

[Rollcall Vote No. 135 Leg.]

## YEAS—54

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

## NAYS—46

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

The amendment (No. 3461) was agreed to.

## AMENDMENT NO. 3197

The PRESIDING OFFICER. Under Senate precedent, the accompanying Dayton amendment to strike is moot.

Mr. ENSIGN. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 3467 TO AMENDMENT NO. 3315

Mr. ENSIGN. Mr. President, I call for regular order with respect to a Landrieu amendment numbered 3315 and offer a second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3467 to amendment No. 3315.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a fiscally responsible open enrollment authority)

On page 9, strike lines 12 through 22, and insert the following:

(8)(A) The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(i) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to

participate under chapter 73 of title 10, United States Code;

(ii) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(iii) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(B) Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(C) In this paragraph, the term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

Mr. WARNER. Mr. President, if I might, on the resumption of the Senate consideration of this bill, that will be following the taking of the annual picture. At this time, the understanding is Senator DASCHLE will be recognized for the purpose of bringing up his pending amendment. I inform the Senate of that situation.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:23 p.m., recessed until 2:41 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Democratic leader is recognized.

## AMENDMENT NO. 3409

Mr. DASCHLE. Mr. President, I ask for the regular order with respect to amendment No. 3409.

The PRESIDING OFFICER. The Senator has that right. The amendment is now pending.

AMENDMENT NO. 3469 TO AMENDMENT NO. 3409 (Purpose: To assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation)

Mr. DASCHLE. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3468 to amendment No. 3409.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DASCHLE. Mr. President, in 1898, as the Spanish-American War drew to a

close, then-COL Theodore Roosevelt warned his Rough Riders about the reception they would receive once they returned home:

The world will be kind to you for 10 days. Everything you do will be all right. After that, you will be judged by a stricter code.

We have come a long way in the treatment of our veterans, and our recent commemoration of Memorial Day, our dedication of the World War II Memorial, the observance of the 60th anniversary of D-day, attest to the gratitude our Nation feels toward the men and women who have defended our freedom. Ultimately, the real test of our gratitude, however, is not found in parades or ceremonies. The real test is whether we honor our promises and provide our veterans with the help and benefits they need.

Sadly, we are not meeting that test. In recent years, large numbers of veterans have seen their health care delayed or denied outright. The reason is clear: Our system for funding the VA is broken. The VA's enrolled patient population has grown 134 percent since 1996, while appropriations have risen only one-third as quickly.

The President's task force to improve health care delivery for our Nation's veterans, created by President Bush through Executive Order 13214, reported a significant mismatch in VA between demand and available funding. That mismatch is translated into lengthy waiting lists, forcing hundreds of thousands of veterans to wait for months, even years, to see a doctor, increased out-of-pocket payments resulting in veterans paying six times more for their health care than when this President took office, from \$200 million in 2001 to an expected \$1.3 billion next year, and new enrollment restrictions.

Last year, Secretary Principi ruled that 200,000 priority 8 veterans could no longer enter the VA health care system. If nothing is done, the Congressional Budget Office now predicts the number denied access through this one policy will grow to 1.5 million by the year 2013. The Bush administration refuses to acknowledge the system is broken and preaches a policy of "demand management."

Let's be clear, demand management means taking any and all steps necessary to restrict the number of veterans treated by the VA, including rationing care, sending the bill collectors after veterans, and blocking enrollments. The principle of demand management says to the veteran: Take your health concerns somewhere else because we cannot help right now.

That is not a policy, that is a disgrace, and it is time we reject that principle that governs the care we offer our veterans today. Veterans have a fundamental right to health care, and we have an obligation to ensure that the VA has the resources to provide them. The answer to the VA health care crisis is simple: We need a new funding system that will allow us to provide health care to every American

who served in the Armed Forces of the United States.

My amendment today would spell out that objective in the law. The amendment would remove veterans health care from the annual politics of appropriations cycles. Instead, veterans health care would be funded like other vital programs, including military retirement, Social Security, and Medicare.

Each year, the Veterans Health Administration receives funding from two sources: First, an annual discretionary amount which remains unchanged from year to year locked in at the funding level for fiscal year 2004; second, an annual sum of mandatory funds. This amount would adjust each year to reflect changes in demand from veterans and the rate of health care inflation.

At the end of 2 years, Congress will be required to revisit the decision, and the GAO would study whether this system has functioned according to plan and whether the funding formula should be refined. Congress would then be required to update the law to reflect the lessons learned after 2 years of actual operation.

In effect, we would be creating a 2-year trial and then deciding how to refine the model and move forward. Meanwhile, every veteran who needs health care would receive it. President Bush's own task force recommended such a system saying: "The Federal Government should provide full funding . . . through a mandatory funding system" or other modifications to the current appropriations process.

I reemphasize, that was the President's own task force on this system. The Committee on Veterans Affairs in the House of Representatives offered its own bipartisan endorsement of mandatory funding earlier this year.

A February 25 letter signed by Republican chairman Chris Smith and Democratic ranking member Lane Evans stated:

Rather than supporting administration proposals that could reduce demand . . . and shift costs to other parts of the Federal medical system, the committee recommends treating spending on veterans programs the same as spending on Social Security and Medicare.

Leading veterans organizations have also joined in an unprecedented coalition to fight for health care budget reform. The American Legion, AMVETS, the Blinded Veterans, Disabled American Veterans, the Jewish War Veterans, the Military Order of the Purple Heart, Paralyzed Veterans of America, the Veterans of Foreign Wars, Vietnam Veterans of America—they have all banded together to work toward a system that guarantees health care for our veterans.

I believe their coalition, the Partnership for Veterans Health Care Reform, has identified a compelling solution to the VA funding crisis, and I have pledged my support in making it a reality. South Dakota veterans associated with these groups have joined in enthusiastic support.

This is not an abstract debate over numbers for my friends back home. These veterans have sat on waiting lists, these veterans take the phone calls from the VA's new bill collectors, these veterans have friends and neighbors who are prohibited from enrolling in the current VA health system.

Earlier this year, these South Dakota veterans were moved to action. Nearly 500 veterans from nearly 50 communities in every corner of our vast State signed a petition urging us to adopt mandatory funding for the VA.

South Dakota's American Legion CDR Wayne Vetter brought me this powerful statement, and I sent a copy to the White House. I am sorry to report that I have not yet heard a response from the President or anyone in the White House with regard to this statement.

It is time that we recognized that health care for those who return from war is a cost that follows directly from our Nation's military operations.

Ask any veteran. The burden of military service lives long after the parades are over and the medals and ribbons have been stashed in a closet. There are no more fundamental needs for these men and women than access to quality, affordable health care. Our veterans once kept this country safe and strong. Today they need a health care system to keep them strong. We must adequately fund the system that provides that care.

We can eliminate the annual budget problems in Washington and create a system where veterans can rely on the VA to be there when they need it. We have done it for military retirees. We have done it for Social Security recipients. We have done it for Medicare. We ought to do it for veterans.

The debt we owe our veterans must be something that lasts beyond the parade, beyond the ceremonies, beyond the 10 days of gratitude Teddy Roosevelt told his Rough Riders to expect. The debt is unending and our willingness to repay that debt must be unending as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my distinguished friend, the Democratic leader, I think the Senate Armed Services Committee, working in conjunction with the Senate Appropriations Committee in a bipartisan way, over a series of years now, has addressed, together with the participation of the Committee on Veterans' Affairs, a number of issues which have substantially improved the ability of the veterans to meet their obligations to their families and to themselves for the balance of their natural lives.

For 2 consecutive years and again this year, the distinguished Senator from Nevada brought forth a provision for concurrent receipts, which is an improvement in the bill on that. Senator LANDRIEU, together with two other col-

leagues, Senators SNOWE and ENSIGN on this side, have now perfected an amendment which is going to help the widows as they meet—and perhaps those of the male sex who are recipients of the retirement benefits of a female veteran—as a consequence of this bill, each of those will be able to expect to have greater certainty as to the amount of money in terms of their retirement at that juncture in life when Social Security becomes available to the surviving spouse in that situation.

As to the impression that the Senate, and particularly the Armed Services Committee, has not been very forthcoming in fulfilling what each of us believe in our hearts is that tremendous debt of gratitude to veterans and their families, I suggest the record states the Senate has worked its job and, in conjunction with the House, these matters have now become matters of statutory guarantee.

The distinguished Democratic leader has proposed an amendment which requires a combination of discretionary and mandatory funding for veterans health care. The modification includes a requirement for a Comptroller General report by January 31, 2007, on the funding achieved by the amendment, and provides for an expedited review of a joint resolution of Congress to implement the Comptroller General's recommendations.

The modification directs mandatory spending by the U.S. Treasury in the amount of \$300 billion over 10 years. I want to repeat that. The modification directs mandatory spending—that is a very significant legislative initiative—by the U.S. Treasury in the amount of \$300 billion over the next 10 years.

Every Member of the body joins with Leader DASCHLE in recognizing the need to continue to provide adequate funding for the health care of veterans in this country. I would point out that, to my knowledge, funding for veterans programs has increased significantly in the past 3 years under the cognizance of the Congress. Spending for veterans health care has gone up 34 percent since the year 2001, and I believe my colleagues Senator NICKLES and Senator BOND are both prepared to address the funding of health care for our Nation's veterans when they soon approach the floor to actively debate this amendment.

The Senate budget resolution includes \$29.1 billion for veterans health care, an increase of \$1.4 billion, or 5 percent, in 2004.

In light of these increases, in this Senator's opinion, any future significant increases for veterans health care warrant careful consideration by the Congress. Such consideration would be limited by this amendment, which mandates funding based on a per capita formula.

For Federal budgeting purposes, the VA health system, as the DOD system, is discretionary, as juxtaposed against mandatory. Now that is what we are talking about, changing the manner in

which we have been funding veterans health care these many years. It seems to me the discretionary program has worked well. It has served the veterans' needs and should remain as a matter of law.

The amendment does not create an entitlement to VA health care. It replaces the current system of discretionary funding, which has no ceiling, with a formula-based approach which combines discretionary and mandatory funding.

I have been informed that experts on veterans health care believe the proposed formula is flawed, that it will have the effect of turning the VA health care system into a kind of glorified HMO, with every incentive to enroll the young and healthy and cut corners on the care needed by the old and the sick. These incentives are contrary to the commitment of this Nation to the health care needs of our veterans.

Treating the VA health care budget as mandatory rather than appropriated discretionary funding will hurt the ability of Congress to ensure accountability within the system and consistency of benefits throughout the country.

The modification attempts to control the outcome of the appropriations process by, in effect, establishing a cap in the amount appropriated by Congress in future years equal to the amount appropriated in fiscal year 2004, which is \$28.3 billion. It further yields to the Comptroller General the responsibility of determining whether adequate funding for veterans is achieved, and how to fund these programs in future years.

Neither the original amendments, numbered 3408 or 3409, nor the modification proposed by the Senator from South Dakota is relevant to the Defense authorization bill. I hesitate to put that to my colleagues but it is clearly a fact. The only relevance is the unity of spirit is that of each of us in this chamber, and indeed I think the Congress, to share in supporting our veterans nationwide.

These funding proposals contained in this amendment require the careful deliberation of Congress to the appropriate committee of jurisdiction, the Committee on Veterans' Affairs, prior to further action by this body.

I yield the floor so my colleagues can address the subject.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I rise in strong opposition to the Daschle amendment. I strongly share the Senator's goal of improving health care and benefits for our Nation's veterans. I think for a number of reasons this is a misguided approach and will not achieve the desired goal of assuring access for all veterans.

I speak to this with a good deal of experience. Currently, I am chairman of the Appropriations VA-HUD Subcommittee. This is the committee that funds the VA. Since 1995, I have been in the leadership as either the chairman

or the ranking member, and I can assure my colleagues that throughout that timeframe VA medical care has been a top priority on a bipartisan basis for that committee. The VA has received from that committee very strong support for medical care.

Since 1998, VA medical care has increased by \$11 billion, and since 2001 it has increased by \$7.3 billion, or 34.7 percent. That is a huge increase, and we made those increases because there were needs. Under the appropriations process, we can respond to those needs. That is why I think the Daschle amendment may have some questionable long-term implications.

Under the current system of discretionary appropriations, the Congress has the flexibility to make the necessary funding adjustments on an annual basis to respond to the challenging health care needs of veterans and to ensure proper accountability with the system so that veterans' needs are being adequately addressed.

Under the mandatory system proposed by the Senator from South Dakota, there would be a fixed funding system based solely on enrollment levels and a contrived inflationary index. Further, discretionary appropriations would be capped at the 2004 appropriations level for VA medical care. Let me go back and take a look. Here is something. I am reading from a chart that has been prepared by the Budget Committee. It shows, going back to 1993, that in that year, for example, the Consumer Price Index, CPIU, hospital and related services, was up 8.37 percent. The CPIU medical care was up 5.97 percent. But VA medical care was up 9.1 percent in the appropriated accounts. In other words, if we had been using either of those formulas, we would have gotten less under the formula than we actually got appropriated.

Of the last 10 years, there were 4 years—1996, 1997, 1998, and 1999—when the index would have provided more. But overall, as I said, let's go back to 2002. Then the highest index on medical care was 4.72 percent. The budget was increased 7.6 percent. In 2003, the hospital and related services index went up 7.36 percent, but the VA medical care budget increases in the appropriations bill went up 12.3 percent. That is almost a 5-percent higher rate of increase under the appropriations formula.

