

MR. DEMINT. Mr. President, before I begin my statement, I commend Senator WYDEN on his vision for health care and his passion for helping to equalize our Tax Code in a way that would help every American buy private health insurance.

EARMARK REFORM

MR. DEMINT. Mr. President, I rise today to speak about the Senate earmark transparency rules that have not been implemented after so many months. As my colleagues know, we passed two new Senate rules back in January that would shine some light on the earmarking process. It would require us to be open and honest about how we spend American tax dollars.

Unfortunately, these Senate rules, which have nothing to do with the House of Representatives, have been held hostage so they can be gutted in secret when no one is looking. That is right; there are some in this Chamber who don't want to disclose their earmarks, don't want to certify in writing that they will not benefit financially from their earmarks. There are some who want to be able to continue the practice of adding secret earmarks to our bills in closed-door conference committees.

The earmark disclosure rule was originally offered this year as an amendment to S. 1, the lobbying and ethics reform bill. I offered this amendment because the disclosure requirements the majority leader included in his ethics reform bill only covered 5 percent of earmarks that we pass every year. I believed then, as I do now, that disclosure of only 5 percent of our earmarks is not reform and represents business as usual.

As my colleagues know, the leadership on the other side of the aisle originally opposed my amendment and actually tried to kill it. They said it was too broad and that the language, which came directly from Speaker PELOSI in the House, was rushed and therefore flawed.

The majority leader said on January 11:

... the distinguished Senator from South Carolina has said this is exactly like the House provision. I say to my friend that is one of the problems I have with it because I, frankly, do not think they spent the time we have on this.

The same day Senator DURBIN said:

But the DeMint language is actually unworkable because it is so broad. . . . Frankly, it would make this a very burdensome responsibility.

Fortunately, the Senate refused to table the amendment and the Democratic leadership was forced to support full earmark disclosure. To save face, the other side came with a slightly modified version that they said was better than the House language because it required 48 hours of notice on the Internet of all earmarks. We all agreed to this language and passed the Durbin Amendment 98 to 0.

The Democratic leadership immediately changed their tune once the bill was passed. The majority leader said on January 16:

In effect, we have combined the best ideas from both sides of the aisle, Democrat and Republican, to establish the strongest possible disclosure rules in this regard.

Senator DURBIN said:

I am pleased with this bipartisan solution. . . . I believe it reflects the intent of all on both sides of the aisle to make sure there is more disclosure.

Later in the debate, the Senate unanimously accepted an amendment prohibiting the practice of what we call airdropping earmarks in conference; that is, adding earmarks that were not included in either the House or the Senate versions of the bill. Again, we all agreed to this language and accepted it unanimously.

Unfortunately, that is when the public eye turned away from this issue and when the bipartisan support for earmark reform ended.

I came to this floor on Thursday, March 29—70 days after we passed the Senate earmark transparency rules—and asked for consent to enact them. But a Senator on the other side objected. The reason for his objection, according to several news reports, was that the other side of the aisle was caught off guard and was not properly notified.

Well, that sounded somewhat plausible, so I came back to this floor on Tuesday, April 17—89 days after we passed the Senate earmark transparency rules which, again, have yet to be enacted. A Senator on the other side still objected. But this time it was Senator DURBIN who objected—the very Senator who worked with me to author the new earmark disclosure rule. He objected to his own amendment being enacted. He said he did so because he didn't believe we should enact ethics reform in a piecemeal way.

But then the majority immediately announced it would self-enforce some of the new earmark transparency rules in a piecemeal way. They said they would allow each committee to decide if and how to disclose their earmarks.

The Congressional Research Service recently provided me with a review of all earmark rules being used in the Senate committees. The analysis shows that the rules have not been applied in many committees, and even those that have been created informally cannot be enforced on the Senate floor. According to CRS, only 4 out of 18 committees have even created an informal rule.

This shows what we all know to be true: The rules are being implemented in a piecemeal way, which is exactly what the other side said they wanted to avoid. It is clear we need a formal rule in place that applies to all committees. That is what we voted for at the beginning of the year when we wanted to show Americans we were going to address the culture of corruption in Washington, and that is what we need to do now.

I came down to this floor shortly before the July 4 recess to talk with the majority leader about these earmark rules. He wanted to go to conference with the House bill, S. 1, the ethics and lobbying reform bill, and I wanted to get his personal assurances that these earmark rules would not be watered down or eliminated behind closed doors. Unfortunately, the majority leader told me he could not give me those assurances, which was a clear sign that the folks working on this bill had plans to weaken the earmark transparency rules we adopted in January.

