

Senate, and I am hoping very much for the cooperation of my colleagues. Let's complete the amendments, raise them with us, let us work with you on getting them up and getting votes on them so we can at least indicate our support to do what we are required to do as American citizens: honor our treaties, meet our trust responsibilities, and keep the promises we have made to the first Americans.

UNANIMOUS CONSENT AGREEMENT—H.R. 4986

Mr. DORGAN. Mr. President, I ask unanimous consent that at 5:30 p.m. today, the Senate proceed to the immediate consideration of H.R. 4986, the Department of Defense authorization, with no amendments in order to the bill; that the bill be read a third time, and without further action, the Senate proceed to vote on passage; that upon passage, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I yield the floor and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### NATIONAL DEFENSE AUTHORIZATION ACT

Mr. LEVIN. Mr. President, in a few moments we are going to vote on the Defense Authorization Act for fiscal year 2008.

The bill before us today is the same bill we passed by a 90-to-3 vote a little more than a month ago, except for minor changes.

This bill will provide essential pay and benefits for our men and women in uniform. It includes a 3.5-percent pay raise for the troops.

It includes the Wounded Warrior Act, the greatest reform in the law relative to medical care for our troops in more than a decade. It will address the sub-standard living conditions, poor outpatient care and bureaucratic roadblocks and delays faced by injured soldiers. These provisions will dramatically improve the management of medical care, disability evaluations, personnel actions, and the quality of life for service members recovering from illness or injuries incurred while performing their military duties and begin the process of fundamental reform of DOD and VA disability evaluation systems.

The Wounded Warrior Act will require the Secretary of Defense and the Secretary of Veterans Affairs to work together to develop a comprehensive policy on the care, management, and transition of severely injured service members, including Active Duty, Na-

tional Guard, and Reserve members, from the military to the Veterans Administration or to civilian life. It will require the use of a single medical examination where appropriate, and require and fund the establishment of centers of excellence for the signature wounds of the wars in Iraq and Afghanistan—post-traumatic stress disorder and traumatic brain injury.

To improve the disability evaluation system, the bill will require the military departments to use VA standards when making disability determinations, authorizing deviation from these standards only when it will result in a higher disability rating for the service member, and will require the services to take into account all medical conditions that render a member unfit for duty.

The bill will also increase the severance pay for military personnel who are separated for medical disability with a disability rating of less than 30 percent and will eliminate the requirement that this severance pay be deducted from VA disability compensation for disabilities incurred in a combat zone or combat-related operation.

The bill also includes essential management reforms for the Department of Defense, including the Acquisition Improvement and Accountability Act of 2007. Some of the reforms included are: establishment of a defense acquisition workforce development fund to ensure that DOD has the people and the skills needed to effectively manage its contracts; strengthening of statutory protections for contractor employees who blow the whistle on waste, fraud, and abuse in DOD contracts; and tightening of the rules for DOD acquisition of major weapons systems and subsystems, components and spare parts to reduce the risk of contract overpricing, cost overruns, and failure to meet contract schedules and performance requirements. These and other provisions should go a long way toward addressing the contracting waste, fraud and abuse that we have seen altogether too frequently in recent years.

Our legislation will also address a major failure in Iraq—the failure to exercise control over private security contractors. It will require for the first time that private security contractors hired by the State Department and other Federal agencies to work in a war zone comply with directives and orders issued by our military commanders as well as with DOD regulations.

On December 17, 2007, we sent the defense authorization act to the President for his signature. The following weekend, the White House staff notified us that they had identified a problem with one provision that would lead the President to veto the bill. While the administration had previously expressed concerns about this provision, no administration official had ever indicated that the President would consider a veto. Quite the opposite, this provision was not on the list of potential veto-causing problems.

I remain disappointed by the administration's failure to work with us to address this provision until after the bill had passed both Houses of Congress and was sent to the President for signature. It does not serve anybody's interest when we fail to address issues like this in a timely manner. The veto of the National Defense Authorization Act sent the wrong message to our soldiers, sailors, airmen and marines at a time when many of them are risking their lives on a daily basis in Iraq, Afghanistan, and elsewhere.