I think that shows the flexibility with which the appropriations process works. But there are other things we have to do in the appropriations bill. First, the funding formula creates an artificially fixed level. It doesn't reflect the unique medical care needs of veterans. The VA system was specifically created to respond to the unique needs of veterans who suffered health problems born on the battlefield. VA provides special services for veterans who have been exposed to environmental hazards or toxic substances or suffered spinal cord injuries or loss of limbs. This is especially evident in our

veterans returning from Iraq and Afghanistan, many of whom we have met in Walter Reed Hospital to see the care they are getting in the regular military hospitals.

But our veteran population is aging. They are going to need special long-term care services not accounted for under the Daschle funding formula. Veterans in need of nursing home care are expected to increase from some 640,000 to over 1 million by 2012 and remain at that level until 2023.

More importantly, I think the mandatory funding option eliminates the strongest tool of the Congress, the purse strings, to ensure accountability within the VA health care system. We are fortunate that the VA now has a very strong leader who is a great administrator and who is thoroughly committed to the needs of veterans, Secretary Tony Principi. He has made tremendous strides in improving the VA health care system because he demands the VA be accountable and responsive to the needs of veterans. Nevertheless, I have seen years where the VA has not had the same kind of leadership that it has under Secretary Principi. I believe it is necessary and was necessary at previous times that Congress have the ability to ensure the VA system is held accountable and makes the necessary reforms so they can provide timely, quality health care services to our Nation's veterans.

Even the President's task force acknowledges that providing sufficient funding to the VA will not by itself guarantee timely access. Let me give an example. Over 10 years ago, we were able to push successfully for improvements to health care access by forcing the VA to open more community-based outpatient facilities so veterans would not be forced to drive hours to receive medical care. I know how important that is. In my home State of Missouri some veterans would spend a whole day driving to the veterans hospital in Columbia, MO, or St. Louis or Kansas City. We found by adopting a system of community-based health care clinics we could provide the services, the primary care services, the pre-op services, in a setting that was less expensive. We could take them in a hospital that is more accessible and save much time and energy for the veterans, while ensuring they get the health care they need. We have been able to successfully push the VA to develop a comprehensive capital needs assessment, known as CARES, to realign the VA care and medical infrastructure so the system is modernized and located closer to where veterans live.

Many people have fulminated against the CARES process because its purpose is to look at unneeded veterans facilities. I have heard some statements that are totally unwarranted, saying that the CARES project is going to take away needed facilities, needed care for veterans.

To the contrary, the whole concept of CARES was one that we pushed in our

Appropriations Committee and that the previous administration, the Clinton administration, adopted. The General Accounting Office had found that the VA is currently wasting \$1 million per day on unneeded and empty buildings. That comes right out of the medical care budget. When you have a huge hospital that is 10-percent full, the costs are astronomical for serving that small population.

Under the CARES process, those services will be moved to a more appropriate structure, and the funds will then be used to provide services, whether it is community outpatient services or some other specific kind of service or just putting more money into the medical professionals to make sure the veterans get the health care they deserve.

The GAO had found that more than 25 percent of veterans enrolled in VA health care, over 1.7 million veterans, live over 60 minutes driving time from a VA hospital. Under the Daschle system, Congress would no longer have the ability to force the VA to make the reforms necessary, as outlined under its CARES program, to improve care and access for our veterans. Instead, the system could build in waste and failure to be responsive to the needs of those who are supposed to benefit from the system.

The third problem with the amendment is that the VA cannot spend all of the additional funds contemplated in the Daschle amendment due to infrastructure and hiring concerns. The VA has an outdated and aging infrastructure. That is why we are pushing the CARES program. In many cases, VA does not have the space to accommodate the needs of patients and health care workers. We need to make sure that money is funneled into providing those facilities to meet the current and future needs of veterans rather than the facilities designed to meet the needs of veterans 40 years ago when their needs were very different and their locations were very different.

In some hospitals, patients are forced to wait in hallways because of the lack of waiting area space. As mentioned earlier, CARES will address these infrastructure needs, but it is going to take years to implement fully the CARES restructuring process. Further, many of my colleagues know that there is a severe nursing shortage in this country. In some facilities, the VA is having a difficult time retaining and recruiting qualified nurses. The VA is also seeking physician pay reform legislation because it is currently restricted in what it can pay for doctors, which hurts the VA's ability to recruit and pay doctors. Those are aspects on which we have to continue to work.

Last, the Daschle amendment imposes a set ceiling on VA health funding as opposed to the current system which has no ceiling and allows Congress to provide more funding as necessary.

As I said at the outset, we provided a 34.7-percent increase in VA health care

funding since 2001. If the Daschle amendment had been in place using the available indexes, the likelihood would be that there would be at least 10-percent less funding that would be going to the VA as a result of the fixed mandatory funding system.

In closing, I urge my colleagues to oppose the Daschle amendment. Members can oppose the Daschle amendment and be concerned about the needs of veterans and help us work to make sure veterans get the health care they need, continuing to support our efforts in the Senate, in the Appropriations Committee, to get the kind of funding we need. We have done so on a bipartisan basis. I intend to continue to work to do so.

However, we are going to have to have the flexibility to make sure we hold the VA accountable, to make sure they provide the services, and that they make the changes necessary.

Funding is critical. I certainly agree with that. I am proud to say we have succeeded in providing that funding over the past several years. Funding, however, is not the sole antidote for the problems addressing the VA health care needs. We must ensure that the VA system remains responsive and accountable to our veterans.

I fear adoption of an amendment such as this would be an empty promise to our Nation's veterans who have special needs and demand a health care system that is accountable and responsive to their needs. Our system of checks and balances has played a critical role in transforming the VA health care system which is now underway to ensuring that we will be able to meet the health care needs of veterans well into the 21st century.

The Daschle amendment significantly reduces the role of Congress in ensuring improvements in reforms to the VA health care system so it is more accountable to the needs of the veterans. By capping the discretionary amount of appropriations at the 2004 level, our hands would be tied in making adjustments to the funding needs of our veterans. This is especially dangerous considering the hundreds of thousands of troops currently deployed across the globe fighting the war on terror and in Iraq. I strongly believe in putting the needs of veterans first.

Those needs are not best served by these amendments which would, in my opinion, based on my experience working with the system, hurt our ability to meet that goal. That is why I close by urging my colleagues not to support the amendment by the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we are ready to vote. It is my understanding the leader wanted to have some votes today. We are ready to vote.

It is my further understanding after the next vote in relation to the Defense bill now before the Senate, he wanted some votes on judges. We are ready to do that.

Until Senator WARNER appears, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 3414

(Purpose: To provide for fellowships for students to enter Federal service, and for other purposes)

Mr. REID. Mr. President, I ask the pending amendment be laid aside and I ask that amendment 3414, which is at the desk, be reported. I offer the amendment on behalf of Senator AKAKA.

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

The clerk will report the amendment. The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. AKAKA, proposes an amendment numbered 3414.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask unanimous consent the amendment be laid aside.

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

#### AMENDMENT NO. 3387

Mr. REID. I ask that amendment 3387 on behalf of Senator LEAHY be reported.

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

The clerk will report the amendment. The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEAHY, proposes an amendment numbered 3387.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

#### TREATMENT OF FOREIGN PRISONERS

SEC. . POLICY.—(a)(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter "prisoners") humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190-8, Section 1-6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(b) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth: (A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and (B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and the reason(s) for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(c) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all federal employees and civilian contractors engaged in the handling and/or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

AMENDMENT NO. 3469

Mr. REID. Mr. President, I send an amendment to the desk in relation to that amendment.

Mr. WARNER. Can I ask, is this a modification to the Leahy amendment?

Mr. REID. Yes.

Mr. WARNER. I have to interpose an objection.

Mr. REID. There is no objection in order.

Mr. WARNER. Fine; I understand.

Mr. REID. Is there?

Mr. WARNER. I suggest the absence of a quorum.

Mr. REID. The amendment has to be reported first.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3469 to amendment No. 3387.

The amendment is as follows:

(Purpose: To direct the Attorney General to submit to the Committee on the Judiciary of the Senate all documents in the possession of the Department of Justice relating to the treatment and interrogation of individuals held in the custody of the United States)

At the appropriate place, insert the following:

SEC. \_\_\_\_ REQUEST FOR DOCUMENTS AND RECORDS.

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from

January 20, 2001, to the present, and in the possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

Mr. REID. 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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Mr. President, we will have a period for consideration of the bill for the purpose of debate only. No amendments will be offered until we clarify how we might resolve our parliamentary situation.

I have to say our distinguished chairman has done an outstanding job in getting us to this point, as has our ranking member. I am very concerned that as close as we are to completion, we have not been able now to move forward. We have only had two votes on this bill so far today. It is now 4 o'clock. I have laid down an amendment. I am willing to do a side-by-side, if necessary. We have other legislation pending.

I was told we cannot have a vote on my amendment because the Senator from Massachusetts, Mr. KERRY, is in town, and we cannot allow him to parachute down and have a vote. I think that is very unfortunate. He is here to vote, and I would think we would accord every Senator the right and opportunity to vote on this amendment and whatever other pending legislation.

We can finish this bill. We have already agreed under unanimous consent to finish this bill for debate purposes by the end of the day. All we have left are whatever amendments are going to be offered between now and 6:30 p.m. We are so close. I only hope we consider the admonition of both of our managers, that we work together as we have for the last many days now to complete our work.

Let's have a vote on the veterans amendment, let's have a vote on the other pending legislation, and let's move forward with these amendments in the same good faith we have demonstrated to date. We could have been far more confrontational with regard to unrelated amendments. We have not done that. At the urging of Democratic leadership, we have withheld many of those amendments. I hope we would show the same good faith as we complete this bill.

Senator KERRY ought to have a chance to vote. There ought to be an

opportunity to dispose of these amendments. How ironic it is that we are the ones who appear to want to finish, and certainly our manager wants to finish, but there are those on the other side, for whatever reason, who are unwilling, reluctant to allow us the votes that are pending on the amendments that have now been laid down.

I urge reconsideration of that point of view at this point. It is counterproductive. It says all the wrong things about the desire to complete our work before the end of this week with all we have to do. I urge my colleagues to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I must respectfully say to my good friend, the Democratic leader, that I have to take a different view with regard to the situation on Senator KERRY. I listened to, I thought, most of the conversations, and I do not feel that is the situation. I have tried, and I propose trust in our colleagues on the other side.

I say I was negligent in allowing the first-degree amendment to come up and be second degree. I felt it was another first-degree amendment being offered. It was not announced as a second-degree amendment. I tried to interject, but the parliamentary situation did not allow me to get a quorum call in to ascertain the situation.

What is past is past. But I do not want it to stand that on this side of the aisle I see a lot of attempt to block, whether it is KERRY or anybody else, from making votes here.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I am not sure to which second-degree amendment the distinguished chairman is referring.

Mr. WARNER. It was a Leahy amendment.

Mr. DASCHLE. If we can get a vote, we can certainly accommodate the Senator from Virginia. All we are looking for is a vote. It does not have to be on this particular amendment. If he wants to offer a second-degree amendment, we are certainly willing to look at ways with which to accommodate the majority in that regard. But a vote is important. It is relevant, of course. It ought to be offered.

As to the Kerry matter, I do not know if the distinguished chairman heard—he was standing here—Senator FRIST noted to me as he was standing here that he did not want to accord Senator KERRY the opportunity to vote today, knowing, of course, Senator KERRY was here today.

We can work through these issues if we can demonstrate a little more patience and a little more good will, and we can get the job done.

Mr. REID. Mr. President, will the leader yield for a question?

Mr. DASCHLE. I will be happy to yield.

Mr. REID. In years past, when Senator Dole was running for President,

when he was still here, we went out of our way to make sure Senator Dole had the opportunity to do whatever he wanted to do. If he wanted to vote on one, two, three, or four items, we made sure he had that same opportunity. It was the same with Senator McCAIN when he was running. We went out of our way to make sure when they were here they were protected.

Will the distinguished Democratic leader agree this is somewhat unusual that Senator KERRY, who feels this veterans amendment is important—he is a distinguished, decorated veteran. He feels he should be here to vote on the amendment. Isn't that somewhat unusual?

Mr. DASCHLE. First of all, I share the recollection of the distinguished assistant Democratic leader. Yes, we did accommodate those who had to travel for purposes of national campaigns in past elections. One would think we would do so in this case. We are trying to govern. We have the campaigns to run. One would hope we could keep the campaigns off the Senate floor.

It is ironic that some in the majority who have been pressing to get this legislation done now keep us from getting it done for that reason. We have wasted a couple of hours here. We could have finished this amendment and moved on. I think everybody agrees we need to finish this legislation. No one has worked harder at it than the distinguished chairman. But now we are being told we cannot do that. I did not know it was finished unless it involves giving Senator KERRY a chance to vote. It is not the right thing to do. We know that.

I hope we come to our senses and get on with getting the business of the Senate done.

Mr. WARNER. Mr. President, before this colloquy started—I think we have pretty much completed it, and we have different perspectives—we encouraged those Senators to come up and debate those amendments which are at the desk so we could have debate on them, but no further amendments in the first and second degree would be sent to the desk. I think that is a gentleman's understanding.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, one of the points I am disappointed in and concerned about is I do not want the Senator from Virginia—he and I have worked together for two decades—I do not want the Senator from Virginia to think in any way that I tricked him or misled him or deceived him. That is why during the time we were here together I said I would be willing to withdraw the second-degree amendment.

The Senator from Virginia must understand that the amendment will come up again because we have a right to offer that amendment, and whether it is offered by me, Senator LEAHY, or by whomever, it will be offered at some subsequent time.

I get the feeling, in talking to the Senators who were representing the majority, that simply because we were going to require a vote on this there would not be any more movement on this bill, and that is not productive. So my point is the offer is still there. The Senator from Virginia should understand that I would be willing to withdraw the second-degree amendment that is in my name but the Senator should understand that it will recur at some subsequent time.

