

the Appropriations Committee for his statement and for the assurances that he is now prepared to give the Senate. He more than anyone—and I want to acknowledge as well our ranking member of the Appropriations Committee and the subcommittee for their extraordinary efforts to move this appropriations process along. They, more than anybody, understand how critical it is that we move these appropriations bills forward. The debt limit would have been extremely counterproductive and would have prevented us from completing our work.

With the assurances given by the manager and our chairman, I am prepared to commit to him that we will do all we can to finish our work on this bill today. I believe we can finish it today. I would anticipate some amendments, but there is no reason why, given what he has just committed in terms of the conference, that we cannot finish this today and look forward to other bills as soon as we come back after the Fourth of July recess.

I thank him for that commitment and pledge my support and partnership in working with him and our ranking member today to complete our work on time.

Mr. STEVENS. Mr. President, does the Senator from West Virginia wish to be recognized? I will be happy to yield to him.

Mr. BYRD. Yes. I thank the distinguished chairman.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. First of all, he is my friend and nothing as far as I am concerned will ever mar that friendship, but I have to say that my blood boiled last Monday evening when I learned that the House Republican leadership, with the support of Senate Republican leaders, I believe, had decided to put a placeholder amendment into the Defense appropriations bill that could be used in conference to increase the \$7.4 trillion statutory debt limit perhaps to a level of \$8.1 trillion, the level needed for 2005. That placeholder language meant that the House and the Senate conferees would be free to slip in language to increase the statutory debt limit by an untold amount, maybe \$690 billion, maybe more, without either body of Congress ever having to vote in public on the matter.

This is a tough vote. I can understand how the Republican leadership in the House, the Senate, and downtown, the White House, would like to see that limit slipped into this bill in conference.

Again, the chairman of this committee has steadfastly shown great knowledge and great determination in his efforts to bring forth to the Senate for its consideration all 13 appropriations bills. That has been tough for him. I thank him for his commitment with respect to the Defense appropriations bill and the conference report which will be coming along. I thank him for that. He is a legislator in the true sense of the word.

Also, in 2002, when I was chairman of the Appropriations Committee, the House Republican leaders tried this same trick on the fiscal year 2002 supplemental appropriations bill. I refused. I steadfastly refused to include such language in the conference report. Instead, the Senate took up, debated, and passed a freestanding bill to increase the debt limit. The House then voted to approve the measure with a one-vote margin. That is the responsible way to increase the debt limit. We owe this to the American public. We should not cloak the debt increase in the camouflage uniform of a Defense appropriations bill.

So I thank Senator FRIST and Senator STEVENS for making a commitment today that the Defense appropriations conference report will not include an increase in the statutory debt limit. The Senate should vote on this issue on a freestanding bill.

I would like to ask the distinguished chairman of the Appropriations Committee—I had hoped the leader would be here so I could ask him—is he making a commitment and is the leader making a commitment that when the Senate considers the debt limit increase it will be on a freestanding bill and that it will not come to the Senate on any other appropriations conference report or in any other unrelated conference report? Can the committee chairman make that commitment?

Mr. STEVENS. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from West Virginia has the floor.

Mr. STEVENS. I will be back to answer that when I get the floor.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I will respond to my friend from West Virginia by saying the so-called Gephardt rule is not within the control of this Senator, nor the leaders. If the House chooses to take up the Gephardt rule and use it as it was used several times before, including, I believe, by Senator Mitchell when he was the leader, then that will be an issue that others will have to pursue. I am not in a position to make that commitment, and I do not think the leader is in a position to make that commitment.

I do want to proceed with the bill and I would hope my friend would accept that as being the position we are in now. I am in the position to make the commitment I have made with regard to this bill. I hope we can proceed on this bill.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005

Mr. STEVENS. I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 594, H.R. 4613, the Defense Appropriations Committee bill.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I shall not unduly delay the distinguished chairman, let me also thank our ranking member of that subcommittee, Mr. INOUE. I thank again Senator STEVENS. He has been a great chairman of that committee, and he has always been fair with me. So once this bill is brought up before the Senate—and it will be up before the Senate very soon, within the next few minutes—I shall do everything I can to help to get action on this bill today.

But let me say to the Senate and to the Senate leaders and to the Republican leaders in the House, this matter of extending and increasing the debt limit is a matter which should be brought before the American people. It should be debated; it should be voted upon. I shall do my best to see to it, if it is on any appropriations bill or any other bill, that we get a freestanding vote, and we are going to try to debate this issue. The American people are entitled to hear the debate on this bill.