I tried again to get consent to enact these rules on Thursday, June 28, 161 days after they had passed, and again the other side objected. The reason this time, which was a complete departure from what they said before, was that the other side planned to work with the House to change the rules and that it was unreasonable for me to demand that they be protected.

The majority leader said:

There will be some things that will wind up being a Senate rule. Some things will wind up being a House rule. That is part of what the conference is going to work out. No one is trying to detract from anything that the distinguished Senator from South Carolina wants. But just because you want something doesn't mean that you are necessarily going to get it.

Senator SCHUMER echoed their desire to change the rules by saying:

... maybe there are things that other people might add; maybe there will be the kinds of legislative tradeoffs that will make a stronger ethics bill. We all have no way of knowing . . . To get 90 percent or 95 percent of what is a good package, most people would say yes.

And Senator DURBIN sought to belittle my effort to protect the earmark rules, saying:

It would seem that the Senator from South Carolina is carping on a trifile here.

And I was carping on his bill. There are three words to describe what is going on here, Mr. President: business as usual. This is one of the worst flip-flop reversals I have ever seen. Even the Senator from Illinois, the very person who had previously praised the new rules, minimized their importance and supported efforts to change them.

I realize the other side never liked these rules to begin with. After all, they did try to kill them. But I thought they had come around and were now supportive. I thought we agreed that earmark transparency was a reasonable step to begin changing the way we spend American tax dollars and to end business as usual. It now appears I was mistaken.

Mr. President, 172 days have now gone by since we passed the Senate earmark transparency rules, and yet a few in the Chamber still refuse to enact them. Instead, these objections offer more excuses—excuses that keep changing as time passes.

First they said the rules were too broad and the House wrote them incorrectly. Then, after the Senate leadership revised the rules to their liking,

they support them. But now, after 6 months have passed, they are saying the rules need to be fixed again, and this time by the House. I am sorry, I realize this may seem like a joke, but I am not making it up.

What we have here is obstruction, pure and simple. It has been 172 days since we passed these earmark transparency rules, and the majority will still not allow them to be enacted. Several Senators on the other side are determined to block these rules and prevent them from ever being implemented. They have now publicly acknowledged that they intend to change the rules behind closed doors and, according to several media reports, the majority leader is even willing to cancel the entire August recess to force those of us who want earmark reform to capitulate. He wants us to stop fighting for the American taxpayers. That is not going to happen. So the quicker we end the obstruction of these earmark reform rules, the quicker we can get on to other business.

I intend to fight for these rules even if it means staying here every day in August. In fact, that might mean the best outcome of all. We need to have a national dialog in this country about how Congress spends Americans' hard-earned tax dollars. I think it would be good for those in this Chamber to explain to the American people why they don't want to be transparent in how we spend their money. That is a discussion we need to have here.

I am now going to seek consent one more time to enact these important disclosure rules. And I ask the majority, if they don't like the language they developed, then make suggestions of how they want to change it. But in the meantime, I think we should go to conference on this lobby and ethics reform bill.

I ask unanimous consent that the Rules Committee be discharged from further consideration and the Senate now to proceed to S. Res. 123 and S. Res. 206, the earmark disclosure resolutions, all en bloc; that the resolutions be agreed to and the motions to reconsider be laid upon the table. I further ask that the Senate then proceed to the immediate consideration of H.R. 2316, the House-passed ethics and lobbying reform bill; that all after the enacting clause be stricken and the text of S. 1, as passed by the Senate, be inserted in lieu thereof; that the bill be read a third time, passed, and the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees at a ratio of 4 to 3.

The PRESIDING OFFICER (Mr. WEBB). Is there objection?

The majority whip.

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, I seek recognition.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Mr. President, so we understand what happened, the Senate passed an ethics reform bill. It is a big bill. There are a lot of provisions in the bill that we felt were necessary because of some of the wrongdoing that occurred in Washington over the last several years. We went after the Jack Abramoff scandal. Remember that lobbyist? He is in prison. He had a pretty sweetheart arrangement here. He was sticking things in bills. It went on and on. I will not go into all the gruesome details, but we decided to break this kind of cozy relationship between lobbyists and some Members on Capitol Hill. And then we started to take a look at some of the other aspects of things that were troubling people.

We went into the question of gifts, how much can a Senator receive.

We went into the question of leaving the Senate and picking up a big-paying job as a lobbyist, within a few months making a lot of money. That has happened too often. We said, let's slow down this revolving door.

