish to highlight my concerns about provisions in the bill relating to civilian defense workers and the environment.

I am pleased that the bill allows the U.S. Air Force to move forward with the KC-767 Global Tanker Transport program. By allowing the modernization of our aging tanker fleet, the bill promotes our national security and the security of our friends and allies.

I became involved in this issue more than 2 years ago after visiting Fairchild Air Force Base in Washington State, which is one of the premier basing locations for the Air Force's KC-135 refueling tankers. It was clear to me then, and it is clear to me now, that these aging planes need to be replaced.

With an average age of over 40 years, the KC-135s are the oldest planes in the Air Force, older than most of the pilots that fly them and older than virtually all large commercial aircraft.

The bill authorizes a program that will provide the Air Force one hundred KC-767 aircraft by leasing the first twenty planes and purchasing the remaining eighty. This arrangement is the result of a 2-year effort to find the best way to provide our pilots with the

equipment that they desperately need, while protecting the interests of taxpayers. This has been accomplished.

I want to congratulate my colleagues, Senator WARNER and Senator LEVIN, for their leadership on the Senate Armed Services Committee to develop a solution that will reach our goals. I also want to thank the Air Force and the Department of Defense for working to find the funds that will carry out this program.

I am particularly proud that the Air Force was able to improve our military capability by procuring an American product. Boeing has been the industry leader in the tanker market for fifty years and it has helped ensure our military's air power dominance.

The 767 is built by thousands of men and women in my home State and is sold around the world. I am excited to see that because of this legislation, the Boeing 767 tanker will keep our military flying in the 21st century.

I am also pleased that the bill provides for our Nation's veterans. I am profoundly grateful for the service of America's veterans and for the sacrifices they have made to defend our Nation and our freedom. We have an important responsibility to ensure that our veterans are provided benefits and assistance that they deserve.

Specifically, the bill authorizes that the full concurrent receipt will be phased in over a 10-year period for disabled military retirees and National Guard and Reservists who have at least 20 years of service. In each of the next 10 years, service members will receive an additional 10-percent increase, until the full concurrent receipt is reached in 2014.

The bill also expands the Combat-Related Special Compensation Program that was enacted as part of the Fiscal Year 2003 National Defense Authorization Act. This year's bill provides concurrent receipt to military retirees, National Guard and Reservists who have at least 20 years of service, any retiree who was awarded the Purple Heart, or any retiree with a service-connected disability incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war.

A strong national defense depends on active duty forces, Guard and Reserve personnel, a civilian workforce, military contractors and military communities. Civilian workers in my State play a key role in ensuring that the U.S. military is the best-trained and best-equipped in the world. Over 16,000 highly skilled and dedicated workers in the International Association of Machinists Local 160, the Bremerton Metal Trades Council, and other unions and organizations in Kitsap County help ensure that our sailors have the ships and equipment they need to combat terrorism and protect our security.

Accordingly, I am concerned about provisions in the bill that would erode

existing protections for civilian DOD workers. These provisions will set back our efforts to ensure a fair and effective civil service system. Specifically, these provisions could weaken collective bargaining rights at the local level, reduce due process protections for DOD workers, and scale back appeals rights along with protections against favoritism in hiring in the workplace.

Given the recent contributions of our civilian workers in the war effort in Iraq and Afghanistan, we should not be taking away long-standing protections that have helped make the U.S. military the strongest in the world. I intend to work to ensure effective congressional oversight of the implementation of these controversial personnel provisions.

I am also troubled by provisions in the bill that would weaken current environmental protections for marine mammals and other species. For several decades, the military services have demonstrated a strong commitment to natural resource conservation while fulfilling their primary missions. Puget Sound is home to many military installations and sensitive species. Based on our experience in Washington State, I believe that we can have both the highest levels of military readiness and natural resource conservation.

However, I am very troubled that the bill would weaken both the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). Both of these acts currently provide significant environmental protections, while providing the military the flexibility to conduct training and other exercises. Because species recovery efforts pose unique challenges, I believe that amendments to these acts are best considered by the Commerce Committee and the Environment and Public Works Committee.

On balance, however, this bill marks a major step forward in support of America's soldiers, sailors, marines and air force personnel and our Nation's security. I am pleased to vote for it.