Under the rules, there is no way it can be stopped, and even though the Senator was not aware of my offering the second-degree amendment, and I told him in privacy why I did this—I did not hide anything about why I did it when I did it, and I have no reservation about having done it—perhaps having disappointed the Senator from Virginia I would be happy to withdraw that, recognizing that at some subsequent time we are going to have a vote on it. The best way to do it would be to acknowledge at this time that there would be a vote on it and have a vote on whatever the Senator might want to do, if he decides to second-degree the Leahy amendment and have the Leahy first degree and second degree voted on, because that is ultimately what will happen if we are ever going to finish this bill, unless cloture is invoked.

So I would like a comment from the distinguished chairman as to whether he would want me to do that.

Mr. WARNER. At this point in time I think we better go back to the original posture of the agreement we reached that we would at this point in time this afternoon just continue debate on matters pending at the desk.

Mr. REID. I want the Record to be clearly spread with the fact that if the Senator from Virginia feels that I misled, deceived, or tricked him in any way that I will withdraw my amendment. So the Senator understands that.

Mr. WARNER. I do not wish to use any of those words. All I recall very clearly when I quickly came on the floor, the Senator had the floor, Senator BOND had yielded the floor to the Senator from Nevada—I thought he was managing—and the Senator from Nevada said he wanted to send up amendments on behalf of Senators AKAKA and LEAHY. I said, fine, that is within the rules, and that the Senator did but he did not indicate that there would be a third amendment in the nature of—

Mr. REID. So all the Senator has to do is say he wants me to withdraw my second-degree amendment and I will be happy to do that, recognizing that if I do not offer it somebody else will at some subsequent time.

Mr. WARNER. I understand clearly the Senator has the same rights as all Senators as it relates to this amendment, but at this point in time our side is trying to deliberate the posture we are in and I am going to have to remain on the floor. Others will come

and send for me when I am ready to make my contribution, but at this time I have no other colleagues on the floor so I am just going to remain. I suggest we just go ahead and debate those matters at the desk.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the amendment I offered dealing with a request for documents and records basically says:

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from January 20, 2001, to the present, and in possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

Because of my longstanding work with the Senator from Virginia—I started out as a new Senator on the Environment and Public Works Committee and he was the chairman of the subcommittee there and he always looked after me and extended to me more courtesies than probably he should have, and all my dealings with the Senator from Virginia have been most courteous; I think he is really a gentleman and I know he is too proud to say that he wants me to withdraw this—and because he has not asked me to withdraw it because I think down deep he thinks that I perhaps did something I should not have done, I do not want anything to occur—I am doing this as a personal thing between the Senator from Virginia and the Senator from Nevada, but of course, as I indicated, I or somebody else will offer this at some subsequent time.

AMENDMENT NO. 3469 WITHDRAWN

Mr. REID. I ask unanimous consent that amendment No. 3469 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. I understand there is a general agreement that we will at this point in time not be sending any additional amendments to the desk, but Senators will debate those that are pending and debate those that may be offered at some point during the course of the day.

Am I not correct on that?

Mr. REID. Of course, this agreement would only go until 6:20.

Mr. WARNER. That is understood.

I ask unanimous consent that between now and the hour of 6:20, the Senate proceed to allow Senators to speak for up to, say, 15 minutes with regard to pending amendments or amendments that they may intend to offer.

Mr. LEVIN. Reserving the right to object, I assume that if we can work something out and amendments can be disposed of between now and 6:20, that would then be accomplished.

Mr. WARNER. We will take each one and examine it on its own individual basis.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have an amendment that is just listed in the understanding on Iraq. I have talked both with the chairman of the committee and the ranking member of the committee, and I was prepared to offer it and debate it during the course of the afternoon and to indicate a willingness to enter into a time agreement. It is a very important amendment. I will be glad to follow what the arrangements are between the chairman of our committee and the ranking member of the committee as a way to proceed. It is somewhat difficult with an amendment of this kind of importance to have only 15 minutes and others come during that 15 minutes. I guess we will get a chance to develop it further, but I want to speak to the amendment now and then follow the recommendations of the floor managers as to when we will come back and either debate this or work out a suitable time, because it is an important amendment.

I will take a moment of the Senate's time to express, quite frankly, my appreciation to the Senator from Nevada in offering the amendment that he had, which he did a few moments ago as a member of the Judiciary Committee. We know there are four committees which are in one way or another looking at the prisoner abuse scandal and tragedy. We have the Intelligence Committee that is looking at it. They are very much tied up with the 9/11 Commission that has made its report. We had the Foreign Relations Committee that had not had hearings on it. We have the Armed Services Committee under the leadership of Senator WARNER, which has done a first rate job trying to work through this whole dilemma. He is recognized by the members of the committee, and by others, as someone who has worked toward trying to find the facts on this situation. And there is the Judiciary Committee. We have seen in the published reports a number of memoranda were developed by the Justice Department as to the responsibility that the Executive has under these circumstances of recommending, roughly, under his ability as Commander in Chief, that he may very well be immune from any kind of rules, regulations, or orders

that he might support in terms of the treatment of prisoners.

That concept runs counter to the view of 500 constitutional lawyers who issued a press release raising very serious constitutional issues and questions.

What the Judiciary Committee has been attempting to do is to review the various recommendations that have been developed by the Justice Department and the other agencies. It has been an interagency effort. This is not just the Justice Department advising the President on a matter of an Executive order. As a matter of fact, it was very clear during the hearing of the Judiciary Committee that the Attorney General did not claim executive privilege. But there was the incident where the Attorney General said that even though he is not claiming executive privilege, and even though he is not quoting a statute that might make him exempt from making these documents available, he still was refusing to make them available.

We had a brief discussion during the course of the committee hearing as to whether that was contempt of Congress. We are not trying to get into that whole situation. We are just trying to find out what these documents said in the interagency agreements that were being developed.

Now we are told this afternoon that approximately 3 of the documents of the 23 that were actually requested are available to the committee. Two of those are already on the Internet.

This is a matter of enormous importance and consequence. The American people see on television and hear on the radio and read in the newspapers about prison policy over there. We have recommendations made by the Justice Department, and there is a refusal to cooperate with the Congress. It is entirely appropriate that this institution have access to that material. That was the purpose of the amendment that was offered by the Senator from Nevada. It was entirely appropriate. I find it very necessary. There are many important matters in this Defense authorization bill. But it certainly seems this is a matter of very important consequence.

I believe the amendment still has great importance and relevance. I think the Senate ought to know what the Senator from Nevada was involved in is not only an honorable position but also a necessary one. But as he pointed out, we are now trying to move the process forward in terms of the Defense authorization bill.

I ask if I can have the full amount of time now to address the substance. Do I understand we have 15 minutes? Could I ask for 15 minutes? I ask consent for that.

The PRESIDING OFFICER. The Senator is entitled to 15 minutes.

AMENDMENT NO. 3377

Mr. KENNEDY. I thank the Chair. Mr. President, at an appropriate time I will call up amendment No. 3377. I ask unanimous consent the Senator from

West Virginia, Mr. BYRD, be added as a cosponsor to this amendment.

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

Mr. KENNEDY. Mr. President, on June 30, sovereignty in Iraq will be transferred to the interim government. For the sake of the Iraqi people and our nearly 140,000 troops in Iraq, we all hope that the interim government will succeed, that its appointment begins a new stage in Iraq in which the security situation will improve at long last for our troops, and that we will no longer see a continuation of the administration's flawed policy that has generated so much turmoil in the past year and so many casualties for our forces.

Unfortunately, the violence continues. Twenty-two American soldiers have been killed in the 22 days since the announcement of the interim government. More than 450 American soldiers have been wounded in that period.

Even with the transfer of sovereignty and the recent United Nations resolution on the Iraqi transition, the key question is, when will the violence stop? When will the international community join us in securing and reconstructing Iraq? Or will the bulls-eye remain on the back of every member of our armed forces in Iraq?

The amendment I am offering today with Senators LEVIN, BYRD, LEAHY, DAYTON, and FEINGOLD seeks answers to these questions.

Our amendment requires the President to tell the American people whether or when the administration's policy will bring more international troops, police, and resources to Iraq. That's what we owe to our forces. That's what we owe to their families. And that's what we owe to the American people.

The amendment requires the President to submit a report to Congress on the administration's plan for the security and reconstruction of Iraq no later than 30 days after the date of enactment of the bill.

The report must address whether and when the administration's strategy of working with the United Nations and other nations will bring more international troops, police, and resources to Iraq and provide relief to the men and women of our armed forces. It must assess the administration's strategy for strengthening the Iraqi police and military, its reconstruction efforts, and its progress toward democratic elections. And it must provide an estimate—an estimate—of the number of American troops we anticipate will be in Iraq at the end of next year.

Two subsequent reports will provide updated assessments—one 6 months after the bill becomes law and the other just before the end of 2005.

This week, President Bush will travel to Ireland for a summit between the United States and the member nations of the European Union. He will also attend a NATO summit in Istanbul. We all hope he will succeed in persuading the international community to join us in a more significant way in Iraq.

Unfortunately, the likelihood of that happening—even with the transfer of sovereignty and a new UN resolution—is far from clear. At best, the administration now expects that our allies in Iraq will not withdraw any of their current troops from the coalition.

On June 7, just a day before the UN approved the resolution supporting the interim government in Iraq National Security Advisor Rice said:

I don't expect that there will be a large infusion of more foreign forces. In fact, I think that what you will see, is that some of the countries that have had particularly difficult situations, some of our coalition partners, will find this resolution makes them capable of staying the course.

On June 10, after the G-8 Summit, President Bush said that he didn't:

. . . expect more troops from NATO to be offered up. That's an unrealistic expectation. nobody is suggesting that.

Those were his words.

On June 13, Secretary of State Powell said the same thing:

We're not expecting major additional contributions of troops from our NATO allies beyond the 16 nations that are already involved.

The message from the administration is loud and clear: We'll stay the course, but we don't expect any more international troops. America will continue to be the only major military presence on the ground in Iraq.

American soldiers have been bearing a grossly disproportionate share of the burden for far too long.

No policy in Iraq can be considered effective if it fails to bring in the international community in a way that reduces the burden on our men and women in uniform, and takes the American face off the military occupation in Iraq.

As General Abizaid told the Armed Services Committee on May 19—there are not enough troops from other nations in Iraq. The “effort needs to be not just American, but it needs to be international.”

The administration had a brilliant plan to win the war, but it had no plan to win the peace. That failure has been putting a severe strain on our military and their loved ones left behind in America.

Mr. President, 830 American soldiers have paid the ultimate price in Iraq.

More than 5,130 soldiers have been sounded.

America has nearly 90 percent of the troops on the ground, and more than 95 percent of the killed and wounded have been Americans.

The war is now costing us \$4.7 billion every month.

In fact, the burden on U.S. troops has been increasing, since first Spain, then Honduras, Nicaragua, and El Salvador pulled their troops out of Iraq.

More than a quarter of the current forces in Iraq are reservists, as are nearly half the current forces in Kuwait. Eighteen percent of our active duty Army is serving in Iraq, and 16 of our 33 combat brigades are serving there.

The Army is now under a stop-loss order that prevents troops from leaving active duty while deployed to Iraq, and for another 90 days after returning to their home bases.

The average tour of duty for a reservist recalled to active duty is now 320 days—ten months. According to the Department of Defense, the average tour of duty for a reservist during the first Gulf war was 156 days. In the deployments in Bosnia, and Kosovo, it was 200 days.

An Army brigade commander recently spoke about the exasperation of our soldiers: “A soldier just said to me, ‘what happened to the volunteer force? This is a draft.’”

Others in the military leadership have spoken out on the strain on the military.

On January 21, LTG James R. Helmly, head of the Army Reserves, discussed the effect on reservists. He said, “the 205,000 soldier force must guard against a potential crisis in its ability to retain troops.” He said that serious problems are being masked temporarily because reservists are barred from leaving the military.

The same day, LTG John Riggs also spoke of the strain. He said, “I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today.”

On February 5, GEN Peter Schoomaker, the Army Chief of Staff said, “There is no question that the Army is stressed.”

On June 2, GEN Franklin L. Hagenbeck, the Army's deputy chief of staff in charge of human resources and personnel, said that the Army is “stretched.”

These are the cold, hard facts. They cannot be glossed over. If we continue to go it alone, the mission is impossible. The need is urgent to bring in the international community in Iraq in a major way. It may well be that only a new President in the White House will be able to persuade other nations to trust us enough to participate in the difficult and dangerous mission.

In fact, the need for international participation was abundantly clear before we went to war. As former Secretary of State James Baker wrote on August 25, 2002, “The costs in all areas will be much greater, as will the political risks, both domestic and international, if we end up going it alone, or with only one or two other countries.”

Last July, by the unanimous vote of 97-0, the Senate approved an amendment urging the President to consider requesting formally and expeditiously that NATO organize a force for deployment in post-war Iraq similar to the NATO forces in Afghanistan, Bosnia and Kosovo.

We also asked the President to consider calling on the United Nations to urge its member states to provide military forces and civilian police to promote stability and security in Iraq, and provide resources to help rebuild and administer Iraq.

President Bush says that the administration is working with the international community. But what are the

results? Are more nations sending troops, police, and resources? When will the American face be taken off the occupying force? When will Iraq be more secure? When will more American soldiers return home? How long, and how heavy will the burden be? Will the President obtain additional foreign commitments for troops and resources at the Summits with the European Union and NATO in the coming days or will he return empty-handed once again?