I am pleased that we have been able to work out language to address the administration's concerns on a bicameral and bipartisan basis. The bill that is before us today contains modifications that have been agreed upon by the White House and by the bipartisan leadership of the House and Senate Armed Services Committee. I understand that these changes are also acceptable to Senator Lautenberg and other Members who worked with him to put together the provision in the earlier bill.

Let me briefly explain the White House's problem, and how we have addressed it.

Section 1083 of the bill clarifies the law that permits U.S. nationals and members of the U.S. Armed Forces who are victims of terrorist acts to sue state sponsors of terrorism for damages resulting from terrorist acts in the U.S. courts. The provision also strengthens mechanisms to ensure that victims of terrorism can collect on their judgments against such State sponsors of terrorism. U.S. courts have previously entered such judgments against Iran, Libya, and Saddam Hussein's Iraq.

After the bill was passed and sent to the President for signature, the administration informed us that Iraq currently has more than \$25 billion of assets in this country that could be tied up in litigation if section 1083 were enacted into law and that such restrictions on Iraq's funds could take months to lift. The White House stated that restrictions on Iraqi funds would interfere with political and economic progress in Iraq and undermine our relations with Iraq.

We have addressed these concerns with new language which authorizes the President to waive the applicability of section 1083 to Iraq, if he determines that a waiver is in the national security interest of the United States; that the waiver will promote Iraqi reconstruction, the consolidation of democracy in Iraq, and U.S. relations with Iraq; and that Iraq continues to be a reliable ally of the United States and a partner in combating international terrorism.

The revised language also expresses the sense of Congress that the President, acting through the Secretary of State, should work with the Government of Iraq on a state-to-state basis to ensure compensation for any meritorious claims based on terrorist acts

committed by the Saddam Hussein regime that cannot be addressed in the U.S. courts due to a Presidential waiver.

We expect that the Department of State will actively pursue such compensation from Iraq.

As one of the authors of the new section 1083, I want to assure the Senate that the new language authorizes the waiver of section 1083, only as it applies to Iraq. The new subsection (d), which we have added to the bill, specifies that the President may waive any provision of section 1083 “with respect to Iraq” and not with regard to any other country. We explicitly reaffirm in this bill that other cases against state sponsors of terrorism, including both Iran and Libya, may proceed to judgment and collection under section 1083, unaffected by any Presidential waiver.

Over the last 2 weeks, concerns have been expressed about the possible impact of this provision on innocent third parties entering joint ventures with Libya or Iran. The concern was that these companies would find their own property seized to satisfy judgments against those countries. Our language does not allow for that result, because that is not our intent. This is not a new issue: the question has been raised by the language of the Lautenberg amendment ever since it was first approved by the Senate last fall.

We specifically addressed the problem of joint ventures in our conference on the Defense authorization bill, previously approved by the Congress. We added language to the bill making it clear that the courts are authorized to compensate victim of state-sponsored terrorism out of Libya's—or other states'—assets, while separating and shielding the assets of companies engaged in joint ventures with those States. In the accompanying statement of managers, we specifically urged the courts to make use of this authority. This language was the strongest action that we could take to protect innocent third parties without also shielding the offending governments from liability for their own actions.

We have included a provision to ensure that the statement of managers on our previous conference report will apply to this new bill in this and all regards.

Outside of the modification of section 1083, the bill remains virtually unchanged. We have, however, taken steps to ensure our men and women in uniform will not lose a penny as a result of the delayed enactment of this bill. Toward that end, we have revised a number of provisions in the bill to make pay increases and bonus provisions retroactive to January 1 and avoid any gap in these authorities. These changes have been worked out with the Department of Defense and agreed to by the two Armed Services Committees on a bipartisan basis.

Other than these few changes, the bill before us today is identical to the

conference report that the Senate overwhelmingly passed last month. It is my hope that the bill will receive similar support when we vote on it again later today.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

**THE PRESIDING OFFICER.** The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4986) to provide for the enactment of the National Defense Authorization Act for fiscal year 2008, and for other purposes.