We went after the disclosure of private employment negotiations that Senators and Congressmen were entering into while they were still sitting in the House of Representatives and in the Senate.

We expanded lobby disclosure requirements. We went to great lengths and said lobbyists have to tell us a lot more about what they are doing with their money and time.

Then we went into prohibiting the old K Street Project. Unless you are a real insider on Capitol Hill, you may not remember that one, but they used to have—I am not kidding now—weekly meetings in the office of a U.S. Senator where the lobbyists would come in and tell them the amendments they wanted, and then the Senators would tell them what fundraisers were coming up. I don't know if there was any connection, but some people thought there was a connection. We put an end to that practice.

Then we talked about Members who were convicted of certain crimes losing their pensions. Understandable, if you are guilty of felonious conduct relating to official duties, that might follow.

Then we talked about the integrity of the process so Members couldn't dump little things in at the last minute in conference reports that hadn't been considered in the House and Senate.

And, of course, we went to the question of earmarks. That was an important part of this bill, but it sure wasn't the only part. Listen to everything I read.

So now we are trying to get this bill to conference. We want to take this bill to conference and work with the House and pass the most significant ethics reform bill in the history of Congress. It is long overdue. I think most Americans would say: Why haven't you done it already? I can tell you why for 12 days we haven't done it: Senator DEMINT of South Carolina has ob-

jected. Senator DEMINT, the man who took the floor and used my name a dozen times, as a great ethics reformer is the Senator who objects to going to conference to make these proposals which passed the Senate—similar measures passed the House—the law of the land. Why? Because he picked one paragraph out of the bill related to earmarks and he wants a guarantee that is going to come out of the conference without a change. I believe it probably will. Mr. President, do you know what the final vote was when it passed the Senate? It was 98 to 0. It is a pretty good indication he is going to see either the exact language he proposed or something very close to it. But unless he gets a locked-down guarantee to get every word of that, he is going to stop all of these efforts at ethics reform. He is going to stop the efforts to put an end to the K Street Project, he is going to stop the efforts of more disclosure, he is going to stop the effort to eliminate outrageous gifts between Members of Congress and lobbyists, and he does this in the name of ethics. I don't follow this at all.

For 12 days now, Senator DEMINT has held up our effort to take the ethics bill to conference. For 12 days, he has come to the floor and has said it is because he really believes in ethics. It doesn't track. It doesn't follow. It doesn't wash in Illinois or in South Carolina. I wish he showed a little more humility in this process. That he is going to stop the whole ethical reform because of his section—he is worried about his section I don't think is right. I think he should trust in the substance of his earmark reform, trust in the fact that 98 Senators supported it, trust in the fact that in the end it was a bipartisan agreement. I offered an amendment on the Democratic side to his amendment on the Republican side. What I offered was an amendment calling for more disclosure. Put all the earmarks on the Internet so the whole world can see them. I think that is the way it should be.

I chair a subcommittee of the Appropriations Committee. My staff has been working long and hard over the last several weeks to put a bill together. We were on the phone late last night putting all the finishing touches on it. It is going to be the most transparent appropriations bill covering these agencies in the history of the United States, and that is the way it should be. Every Member who has asked for anything in this bill, whether it is in bill language or committee report language, is going to be disclosed. Every Member has to stand by every request they make, and it is printed right there for the world to see. That is the way it ought to be. That isn't enough for the Senator from South Carolina. I am not sure what he wants beyond that. We are already putting into practice what the Senate has virtually accepted, with some slight modifications but nothing of substance. Yet he wants to stop the whole ethics process. I suppose that is

his idea of reform, to stop reform. But it is certainly not my idea of reform.

Mr. President, I ask unanimous consent that the ethics bill that has passed the Senate and the House be sent to conference for consideration.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. On behalf of the junior Senator from South Carolina, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, I acknowledge my colleague on the other side of the aisle is standing in for the Senator from South Carolina, but if we are ever going to get to ethics reform, we clearly have to move to conference, and conference is going to require agreement on both sides of the aisle and the understanding—incidentally, the Senator from South Carolina characterized the conference committee as the secret conference committee. He is caught up in the old way of doing things. The new way is that the doors will be open. He can come. In fact, I hope the Republican leader will appoint him as a member of the conference committee. Regardless, it is going to be open for him to come and at least observe, if not participate, in this process.