Mr. LIEBERMAN. Mr. President, I rise to express my support for the fiscal year 2004 Defense Authorization bill. At the same time, I am compelled to state for the record my dissatisfaction with the process that first delayed the conference report for months, and then presented the conferees with a conference report and a deadline for filing that precluded Senators from familiarizing themselves adequately with the final product.

Despite my concerns about the process, and my opposition to three specific provisions in this bill, the men and women in uniform protecting the United States need the support this bill provides. I commend Senator WARNER and Senator LEVIN for their dedication and leadership in bringing this difficult process to a successful conclusion. Our security depends upon the unrivaled strength of America's military and the

unmatched skills, dedication and bravery of America's servicemen and -women, which they are demonstrating on a daily basis. This defense blueprint ensures that we will be able to continue to give our troops in the field the best possible equipment, while at the same time preparing them for future challenges. The funds authorized in this bill will allow our military to continue to conduct operations with the intensity and effectiveness that the worldwide fight against terror requires. Secondly, and no less important, our military services will be able to continue transformation at the pace necessary to meet the challenges they will face in the coming decades.

There are many important provisions in this bill. I want to briefly highlight ones that I think are particularly important. First, the strength of our military depends primarily on the men and women who are serving with such dedication and courage. They deserve fair compensation and adequate support for their families. This bill authorizes critical increases in pay and improvements in their quality of life that are so important to America's soldiers and their families. This bill increases base pay by 4.1 percent, increases family separation allowance, increases hostile fire pay, authorizes the first increment of concurrent receipt for disabled retirees, expands commissary access for Selected Reserve members and their families, and enhances health care benefits for reservists. I am particularly pleased that we have made progress in increasing the benefits for our reservists and their families, because they are bearing an important share of the sacrifices our military is making for our defense.

We have also included important provisions to maintain the momentum in transforming our military services. The Airland Subcommittee, where I have the honor of serving as Ranking Member, under the able leadership of Senator SESSIONS, has fully supported the critical programs for transforming the Army and Air Force, such as the Army's interim brigades and the Future Combat System, and the Air Force F-22 fighter and the Joint Strike Fighter. I am also pleased that we have included a provision to improve the Department of Defense's capacity to expand high speed high bandwidth capabilities for network centric operations, which is critical for our military to expand its military dominance.

Despite my approval of the bill, I oppose some of the labor/personnel and environmental provisions contained in the legislation, and I did not sign the conference report to signal my disagreement with these provisions. I am disappointed that some provisions giving the Department of Defense additional personnel flexibility went too far in weakening the legal protections of DOD civilian employees who are critical to the military's performance and to its fighting men and women and that key work of the Government Affairs Committee, which has primary ju-

risdiction, was ignored in propounding these provisions. I intend to describe at another time my concerns with the personnel provisions in this bill.

On the environmental front, I am disappointed that the conference bill contains unnecessarily broad exemptions for the Department of Defense from an array of environmental protections, most of which originated in the House of Representatives. Without question, we can protect our troops and conserve our natural resources—especially our wildlife and marine mammals—at the same time. We have built the strongest military force in the world while the Department of Defense has complied with the same environmental laws as everyone else. This bill undermines the protections for wildlife under the Endangered Species Act by allowing an Integrated Natural Resources Management Plan certified in writing to confer an undefined "benefit" on species to substitute for critical habitat designation. Unlike the Senate's bill, the conference bill does not require the Department of Defense to fund or dedicate resources to implement or monitor the plan; or the Department of Interior to determine that the plan will effectively conserve species within the lands it covers. While I would hope that the Department of Defense would feel obliged to dedicate sufficient resources, the country would be better served to have required it.

The bill's changes to the Marine Mammal Protection Act for military readiness and federally funded scientific research activities were not part of the Senate's bill. Quite simply, they may have disastrous consequences for whales and other species living off our Nation's coasts. For example, the Marine Mammal Protection Act's core prohibition against taking actions with the potential to injure or disturb marine mammals has been severely weakened. Now, only acts that injure or have the significant potential to injure marine mammals, or that are likely to disturb their behavioral patterns to the point of abandonment or significant alteration, are prohibited. And these changes also are an unnecessary intervention into the work of the committee with expertise. They come just as the Senate and House committees with jurisdiction over these questions have begun their work of reauthorizing the Marine Mammal Protection Act. I only hope the committees will revisit these provisions in the reauthorization of that legislation.

