

Mr. WARNER. Mr. President, I ask unanimous consent that each of the next three votes be 10 minutes so we can return to the Defense bill.

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

The Senator from Utah.

Mr. HATCH. Mr. President, I am prepared to yield back all of my time on the three judges. I ask unanimous consent that all time be yielded back.

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

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Virginia E. Hopkins, of Alabama, to be United States District Judge for the Northern District of Alabama? The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 115 Ex.]
YEAS—98

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (FL)	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carper	Hatch	Schumer
Chafee	Hollings	Sessions
Chambliss	Hutchison	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Stevens
Corzine	Landrieu	Sununu
Craig	Lautenberg	Talent
Crapo	Leahy	Thomas
Daschle	Levin	Voivovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wyden

NOT VOTING—2

Jeffords Kerry

The nomination was confirmed.

NOMINATION OF RICARDO S. MARTINEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Ricardo S. Martinez, of Washington, to be United States District

Judge for the Western District of Washington.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BURNS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I wonder if I could address the Senate with regard to the schedule.

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

Mr. WARNER. We are making good progress on this bill. We have indications of at least four amendments that will be worked on, part this evening and part in the early morning, that could result in three to four votes. We would like to lead off following the established time for morning business, which I understand may be some 30 minutes, at approximately 10 o'clock with debate with the Senator from Connecticut, Mr. DODD, 15 minutes on each side, followed by a rollcall vote. That would be followed thereafter by Senator LEAHY. We are not certain exactly what time. That will require approximately 2 hours equally divided. We have the Bunning amendment which will be brought up tomorrow. And tonight we will lay down an amendment by Senator REED on end strength. We will start that amendment tonight. There are colleagues on both sides who will want to address that tomorrow.

We will order this evening the final order of these amendments in sequence. If there is any other Senator desiring to move forward with an amendment tomorrow, I urge that Senator to address my colleague or myself.

Mr. REID. Will the Senator yield?

Mr. WARNER. Yes.

Mr. REID. It is my understanding that tonight, when we get to the bill, the junior Senator from Idaho is going to lay down an amendment; is that right?

Mr. WARNER. My understanding is he wishes to do that tomorrow where we can get a unanimous consent.

Mr. REID. That is the best way to proceed.

Mr. WARNER. We recognize when the votes are concluded, Senator REED would lay down his amendment for discussion, we would then do cleared amendments, and that will conclude the actions on this bill for today. When the leadership decides on the opening of the Senate tomorrow, we have 30 minutes for morning business.

Mr. REID. We need half an hour on our side. I indicated to Senator LEVIN we would be happy to waive morning business on Thursday, but we would like a half hour on our side tomorrow.

Mr. FRIST. Mr. President, if the Senator would yield.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. If you need 30 minutes in morning business, we would like it equally divided. Because we have such a full day tomorrow, I want to have

this first vote at 10 o'clock. We would be happy to come at 9 o'clock in the morning, you take 30 minutes, or we will divide the hour 30–30.

Mr. REID. That is totally appropriate.

I say through the Chair, on our side, Senator DURBIN will offer the next amendment, not Senator REED. Our amendment will be Senator DURBIN.

Mr. LEVIN. I understand that Senator DURBIN, if he could, prefers to lay it down tomorrow, and Senator REED can lay his amendment down.

Mr. WARNER. We have Senator REED tonight. We will accommodate Senator DURBIN tomorrow with 30 minutes equally divided.

Mr. LEAHY. Mr. President, if I might ask the distinguished senior Senator from Virginia, as I understand it, my amendment is actually pending. There are a number pending, but my understanding is the distinguished Senator from Virginia will protect me for a block of time.

Mr. WARNER. That is correct.

Mr. LEAHY. So we can debate and vote.

Mr. WARNER. Two hours equally divided at a time mutually agreeable, followed by a vote.

Mr. LEAHY. Good enough for me.

Mr. WARNER. We will incorporate this at the conclusion tonight in a UC. I thank the Presiding Officer, and I thank Members.

Senator TALENT, also, will be recognized tonight to lay down his amendment. We will debate that and then look for a vote, if necessary, tomorrow.

Any other Senators desiring to be heard on amendments? Now is a good time.

If not, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Ricardo S. Martinez, of Washington, to be United States District Judge for the Western District of Washington? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 116 Ex.]
YEAS—98

Akaka	Brownback	Collins
Alexander	Bunning	Conrad
Allard	Burns	Cornyn
Allen	Byrd	Corzine
Baucus	Campbell	Craig
Bayh	Cantwell	Crapo
Bennett	Carper	Daschle
Biden	Chafee	Dayton
Bingaman	Chambliss	DeWine
Bond	Clinton	Dodd
Boxer	Cochran	Dole
Breaux	Coleman	Domenici

Dorgan	Kennedy	Reed
Durbin	Kohl	Reid
Edwards	Kyl	Roberts
Ensign	Landrieu	Rockefeller
Enzi	Lautenberg	Santorum
Feingold	Leahy	Sarbanes
Feinstein	Levin	Schumer
Fitzgerald	Lieberman	Sessions
Frist	Lincoln	Shelby
Graham (FL)	Lott	Smith
Graham (SC)	Lugar	Snowe
Grassley	McCain	Specter
Gregg	McConnell	Stabenow
Hagel	Mikulski	Stevens
Harkin	Miller	Stevens
Hatch	Murkowski	Sununu
Hollings	Murray	Talent
Hutchison	Nelson (FL)	Thomas
Inhofe	Nelson (NE)	Voinovich
Inouye	Nickles	Warner
Johnson	Pryor	Wyden

Rockefeller	Smith	Talent
Santorum	Snowe	Thomas
Sarbanes	Specter	Voinovich
Schumer	Stabenow	Warner
Sessions	Stevens	Wyden
Shelby	Sununu	

United States military personnel with appropriate language skills are available to provide translator services for the interrogation to which the waiver applies.