The American people and our soldiers serving in Iraq deserve to know the results of the administration's efforts to work with the international community.

All we are asking in this amendment is a progress report from the President on the administration's efforts to work with the international community. All we are asking is how many troops we expect to have in Iraq in coming months.

Given the high stakes, the President should provide the information. Our troops deserve it, America deserves it, and the Iraqi people deserve it.

I will mention past precedent for this proposal because we will hear from those opposed to it that we do not really have as much time as we should, 30 days after the bill is passed. We are going to be, hopefully, concluding this bill. It will take the better part of the month prior to the time we recess for the August break to be able to conclude, I expect, the conference. The President may sign that then.

The PRESIDING OFFICER. The Senator has spoken for 15 minutes.

Mr. KENNEDY. Can I get 5 more minutes?

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

Mr. KENNEDY. I understand the Senator from Vermont is eager to talk. I will conclude and come back to this, if I can have 4 more minutes to conclude.

I draw the attention of Members to the precedence in 1995; the Defense authorization bill required assessing the implication of the U.S. military readiness, the participation of ground forces in Bosnia. It had to include 11 estimates of the total number of forces required to carry out the operation, estimates of the duration of the operation, estimates of the cost, and how many Reserve units would be necessary for the operation. This was true in 1997; this was true in 1998; it was true in 1999. There are all kinds of precedents for this.

We are entitled to this information. This amendment will make sure we will be able to receive it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will say that I agree with the second-degree amendment the Senator from Massachusetts has temporarily withdrawn. Obviously it will be reoffered. The reason I agree, Congress not only has done a very poor job of oversight; with some



exceptions, the administration has taken advantage of that and made it a practice to deny oversight cooperation to Congress.

The stonewalling in the prison abuse scandal has been building to a crisis point. Today, finally, after huge pressure, the White House has released a small subset of the documents that offer glimpses into the genesis of this scandal. All should have been provided earlier to Congress. We know a lot has been held back, and remains hidden from public view.

While this is a self-serving selection on the part of the administration, it is at least a beginning, a tiny beginning, a tiny baby step. But if we want the Judiciary Committee and the Senate to find the whole truth, we will need much more cooperation and extensive hearings.

The documents released today raise more questions than they answer. I will give some examples, speaking now of the documents released today.

The White House released only 3 of the 23 documents that members of the Senate Judiciary Committee requested and tried to subpoena last week. In having released only 3 of the 23 we asked for, I point out that 2 of the 3 were already available on the Internet. Where are the other 20 documents we asked for? They have given us one that was not already on the Internet. Where are the other 20?

The White House released a Presidential memorandum dated February 7, 2002, directing that al-Qaida and Taliban detainees be treated humanely. Did the President sign any directive regarding the treatment or interrogation of detainees after February 7, 2002, more than 2 years ago? More specifically, did the President sign any directive after the United States invaded Iraq in March of 2003?

The latest document released by the White House is dated April 16th, 2003. Why is that, when many of the worst abuses that we know of occurred months later, in the fall of 2003. Why has the White House stopped with memoranda produced in April 2003?

I live on the side of a mountain in Vermont. I know that water flows downhill, but so does Government policy. Somewhere in the upper reaches of this administration a process was set in motion that seeped forward until it produced a scandal.

All of us want to put the scandal behind us, but to do that we have to know what happened. And we cannot get to the bottom of this until there is a clear picture of what happened at the top. We need to keep the pressure on until we get honesty and answers. So I will support Senator KENNEDY's second-degree amendment when it is offered.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. LEAHY. Yes.

Mr. KENNEDY. Would the Senator agree with me it is time for the administration to level with the American people on this issue?

Mr. LEAHY. Mr. President, I would agree with the Senator from Massachusetts, it is time to level with the American people. We tried to subpoena these records last week. We were rebuffed on a party-line vote, with many on the other side saying: But they are going to be forthcoming. We now get 3 out of 23 documents, 2 of which were already on the Internet.

When are they going to be forthcoming? We want to understand what happened. As I said, if you are going to get to the bottom of what happened, you have to start at the top. President Bush has said he wants to get to the bottom of this. I agree with him, but I think we have to start at the top to find out what happened there. And simply prosecuting some corporals and sergeants and privates does not get to the bottom of what happened.

Mr. KENNEDY. Finally, if the Senator will yield, I remember our ranking member being at that hearing. The Attorney General was asked whether he was asserting executive privilege, and he said no. Then it was pointed out by members that there are times when the Attorney General does not have to respond because it is spelled out in statute that he does not have to respond. But that was not the case. So it is a circumstance that the Attorney General of the United States felt he would not respond to these requests on the basis of his own actions.

Would the Senator not agree with me that there is no one who is above the law in the system of jurisprudence in the United States of America? The continued unwillingness to provide these documents is certainly going to prolong the agony of the administration in terms of its willingness to cooperate with the committee. And would he not agree with me it is better to get that material here and get the instance behind us?

I remember—if the Senator will permit me to continue—I had the good opportunity to meet the new President of Iraq. I asked him about the prison scandal. I asked: What can the United States do in order to deal with this issue? He said: It is very clear. You have to complete the investigation for which your country is noted. You have to complete the review and hold those accountable who are responsible. When that happens, Iraqis will take a new look at this country.

Would the Senator not agree with me that was good guidance and good advice, and that it ought to be followed, and that it is going to be impossible to follow as long as they refuse to cooperate with the committee?

Mr. LEAHY. Mr. President, the Senator from Massachusetts is absolutely right. I also had the good fortune to meet with the new interim President of Iraq. I actually asked him a similar question, and what the Senator from Massachusetts says is absolutely so. He said: Get it all out. He spoke of making it as transparent as possible. He said: The United States has always had a

reputation of being honest, of being a democratic nation, of admitting our mistakes, and, of course, of being proud of those things we have accomplished that we can be so proud of. If we want to maintain that credibility, get it all out.

The Senator from Massachusetts said that in our system, nobody is above the law. I thank God that is so, that the Founders of this country were wise enough to set in place a system where nobody—nobody—was above the law. We have demonstrated this over and over again throughout our history as a nation. Anybody who has tried to step above it, the checks and balances stop that.

What the administration can do is so easy: Answer the questions. The Attorney General refused to answer our questions. But he did not do it on the basis of any of the very limited reasons that a question might be refused—either because the information being sought is classified, which requires us to go into closed session, or because the President has asserted executive privilege, which the President did not in this case.

They have sent up 3 of the 23 items we requested. Two of the 3 items were already on the Internet. But at least we are one item forward. Let's get the rest of the information and documents up here, and then let the Senate do what it should do: Let the various committees actually ask questions and seek answers.

Mr. President, I see my good friend from Pennsylvania on the floor seeking recognition, so I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition on the pending legislation, I ask unanimous consent that I may speak up to 10 minutes as in morning business.

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

(The remarks of Mr. SPECTER are printed in today's RECORD under "Morning Business.")

Mr. SPECTER. I thank the Chair and yield the floor.

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

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

Mr. SCHUMER. Mr. President, I ask unanimous consent to address the Senate for 5 minutes.

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

Mr. SCHUMER. Mr. President, I join my colleague and ranking member on the Judiciary Committee, the Senator from Vermont, as well as my colleague, the Senator from Massachusetts, in expressing support for the amendment we

will vote upon either tonight or tomorrow, and to express my displeasure that the documents that we have received are so inadequate in terms of what we have requested.

The first point I will make is, don't let anybody think that because this is a thick pile, it really has the nub of the matter. It does not.

The bottom line is that I would say that an ounce of disclosure is going to buy this White House a pound of problems. These documents raise more questions than they answer. The White House is better off coming clean and releasing all relevant and nonclassified documents.

In the Judiciary Committee, we have asked the administration for 23 specific documents as a starting point. Of the 13 the White House released today, only 3 are among those we asked for; 3 out of 23 is not a very good average. It is not even a good batting average, and we are pretty lenient there when we are above a third.

It seems painfully clear that this administration devised a strained—some would say tortured—new definition of torture. Then someone in the administration authorized the use of new “interrogation techniques” that would have run afoul of the old definition of torture but under the new definition were permissible.

Anybody who thinks those line soldiers at Abu Ghraib were acting on their own initiative must have his head in the sand.

It is absolutely unacceptable that the actions of a few in our military and our Government have brought shame on the 99.9 percent of our troops who serve us so honorably and well and are fighting for the freedom of the Iraqi people.

We must not compound that error by letting a few soldiers at the bottom of the line take the fall if authorities higher up gave them the green light.

This matter must be pursued no matter where it leads, no matter how high it goes. If anyone at the Cabinet level or in the White House opened the door to the kind of abuse we saw in those pictures from Abu Ghraib, it is time to own up to it.

The credibility of the administration is on the line and the release of a handful of documents simply doesn't do the job.

I will repeat that it is not enough to release a few inches of documents. The White House should publicly disclose all relevant and nonclassified documents. Relevant classified documents should be provided to the Judiciary Committee and Armed Services Committee so we can get to the bottom of this.

Mr. President, I am aware of the difficulties in these situations. We are in the post-9/11 world, a brave new world. Sometimes things do have to change and be adjusted. We don't know where the balance should be exactly. That is the difficulty. But one thing I know for sure is that there should be debate as to what methods of interrogation

should be allowed and used because that deals with the fundamental balance of security and liberty, and that is the balance the Founding Fathers focused on probably more than any other. That is the balance; they wanted open debate.

So the thing I am sure of is not where you draw the line. I think anybody who says that is certainly making a mistake. Rather, the thing I am certain of is, if there is open debate and discussion between the executive and legislative branches, which is what the Founding Fathers most certainly intended, we will almost inevitably end up in these most serious and delicate matters with a very good solution.

The problem, of course, is this: The Justice Department and the Attorney General have a penchant for secrecy. They have avoided at all costs open debate and discussion. The results almost always inevitably boomerang on them, and they end up having to backtrack anyway, but in a way that doesn't do justice and do right for the people they represent and for America and the world.

So the bottom line is this: At the end of the day, if we don't know who authorized what, when it was authorized, and whether it explains why the detainees at Abu Ghraib were treated the way they were, then the job is simply not done.

I thank my colleagues from Vermont, Massachusetts, Wisconsin, and Illinois for their leadership on this issue and encourage my colleagues to support this amendment.

I yield back the remainder of my time, and 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. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Wisconsin.

AMENDMENT NO. 3400

Mr. FEINGOLD. Mr. President, first, I will call up my amendment, and I ask that it then be set aside.

Mr. WARNER. Mr. President, there is a UC in effect which indicates there will be no more amendments that will be taken up at the desk. The Senator can speak to any amendment that is pending or another matter, but as far as transactions with the Presiding Officer at this time, they are not in order.

Mr. FEINGOLD. Mr. President, I understand, and I wish to speak about an amendment that will be offered later, amendment No. 3400. It is an amendment I am cosponsoring with Senators MURRAY, DAYTON, CORZINE, DURBIN, and LAUTENBERG.

My amendment would bring a small measure of relief to the families of our brave military personnel who are being deployed for the ongoing fight against terrorism, the war in Iraq, and other

missions in this country and around the world. It is actually an amendment the Senate adopted unanimously to last year's Iraq supplemental spending bill, and I hope my colleagues will join me in supporting this measure again this year.

The men and women of our Armed Forces undertake enormous sacrifices in their service to our country. They spend time away from home and from their families in different parts of the country and different parts of the world and are placed in harm's way in order to protect the American people and our way of life. We owe them a huge debt of gratitude for their dedicated service.

The ongoing deployments for the fight against terrorism and for the campaign in Iraq are turning upside down the lives of thousands of Active-Duty National Guard and Reserve personnel and their families as they seek to do their duty to their country and honor their commitments to their families, and, in the case of the Reserve components, to their employers as well. Today, there are more than 160,000 National Guard and Reserve personnel on active duty.

Some of my constituents are facing the latest in a series of activations and deployments for family members who serve our country in the military. Others are seeing their loved ones off on their first deployment. All of these families share in the worry and concern about what awaits their relatives and hope, as we do, for their swift and safe return.

Recently, many of those deployed in Iraq have had their tour extended beyond the time they had expected to stay. Sometimes this extension has played havoc with the lives of those deployed and their families. Worried mothers, fathers, spouses, and children expecting their loved ones home after more than a year of service must now wait another 3 or 4 months before their loved ones' much anticipated homecoming. The emotional toll is huge. So is the impact on a family's daily functioning, as bills still need to be paid, children need to get to school events, and sick family members have to be cared for.

Our men and women in uniform face these challenges without complaint, but we should do more to help them and their families with the many things that preparing to be deployed requires.

During the first round of mobilizations for operations in Afghanistan and Iraq, military personnel and their families were given only a couple days' notice that their units would be deployed. As a result, these dedicated men and women had only a very limited amount of time to get their lives in order. For members of the National Guard and Reserve, this included informing their employers of the deployment. I commend the many employers around the country for their understanding and support when their employees were called to active duty.

In preparation for deployment, military families often have to scramble to arrange for childcare, to pay bills, to contact their landlords or mortgage companies, and take care of other things we usually deal with on a daily basis.

The amendment I will be formally offering later today will allow eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to be able to use their Family and Medical Leave Act, FMLA, benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as childcare.

I do not want you to just take my word for it. Here is what the National Military Family Association has to say in a letter:

The National Military Family Association has heard from many families about the difficulty of balancing families' obligations with job requirements when a close family member is deployed. Suddenly, they are single parents, or, with the grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with predeployment briefings and putting legal affairs in order.

In that same letter, the National Military Family Association states:

The military families, especially those of deployed servicemembers, are called upon to make extraordinary sacrifices. This amendment offers families some breathing room as they adjust to this time of separation.