In closing, let me express my concerns about how the conference was managed. It is unfortunate, in my view, that on an issue as important as this—the very essence of our Nation's ability to wage the current war against terrorism and at the same time prepare for unknown challenges in the future—that it took months to reach a consensus on this bill and that the final conference report was presented to all members with inadequate time to review the final product prior to filing.

Such an important bill should not be handled in this manner.

Mr. LEVIN. 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. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WARNER. Madam President, between now and the hour of 2:45, I yield such time as I have to the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I rise today to make some brief comments about the Defense authorization bill.

First, I compliment the chairman and ranking member for working hard on this legislation. I also thank the professional staff, both on the committee as well as the personal staffs. It was my first year on the committee, and it was an incredible process. There were many controversial and complex issues on which we worked together.

In the end, we have done a lot for the members of our military, our Armed Forces serving in this country and around the world. With the global war on terrorism, these issues have become more important than ever: To make sure they have the resources to fight the global war on terrorism and to ensure a quality of life so we can maintain the all-volunteer professional armed services we have.

Several issues covered in my subcommittee, the Readiness Subcommittee, were very important. We have a problem with our ranges. Dealing with readiness, we have to have the proper training facilities. This bill helps us address some of those issues. The military does such a fabulous job protecting the environment on its training ranges that the use of those ranges almost became threatened. This bill makes sure that the training ranges and the environment are protected, while the military can still use the training ranges. That was a very important part of this Defense authorization bill.

I also think about what we have done for military families. That cannot be overemphasized because of the sacrifices they make for this country. It is not just the people in uniform, but it is the families and the sacrifices they make for the country. It is important that we take care of their quality of life. I am very proud of the work we have done in this Defense authorization bill.

I hope next year we can complete this bill earlier in the year, before Defense appropriations is done, because it is a better way to do it. The issues are complex. Many times they are controversial. But we have to be willing to put our personal interests, our party's interests behind the interests of our

Nation and the interests of our military.

The Defense authorization bill is one place where we can join hands across the aisle, as we have done on so many issues this year, and continue to work to make sure our military is so far superior to any other military in the world that if there is ever a question whether we go into battle, we know we have the upper hand.

Madam President, I thank the chairman for all the great work he has done. I yield the floor.

Mr. WARNER. Madam President, I thank my distinguished colleague for his remarks and, more importantly, his active participation in our committee's work throughout this year.

Mr. LEVIN. Madam President, I ask unanimous consent that the Senator from Arkansas be recognized for 2 minutes immediately prior to the vote.

#### ORDER OF PROCEDURE

Mr. REID. Reserving the right to object, Madam President, we have the military construction conference report coming up right after the vote, and there is no time set for the two managers to speak.

I ask unanimous consent that there be 4 minutes equally divided for the two managers of the bill to speak prior to that vote.

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

Is there objection to the extra 2 minutes? Without objection, it is so ordered.

The Senator from Arkansas.

Mr. PRYOR. I thank the Chair.

Madam President, I rise today in support of the 2004 Defense authorization conference report. Even though there are some provisions I am disappointed in—some of the environmental matters and how those issues got worked out, and a few other issues, and I don't want to dwell on the negative—there are two reasons I signed on to the conference report and why I encourage my colleagues to vote for this conference report.

Those two reasons are sitting right in the front, Senator JOHN WARNER and Senator CARL LEVIN. They have demonstrated a true spirit of bipartisanship. It has been a great model for me as a new Senator to sit on this committee and watch these two Senators fight for their causes but do it in a very fair and open manner and deal with each other in such a constructive way. I thank them for their leadership.

They worked through dozens and dozens of very difficult issues. Nobody got their way completely. But they showed great leadership and great stewardship. I want to publicly acknowledge them and thank them, especially Chairman WARNER because he has been extremely fair to the minority.

Again, we don't always get our way, but I think he has demonstrated the camaraderie and the comity that we should have in the Senate.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank our colleague for his kind remarks. I simply say, spoken like the true son of a great United States Senator, with whom I was privileged to serve and who emulated all of the characteristics the Senator from Arkansas has bestowed on me, undeserving as they may be, one David Pryor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I thank our dear friend, MARK PRYOR. Senator WARNER and I came together and we came with his father at the same time. His dad and his mother, Barbara, have been dear friends of ours. MARK PRYOR has made an extraordinary contribution as a new Senator to this body and to our Armed Services Committee. He has made a great contribution. We are grateful for that and for his remarks this afternoon.