When I came to the Congress almost 52 years ago, they did not sneak the debt limit into an appropriations bill as the attempt might have been made here but for the good judgment of Senator STEVENS and Senator FRIST. They didn't sneak it into the bill. The Republicans controlled the House when I first came to the House of Representatives. They didn't do a thing like that. They laid everything on the table and they debated it. I hope we will get back to that point of debating the debt limit so the House Republicans will not be let off the hook. They have a responsibility to the American people to lay it on the table and to debate it.

I thank the distinguished Senator from Alaska, the chairman of the Appropriations Committee, for yielding to me. I do not object. I remove my reservation.

Mr. STEVENS. I thank the Senator and renew my request.

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

The clerk will report.

The senior assistant bill clerk read as follows:

A bill (H.R. 4613) making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes.

Mr. STEVENS. I ask unanimous consent all after the enacting clause be stricken, the text of Calendar No. 593, S. 2559, the Senate committee-reported bill, be inserted in the RECORD in lieu thereof, and that bill, as amended, be considered as original text for the purpose of further amendment, provided no points of order be waived by reason of this agreement.

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

Mr. STEVENS. Mr. President, I just filed this report. It is the report that

previously was intended to accompany the Senate bill. I ask it now be labeled as accompanying the House bill as amended by the previous motion.

Mr. BYRD. Mr. President, reserving the right to object, and I do not object, but I say this so the Republican leadership in the House, in particular, understands that sneaking the debt limit in an appropriations bill is not going to get by.

I thank the Senator. I no longer reserve.

Mr. STEVENS. I am happy to yield to the Senator from Nevada.

Mr. REID. Mr. President, through the Chair to the distinguished chairman of the committee, we have come so far in the last 12 hours. It would not have happened but for the Senator from Alaska and his advocacy, which is unparalleled. His advocacy is in a category all its own. The working relationship that the Senator has with Senator INOUE, of course, is legend. We look forward to doing what the Democratic leader said and finish this bill today.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am pleased to present this report and this bill to the Senate today. It reflects the bipartisan approach that my cochairman, Senator INOUE, and I have always maintained regarding the Department of Defense. It is a pleasure to work with him and other members of the committee. I thank our distinguished ranking member and former chairman, the Senator from West Virginia, for his cooperation in helping us to get to the point we are now.

This bill was reported out of our full Appropriations Committee on June 22 by a unanimous vote of 29 members. No member voted against it. As we debate this bill today there are thousands of men and women in uniform deployed and serving our country in over 120 countries and throughout these United States. Their bravery and dedication to our country is extraordinary. Their sacrifices must not go unrecognized. They must be recognized here today.

Each year, the Department of Defense faces the critical challenge of balancing the cost of maintaining high levels of readiness, being ready to respond to the call wherever and whenever it is necessary to defend the interests of this country. The costs associated with simultaneously and adequately investing in transforming our Department of Defense to be ready to meet the threats of tomorrow are also concomitant with this critical challenge of balancing the costs of maintaining high levels of readiness.

I believe the bill Senator INOUE and I present today reflects a prudent balance among these challenges. It recommends \$416.2 billion in budget authority for the Department of Defense, including \$25 billion of contingent emergency funding for costs associated with operations in Iraq, Afghanistan, and the war on terror. This amount is

\$1.7 billion below the President's amended fiscal year 2005 request but, in our judgment, meets the Defense Subcommittee's allocation for both budget authority and outlays.

The measure we present is consistent with both the objectives of the administration and the Senate National Defense authorization bill for 2005, which we passed last evening.

We sought to recommend a balanced approach, and we do recommend a balanced bill to the Senate. We believe it addresses the key requirements for readiness, quality of life, and transformation of our total force. It honors the commitment we have to our Armed Forces. It helps ensure that they will continue to have first-rate training, modernized equipment and quality infrastructure, and maintain their quality of life. It fully funds key readiness programs critical to the global war on terrorism. It makes continued progress in supporting our military personnel and their families.

Key initiatives included in this bill are these: First, an average military pay increase of 3.5 percent and full funding for benefit and medical programs; additional funding to pay for the increase of 20,000 to our Army end strength and TRICARE for Guard and Reserves. Both of these initiatives were included in the Senate version of the 2005 Defense authorization bill, and this bill funds both programs: For the Army, \$3 billion for their ongoing transformation initiative, the future combat system, and the Stryker Brigade combat teams; for the Navy, \$10.2 billion for shipbuilding, providing additional funding for the DD(X) destroyer and the Marine Corps' amphibious assault ship, LHA(R); for the Air Force, full funding for the acquisition of 14 C-17 aircraft and 24 F-22 Raptor aircraft; \$10.2 billion is included for missile defense programs.

