

project. We have 20 other amendments here that deal with the question: Should we use more money from defense for medical research? We have said no, we don't want any more money used for brain research.

There is \$45 million in this bill that the Department of Defense can use for any research project in the health area it wants to. But to take more money now—this is a symbolic \$2 million. If this amendment passes, we have to deal with the other 20. We have said no to everybody, not just to one amendment.

I urge my colleagues not to support this amendment. As a matter of fact, I move to table this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.
Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Kentucky (Mr. BUNNING).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—54

Alexander	Domenici	McCain
Allard	Ensign	McConnell
Allen	Enzi	Murkowski
Bennett	Feingold	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Burr	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Coburn	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Inouye	Talent
Cornyn	Isakson	Thomas
Craig	Kyl	Thune
Crapo	Lott	Vitter
DeMint	Lugar	Voinovich
Dole	Martinez	Warner

NAYS—43

Akaka	Durbin	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Burns	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Kohl	Rockefeller
Carper	Landrieu	Salazar
Clinton	Lautenberg	Sarbanes
Conrad	Leahy	Schumer
Dayton	Levin	Stabenow
DeWine	Lincoln	Wyden
Dodd	Menendez	
Dorgan	Mikulski	

NOT VOTING—3

Baucus	Bunning	Lieberman
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The motion was agreed to.
Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4806

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4806.

The PRESIDING OFFICER (Mr. COBURN). The amendment is pending.

Mr. STEVENS. Mr. President, I raise a point of order that this amendment violates rule XVI.

The PRESIDING OFFICER. The point of order is well taken, and the amendment falls.

AMENDMENT NO. 4768

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4768.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Mr. STEVENS. Mr. President, I similarly raise a point of order that this amendment violates rule XVI.

The PRESIDING OFFICER. The point of order is well taken, and the amendment falls.

Mr. STEVENS. Mr. President, we do have another managers' package. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, again, I would alert Senators of the fact that we have active staff on both sides of the aisle working on these managers' packages. We urge Senators to come forward and discuss these amendments with us. We would like to work out as many as we can.

AMENDMENTS NOS. 4803, 4779, 4766, AND 4798, EN BLOC

I have another managers' package ready now. I will read the components of it:

Amendment No. 4803 for Senator BYRD regarding a biometrics study, amendment No. 4779 for Senator WARNER regarding research and studies, amendment No. 4766 for Senator INOUYE regarding a military history exhibit; amendment No. 4798 for Senator ISAKSON regarding environmental compliance.

I send these amendments to the desk. I ask unanimous consent they be considered en bloc, adopted en bloc, and the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. No objection.
The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 4803

(Purpose: To require reports on the recommendations of the Defense Science Board regarding the management of the biometrics program of the Department of Defense)

At the end of title VIII, add the following:
SEC. 8109. (a) INTERIM REPORT ON MANAGEMENT OF BIOMETRICS PROGRAM.—Not later than September 8, 2006, the Secretary of De-

fense shall submit to the congressional defense committees an interim report on the management of the biometrics program of the Department of Defense.

(b) FINAL REPORT.—Not later than October 15, 2006, the Secretary shall submit to the congressional defense committees a final report on the management of the biometrics program of the Department of Defense.

(c) REPORT ELEMENTS.—Each report under this section shall include, current as of the date of such report, the following:

(1) A detailed description of the recommendations of the Defense Science Board regarding the management of the biometrics program of the Department of Defense.

(2) Such recommendations as the Defense Science Board considers appropriate regarding changes of mission for the existing biometrics support officers.

AMENDMENT NO. 4779

(Purpose: To make available from Operation and Maintenance, Defense-Wide, an additional amount of up to \$7,500,000 for the Joint Advertising, Market Research and Studies program)

At the end of title VIII, add the following:
SEC. 8109. (a) JOINT ADVERTISING, MARKET RESEARCH AND STUDIES PROGRAM.—Of the amount appropriated or otherwise made available by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", up to \$7,500,000 may be available for the Joint Advertising, Market Research and Studies (JAMRS) program.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for the program referred to in that subsection is in addition to any other amounts available in this Act for that program.

AMENDMENT NO. 4766

(Purpose: To make available from Operation and Maintenance, Army, up to \$500,000 for the United States Army Center of Military History to support a traveling exhibit on military experience in World War II)

At the end of title VIII, add the following:
SEC. 8109. Of the amount appropriated or otherwise made available by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$500,000 may be available for the United States Army Center of Military History to support a traveling exhibit on military experience in World War II.

AMENDMENT NO. 4798

(Purpose: To make available from Research, Development, Test and Evaluation, Army, up to \$1,000,000 for environmental management and compliance information)

At the end of title VIII, add the following:
SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$1,000,000 may be available for environmental management and compliance information.