Mr. President, I rise once again to join with Senator WARNER in urging the Senate to adopt the conference report on H.R. 1588, the National Defense Authorization Act for fiscal year 2004.

As we stand on the floor of the Senate today, America's armed forces are engaged in military operations around the world on a scale unknown since the end of the Vietnam war nearly three decades ago. According to the latest reports, we have 132,000 troops deployed in Iraq with an additional 87,000 serving in support roles outside of Iraq. We have 9,000 troops in Afghanistan, with an additional 35,000 serving in support roles. Tens of thousands more soldiers, sailors airmen and marines are deployed elsewhere around the world.

In the last 2 years, we have also seen the largest sustained callups of National Guard and Reserve components since the Vietnam war. We have seen units deployed for extended periods, and repeated deployments of the same units. Throughout this period, our men and women in uniform have shown extraordinary ability, professionalism, and dedication, conclusively demonstrating once again that they are by far the best trained, best equipped, best disciplined, most highly skilled and motivated military force in the world. Nonetheless, there are indications that the unprecedented demands we have been placing on our Armed Forces are starting to have an impact on morale.

I will vote for this conference report because it contains so many important provisions for our national security and for our men and women in uniform.

It includes an across-the-board military pay increase, along with a series of other increased pays and benefits for our men and women in uniform and their families. The conference report includes Senator HARRY REID's amendment on concurrent receipt; Senator DASCHLE's amendment on TRICARE; Senator KENNEDY's amendment on expedited citizenship for lawful immigrants serving in the military; and an increase in Army troop strength on which Senator JACK REED played a leading role. It includes important

Senate provisions that authorize an expansion of our cooperative threat reduction programs to countries outside the former Soviet Union.

The provision authorizing the establishment of a new National Security Personnel System did not come out entirely the way I would have liked, but the Senate was able to include a number of important protections for civilian employees at the Department of Defense. Senator COLLINS' strong commitment to a bipartisan, fair, and balanced approach to this issue made this a far better provision than it would otherwise have been.

The conference report contains a number of other provisions that concern me. For example, I believe that provisions addressing the Endangered Species Act and the Marine Mammal Protection Act go beyond what is needed to address the legitimate needs of the Department of Defense. I am also disappointed by the outcome of the conference on nuclear weapons issues, which take the United States in a dangerous new direction.

Despite my concerns about these issues, I will vote for this conference report because it contains so many other provisions that are so important for our national defense and for our men and women in uniform. I urge my colleagues to join me in supporting this conference report, which will help provide our military the training and equipment that they need and the compensation and benefits that they deserve.

Thanks again to Senator WARNER and both our staffs, who we specifically thanked last night for all their work which made this conference report possible.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the conference report.

Mr. WARNER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

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

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—95

Alexander	Biden	Bunning
Allard	Bingaman	Burns
Allen	Bond	Campbell
Baucus	Boxer	Cantwell
Bayh	Breaux	Carper
Bennett	Brownback	Chafee

Chambliss	Grassley
Clinton	Gregg
Cochran	Hagel
Coleman	Harkin
Collins	Hatch
Conrad	Hollings
Cornyn	Hutchison
Corzine	Inhofe
Craig	Inouye
Crapo	Johnson
Daschle	Kennedy
Dayton	Kohl
DeWine	Kyl
Dodd	Landrieu
Dole	Lautenberg
Domenici	Leahy
Dorgan	Levin
Durbin	Lieberman
Ensign	Lincoln
Enzi	Lott
Feingold	Lugar
Feinstein	McCain
Fitzgerald	McConnell
Frist	Mikulski
Graham (FL)	Miller
Graham (SC)	Murkowski

**NAYS—3**

Akaka	Byrd	Jeffords
NOT VOTING—2		
Edwards	Kerry	

The conference report was agreed to. Mr. WARNER. Madam 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.

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**APPROPRIATIONS ACT, 2004—  
CONFERENCE REPORT**

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2559, which the clerk will report.

The bill clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes, having met have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all of the conferees on the part of both Houses.

(The conference report is printed in the proceedings of the House in the RECORD of November 4, 2003.)

The PRESIDING OFFICER. There are now 4 minutes, equally divided.

