

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

I withhold that suggestion.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

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

Mr. DURBIN. 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. DORGAN. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. DORGAN. Mr. President, we have had a lot of discussion and debate today about the Indian Health Care Improvement Act. We, on behalf of myself and Senator MURKOWSKI, sent the substitute to the desk. The substitute is something we worked on that amends and changes somewhat what we had originally moved out of the committee. We have refined it, improved it, and changed it a bit. The substitute was agreed to by Senator MURKOWSKI and myself and other Senators with whom we have worked. So we have made some progress by laying down the substitute which perfects this bill. We have a number of amendments pending.

What I would ask—and so would Senator MURKOWSKI—is if there are others who have amendments to this bill, they come to the floor and offer them. We want to finish this piece of legislation. It is not as if we haven't had a lot of discussion and debate. We have pretty much filled the time today. But we do want additional amendments to be offered. What we would like to see is if those Senators who have amendments would contact us, we could schedule them and hopefully we can get some time agreements, so when we finish this evening and come back on this bill, we could get a list of amendments, work through those amendments and finish the bill and send it along to the House. Because there is an urgency here.

There are some things we do that are not particularly urgent. I understand that. If anyone thinks the issue of Indian health care is not urgent, I urge them to go to the nearest Indian reservation and have a visit about what is happening with respect to the Indian Health Service. I know there are a lot of good people working in the Indian Health Service, but I am telling you, go sit and listen for awhile, listen to a discussion about what happens when you ration health care, when health care is not a right and not only not a

right but when health care is absolutely rationed. There are people dying. There are people living in pain. There are people who don't have access to any kind of health care facility. There are people who are having emergencies at 5 in the afternoon, when their local clinic closed their doors at 4, and they are 100 miles from the nearest hospital. That is what is happening on Indian reservations across this country.

We have a responsibility, a trust responsibility to provide for that health care. The Congress, this country has not owned up to that responsibility, and we must. That is why we have brought this bill to the floor of the 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 substandard 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, National 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 en-

gaged 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.