In light of the contributions of the Guard and Reserve, this bill adds \$500 million in nondesignated equipment funding for modernization shortfall.

Again, I thank my cochairman Senator INOUE for support, and for the support of the whole committee and the invaluable counsel we have received on this bill.

I yield for any statements he may wish to make.

I point out the contingent reserve in this bill funds a 5-month period. We fully anticipate there will be a supplemental again next year. We are talking about the last quarter of this calendar year which is the first quarter of fiscal year 2005 and an additional month beyond that after we are back in session and ready to receive the supplemental for that, if necessary.

Mr. President, we have a conflict because of Senator INOUE's noon event, which I wish to also attend. It is my hope we will be back on the floor and start considering amendments at 2 p.m. today.

Does the Senator wish to comment?

Mr. INOUE. Mr. President, I fully support the measure before us. I would

like to say how proud I am to serve with my colleague from Alaska.

Once again, he has demonstrated to all of us his extraordinary legislative skill in pressing his case. I can assure my colleagues in the Senate, as I assure my chairman, that I will do my very best to see that his decision is carried out.

This bill provides \$383.8 billion in new discretionary budget authority, consistent with the subcommittee's target, and another \$25 billion in emergency budget authority to cover a portion of the anticipated costs for the ongoing wars in Iraq and Afghanistan.

The bill provides the necessary funds to support our men and women in uniform and their families—to include our Guard and Reserves. It recommends funding for a 3.5 percent pay raise for all service members and a 20,000 increase in army end strength as authorized by the Senate.

The bill supports the critical modernization programs requested by the Defense Department including the Navy's DDX Destroyer, the Army's Stryker vehicles and the Air Force's F-22 fighter. It scales back those programs that DoD is trying to advance before the technology is mature and those that are experiencing delays or technical problems.

The bill increases spending on research and development by nearly \$1 billion with significant growth in medical programs, particularly those that directly impact warfighters in the current conflict. These include increased spending on amputee care, new technology bandages, and leishmaniasis.

Health care programs are fully funded in this measure. In addition, the committee recommends increases for Walter Reed, Madigan, Tripler, and other military hospitals and research facilities.

The Committee has made a significant effort to see that this bill is consistent with the decisions which have been made by the Senate on the Defense authorization bill. Many of my colleagues' amendments that have been adopted on the floor receive funding in this bill, such as the end strength increase which I already addressed. The committee has also included enhanced Guard and Reserve benefits as authorized and other proposals approved by the Senate.

This bill provides the support essential for the coming year and also provides \$25 billion which DoD will require to cover its costs next fall and winter for its on-going efforts in Iraq and Afghanistan. I am pleased to report to the Senate that the committee has very carefully earmarked the funding for Iraq and Afghanistan to direct funding for the priorities of the military departments. We have also restricted the authorities sought by the administration to ensure proper congressional oversight of executive actions.

In recent years, the executive Branch has often argued that, as Commander

in Chief, the President has almost unlimited powers in the conduct of day-to-day defense matters. It is clear that the Constitution provided the Congress the power of the purse. In drafting this measure the Committee has safeguarded its responsibilities and expects that the Defense Department will recognize the constitutional authority of the Congress to determine how funding will be utilized in executing this budget. We fully expect that the Defense Department will only fund activities that have been approved by the Congress, and in no case will funding be used to support programs which have been rejected by the legislative branch.

I am pleased to have worked with my good friend, our Chairman, Senator STEVENS on crafting this legislation. It is a very good bill and I would encourage all my colleagues to support it.

Mr. STEVENS. Mr. President, does the Senator wish the floor?

Mr. LEAHY. Mr. President, I will not take the floor if the Senator from Alaska has more to say. I was going to speak about one of the nominations which is coming up this afternoon.

Mr. STEVENS. Mr. President, it is my understanding there will be other matters considered.

I ask unanimous consent that our bill be set aside until the hour of 2 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Alaska and the distinguished Senator from Hawaii.

I am going to shortly speak for about 20 minutes on one of these nominees. First, if I might, I am going to ask that we go into a quorum call. It will be a matter of a minute or two. When we come out of the quorum call, I ask unanimous consent that I be recognized to speak regarding the nomination of Peter Hall.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

#### NOMINATION OF PETER HALL

Mr. LEAHY. Mr. President, we have heated debates, and we have times when we are happy and times when we are not here in the Senate. Today is a happy day. I am pleased that later I will be able to cast my vote in favor of Peter Hall for confirmation to the U.S. Court of Appeals for the Second Circuit. I know this will be a nomination that will be strongly supported on both sides of the aisle.