Let me make sure there is no confusion now about what this amendment does and does not do. This amendment does not expand eligibility for FMLA to employees not already covered by FMLA. It does not expand FMLA eligibility to Active-duty military personnel. It simply allows those already covered by FMLA to use the benefits they already have in one additional set of circumstances, and that is to deal with issues directly related to or resulting from the deployment of a family member.

I was proud to cosponsor and vote for legislation that created the landmark Family and Medical Leave Act during the early days of my service to the people of Wisconsin as a Member of this body. This important legislation allows eligible workers to take up to 12 weeks of unpaid leave per year for the birth or adoption of a child, the placement of a foster child, to care for a newborn or newly adopted child or newly placed foster child, or to care for their own serious health condition or that of a spouse, a parent, or child. Some employers offer a portion of this time as paid leave in addition to other accrued leave, while others allow workers to use accrued vacation or sick leave for this purpose prior to going on unpaid leave.

Since its enactment in 1993, the FMLA has helped more than 35 million

American workers to balance responsibilities to their families and their careers. According to the Congressional Research Service, between 2.2 million and 6.1 million people took advantage of these benefits in 1999 through 2000.

Our military families sacrifice a great deal. Active-duty families often move every couple of years due to transfers and new assignments. The 10 years since FMLA's enactment has also been a time when we as a country have relied more heavily on National Guard and Reserve personnel for more and more deployments of longer and longer duration. The growing burden on these service members' families must be addressed, and I think this amendment is one way to do so.

This legislation has the support of a number of organizations, including the Wisconsin National Guard, the Military Officers Association of America, the Enlisted Association of National Guard of the United States, the National Guard Association of the United States, the Reserve Officers Association, the National Military Family Association, and the National Partnership for Women and Families. The Military Coalition, an umbrella organization of 31 prominent military organizations, specified this legislation as one of five meriting special consideration during the Iraq supplemental debate.

We owe it to our military personnel and their families to do all we can to support them in this difficult time. I hope this amendment will bring a small measure of relief to our military families.

Mr. President, I urge my colleagues to support the amendment when we have the opportunity to vote on it. I yield the floor.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRYOR. Mr. President, I rise to speak about amendment No. 3264, which I have offered. It accomplishes three important goals. First, it recognizes and honors the dedication and sacrifice of American military personnel killed and injured in combat and the heroic efforts of our medical teams through a sense of the Senate.

Secondly, it eases the stress of families who are attempting to follow the whereabouts of loved ones injured in combat by requiring the Secretary of Defense to establish a tracking system for wounded personnel.

Third, it authorizes \$10 million to modernize medical combat equipment to support our medics in their fight to save lives.

Supporting my amendment tells the 5,138 military personnel who have been

injured in Iraq that we care. It begins to address this harsh reality of war by providing the care soldiers and marines deserve and the resources combat medics need.

I have heard from distraught Arkansas families—I am sure many of my colleagues have heard from families in their States—who felt left in the dark after a loved one's injury because they were not given adequate details of their condition or whereabouts. Congress can alleviate that anxiety by establishing a tracking system to keep families better informed. We can also help save lives and reduce combat injuries by ensuring that our military medical teams have the equipment they need to provide critical frontline treatment. I cannot think of a better investment.

On June 14, 2004, I introduced S. 2516, the Service Act for Care and Relief Initiatives for Forces Injured in Combat Engagements Act of 2004, or, as we call it, SACRIFICE. The RECORD includes a full statement on the provisions of that bill. My amendment is almost identical to the SACRIFICE bill.

Currently, the SACRIFICE amendment has 11 cosponsors. Many Arkansans asked me about the partisan working environment in the Senate. I want to go on record stating that the SACRIFICE amendment has had bipartisan support from Senators SESSIONS, CHAMBLISS, GRAHAM of South Carolina, REED of Rhode Island, NELSON of Nebraska, NELSON of Florida, DOLE, CORNYN, COLLINS, CLINTON, and LINCOLN. The amendment also has the support of the Disabled American Veterans and the Veterans of Foreign Wars. I have been working with the cosponsors and the staff of the Senate Armed Services Committee to refine the language of the amendment.

I am deeply grateful for the support and assistance I have received from Members on both sides of the aisle. I want to specifically thank Rick DeBobes, Arun Seraphin, Gary Leeling, Judy Ansley, Dick Walsh, and Elaine McCusker for the many hours they have spent on this amendment and for their very precious and wise counsel.

I understand there may be an opportunity for the managers to accept my amendment. I appreciate that consideration. I am also hopeful that we can work out an agreement. I thank Chairman WARNER and Senator LEVIN for their consideration of this very important issue. It is an honor for me, as a freshman Senator in my first Congress, to serve under the leadership of Chairman WARNER and Senator LEVIN. Their aid in helping me address a problem my constituents are experiencing firsthand with such productive interaction amongst both parties is truly a testament to the dedication of the members and the staff of the Armed Services Committee. We owe that to their leadership, and I appreciate it very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I want to congratulate the Senator from Arkansas. He has added a new dimension to the Senate. He is someone who is thoughtful, and above all he is so concerned about the partisan contentiousness in the Senate, and he has spoken to Senator DASCHLE and me and others about the need to do something about this. I want the Senator from Arkansas to know how much we appreciate his being the good Senator that he is and being concerned about what is going on here on the Senate floor.

We have worked on this bill—I do not know, but I think this is about the 12th day. Some of those days were Mondays and Fridays, so I really do not know how many real days we have had to work on this bill, but it has been a long, tedious process to work through more than 300 amendments. We can see light at the end of the tunnel.

When the majority learned the minority was going to offer an amendment calling for the Attorney General to divulge certain information, as a result action was brought to a standstill. I have some difficulty understanding that, but I believe that on difficult amendments the majority and minority should face it and just vote on them rather than bring legislation to a standstill, but the decision has been made to not do anything on this legislation.

At first glance, I thought I did not agree with what the majority was doing, but they have done this in the past and that is what they want to do, and we just have to live with it. It has been brought to my attention, though, that a bus pulled up in front of the Senate, and now the Republican Senators are at a reception at the White House. I do not know how many of them but enough that there is nothing being done here. We are trying very hard to finish this bill and we are not doing anything because the Republican Senators are at the White House for a reception? If, in fact, we had been told that, we could certainly have had people offering amendments and have no votes during that period of time. We do that on many occasions. But I think this legislation is not turning out as well as I thought it should, which has been handled so well by the two managers of this bill.

The distinguished chairman of the committee thought I should not have offered a second-degree amendment because he thought he should have that right. Perhaps he was right. So I withdrew my amendment and we are in the position where we would be if I had not offered that amendment. That is the status of the Senate today.

But as I have said and others have said, including Senator LEAHY, that is an amendment we will need to vote on before we finish this legislation. At 6:20, the managers are going to offer all amendments that have not even been agreed upon, voted upon, or somehow that are on the list that haven't been offered. The way things are going we

could end up with quite a few amendments to vote on because each of those amendments do carry with them the potential of having a second-degree amendment offered to each one of them. If we wind up with 15 amendments that haven't been offered, we could wind up with 30 votes. I hope that is not the case.

We have also been told there is a need to vote on judges. I understand the reason for that. We will have to take that into consideration over here.

My only point is after the reception is over, which should be around 5 to 6, maybe we could get back to working on this most important legislation. I think it has not accomplished what we need to accomplish here by simply bringing the Senate to a standstill this afternoon. Since the Senate picture was taken, we haven't done anything. We might just as well have stayed here and had other poses, I guess.

I hope we can work our way through this little situation we have here. We have some amendments. Senator KENNEDY's amendment, I am sure, will require a little more debate. Most of the amendments have been debated. People have come over, those who are going to offer amendments, and stated their positions.

I recognize the importance of this legislation. As we speak, in Iraq and Afghanistan we have men and women who are actually on the firing lines. I don't know how many in Iraq have been injured or killed today. We know what happens every day. We know in Baghdad there are scores of attacks by these terrorists. Iraqis are being killed every day. This bill is an important piece of legislation. I think we all need to recognize that.

Yesterday, when I was here at my desk, my BlackBerry went off. I looked at it and it was CNN breaking news, to report four American soldiers had been shot. They had been found dead, shot multiple times in the head. There were 2 other soldiers killed and 11 who had been wounded in that same action.

What we do here is extremely important. There is nothing that we do during the year more important than this Defense authorization bill. I hope we can finish it because there is no reason we should not be able to. I hope the majority will not prevent us from completing action on this bill because we have requested a vote on the Leahy amendment.

Let me read again what this amendment says. The purpose is:

To direct the Attorney General to submit to the Committee on the Judiciary of the Senate all documents in the possession of the Department of Justice relating to the treatment and interrogation of individuals held in the custody of the United States.

That is directly related to this Defense bill.

I read the purpose. The amendment says:

The Attorney General shall submit to the Committee on the Judiciary of the Senate all documents and records produced from

January 20, 2001, to the present, and in the possession of the Department of Justice, describing, referring or relating to the treatment or interrogation of prisoners of war, enemy combatants, and individuals held in the custody or under the physical control of the United States Government or an agent of the United States Government in connection with investigations or interrogations by the military, the Central Intelligence Agency, intelligence, antiterrorist or counterterrorist offices in other agencies, or cooperating governments, and the agents or contractors of such agencies or governments.

This is directly related to what is going on in Iraq, what is going on in Afghanistan, and other trouble spots in the world.

I hope after a very short debate we can bring this before the Senate, vote on it, and complete the other issues on this bill, some of which are contentious, some of which are not. Most of them are not. We could dispose of them in a few minutes.

But it is not as if this has nothing to do with this legislation. We on this side have been very careful. Even though we had a number of Senators who wanted to offer amendments dealing with unemployment compensation, overtime, minimum wage, and things of that nature, we decided not to put them on this bill because of the importance of this bill. But this amendment which Senator LEAHY or someone will offer at a subsequent time is directly related to this legislation.

I hope during this quiet time the staffs are able to clear a lot of amendments. That will save us a significant amount of time. The staffs of this committee are as good as any staffs we have in the Senate. I am sure if it is possible to clear those, they will be cleared.

But I hope in clearing these amendments we will get back to where we were prior to the Senate picture that was taken at 2:15.

The PRESIDING OFFICER. The Senator from Illinois, Mr. DURBIN.

Mr. DURBIN. Mr. President, I rise to speak to the Reid amendment, which I understand has been formally withdrawn at this moment but certainly is the topic of consideration and discussion.

Mr. REID. And will come back.

Mr. DURBIN. It will return, according to the Senator from Nevada, for the consideration of the Senate.

That amendment by Senator REID of Nevada would require Attorney General Ashcroft to provide the Judiciary Committee with all the documents in the Justice Department's possession relating to the treatment and interrogation of detainees.

This is an extremely serious issue for America. Literally, the world is watching us and asking whether the United States will stand behind its treaty obligations in this age of terrorism.

It is clear that our enemies do not respect the rules in their relentless quest to kill Americans. The barbaric treatment of Nicholas Berg and Paul Johnson have reminded us all of that fact.

But this is what distinguishes the United States from the terrorists we fight. There are some lines we in the United States will not cross. Torture is one of them. We have said repeatedly, since the time of President Abraham Lincoln, that torture is inconsistent with the principles of liberty and the rule of law that underpins our democracy.

Two weeks ago, Attorney General Ashcroft appeared before the Senate Judiciary Committee as our Nation's chief law enforcement officer. He said on the record that the administration opposes torture and that torture is not justified or, in his words, productive. But he refused at that time to provide us with the Justice Department memos dealing with coercive interrogation tactics.

I asked him repeatedly: Attorney General Ashcroft, under what legal or constitutional basis would you deny this committee copies of these memos?

I asked him if he was asserting executive privilege on behalf of the President. He said he was not.

I asked him if he could identify any statute by which he would be absolved from his duty to respond favorably and positively to a request by the Senate Judiciary Committee for these memos, and he could not cite any statute.

At one point he said he personally believed that it was not appropriate to produce these memos. I responded by saying that, as interesting as that may be, the Attorney General's personal beliefs are not the law. It is the law which governs us.

Now, at the eleventh hour, today, in an effort to defeat the growing pressure to release these memos, the White House has provided Congress with a number of documents, including one of the Justice Department's torture memos. But a quick review of the documents provided reveals they have given us only a small part of what we have asked for. Just last week the Senate Judiciary Committee considered a request for some 23 documents of the Department of Justice related to interrogation techniques and torture. That request for subpoena was defeated in the Senate Judiciary Committee on a party-line vote, 10 to 9, all Republicans voting against disclosure of the documents, all Democrats voting in favor. We take a look at the documents produced voluntarily by the White House today and find only 3 of the 23 documents subject to the subpoena have actually been produced.

But the Justice Department's torture memo, which has been produced after it was leaked on the Internet for all to read, is a memo which we now know raises very troubling questions and completely contradicts statements made by Attorney General Ashcroft before the Judiciary Committee. It makes it clear if Congress and the Senate are to meet their obligation under the Constitution, we must ask harder questions and we must dig deeper.

In the memo, the Justice Department makes unprecedented assertions about

executive power, assertions that I believe violate basic constitutional principles. The Justice Department concludes the torture statute, which makes torture a crime, does not apply to interrogations conducted under the President's Commander in Chief authority.

At the hearing 2 weeks ago before the Senate Judiciary Committee, Attorney General Ashcroft said unequivocally it was not his job to define torture. He went on to say, it is not the job of the administration to define torture. He said that is the job of Congress.

