

The PRESIDING OFFICER. Morning business is closed.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3001, which the clerk will report by title.

The bill clerk read as follows:

Motion to proceed to the bill (S. 3001) to authorize appropriations for fiscal year 2009 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.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that all postcloture time be considered expired and that the Senate now proceed to the consideration of Calendar No. 732, which is S. 3001, the Defense Department authorization bill, and that once the bill is reported, it be considered under the following limitations: that the only first-degree amendments in order be those that are germane to S. 3001 or to H.R. 5658, and that the first-degree amendments be subject to second-degree amendments which are germane to the amendment to which it is offered; that there be up to 10 additional amendments which are relevant to S. 3001 or to H.R. 5658 and have been agreed upon by the leaders—the leaders being Senators MCCONNELL and REID—with up to 5 amendments per side; that those 10 relevant amendments also be subject to second-degree amendments which would be relevant to the first-degree amendment to which offered; that upon the disposition of all amendments, the bill be read a third time and the Senate vote on passage of the bill; that upon passage, it then be in order for the Senate to consider en bloc the following calendar items: Nos. 733, 734, and 735; that all after the enacting clause of each bill be stricken and the following divisions of S. 3001, as passed by the Senate, be inserted as follows: Division A: S. 3002; Division B: S. 3003; Division C: S. 3004; that these bills be read a third time, passed, and the motions to reconsider be laid upon the table en bloc; further, that these items appear separately in the RECORD; provided further that the Senate then proceed to the consideration of Calendar No. 758, H.R. 5658, the House companion; that all after the enacting clause be stricken and the text of S. 3001, as amended and passed by the Senate, be inserted in lieu thereof; the bill be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment, which is at the desk, be considered and agreed to; that upon passage of H.R. 5658, as amended, the Senate insist on its amendments, request a conference with the House on

the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with the above occurring without further intervening action or debate, and that no points of order be considered waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object, and if I could just take a moment to explain why. As we have been discussing, we would like to proceed to the bill under a regular order. In discussing the proposed amendments we have ready to offer, I think it is clear they are relevant, if not germane. In fact, the first few we have suggested I know are germane.

I think we would be better served to just begin the process of bringing up amendments and having debate and votes on those amendments than trying to get the approvals that would be necessary to agree to this rather cosmic unanimous consent request. That is why we object to it at this time, but I assure the majority leader that based upon the amendments we have already indicated we wish to bring forth, I would hope there would be a clear understanding of good faith on both sides that that is the way we intend to proceed. I do appreciate that the majority leader then would presumably set up a parliamentary procedure by which the majority would have to approve the offering of any Republican amendment thereafter, so the majority certainly would be protected in doing that. It would still be our intention to bring forth the right kind of amendments to deal with this legislation.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, maybe we can do indirectly what we can't do directly. That is, we are going to go through the procedure here to—and when I finish the procedural issues I am going to bring before the Senate, then the two managers, Senator LEVIN and Senator WARNER, will be, in effect, the gatekeepers. They won't be under the control of Senator MCCONNELL or Senator REID. These two very professional, experienced legislators will move through these amendments as quickly as they can. We all relish the time we used to move to this bill and other bills to have an old-fashioned legislative battle. I don't think—with all that is going on around the country today, including the Presidential election being in effect and all the other things going on politically—we can do that.

I hope, as I said, we can do indirectly what we can't do directly. It would be good for the country if we could finish this bill this week. It is so important. It has extremely important elements in it, including a pay raise for our troops, a good pay raise for our troops. This bill has things that are done to improve our military that only these two managers of this bill could lead based

on their experience. I believe I am right when I say I think this has been—this is the 30th bill Senators LEVIN and WARNER have worked on together, the 30th bill. It would be a shame, as Senator WARNER leaves this great career in the Senate, that in his final year we don't do something that is as much of his legislative history as anything he has done in his career, and that is the Defense authorization bill. So I hope for his sake, the Senate's sake, and the country's sake, we can complete this legislation sometime this week.

# NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

Mr. President, I ask unanimous consent that all postcloture time be considered expired and the Senate now proceed to the consideration of S. 3001.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 3001) to authorize appropriations for fiscal year 2009 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. 5290

Mr. REID. Mr. President, I have an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5290.

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:

The provision of this bill shall become effective in 5 days upon enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5291 TO AMENDMENT NO. 5290

Mr. REID. Mr. President, I have a second-degree amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5291 to amendment No. 5290.

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:

In the amendment strike "5" and insert "4".

MOTION TO RECOMMIT

Mr. REID. Mr. President, I now move to recommit the bill to the Armed

Services Committee with instructions to report back to the Senate with an amendment.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill S. 3001 to the Committee on Armed Services with instructions to report back with an amendment numbered 5292.

AMENDMENT NO. 5292 TO MOTION TO RECOMMIT

Mr. REID. I have an amendment at the desk, and I ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5292 to the instructions of the motion to recommit.