Mr. STEVENS. Mr. President, what is the pending amendment now, Mr. President?

AMENDMENT NO. 4802

The PRESIDING OFFICER. The Kennedy amendment, No. 4802, is the pending amendment.

Mr. STEVENS. The Kennedy amendment, yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4762

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate amendment No. 4762.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Mr. STEVENS. This is the medical countermeasures procurement amendment. Is that ready for clearance on both sides?

Mr. INOUE. We have no objection.

Mr. STEVENS. I am informed there is no objection to this amendment. I ask it be considered at this time and adopted.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

The amendment (No. 4762) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

AMENDMENTS NOS. 4814, 4829, 4792, AS MODIFIED, AND 4783, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I have another managers' package offered by myself and Senator INOUE.

The first is amendment No. 4814 by Senator BINGAMAN regarding adaptive optics; amendment No. 4829 by Senator SUNUNU regarding unmanned underwater vehicles; amendment No. 4792, as modified, by Senator COLEMAN regarding microelectronics; and amendment No. 4783, as modified, by Senator SCHUMER regarding bandages.

These I believe have been cleared on both sides.

Mr. INOUE. No objection.

Mr. STEVENS. Mr. President, I send this package to the desk and ask unanimous consent that the amendments be considered en bloc, agreed to en bloc, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. INOUE. No objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 4814

(Purpose: To make available from Research, Development, Test and Evaluation, Air Force, up to \$1,500,000 for Commercialization and Industrialization of Adaptive Optics)

At the end of title VIII, add the following: SEC. 8109. Of the amount appropriated or otherwise made available by title IV under

the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE", up to \$1,500,000 may be available for Commercialization and Industrialization of Adaptive Optics (PE #0602890F).

AMENDMENT NO. 4829

(Purpose: To make available from Research, Development, Test and Evaluation, Navy, up to \$1,000,000 for an integrated, low-cost, low-power Multibeam Side Scan Sonar System for Unmanned Underwater Vehicles)

At the end of title VIII, add the following: SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY" up to \$1,000,000 may be available for an integrated, low-cost, low-power Multibeam Side Scan Sonar System for Unmanned Underwater Vehicles (UUVs).

AMENDMENT NO. 4792, AS MODIFIED

At the end of title VIII, add the following: SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading "PROCUREMENT OF AMMUNITION, AIR FORCE", up to \$5,000,000 may be available for the procurement of Radiation Hardened Microelectronics (HX5000).

AMENDMENT NO. 4783, AS MODIFIED

(Purpose: To provide that up to \$9,000,000 of the amount appropriated or otherwise made available by chapter 2 of title IX for the Army for operation and maintenance and up to \$2,000,000 of the amount appropriated or otherwise made available by such chapter for the Marine Corps for operation and maintenance may be made available for the procurement of hemostatic agents, including blood clotting bandages and invasive hemostatic agents, for use by members of the Armed Forces in the field) On page 238, after line 24, add the following:

SEC. 9012. (a) Of the amount appropriated or otherwise made available by chapter 2 of this title under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$9,000,000 may be made available for the procurement of hemostatic agents, including blood clotting bandages and invasive hemostatic agents, for use by members of the Armed Forces in the field.

(b) Of the amount appropriated or otherwise made available by such chapter under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", up to \$2,000,000 may be made available for the procurement of hemostatic agents and invasive hemostatic agents, including blood clotting bandages, for use by members of the Armed Forces in the field.

Mr. INOUE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I announce to the Senate that we have completed all the packages we can work on tonight. We urge Senators and their staff to get together with us early in the morning. We will be back in session at 9:30, and we hope we can continue to find ways to agree to the amendments that can be worked out.

There is a series of amendments regarding the National Guard that we wish to get to as quickly as possible tomorrow. I alert Senators and staff that we are interested in working on the National Guard amendments during the early part of the morning tomorrow, if it is at all possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. MCCAIN. Mr. President, amendment No. 4838 would strike language from the bill that states that certain projects in the committee report "shall be considered to be authorized by law."

Committee reports that accompany Senate bills and joint explanatory statements that accompany conference reports are not law but, rather, advisory documents. While some like to think otherwise, the Federal agencies are under no legal requirement to follow verbatim the many directives that are included in each and every committee report. And I note that also applies to the hundreds of earmarks that are included in committee reports and joint explanatory statements each year. Unless provisions are included in enacted legislation, they do not have the force of law. And this is not just my view.

Let me read from the April 1998 opinion of Supreme Court Justice Scalia in *United States v. Estate of Francis J. Romani et al.*:

The Constitution sets forth the only manner in which the Members of Congress have the power to impose their will upon the country: by a bill that passes both Houses and is either signed by the President or repassed by a supermajority after his veto. Art. I, §7. Everything else the Members of Congress do is either prelude or internal organization.