Sadly, as we take a look at this Department of Justice memo produced long before the Attorney General's testimony, we find on page 13 the following statement, and I ask listeners to reach their own conclusion as to whether what I am about to read from Attorney General Ashcroft's memo on interrogation is an attempt to define torture. I quote from the Department of Justice memo dated August 1, 2002:

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

How can anyone read those words and reach any other conclusion but that the Department of Justice in August of 2002 issued this memorandum defining torture. That, of course, is something the Attorney General said was not their job. He is right; it was not their job. But it was done, anyway.

They also claim torture must involve "intense pain or suffering of the kind that is equivalent to the pain associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result."

Ask yourself the obvious question: Why did the Department of Justice produce this memo? Who asked for it? Was it the intelligence agencies of the U.S. Government? The White House? We honestly do not know the answer to that.

If this opinion by the Attorney General's office was at the request of some other agency of Government, we should know that. We should know which agency of Government said to the Attorney General, we need an advisory opinion, we need your best guess as to how far we can go in interrogation techniques.

Although the Attorney General said to us repeatedly, the law speaks for itself—when he said that, he was referring to our laws, our Constitution, the treaties we have entered into—in fact, the Attorney General and his Department of Justice decided the law was not enough. They needed to add very graphic and specific definitions such as the one I read.

Now, of course, there is an important and underlying issue here. Under our Constitution, which we have all sworn

to uphold—not only Members of Congress but members of the President's Cabinet—the President does not have the authority to choose which laws he will obey or to make his own laws. There is no wartime exception to our Constitution.

Article I, section 1 of the Constitution says all legislative powers are vested in Congress. Article II, section 3 of the Constitution says the President shall take care that the laws be faithfully executed. Article VI provides that laws made by Congress and treaties ratified by the Senate are the supreme law of the land.

Retired RADM John Hutson was a Navy judge advocate for 28 years. From 1997 to the year 2000 he was the judge advocate general, the top lawyer in the Navy. He rejects the Justice Department interpretation of torture law, saying:

If the president's inherent authority as commander in chief trumps domestic and international law, where is the limit? If every sovereign can ignore the law, then no one is bound by it.

The Supreme Court considered a similar question related to the Justice Department position. President Truman, faced with a steel strike during the Korean war, issued an Executive order to seize and operate the Nation's steel mills. In the historic Youngstown steel case, the Court found the seizure of the steel mills was an unconstitutional infringement on Congress's lawmaking power and that it was not justified in wartime as an exercise of the President's Commander in Chief authority.

Justice Hugo Black, writing for the majority, said:

The Constitution is neither silent nor equivocal about who shall make laws which the President is to execute . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times.

It seems clear the Justice Department memo was the basis for a Defense Department memo that makes very similar arguments about torture. For example, the Department of Defense memo argues the statute outlawing torture does not apply to the detention and interrogation of enemy combatants by the President pursuant to the Commander in Chief authority.

The difficult question we have to answer is this: What have these memos produced by the Department of Justice wrought? We know, now, because of the graphic illustration of the abuses at Abu Ghraib prison, that soldiers in the uniform of the United States of America performed some horrible and shameful acts for which no one has made any excuses. Even the President has said that does not represent America. What they did was clearly wrong.

The important and obvious question for all to ask as a follow-on is, Was this an incident involving the conduct of a handful of officers or did it represent a policy promulgated by this Government, supported by memoranda from

the Department of Justice and those from the Department of Defense? Therein lies the critical question.

Last week, President Bush was asked about the Justice Department torture memo and he said he did not remember if he had ever seen it; he said he issued an authorization that conformed with U.S. law and treaty obligations, and he would not say whether he would authorize the use of torture but that we should be "comforted" by the "laws on the books."

The President is correct; the law is very clear. The United States is not permitted to engage in torture or cruel, inhumane, or degrading treatment. But I am not comforted because we don't know if the administration followed the Justice Department interpretation which would allow the President to set aside these laws. We have gone too far.

We have to follow the paper trail to determine who requested the memos and what was done in response to them. We need to find out whether the legal arguments contained in these memos were used to justify the use of torture at Guantanamo, at Abu Ghraib, or any other facility controlled by the United States of America. We need to know whether the President or anyone else in this administration authorized the use of torture as defined by the Department of Justice memo.

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

The great challenge of our age in combatting terrorism while remaining true to the principles which our country is based upon is to make certain we respect liberty and the rule of law. We must not sacrifice freedom and the rule of law at the altar of security. We must respect the freedoms protected by the Bill of Rights. Our laws must not fall silent during time of war.

I urge my colleagues to support the Reid amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. Mr. President, I thought I might take advantage of this moment while so many of the Republicans are at a White House reception to share a few thoughts about a bill we are obviously not going to be able to vote on today.

Sixty years ago, Franklin Roosevelt signed the GI bill. He showed us in doing so how to honor our veterans and he launched the greatest expansion of the middle class in our Nation's history. Never before has an act of legislation and the vision of and the investment by one President done so much for so many Americans.

President Roosevelt said that on the day it became law, the signing of this bill "gave emphatic notice to the men and women in our Armed Forces that the American people do not intend to let them down."

Today, throughout the day, the Senate has had an opportunity to make

history in the spirit of Roosevelt and his commitment to the Greatest Generation. Senator DASCHLE's amendment, which he tried to bring up earlier, would take an important step toward the full mandatory funding of veterans health care. It would say to the 500,000 veterans closed out of the VA health system in the last 2 years: You are welcome. There is care for you.

In the 10th year of its enactment, it will provide care to 3 million veterans who otherwise will be shut out of the system, and it will end the practice of rationing health care for those who have already given so much to this country and who have had an expectation that health care will be there for them.

Now, last night, in the normal course of business in our Senate, I was informed by the minority leader that his amendment would proceed today and that he would, under the normal procedures of the Senate, bring it up in an effort to have an early vote. I cancelled my events and I returned here hoping to be able to vote on this important issue. There was no request for lengthy debate. There has been—I know the Senator from Virginia will agree with this—no effort to delay this bill. In fact, the minority leader has expressed every good intention to try to move forward as fast as possible on this bill.

Under the normal courtesies of an institution that runs on courtesy, normally, it is absolutely consistent with the rules and traditions of the Senate that time might be made available to a minority leader to offer an amendment and for a vote to be ordered. But, evidently, this is not a normal time for those courtesies in the life of the Senate. I regret that for the Senate and for the country and for veterans. So today we could have acted and have honored 26 million Americans who wore the uniform and provided important funding for them.

More than a decade ago, Senator DASCHLE and I worked to help veterans exposed to Agent Orange receive the recognition, the care, and the benefits they deserved. I am very happy to join him today in supporting this amendment, whenever it will come up, in whatever way I can, whether I am here or not here. I will support this effort in the days, months, and in the years ahead to provide to our veterans the resources they deserve and increasingly have been denied.

Yes, there have been increases in the veterans budget, but the test is not whether you have increased the budget, the test is whether you are meeting the need. And the need is not being met.

I am honored to stand with the veterans who are backing Senator DASCHLE's amendment. The VFW, the American Legion, AMVETS, the Paralyzed Veterans Association, Disabled American Veterans, the Blinded Veterans Association, Jewish War Veterans, the Military Order of the Purple Heart, and Vietnam Veterans of America—all of them would have loved to

have seen the Senate do its business today when it could have.

That is a distinguished group of veterans. A lot of courage, a lot of honor, a lot of kindness comes from the men and women who belong to those organizations. They are Americans whose opinions and guidance I trust. And they deserve to be heard.

In this time of great sacrifice, it is even more important that we show our veterans we honor them and respect them. We have to do so with more than words. We have to show them by our actions and our deeds.

During a time of war, a time when tens of thousands of Americans are asked to fight and possibly die for their country, our message ought to be loud and clear: When you come home, your country will take care of you because you took care of us.

This is an important issue to our country, to our veterans, and to the men and women in harm's way in Iraq, Afghanistan, and around the world—today's service members who will be tomorrow's veterans.

I have been around here long enough not to worry about these kinds of things. This day will pass and others will come. But Americans will measure how we do our business, and they will measure the seriousness of purpose and the courtesies we extend to each other. So while this vote may not take place while I am here, my support will never wane and my commitment to veterans will never be diminished. I regret whatever rationale has entered into this decision that we cannot proceed for a very simple vote on a very straightforward issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia, Mr. WARNER.

Mr. WARNER. Mr. President, I say to my good friend—and we have been good friends for many years—you made reference to President Roosevelt and the GI bill. With my very humble and modest naval service in the last year of World War II, I was a beneficiary of that.

But I would say to my good friend, I am proud of what our Senate has done over the past several years to assist veterans. This is another matter that is now pending and has yet to be resolved.

I see the distinguished Senator from Nevada, who has been in the forefront with colleagues on my side on the issue of concurrent receipts. Prior to that, I worked with my good friend from Michigan on TRICARE for Life. I could enunciate others.

We are about to have a vote here sometime, perhaps tonight or tomorrow. The Senator from Louisiana and the Senator from Nevada and the Senator from Maine are trying to close that gap when a retiree's widow, in most instances, reaches the eligibility for Social Security. Oftentimes there is a very significant dropoff.

So we have done a lot in this body. I know well of my old friend's career in

the Navy. I was Secretary of the Navy, as you well know, and Under Secretary at the time the decorations you earned through your valor and your courage came before the Navy Department for approval. While I do not have specific recollections—I had to deal with many during those difficult days of a very stressful and tough period in American history; and how well both of us remember that—as far as I know, I participated in some way and look with a sense of pride on approving those decorations. Whether I was Under Secretary or Secretary, it was right in that period of time. We chatted about that in years past.

But as to the events of this day, I would say this is my 26th year in the Senate, working with Senator LEVIN, and I would ask the Senator to step back. If you had the totality of the picture, the majority leader was hopeful, and we have not lost that hope, of continuing through the night and tomorrow to get our final vote on this bill. Much remains to be seen at the hour of 6:20, when we will have the opportunity to look at the amendments our colleagues still feel require their attention.

But in that context, it was at the hour of 6:20 when we would have that body of information to give us some clear indication as to what time agreements we could make with the Daschle amendment, time agreements with a number that are pending at the desk. I certainly, speaking for myself—we are not trying to preclude our colleague from his rightful duty to participate today in the affairs of the Senate in any way, but we have to move ahead with not only this bill but the appropriations bill, which is soon to follow. My understanding is, it was to be brought up immediately, assuming this bill were voted on finally tomorrow.

But then there was another impediment, as I understand, regarding debt limit and some other things—which I admit I am unfamiliar with—which then indicated to the majority leader, for whom I have great respect, Senator FRIST, who wants to operate in a sense of fairness: Was he not able, as majority leader, to guide the package of legislation, both authorization and appropriations, which he felt necessary?

So I am not suggesting the Daschle amendment could not perhaps at a later time tonight be brought up and voted on.

I say to the Senator, I recognize the tough schedule you have, but I would not want to say that I feel on this side there is any conspiracy in this area, certainly from my perspective.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. One of my good friends on the other side of the aisle is the senior Senator from Virginia, and I am a good friend with the junior Senator, too. I will say to him that I respect the position he has been put in. I have been here 20 years. I know how this place works and how it negotiates. I know

exactly what the conversation was in the well of the Senate earlier.

I have no illusions about where we find ourselves now. I am not complaining. I am just here to make my statement of support. I will continue to do what I am doing because I believe we can do better by veterans in this country. I will continue to take that issue to the country over these next days.

We have an opportunity to make a choice today. If we don't, then we will continue to talk about this issue over the next months, and the American people will make a choice in November.

Mr. WARNER. Would my colleague address what is a major concern with this Senator. I say this with total humility. I am a veteran and possibly could benefit someday by what this package contains. I don't know.

Mr. KERRY. I suspect under the health care and benefit plans the Senate gives itself, the Senator won't need this.

Mr. WARNER. Well, I don't know, Senator. I am just trying to say that the Senate is looking at this in terms of its fiscal impact. This is somewhere between \$200 and \$300 billion.

Mr. KERRY. Mr. President, not this particular proposal.

Mr. WARNER. Well, I believe it is involved.

Mr. KERRY. Mr. President, that is if you did the full funding. This is a compromise that has been worked out which is a lesser amount of money, recognizing the significant amounts that are available.

Be that as it may, we are talking over 10 years. The last tax cut for people earning more than \$200,000 a year was over \$1.2 trillion. So it is a question of where the rubber meets the road. You have veterans over here who served their country who have a need for health care, and you have a lot of wealthy Americans over here who don't particularly have a need for a new tax cut. This is a place for choices. All we are asking is for a choice to be made.

I thank the Senator from Virginia and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the distinguished junior Senator from Massachusetts leaves the floor, I wish to say this, from a total Nevada perspective, how proud we are of the campaign he has been running in Nevada. The Senator from Massachusetts has run all positive ads. The people of Nevada recognize that and, as a result of that, all the polls show him ahead at this time.

I compliment the Senator. When he comes to Nevada, he is totally open to the press. Each time he comes he answers any questions that the people have to ask him. The press is there. For example, last time he was there, he not only did a press conference but he was on individual programs, Ed Bernstein's show, for example, John Alston, where he was answering any questions they had to ask him.

I compliment the Senator from Massachusetts from a Nevada perspective for the type of campaign that has been run. Positive campaigning is something that is so necessary. We have far too much negative campaigning. We need to make ourselves available to questions of the press. We should not hide ourselves from the press. Senator KERRY has not done that, which makes us in Nevada feel very good.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I looked at the cost to the American taxpayers for TRICARE for Life, and that is \$3.9 billion a year. The concurrent receipts were \$22 billion in the 2004 cycle. Through this administration, in veterans funding, there has been a 34-percent increase in funding for health care since 2001. Overall spending for health care has doubled since 1993. So I am not going to take second place to anyone with regard to the achievements we have had in this body by way of trying to care for our veterans. I feel very strongly about that.