(B) The President may also waive the prohibition in paragraph (1) with respect to any other use of contractors otherwise prohibited by that paragraph during the 90-day period beginning on the date of the enactment of this Act, but any such waiver shall cease to be effective on the last day of such period.

(3) The President shall, on a quarterly basis, submit to the appropriate committees of Congress a report on the use, if any, of contractors for the provision of translator services pursuant to the waiver authority in paragraph (2)(A).

(b) PROHIBITION ON USE OF FUNDS.—No funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the utilization of contractor personnel in contravention of the prohibition in subsection (a), whether such funds are provided directly to a contractor by a department, agency, or other entity of the United States Government or indirectly through a permanent, interim, or transitional foreign government or other third party.

(c) PROHIBITION ON TRANSFER OF CUSTODY OF PRISONERS TO CONTRACTORS.—No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of a contractor or contractor personnel.

(d) RECORDS OF TRANSFERS OF CUSTODY OF PRISONERS TO OTHER COUNTRIES.—(1) No prisoner, detainee, or combatant under the custody or control of the Department of Defense may be transferred to the custody or control of another department or agency of the United States Government, a foreign, multinational, or other non-United States entity, or another country unless the Secretary makes an appropriate record of such transfer that includes, for the prisoner, detainee, or combatant concerned—

- (A) the name and nationality; and
 - (B) the reason or reasons for such transfer.
- (2) The Secretary shall ensure that—

- (A) the records made of transfers by a transferring authority as described in paragraph (1) are maintained by that transferring authority in a central location; and
- (B) the location and format of the records are such that the records are readily accessible to, and readily viewable by, the appropriate committees of Congress.

(3) A record under paragraph (1) shall be maintained in unclassified form, but may include a classified annex.

(e) REVIEW OF UNITED STATES POLICY ON USE OF CONTRACTORS IN COMBAT OPERATIONS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Secretary's review of United States policy on the use of contractors in combat operations.

(2) The report under paragraph (1) shall identify and review all current statutes, regulations, policy guidance, and associated legal analyses relating to the use of contractors by the Department of Defense, and by other elements of the uniformed services, in routine engagements in direct combat on the ground, including any prohibitions and limitations on the use of contractors in such engagements.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

- (1) the Committees on Armed Services, Foreign Relations, and the Judiciary of the Senate and the Select Committee on Intelligence of the Senate; and
- (2) the Committees on Armed Services, International Relations, and the Judiciary of

NOT VOTING—2

Kerry Jeffords

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. WARNER. Mr. President, the Senator from Connecticut wants to modify an amendment at the desk. I suggest he lead off. The Senator from Missouri wishes to speak for about 5 or 6 minutes, the Senator from Rhode Island for whatever time he may wish, 5 or 10 minutes, and then Senator DURBIN also would like to speak. So, Mr. President, is that an order which is agreeable to my colleagues?

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

Mr. WARNER. Of course, there will be no more votes tonight. We do anticipate a very active day tomorrow, and the leadership is in the process of working out the sequencing of events tomorrow.

Mr. DODD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 3313, the amendment by the Senator from Connecticut.

AMENDMENT NO. 3313, AS FURTHER MODIFIED

Mr. DODD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. WARNER. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3313), as further modified, is as follows:

On page 195, between lines 10 and 11, insert the following:

SEC. 868. PROHIBITIONS ON USE OF CONTRACTORS FOR CERTAIN DEPARTMENT OF DEFENSE ACTIVITIES.

(a) PROHIBITION ON USE OF CONTRACTORS IN INTERROGATION OF PRISONERS.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), the use of contractors by the Department of Defense for the interrogation of prisoners, detainees, or combatants at any United States military installation or other installation under the authority of United States military or civilian personnel is prohibited.

(2)(A) During fiscal year 2005, the President may waive the prohibition in paragraph (1) with respect to the use of contractors to provide translator services under that paragraph if the President determines that no

NOT VOTING—2

Jeffords Kerry

The nomination was confirmed.

NOMINATION OF GENE E. K. PRATTER TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

Mr. HATCH. 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 question is, Will the Senate advise and consent to the nomination of Gene E. K. Pratter, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania. The clerk will call the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 117 Ex.]

YEAS—98

Akaka	Corzine	Inhofe
Alexander	Craig	Inouye
Allard	Crapo	Johnson
Allen	Daschle	Kennedy
Baucus	Dayton	Kohl
Bayh	DeWine	Kyl
Bennett	Dodd	Landrieu
Biden	Dole	Lautenberg
Bingaman	Domenici	Leahy
Bond	Dorgan	Levin
Boxer	Lieberman	Lieberman
Breaux	Edwards	Lincoln
Brownback	Ensign	Lott
Bunning	Enzi	Lugar
Burns	Feingold	McCain
Byrd	Feinstein	McConnell
Campbell	Fitzgerald	Mikulski
Cantwell	Frist	Miller
Carper	Graham (FL)	Murkowski
Chafee	Graham (SC)	Murray
Chambliss	Grassley	Nelson (FL)
Clinton	Gregg	Nelson (NE)
Cochran	Hagel	Nickles
Coleman	Harkin	Pryor
Collins	Hatch	Reed
Conrad	Hollings	Reid
Cornyn	Hutchison	Roberts