It is a new day for the conference committees, and I certainly hope the Senator from South Carolina will reconsider, will stop his ethics filibuster, the DeMint ethics filibuster, which is now in its 12th day, and allow us to move to this ethics bill for its consideration.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1585, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2011

Mr. NELSON of Nebraska. Mr. President, on behalf of Senator LEVIN, I call up his substitute amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for Mr. LEVIN, proposes an amendment numbered 2011.

Mr. NELSON of Nebraska. 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. NELSON of Nebraska. Mr. President, I wish to begin my comments on this year's National Defense Authorization Act by thanking the members of the Personnel Subcommittee, and I would especially like to thank Senator LINDSEY GRAHAM. He and I have worked together for several years on the Personnel Subcommittee.

Mr. WARNER. Would the Senator yield, so I might propose a unanimous consent request?

The PRESIDING OFFICER. Will the Senator from Nebraska yield?

Mr. NELSON of Nebraska. Yes.

Mr. WARNER. I thank the Presiding Officer.

Mr. President, following the remarks of the Senator from Nebraska, I would like to ask unanimous consent that I be recognized so I can speak on behalf of the ranking member, Senator McCAIN, with regard to the bill which is now being brought up.

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

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that Senator WEBB be recognized after Senator WARNER for Senator WEBB's comments.

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

Mr. NELSON of Nebraska. Mr. President, as I was saying, Senator GRAHAM and I have worked together over these past several years—he has been chairman and I have been the ranking member—and I have always found our time on the subcommittee to be decidedly nonpartisan. All members of the Personnel Subcommittee have tried to do what is right by the servicemembers and their families. We are always focused on how best to serve those who serve us. So I say to Senator GRAHAM: Thank you very much.

This year, as in past years, the Personnel Subcommittee focused on improving the quality of life of the men and women in the armed services, including Active-Duty, National Guard and Reserve personnel and their families. There is an old axiom in the military that you recruit the soldier, sailor, airman or marine, but you retain the family. In the wake of the difficulties exposed at Walter Reed, we felt especially compelled this year to focus not just on the servicemember but also on his or her family and I am pleased with the bill and recommend it to my fellow Senators.

The bill before us authorizes \$135 billion for military personnel, including pay, allowances, bonuses, death benefits, and permanent change of station moves. The bill contains many important provisions that will improve the quality of life of our men and women in uniform and their families.

First and foremost, the bill authorizes a 3.5 percent across-the-board pay

raise, which is half a percent higher than the average pay raise in the private sector as measured by the Employment Cost Index. It is also half a percent higher than the administration's proposal of a 3-percent increase in pay. This increased pay raise recognizes the outstanding service and the sacrifice of the men and women of the armed services and their families.

The bill also addresses the administration's request to increase the end strength of the Army and the Marine Corps. The committee supports the requested increases in end strength for the coming fiscal year but funds the entire authorized end strength in the base budget rather than in a combination of the base budget and the war-related supplemental. The committee believes the increases in end strength are no longer uniquely tied to the war effort. The bill authorizes fiscal year 2008 end strengths of 525,400 for the Army and 189,000 for the Marine Corps.

The bill would expand combat-related special compensation to all servicemembers eligible for retirement pay who have a combat-related disability. This special compensation is currently denied to our wounded warriors who are medically retired with less than 20 years of service.

The bill would also reduce below age 60 the age at which reservists may begin to receive their retired pay by 3 months for every aggregate of 90 days of active duty performed under certain mobilization authorities.

The bill authorizes all servicemembers to carry up to 90 days of leave from one fiscal year to the next and allows certain servicemembers to sell back up to 30 days of leave under special leave accrual provisions affecting deployed servicemembers.

The bill would change the death gratuity and survivor benefit plan to allow servicemembers to choose to leave death benefits to a guardian or a caretaker of their minor child or children.

The bill also amends the Immigration and Nationality Act to make it easier for spouses and children accompanying servicemembers assigned overseas to qualify for citizenship.

The bill includes provisions that would allow the Department of Defense to continue to provide top quality health care to servicemembers and their dependents. The bill authorizes \$24.6 billion for the Defense Health Program and takes steps to ensure that TRICARE is available to beneficiaries who desire to use it.

The bill enhances the ability of the services to attract critically short health care personnel by authorizing a new bonus for referring to military recruiters an individual who is commissioned in a health profession, by authorizing an increase from \$50,000 to \$75,000 in the maximum incentive special pay and multiyear retention bonus for medical officers and by authorizing the Secretary of Defense to pay an accession bonus of up to \$20,000 to participants in the Armed Forces Health