**MR. FEINGOLD.** Mr. President, I oppose the fiscal year 2008 Defense authorization bill because it authorizes \$189.5 billion for the war in Iraq but does nothing to end the President's misguided, open-ended Iraq policy. That policy has overburdened our military, weakened our national security, diminished our international credibility, and cost the lives of thousands of brave American soldiers.

There are certain provisions of the bill that I support strongly, including a pay raise for military personnel, Senator WEBB's amendment creating a Commission on Wartime Contracting to examine waste, fraud, and abuse in Iraq and Afghanistan, and Senator LAUTENBERG's amendment to create a Special Investigator General for Afghanistan Reconstruction.

But on balance, I cannot vote to support a bill that defies the will of so many Wisconsinites—and so many Americans—by allowing the President to continue one of the worst foreign policy mistakes in the history of our Nation.

**MR. LAUTENBERG.** Mr. President, I rise to applaud the chairman and ranking members of the Senate Armed Services Committee, Senators LEVIN and MCCAIN, respectively, on passage of the National Defense Authorization Act for fiscal year 2008.

Specifically, I would like to express my gratitude to the bill conferees for their inclusion of four amendments that I authored and which were unanimously adopted by the Senate during its initial consideration of this bill. These provisions will increase oversight of our country's economic and security assistance to Afghanistan by creating a Special Inspector General for Afghanistan Reconstruction, section 1229; help victims of state sponsored terrorism to achieve justice through the U.S. courts, section 1083; prevent military health care fees through the TRICARE program from rising, sections 701 and 702; and increase accountability and planning for safety and security at the Warren Grove Gunnery Range in New Jersey, section 359.

First, I was proud to be joined by my cosponsors, Senators COBURN, DODD, HAGEL, FEINGOLD, WEBB, and McCASKILL, in creating a Special Inspector General for Afghanistan Reconstruction. I wrote this legislation because I

believe that while a democratic, stable, and prosperous Afghanistan is important to the national security of the United States and to combating international terrorism, I am concerned that we are not achieving all of our goals there. The United States has provided Afghanistan with over \$20 billion in reconstruction and security assistance. However, repeated and documented incidents of waste, fraud, and abuse in the utilization of these funds have undermined reconstruction efforts. I therefore believe that there is a critical need for vigorous oversight of spending by the United States on reconstruction programs and projects in Afghanistan.

I would like to emphasize that the Government Accountability Office and the departmental Inspectors general have provided valuable information on these activities. However, I believe that the congressional oversight process requires more timely oversight and reporting of reconstruction activities in Afghanistan. Oversight by this new Special Inspector General would encompass the activities of the Department of State, the Department of Defense, and the U.S. Agency for International Development, as well as other relevant agencies. It would highlight specific acts of waste, fraud, and abuse, as well as other managerial failures in our assistance programs that need to be addressed.

This new position will monitor U.S. assistance to Afghanistan in the civilian and security sectors, as well as in the counternarcotics arena, and will help both Congress and the American people better understand the challenges facing U.S. programs and projects in that country. I am pleased that this provision has been included in this final bill.

Second, this bill includes my legislation to provide justice for victims of state-sponsored terrorism, which has strong bipartisan support. I believe this legislation is essential to providing justice to those who have suffered at the hands of terrorists and is an important tool designed to deter future state-sponsored terrorism. The existing law passed by Congress in 1996 has been weakened by recent judicial decisions. This legislation fixes these problems.

In 1996, Congress created the “state sponsored terrorism exception” to the Foreign Sovereign Immunities Act, FSIA. This exception allows victims of terrorism to sue those nations designated as state sponsors of terrorism by the Department of State for terrorist acts they commit or for which they provide material support. Congress subsequently passed the Flatow Amendment to the FSIA, which allows victims of terrorism to seek meaningful damages, such as punitive damages, from state sponsors of terrorism for the horrific acts of terrorist murder and injury committed or supported by them.

Congress's original intent behind the 1996 legislation has been muddied by