My military career is very modest: service in World War II and service in Korea in the Marines. I have served with the courageous ones, the ones who lost life and limb. I am not going to take second place to anybody in my trying to work hard to support proper recognition for them and what they have achieved. I am just one of the lucky ones who had the opportunity to serve alongside these veterans and work with their families. For 5 years as Secretary of the Navy, I worked with families in that stressful period of time in Vietnam.

I feel so strongly to be a supporter of the veterans' causes, not for political reasons. Some vote for me; some don't. That is all right. The important thing is that this Nation takes them to heart, particularly at this time when, at this very moment, who knows which veteran, which service Active-Duty man in Iraq or Afghanistan, where all of us have visited those battlefields, might have his or her life taken, life or limb. I feel ever so strongly about it. Day or night they are in my mind.

I see others desiring to speak so I shall yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to make a couple comments on one of the pending amendments, the so-called Daschle amendment dealing with veterans. In many cases, this amendment is more about helping politicians than it is helping veterans. We have done a lot to help veterans—we being the Members of this body, Members of this Congress. I want to go to the facts.

Just look at history. In 1993, we were spending less than \$15 billion. If you look throughout the next several years, the year 2000, it still increased only to about \$17 billion, \$18 billion. Since then, in the last 4 years, we have gone up from about \$18 billion to now we are about \$28.5 billion. So we have

had a dramatic increase in the last few years, frankly, in large part due to President Bush's requests.

Those are the facts.

If you want to gauge our support for veterans on how much money we are spending, we see a relatively flat, very slow growth during the Clinton years and a very rapid increase under President Bush's last 3 years.

Now we have an amendment that says, we know this is discretionary, as it always has been. Appropriators take care of discretionary items. As alluded to by Senator BOND, we have had big increases because we had some demands, and the appropriators and budgeteers met those demands. Now we have an amendment that says: Let's throw that away, an amendment that will increase spending by \$300 billion.

It also increases the deficit by \$300 billion. Some of the people who say they are in favor of this say they believe in pay-go. They make speeches: We want pay-go. But they don't pay for this amendment. So this amendment would increase the deficit by \$300 billion.

Then I look at the way it is written, and it is one of the worst amendments, as far as putting something together from a fiscal standpoint, that I have ever seen. It says: Let's take the 2004 discretionary figure and freeze it; for the next 10 years we will freeze it. Then we will set up a new entitlement, not based on the number of veterans receiving care but on the number of people who are eligible to receive care. On the eligibility side, we will come up with some type of per capita contribution and figure it all out. CBO estimates over 10 years it will cost \$300 billion.

We are spending a little less than \$30 billion a year right now, but we are going to multiply that based on the number of people who might be eligible.

Senator WARNER is eligible but my guess is he doesn't receive all of his health care in a veterans hospital. My father-in-law is eligible but he doesn't receive his health care under veterans. A lot of people in the military served with great distinction but they don't receive their health care through the VA health care system.

I don't know who designed this new formula. This kind of amendment belongs on the budget, not on a DOD authorization bill. This is really amending the budget, saying we are going to take a discretionary item and turn it into a mandatory item, and we have decided to grab some kind of fictitious name based on the number of people eligible, not the people who are in the system, not the people who are likely to receive the care, and pluck it out of the air and say: Here is what we are going to do.

And then it also says GAO, after a couple of years, if they don't like it and think it is enough, we will set some other kind of process on automatic pilot to have Congress vote on it

in the next 10 days or so. It is just a ridiculous way to fund a department or to take care of veterans.

I am all in favor of taking care of veterans. Senator WARNER alluded to the fact that we have done a lot for veterans in the last few years. You bet we have. Last year, concurrent receipts—I believe there was an amendment agreed to, and the ultimate cost was \$22 billion. Senator WARNER agreed to an amendment last week to expand that almost another billion dollars. We did TRICARE for life. We did Service Members Group Life Insurance. We did expanded benefits for former POWs, auto and housing grants, and veterans buying first homes. We increased the VA home loan guarantee up to a maximum mortgage of \$240,000. We did the Montgomery GI bill to assist transitioning from military to civilian, and we enacted a 52-percent increase in education benefits. I can go on and on. We have done a lot. It is expensive. So this line will continue to increase.

Then I look at this amendment. It doesn't really say anything about need. It comes up with a very awkward formula, almost like an HMO-type thing, and says, by the number of eligibles, we are going to figure out so much money and multiply it and throw it in. That will not meet veterans needs. In the appropriations process, we have committees that have hearings. What do you need? What is pressing? We vote and appropriate money. We have had a faster rate of increase in veterans care than in almost any other area in the Federal budget.

The amendment we have pending before us has a budget point of order, and appropriately so. It would increase the deficit by \$300 billion over and above the budget. Maybe some people don't care about deficits. This Senator does. This amendment is not paid for. It violates pay-go. For those people who voted for pay-go, they should say this is not paid for. They make speeches in their States and say, I believe we should have pay-go. This doesn't meet that test.

At the appropriate time, I will make a budget point of order, and I hope our colleagues will sustain that. I might also note that I am keeping a record of all the budget points of order that have been made and the number of people who vote to waive those points of order. Since last year's budget was adopted, we have had amendments to increase spending and increase the debt by over \$1.4 trillion. This amendment will just be a couple hundred billion dollars on top of that. We are keeping a running log.

In the last month, there was an amendment to make IDEA an entitlement. We made a budget point of order and defeated that. That would have increased the debt by \$87 billion. A week or so before that, there was an amendment to expand retroactively unemployment compensation that would have increased the deficit by \$9 billion. We defeated that. A week before that,

there was an amendment on trade adjustment assistance, and it would have cost an additional \$6 billion. None of these amendments were paid for, and we defeated them. So in the last month, I think we have had three votes that would have increased spending—i.e., the deficit—by over \$100 billion. The amendment we will be voting on will increase the deficit by a couple hundred billion dollars. Again, I hope my colleagues will show a little sanity and say, let's try to really help veterans, let's not try to help politicians. Let's sustain the budget point of order on this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Delaware. Mr. BIDEN. Will my colleague yield for a couple questions?

Mr. NICKLES. I am happy to yield.

Mr. BIDEN. Mr. President, I ask my colleague, the chairman of the Budget Committee, how big was the deficit in the budget you brought to the Senate floor, the budget you voted out of committee?

Mr. NICKLES. I would have to look at the figures. The baseline scored by OMB was 521. The baseline scored by CBO was 477. The figure we had before us in the budget resolution, I would want to check. CBO is in the process of revising that. We use CBO scoring. My guess is it would be significantly less than the 521 by OMB, and 477 by CBO, and we now expect, if we stay with the projections—i.e., the spending figures that we had assumed in the budget resolution, 821 on discretionary spending—the debts would probably be in the neighborhood of not 477 but closer to 420, in spite of the fact that I know my friend from Delaware made a speech last week saying he thought it would be 600. It would be closer to 420.

Mr. BIDEN. We are already starting off with the Senator recommending a vote for a budget that has \$400 billion-plus.

Mr. NICKLES. I am not sure. I think the Senator from Delaware has the floor. I don't want him stating—

Mr. BIDEN. I ask the Senator if he wants to respond to that comment.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. Mr. President, I am happy to debate my colleague, or any colleague, on the budget. We spent several days debating the budget. I am more than happy to debate it. I will tell my colleague that we basically have assumed a freeze in nondefense, non-homeland security in the budget resolution. I hope we will be able to enforce that freeze. I have been very vigilant in trying to enforce the budget.

We have made about 80 points of order to contain the growth of spending, most all of which have been sustained. There were very few votes by our colleagues on the Democrat side, with the exception of Senator MILLER, and I thank him and compliment him for that. Since we were successful in sustaining those budget points of



order, we have saved Federal spending to the tune of in excess of over \$1.3 trillion. I happen to have these votes, and I happen to have a chart that shows the votes, just like this vote. CBO scores this vote—if this amendment were to be adopted—saying it would increase spending by \$300 billion. It basically doubles VA. I hope we will be successful. That will be scored on the running chart I am keeping. I mentioned over \$100 billion of additional spending. We defeated that in the last month using budget points of order.

I hope we will defeat this amendment, and it will save \$300 billion-plus and I think make us a lot more responsive. I happen to believe we are making a serious mistake to put everything into that side of the equation.

I mentioned discretionary spending of \$821 billion, which is our budget figure. We are going to be spending \$2.4 trillion. Two-thirds of the budget is now entitlements. One-third is discretionary spending. I believe we would have a better control, better oversight if we would keep more in the discretionary side. This is the opposite of that effort.

I yield the floor.

Mr. BIDEN. Mr. President, I say to my friend, I didn't want to debate it. I was trying to get the facts. The facts are that, notwithstanding what he suggested he has saved by budget points of order, he brought a budget to the Senate floor that is in deficit over \$400 billion.

Mr. NICKLES. Will the Senator yield?

Mr. BIDEN. Surely.

Mr. NICKLES. To inform my colleague, the budget also would reduce the deficit by half in 3 years. That is not easily done when you have a \$400 billion deficit. So please keep that in mind as well.

Mr. BIDEN. Again, I am not here to debate this. The facts are that he brought a budget to the floor of the Senate that is over \$430 billion, and some believe it is over \$500 billion in deficits. I agree with my friend that we should be careful about putting in entitlements. Entitlements, in a sense, if you think about the effect on the budget—I know the Presiding Officer is a former Governor—there are two types of expenditures: direct expenditures and tax expenditures.

My friend also wants to essentially, in layman's terms, make an entitlement of the tax cuts; in other words, make them permanent. They do not want to make permanent the ability of veterans to have what this amendment calls for. I understand that. It is a logical argument. I do not begrudge that. I think it is an intelligent argument to make.

I want to point out this is about values and priorities. If you want to know what a country values, if you want to know what a company values, if you want to know what a nonprofit values, look at its budget, and you will know. You will know what it values, on what it puts the highest value.

I can understand one can make the argument, and there is truth to the argument, that tax cuts spur the economy, everything gets better, and it works out better. I got all that. Believe it or not, after 30 years here, I figured that out, and there is some truth to it. Really, this is a values debate, not wanting to put something permanently into the law that is an entitlement in the case of what veterans now and in the future would be entitled to. It is not a lot different fundamentally in its effect on the actual budget, the numbers in the budget, than essentially making permanent tax cuts from now infinitum. And they are big numbers.

Again, the disagreement is real, genuine, and intellectually is defensible, but it is a difference of perspective. The reason the Senator from Delaware comes to the floor, very seldom my colleagues will notice, is that in this case, when you think about a budget that I voted against—I do not support the budget, I do not support the priorities within the budget by the Budget Committee—to turn around and say that when I vote not to sustain a point of order that somehow I am the one increasing the budget, it is a little bit like my saying to you: Here is the deal. What we are going to do in the family, we are going to have one car, drive it 22 miles a week, and not drive it any further than that. We are not going to turn the thermostat up over 60 degrees. And, by the way, we are going to build a new swimming pool in the backyard.

If I do not get a vote on that—it seems to me when I come along and say we should be able to drive the car to church more often because the kids are not going to church because the church is 14 miles away, we should have more money for gas in the car, we should not have built the swimming pool—we do not get a chance to do that.

I get a budget, which is legitimate, shoved on me because you guys run the show, the Republicans run the show. I got that. I understand it. I do not complain about that. More people voted for Republican Senators than Democratic Senators. But the idea that somehow when I suggest we should have a different priority and seek to change the budget I am busting the budget when, in fact, what has happened is the priorities that the chairman of the Budget Committee has placed in the budget—and very successfully, and he has led that committee very successfully and he has led it unanimously; there are no diversions on his side from what he proposes—is a little bit disingenuous in terms of the average person listening to this.

It is as if I have to accept we are building a swimming pool instead of providing more gas in the car to get the kids to church. So I want to get more gas in the car to get the kids in church. I do not want to build a swimming pool. I do not want to do that.

The only vehicle I have as a Senator is to vote for changing the budget that I do not want. What these are attached

to is we say: What you put down in the budget, these tax cuts and the way they work and you are seeking to make them permanent, all those things, they are not my priorities. So the way I want to pay for that is I do not want to build a swimming pool.

Now, you have built a swimming pool, but what I do not want to do is keep it open because it costs me a lot of money to keep it open. The money I can save by not filling the pool, not having a pool service come, not having to buy the chlorine, not having to buy the equipment is enough money for me to get the gas to get the kids to church on Sunday. That is what I want to do. That is what I am doing here.

The fact is, the difference between 1993 and now is we are at war. My friend will say a lot of veterans who are going to benefit from this proposal are ones who are not at war now. One of the things we are trying to do in an All-Volunteer Army is make it more appealing for people to get into the service, to stay in the service, so that, in fact, when they volunteer to get in this Army, there are benefits that flow from it. They make enough sacrifices already in this Volunteer Army.

We had trouble getting money early for bulletproof vests for these guys. I was just in Iraq, and I met a young man in Kuwait. Our generals introduced him to us. We had dinner, and they said: These are the heroes; these are the kids who drive the transport trucks from Kuwait City all the way up to Baghdad. Do my colleagues know what they are doing because we have not provided them what they need? They have been given the authority to augment their vehicles any way they want. I was joking with them. A lot of them are becoming spot welders. They are literally getting scrap metal and welding it to their vehicles. They are given the authority to do what they want because they are getting shot dead.

We were out there, and these kids were on this incredibly dangerous mission. We said: Do the mission, but we realize you have to improvise.