Mr. REID. 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, insert the following:

This section shall become effective 3 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the motion?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5293

Mr. REID. Mr. President, I have an amendment at the desk and I ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5293 to the instructions of the motion to recommit the bill S. 3001.

Mr. REID. 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:

In the amendment, strike "3" and insert "2".

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5294 TO AMENDMENT NO. 5293

Mr. REID. Mr. President, I have a second-degree amendment at the desk and I ask that it now be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 5294 to amendment No. 5293.

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:

In the amendment strike "2" and insert "1".

Mr. REID. Mr. President, finally, I now ask unanimous consent that no motion to proceed to any calendar item be in order during the pendency of S. 3001.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, for the time being, I would object to that.

The PRESIDING OFFICER. Objection is heard.

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

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.

The Chair clarifies for the Senate that pursuant to the previous unanimous-consent agreement, the motion to proceed to S. 3001 was agreed to.

The Senator from Michigan.

Mr. LEVIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that no motion to proceed to any legislative or Executive Calendar item be in order during today's session of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, on behalf of the minority leader, no objection.

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

Mr. LEVIN. 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. CASEY. 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. CASEY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

GLOBAL WAR ON TERROR

Mr. CASEY. Mr. President, I rise today to speak on where America stands in the global war on terror. This week, of course, marks the seventh anniversary of the 9/11 attacks on our country. While our allies in Europe have suffered terrible acts of terrorism in subsequent years since September 11, 2001, our Nation has been blessed with no attacks since that time. Yet that single fact should not obscure the reality that America remains dangerously vulnerable to future attacks and that the very policies pursued by

President Bush have made our Nation less secure.

Today, the President announced that he will redeploy 8,000 soldiers out of a total of 146,000 U.S. troops in Iraq over the remainder of this year and early next year. The scheduled replacements for those 8,000 forces will instead head to Afghanistan to respond to the sharply deteriorating circumstances there. I am pleased the President has started to come to grips with the severity of the threat we face in Afghanistan and the need to devote more U.S. troops and resources to what remains the central front in the war on terror. But let's be serious. Shifting 8,000 American troops to Afghanistan is wholly inadequate when we see Taliban extremists using sanctuary bases in Pakistan to increase attacks on U.S. and NATO forces there, when we see the Karzai government struggling to maintain the confidence of the Afghan people, and when we see the Taliban gaining new recruits by the day.

Against all evidence, President Bush continues to view Iraq as the central front on the war on terror. We have heard him say that over and over again. He refuses to acknowledge al-Qaida established a presence in Iraq only as a by-product of our invasion in 2003. He ignores recent intelligence reports that al-Qaida leaders are sending senior level commanders and new recruits into Afghanistan, not Iraq. President Bush disregards the fact that al-Qaida has reconstituted its global headquarters to plan future worldwide attacks of terrorism in the frontier regions of Pakistan, ungoverned territories that remain off-limits to Pakistani military. After September 11, 2001, this President vowed al-Qaida would never again enjoy sanctuary to target the American people. Yet we are seeing it happening again before our very eyes.

So, unfortunately, President Bush will end his Presidency in the same manner he started—with a disastrous miscalculation of the threat posed by al-Qaida and the necessary tools to combat Islamic extremism. When the President took office in January of 2001, he and his senior advisers dismissed the focus on terrorism held by the preceding administration, refusing to believe a superpower such as the United States could be threatened by nonstate actors. That mindset allowed the administration to ignore repeated warnings by the intelligence community that al-Qaida was preparing for a major attack on the United States.

Following the 9/11 attacks, the President rightfully moved to topple the Taliban regime in Afghanistan after they refused to turn over senior al-Qaida leaders. Yet the administration failed to recognize that only a long-term investment of troops, developmental assistance, and economic benefits was essential if Afghanistan was to not once again collapse into a failed state. Instead, the President shifted his focus to Iraq, redeploying such critical

assets as Special Forces units and unmanned aircraft to the Persian Gulf to prepare for what was an inevitable war.

Five years later, we are still living with the consequences of this administration's rush to war in Iraq. Afghanistan teeters on collapse, with the drug trade resurgent and Taliban forces controlling more and more territory. Pakistan remains dysfunctional, with a difficult transition of power occurring now and an extremist insurgency taking root in its border regions. Iran has grown immeasurably stronger over the past 5 years, taking advantage of America's inattention to move forward on its nuclear program and support extremist groups throughout the Middle East. And what we can never forget, the men who perpetrated the most deadly attacks on American soil remain free 7 years after the fact. This is not only a slap in the face to the families of the 3,000 Americans murdered on September 11, it remains a continuing danger as al-Qaida plots new attacks on our Nation.

In his speech today at the National Defense University, the President made the following assertion:

Together, with our allies, we made substantial progress towards breaking up terrorist networks—and we will not rest until they are destroyed.