Mr. Hall is going to fill the Green Mountain State's seat on the U.S. Court of Appeals for the Second Circuit. He currently serves as the U.S. Attorney. He was nominated by President Bush. He has strong support not only of Governor Douglas but the entire Vermont delegation. I commend both the Republican and Democratic leadership for working out an accommodation that makes it possible to vote on his nomination.

By tradition, there is a Vermont seat on the Second Circuit. It is currently vacant. The reason it is vacant is because of the sudden and tragic death of the last judge to hold the seat, the late Fred Parker. Judge Parker was appointed to the U.S. District Court for Vermont in 1990 by the first President Bush. That was done on the strong recommendation of Senator JEFFORDS and with my support. He was a well-known Republican in Vermont, and he served as the deputy attorney general for the State of Vermont.

After distinguished service on the District Court bench, he was appointed by President Clinton to the Second Circuit with the strong support of Senator JEFFORDS. President Clinton knew that Fred Parker was a well-known Republican, but he also knew of his qualifications and of the high esteem in which he was held in Vermont, and so he nominated Judge Parker to the Second Circuit, and he was confirmed by the Senate.

I mention that because over the years Senator JEFFORDS and I—and before that Senator Stafford of Vermont and I—have tried to keep partisan politics out of the Judiciary. If you look at the quality of the people we recommended, you will see we have actually been quite successful in doing that. Fred Parker was such an example. He was a good man, a good lawyer, and a good judge. We were in Georgetown Law School together. I knew him from that time. He was in the Marine Corps. I knew him from then until his untimely death last year. I knew him to be a man of integrity and intelligence. He served the courts and the people of Vermont with dedication and fairness, and we miss him.

Peter Hall has big shoes to fill, but both from what everyone knows about him and from what I know personally in having worked with him, he is completely up to the job. He did have a couple strikes against him. He had the nerve to be born in one of those Southern States, Connecticut. He went all the way even further south to North Carolina for college, and then he attended law school in New York. But we decided to forgive him for those missteps in his career because he came to his senses as soon as he graduated from law school, and then he moved to Vermont. He has been there long enough to be considered a Vermonter.

He clerked for the well-respected Judge Albert Coffrin of the U.S. District Court for the District of Vermont.

We are a small State. When I first started practicing law, it was in Judge

Coffrin's law firm, before he became a member of the bench. He was a good friend. His widow still lives in Vermont. He was without a doubt one of the most respected and one of the best trial judges we have had.

Peter Hall, showing the wisdom he has demonstrated, stayed in Vermont from that day forth. His career and the exemplary way he served the U.S. Government in the law are admirable.

After he completed his clerkship with Judge Coffrin, he joined the U.S. attorney's office in Vermont. He was a Federal prosecutor the next 18 years. He rose to the position of first assistant, later being named U.S. Attorney. During those years, he has gained invaluable trial experience so beneficial for any judge. He learned about Federal criminal law.

I was a prosecutor, so of course I always have a soft spot for someone who served as a prosecutor.

His resume is not limited to Government service. In 1986, he began a 15-year career in the private practice of law, focusing on civil practice, with a particular emphasis on mediation, showing a talent for that. He also used his time during that period to serve the bar. He provided ethics training to Vermont State prosecutors. He held the office of president of the Vermont Bar Association, and in that office as former prosecutor, advocated for funding for public defenders for equal access to justice.

In the best sense of those who make the best judges, he found time for pro bono work, getting involved in the Vermont family court system. He served as guardian ad litem for children caught up in disputes between their parents.

In 2001, President Bush nominated Peter Hall to be the U.S. Attorney for Vermont. His record in that office is one all prosecutors should hope to have, a tough but a fair prosecutor. I supported Peter's nomination to the U.S. Attorney's office. I support him now.

Lest there be any question, let us have no misunderstanding about Peter's party affiliation: He is a Republican through and through. From 1986 to 1993 he was variously a member of the town of Chittenden, Rutland County, and State of Vermont Republican committees and a member of the National Republican Party. He has helped run statewide Republican campaigns, and was an elected Republican official for 5 years, holding one of the most important offices a citizen in Vermont can hold, a member of the Select Board of the Town of Chittenden. Incidentally, Chittenden is named after the first Governor of Vermont, Thomas Chittenden. He was recommended to the President by Vermont's Republican Governor. Governor Douglas noted in his letter of support to this nomination, that Peter is "a dedicated public servant, a strong leader and will be an asset to the Second Circuit."

I ask consent the Governor's letter be printed in the RECORD.