So they are telling me: I got this piece of steel, and I put it on my side door and welded it on. What I wanted to do was get some underneath so that when the bombs blow up, they don't blow through the seat. It is amazing.

My point is, we are asking these kids to do all this. Right now in category 7 and 8, there are 400,000 veterans seeking VA help who are told: Don't apply. To the best of my knowledge—I do not claim to have a real expertise in this area—but there are 90,000 veterans under the present system waiting for admission to get into veterans hospitals, and there are 40,000 who wait 2 to 6 months just to get a doctor to sign off on them qualifying to get prescriptions from their local VA hospital at the lower price.

Whether or not this proposal that has been put forward is the answer to any of this, I cannot guarantee, but there is

something wrong in Denmark. Something is wrong here. Something is not working. If you wonder if I am telling the truth, go home and ask your Democratic- or Republican-registered veterans. Ask them if they are happy with the way things are working right now. Find out how many of those 400,000 people are told do not apply, and 90,000 are trying to get into the hospital.

Again, I acknowledge, based on the fact we decided to build a swimming pool in this budget instead of doing this, this will increase the deficit. I got it. Just like the administration budget initially proposed did not even include money for Iraq. Does anybody think \$25 billion is going to get us through next year in Iraq? Raise your hand. Come to the floor and tell me. Anybody. I want you to stand here and go on record and say: I believe that \$25 billion is going to cover the nut in Iraq and Afghanistan for next year.

Let's get a little truth in budgeting here. I understand the Senator. I got it. I respect him. He has made a basic value judgment. He believes very strongly—and there is some evidence for his belief—that if, in fact, we have these massive tax cuts, the bulk of which go to the wealthiest, it will, in fact, trickle down. He will argue—and there is some evidence to it—that some of it has already started to happen, and the best way to help veterans, poor folks, IDEA folks, and all those folks is get the economy roaring. That will bring in more revenue. I got it. That is a legitimate argument. But the basic fundamental argument we have is the die are not even cast. The table has been set, and I either sit down and sup at the table when I do not like the menu and refrain from trying to change the menu, or I attempt to change the menu.

So this notion that the VA health care system is in good shape, that we have done so much for veterans—which we have done more—we are creating a whole heck of a lot more veterans now, a whole heck of a lot more, and the need is going to increase more because we are at war and we are likely to be at war for a while.

Again, I do not want to belabor the point. I respect my friend, the chairman of the Budget Committee. I respect the fact he has little choice but to ask us to vote for a budget that is already, by his standards, \$435 billion or so out of whack. I respect that.

I respect the fact that he believes, notwithstanding the fact that his own outfit points out a significant portion of that deficit last year and this year relates to the tax cuts, we will earn it all back; we will be able to cut the deficit because of the economic growth and all of that. I have that. But I have also been through this once before. I went through this once before in the Reagan era. It did not work then. Reagan came back and raised taxes. I do not think it is going to work now.

I will yield the floor with one final comment.

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

Mr. BIDEN. Was there a time? There is a time. Well, I respect that, and I thank my friend from Oklahoma. We just have a difference in our priorities and the way in which we value our value system.

I thank the Chair.

The PRESIDING OFFICER. The hour being 6:20, the managers are recognized.

Mr. WARNER. Mr. President, on our side we have taken about 40 amendments from our list, I say to my good friend from Michigan, and of the 40, roughly 19 of them are being prepared to be put in a package for the Senator from Virginia to forward to the desk in accordance with the UC. I say almost all of them, except one or two, we have been working on with the Senator's staff, and we have modified the amendments to conform with what we believe will be acceptable on the Senator's side. So as I send my package to the desk, they will be in a modified form. Logistically, I simply need the time in which to do the modification, and I presume the Senator from Michigan would desire to do pretty much the same thing.

Mr. LEVIN. Before we accept modifications, however, we would have to look at the modifications. They may be fine, by the way, but we need to look at them.

Mr. WARNER. Mr. President, all the modifications are somewhere within the Senator's system. The Senator from Michigan is on notice as to what they are. The corollary situation is we have been notified as to a lot of their modifications. So I say most respectfully to my two colleagues on the other side, if we could put in a quorum call we could quickly resolve the status of the modifications on our side, and to the extent the Senator has knowledge of the status of the modifications on his side, reciprocally what we understand—

Mr. REID. Will the Senator withhold?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to the distinguished leader, the chairman of the committee, 6:30 is coming. I ask unanimous consent that the quorum call go into effect and that the two managers of the bill still have 10 minutes to offer these amendments when the quorum call is called off.

Mr. NICKLES. Reserving the right to object, I wish to speak for a few minutes. I did not complete my remarks in the last debate.

Mr. WARNER. I say to my colleague, he has the right to object, but we really are trying to structure this.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. I am wondering if it would be agreeable to the two managers of the bill that the 6:20 time will now become 6:40?

Mr. WARNER. I think that is an excellent idea. We can make it 6:45.

Mr. LEVIN. More than agreeable.

Mr. WARNER. Would the Senator from Oklahoma need 10 minutes to finish his remarks in the intervening period?

Mr. NICKLES. Five minutes will be fine.

Mr. WARNER. At which time the Senator will put in a quorum.

Mr. NICKLES. That would be fine.

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

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I enjoyed having a little colloquy with my very good friend, Senator BIDEN. I just want to put in the RECORD a couple of facts. One, the deficit under the budget resolution we had estimated is \$474 billion. I believe it will come in significantly less than that, possibly \$420 billion to \$440 billion. I am not sure. The budget resolution was for 2005, and that figure is \$367 billion, considerably less than what OMB was estimating this year at \$521 billion or CBO at \$477 billion. So the budget resolution shows over \$100 billion in deficit reduction by 2005, and also \$255 billion in 2006. So it goes down by over \$100 billion in over 2 years. That cannot be done unless there is some constraint on the growth of spending.

That being said, we had significant assumptions for growth in VA. Total spending in 2004 for VA was growing from \$61.45 billion in budget authority to \$70.8 billion, about a 15-percent increase just in 2004 to 2005 in VA. Now, that is a lot, especially when one assumes or if one knows that we are basically going with a freeze in nondefense spending. That means other things have to be cut to make room for veterans. We have done that in our budget, and we have shown probably a greater percentage increase in veterans care than almost any other section of the budget.

So I wanted to state for the record, when I heard my friend saying—last week I think he said it was \$600 billion, and I said I think it is going to be more like \$420 billion. In the budget resolution for 2004, we estimated \$474 billion. I believe it will be much less than that. For 2005, we were assuming \$367 billion. I hope it will be less than that. For 2006, it will be \$255 billion, with revenues coming in now greater than anticipated because the economy is working and because the tax cuts we passed did stimulate the economy. The stock market and the NASDAQ are up 40 or 50 percent since the tax bill we passed last year and the tax cuts.

I heard my colleague say it is because we want tax cuts for the wealthy. The only tax cuts we assumed in the budget resolution were extending what I call family friendly tax cuts: the tax credit per child staying at \$1,000 per child instead of going to \$700; marriage penalty relief, so married couples who have taxable income up to \$58,000 will pay a 15-percent rate instead of a 25-

percent rate; and an expansion of the 10-percent bracket. Those are all family friendly. A lot of veterans want those tax cuts, too.

There are a lot of allusions to, we really need higher taxes so we can spend more for veterans. Veterans want these tax cuts. A lot of veterans have children. A lot of veterans are married and want to eliminate the marriage penalty, at least if they have incomes up to \$58,000. That is where the bulk of the tax cuts we are trying to pass this year are. That is what we assumed in the budget.

So I wanted to make those few points. We hope to get the deficit down. I believe if we pass the budget, or if we adhere to the discipline we recommended in the budget, we will have the deficit down by over \$100 billion. We will not if we adopt amendments that call for this program to double or another program to double and call it all an entitlement. That is a great way to have runaway spending.

This amendment is very irresponsible, and I would urge my colleagues to vote to sustain the budget point of order.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENTS NOS. 3433, 3179, 3239, 3429, 3220, 3319, 3293, 3198, 3431, 3373, 3403, 3325, 3280, 3441, 3442, 3443, 3444, AND 3445, EN BLOC

Mr. WARNER. I ask unanimous consent to authorize the managers of the bill to offer en bloc amendments from the filed list on my side of the aisle. I send to the desk a list of 22 such amendments out of some 40 that we have designated as being filed by Republican Senators, just slightly over half. I note the unanimous consent provides an exception for the managers' amendment which has to be cleared on both sides.

The PRESIDING OFFICER. The amendments are now pending. The Senator from Michigan.

AMENDMENTS NOS. 3157, 3378, 3367, 3423, 3286, 3204, 3303, 3327, 3328, 3329, 3330, 3203, 3311, 3310, 3400, 3399, 3365, 3300, 3388, 3336, 3337, 3339, 3201, 3377, 3289, 3234, 3264, 3355, 3351, AND 3242, EN BLOC

Mr. LEVIN. In accordance with the terms of the unanimous consent agreement, I call up the amendments contained in the list that I now send to the desk and ask they appear separately in the RECORD, that the reading of the amendments be waived. There are 31 amendments here out of a list of 77.

The PRESIDING OFFICER. The amendments are now pending.

(The amendments are printed in the RECORD under "Text of Amendments.")

Mr. LEVIN. Mr. President, I have been informed that the last item on this list, item No. 3242, may have al-

ready been agreed to, which in this case if it has already been agreed to, I ask it be deleted from the list.

The PRESIDING OFFICER. It will be deleted from the list.

Mr. LEVIN. Under that circumstance.

And I ask these be ruled to be pending amendments.

The PRESIDING OFFICER. They are pending amendments.

Mr. WARNER. That is provided for by the unanimous consent request; am I not correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. The amendments of the Senator from Virginia are pending at the time the Senator from Michigan sent his list.

The PRESIDING OFFICER. Correct.

Mr. LEVIN. Well, if the Senator from Virginia would yield, the only reason I made reference to that is that the Senator from Virginia had made reference to that fact, or that the Presiding Officer more accurately said the amendments of the Senator from Virginia were now pending. I just wanted the same ruling.

Mr. WARNER. That is fine.

In addressing my colleague from Michigan, I speak to the Senate in its entirety, if you will give the managers of the bill a period of time to look through this, we might be able to quickly advise the Senate as to those we think we can accept. They will require some modification because in the procedure each side has voiced its own suggestions as to how they will be modified and shortly after we indicate to the Senate those amendments which we require would require more debate and possibly a recorded vote.

Mr. LEVIN. Mr. President, if the Senator will yield, I fully agree with his proposed course of action. I am wondering if he might suggest what that period of time might be.

Mr. WARNER. Mr. President, I would like to think a 30-minute time period, so about 7:20. I can ask for a quorum call until such time.

Mr. LEVIN. That would be fine with us.

Mr. WARNER. We will be able to advise the Senate as to the status of it.

The PRESIDING OFFICER. The assistant Democratic leader.

## RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess until 7:20 this evening.

There being no objection, the Senate, at 6:51 p.m., recessed until 7:20 p.m. and reassembled when called to order by the Presiding Officer (Mr. TALENT).

The PRESIDING OFFICER. In my capacity as a Senator from Missouri, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Resumed

Mr. WARNER. Mr. President, I realize colleagues are perplexed over the lapse of time here, and I assure you, we are working very hard on this bill. I am going to first thank the staffs on both sides, and indeed our staff before us in the Parliamentary group, for working to make it possible.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENTS NOS. 3329, AS MODIFIED; 3433, AS MODIFIED; 3234, AS MODIFIED; 3471; 3289, AS MODIFIED; 3179, AS MODIFIED; 3351, AS MODIFIED; 3239, AS MODIFIED; 3264; 3157, AS MODIFIED; 3429; 3327, AS MODIFIED; 3431, AS MODIFIED; 3337, AS MODIFIED; 3430; 3367; 3198, AS MODIFIED; 3365, AS MODIFIED; 3293; 3399, AS MODIFIED; 3325, AS MODIFIED; 3204, AS MODIFIED; 3441, AS MODIFIED; 3333, AS MODIFIED; 3319; 3339; 3371, AS MODIFIED; AND 3438, AS MODIFIED, EN BLOC

Mr. WARNER. I would like now to send a package of 26 cleared amendments to the desk and ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

### AMENDMENT NO. 3329, AS MODIFIED

On page 48, between lines 7 and 8, insert the following:

### SEC. 326. AMOUNT FOR RESEARCH AND DEVELOPMENT FOR IMPROVED PREVENTION OF LEISHMANIASIS.

(a) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 303(a)(2) for the Defense Health Program for research, development, test, and evaluation is hereby increased by \$500,000, with the amount of the increase to be available for purposes relating to Leishmaniasis Diagnostics Laboratory.

(b) INCREASE IN AMOUNT FOR RDT&E, ARMY FOR LEISHMANIASIS TOPICAL TREATMENT.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation, Army, as increased by subsection (b), is hereby further increased by \$4,500,000, with the amount of the increase to be available in Program Element PE 0604807A for purposes relating to Leishmaniasis Topical Treatment.

(c) OFFSET.—The amount authorized to be appropriated by section 421 is hereby reduced by \$5,000,000, with the amount of the reduction to be derived from excess amounts provided for military personnel of the Air Force.

### AMENDMENT NO. 3433, AS MODIFIED

On page 311, in the table preceding line 1, insert after the item relating to Hill Air Force Base, Utah, the following new item:

Wyoming .....	F.E. Warren Air Force Base.	\$5,500,000
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On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert "\$452,023,000".

On page 314, line 3, insert "(a) AUTHORIZATION OF APPROPRIATIONS.—" before "Funds".