Mrs. HUTCHISON. Madam President, I am pleased to present the fiscal year 2004 military construction appropriations conference report for the Senate's consideration. This bill provides \$9.316 billion for military construction, family housing, and base realignment and closure activities for the Department of Defense for fiscal year 2004.

The negotiations over this conference report were uncharacteristically long and difficult for a military construction bill. This difficulty stemmed from two sources. First, and quite simply, there is less money this year for military construction. The administra-

tion's request was \$1.6 billion below the amount appropriated last year. Even with an allocation slightly above the President's request, this conference agreement provides \$1.4 billion less than last year.

Compounding this difficulty were two very different points of view about military construction on the part of the Senate and House this year. The administration is in the midst of the most sweeping restructuring of our overseas basing structure since the end of World War II. This restructuring will involve the closure of hundreds of installations, the construction or expansion of perhaps dozens more, the return of significant numbers of U.S. troops to the continental United States, and major changes to the way our Nation stations and deploys its armed forces. This plan is still very much a work in progress. In testimony and briefings by Defense Department officials and military commanders this year—at this time—the scope, timing, and cost are not yet determined.

In the face of this uncertainty, the Senate was unwilling to commit prematurely to all of the new construction proposed for U.S. facilities in Europe and Korea, and instead chose to shore up badly needed investment in U.S. military facilities in the United States.

The House chose a different approach, voicing many of the same concerns as the Senate but agreeing nevertheless to fund most of the overseas construction. To pay for that construction the House made significant cuts to the President's priorities for domestic military construction spending, including nearly \$50 million from already underfunded programs for the National Guard. These different priorities set the stage for the difficult conference we have just concluded.

Fortunately, I believe we have crafted a conference agreement that accommodates the most pressing authorities of both chambers and the administration within the funding we were allocated. The Senate agreed to reinstate a number of projects in Europe for which our commander there, General Jones, made personal appeals. After hearing from General LaPorte, we also provided funding for two additional barracks projects in Korea on the condition that a facilities master plan and cost-sharing arrangements with the Korean government are completed before construction on these projects begins.

Funding for domestic projects was decreased somewhat but we were successful in reinstating \$108 million in cuts made by the House to the President's budget request, including over \$42 million for sorely needed Guard projects. The conferees also agreed to create a commission that will study the structure of our overseas bases in light of changing political and military circumstances and provide Congress an independent assessment of our future basing requirements overseas.

In short, the conference agreement represents what conference agreements

usually do—a respectable compromise among competing priorities.

I would like to express my deepest appreciation to the ranking member on the military construction appropriations subcommittee, Senator DIANNE FEINSTEIN of California. We have worked extraordinarily closely throughout this process—and through two supplemental appropriations bills passed this year—and I have appreciated her counsel as we have faced these difficult issues. Her staff, Christina Evans and B.G. Wright, worked hand in hand with my staff, Dennis Ward and his assistant, Sean Knowles. I don't think a better cross-party working relationship exists in the Senate. This truly has been bipartisan effort. They have worked together to make the very best military construction bill that could possibly be made.

I thank Senator FEINSTEIN for her engagement and willingness to work together for our military.

I am pleased to present the fiscal year 2004 Military Construction appropriations conference report and recommend its adoption by the Senate.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the chairman of the committee with whom I have had the pleasure of working now for a number of years. I want to say this: She has done a fine job. There was a very difficult conference situation. The House and the Senate bills were very different. In the first place, we received \$1 billion less in allotment to work from; that is, 14 percent less. In the second place, the House bill went in one direction and our bill went in another. It is really thanks to the chairman for her very shrewd bargaining with the House that we have a bill and that we have a bill as good as this bill is.

This is a difficult time. We try to do the most we can with barracks and schools and centers for our troops both in this country and abroad.

I want to say to those Members who had adds and had to have those adds cut that I am very sorry. We had to reconcile the two bills, and that was very difficult.

But Senator HUTCHISON did a super job. I thank her very much.

At a time when American troops are continuing to fight the enemy in Iraq and Afghanistan, it is imperative that Congress do its part and provide the funds necessary to support the infrastructure requirements of our service members and their families.

I wish we could do more. The 2004 military construction conference report provides \$9.3 billion for a myriad of mission-critical and quality-of-life construction projects in the United States and overseas, including barracks, schools, hospitals, and family housing units. That is the good news. The bad news is that this conference report is more than \$1 billion below the amount Congress appropriated for military construction last year. And yet, as