We have heard similar statements from President Bush and senior administration officials dating back to 2002—that America is taking the fight to al-Qaida and winning the war on terrorism. The only problem is the administration has never defined what victory means nor provided a set of benchmarks to allow the American people to judge whether we are making real progress.

For that reason, I am joined today by Senator HAGEL in introducing an amendment to the Defense authorization bill to require the executive branch to produce, on a semiannual basis, a comprehensive report on the status of our Nation's efforts and the level of resulting progress to defeat al-Qaida and related affiliates in the global war on terrorism. The Congress receives numerous reports on the status of our efforts in individual theaters, such as Iraq and Afghanistan, but we have never received a basic update from the administration on what the United States is doing to ensure that al-Qaida never again succeeds in launching the type of devastating attacks such as those we suffered 7 years ago this week. This amendment, if adopted, would allow the Congress and the American people to hold administration officials—this or future administration officials—accountable when they claim we are winning against al-Qaida.

Let me briefly conclude by returning to a topic on which I have spoken previously on this floor—the danger of nuclear terrorism. Tomorrow, a high-level panel convened by the Partnership for a Secure America, consisting of some of the men and women who

served on the 9/11 Commission, will release a report card on America's efforts to combat the proliferation of weapons of mass destruction and prevent a catastrophic act of terrorism involving such weapons on American soil. Press reports indicate the final grades will not be good. Our Government will receive an overall grade of C, with sharp criticism focused on our lack of a coherent governmentwide strategy, our acute vulnerability to an act of bioterrorism, and our continuing failure to secure loose fissile materials and nuclear stockpiles around the world.

Four years ago, this President declared in a campaign debate that he agreed with his opponent that the prospect of a nuclear weapon destroying an American city is the single greatest threat to U.S. national security. Yet while there have been useful efforts in recent years, it remains clear the U.S. Government has not marshaled all of its resources to combat this threat. For instance, we have spent more funds securing our aviation system against another hijacking than preventing a future act of nuclear terrorism. However, I fear when al-Qaida strikes our Nation the next time, they will not be using their old playbook.

America stands today less secure than it should be. Our massive military presence in Iraq, now approaching its seventh year, has strained our most precious resources—our men and women in uniform. It has reduced our flexibility to respond to various other threats throughout the world, including Russia's recent military incursion into Georgia, and emboldened other enemies—Iran most notably. We have failed to finish the job we started in Afghanistan. For too long, we tolerated a dictator in Pakistan on the basis that he was best equipped to serve as an ally in the war on terrorism, only to find out al-Qaida had reconstituted its central headquarters in that very nation.

The President and those who seek to continue his policies indefinitely will make speeches all week long that we are winning the war on terror. But they make those statements in direct contradiction to the assessments of our intelligence community, and they fail to offer the evidence to back up their assertions. Enough is enough. We cannot afford to continue the same misguided policies that have made America less safe for another 4 years.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). 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 (Mr. MENENDEZ). Without objection, it is so ordered.

Mr. LEVIN. Mr. President, with the consent of the Republican leader, I ask unanimous consent that the motion

and pending amendments be set aside so the Senate may consider the following first-degree amendments; that no amendments be in order to the amendments prior to a vote; and that any debate time provided under the agreement be equally divided and controlled in the usual form; that if a sequence of votes is established under the provisions of a separate consent, then there be 2 minutes equally divided and controlled prior to any vote; and that in any sequence the succeeding votes be 10 minutes in limitation:

Leahy amendment regarding statute of limitations, the Vitter amendment regarding missile defense with 2 hours of debate, the Nelson of Florida amendment regarding SBP-DIC offset, and the Kyl amendment regarding X-ban radar.

Further, that during Wednesday's session, the ban on motions to proceed continue to be in effect.

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

AMENDMENT NO. 5323

Mr. LEVIN. And now, Mr. President, I call up the Leahy amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. LEAHY, for himself, and Mr. BYRD, proposes an amendment numbered 5323.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for a suspension of certain statutes of limitations when Congress has authorized the use of military force)

At the end of subtitle G of title X, add the following:

**SEC. 1083. SUSPENSION OF STATUTES OF LIMITATIONS WHEN CONGRESS AUTHORIZES THE USE OF MILITARY FORCE.**

Section 3287 of title 18, United States Code, is amended—

(1) by inserting “or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)),” after “is at war”;

(2) by inserting “or directly connected with or related to the authorized use of the Armed Forces” after “prosecution of the war”;

(3) by striking “three years” and inserting “5 years”;

(4) by striking “proclaimed by the President” and inserting “proclaimed by a Presidential proclamation, with notice to Congress,”; and

(5) by adding at the end the following: “For purposes of applying such definitions in this section, the term ‘war’ includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).”

Mr. LEVIN. Mr. President, for Members' information, in view of the agreement we have received, there will be no further votes today.

**MORNING BUSINESS**

Mr. LEVIN. Mr. President, I ask unanimous consent that we now go