And just this past June, in *Zedner v. United States*, Scalia wrote:

I believe that the only language that constitutes "a Law" within the meaning of the Bicameralism and Presentment Clause of Article I §7, and hence the only language adopted in a fashion that entitles it to our attention, is the text of the enacted statute.

It may seem that there is no harm in using committee reports and other such sources when they are merely in accord with the plain meaning of the Act. But this sort of intellectual piling-on has addictive consequences. To begin with, it accustoms us to believing that what is said by a single person in a floor debate or by a committee report represents the view of Congress as a whole—so that we sometimes even will say (when referring to a floor statement and committee report) that "Congress has expressed" thus-and-so. . . . There is no basis either in law or in reality for this naive belief. Moreover, if legislative history is relevant when it confirms the plain meaning of the statutory text, it should also be relevant when it contradicts the plain meaning, thus rendering what is plain ambiguous.

I fully understand a committee's interest in having an agency consider the guidance it provides in its report language. But on occasion, that interest can get carried away. I remember the controversy that occurred a few years ago when a report included language expressing extreme displeasure over the fact that an agency had not followed to the letter certain prior year's

report language. The subsequent report, which accompanied the fiscal year 2004 CJS appropriations bill, stated the following:

As in past years, the Committee expects NOAA and the Department to adhere to the direction given in this section of the Committee report, particularly language regarding consultation with Congress, and to observe the reprogramming procedures detailed in section 605 in the general provisions of the accompanying bill. Unlike past years, however, the Committee intends to enforce congressional direction ruthlessly.

The reason I am referencing that report is to demonstrate the extent to which committees can go in imposing report directives. I am not trying to suggest the DOD appropriations report accompanying the pending bill includes comparable threats, but I am concerned about a line in the bill language that I believe should be eliminated because it would have the effect of authorizing projects that are merely listed in the report, thus giving provisions in the report the force of law.

Section 8042 of the bill states:

The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the Senate accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

Let me repeat the last phrase: "and the projects specified in such guidance shall be considered to be authorized by law."

Mr. President, the projects referred to are not included in the legislative language, and we should not be suggesting that it is acceptable to authorize provisions by reference. In this particular case, it would result in the authorization of about 30 projects. But imagine what is next. I can envision the conference report of this or another bill to include a line stating that all the projects in its report "shall be considered to be authorized by law."

The language that allows certain projects to be "considered authorized by law" is a dangerous precedent, and I believe it should be eliminated.

I appreciate that the bill managers have agreed to accept this amendment, and I trust that they will work to ensure that the final conference agreement is free of language that would allow provisions in the joint explanatory statement to have the force of law.

Mr. JOHNSON. Mr. President, recently the Senate Appropriations Committee approved the fiscal year 2007 Defense appropriations bill. As a member of the committee, I supported this measure, and it is now being considered by the full Senate.

The bill provides \$453.5 billion in new discretionary spending authority for the Department of Defense. Included in this amount is \$50 billion for contin-

gency operations related to the global war on terror.

I have repeatedly called upon the Bush administration to be frank with American taxpayers about funding levels for ongoing operations in Iraq and Afghanistan. For far too long, the Bush administration has relied upon emergency supplemental spending measures, as opposed to the annual budget process, to fund our efforts in Iraq and Afghanistan. I believe that is wrong.

In his budget proposal, President Bush finally submitted a \$50 billion request for a bridge fund to support military efforts in Afghanistan and Iraq for the coming fiscal year. The Senate Appropriations Committee funded this request, but I remain concerned that this level of funding will be insufficient, and once again Congress will need to consider another emergency supplemental appropriations bill.

Furthermore, President Bush's continued insistence on maintaining tax breaks for the extremely wealthy has made it incredibly difficult to fund important domestic spending programs. In fact, the President's budget reduced funding for critical programs including No Child Left Behind, the Perkins Career and Technical Education Program, and firefighter assistance grants.

Consequently, Senate Appropriations Committee Chairman THAD COCHRAN was forced to reduce defense spending by \$9.1 billion to meet urgent domestic spending needs. As a result, our servicemembers received a 2.2 percent across-the-board pay raise, a reduction of nearly 1 percent from last year's level of 3.1 percent. In addition, the Bush budget recommended funding for only 333,000 Army National Guard personnel, well below the National Guard authorized end-strength of 350,000. This proposal was opposed by the National Guard and Reserve, and I am pleased that the Senate was able to provide sufficient funding to support an Army National Guard end strength of 350,000 soldiers.

While some shortfalls remain in the bill, it is important to note that it provides an additional \$340 million for National Guard and Reserve equipment above the President's request. The bill also provides \$735 million for body armor and personal protection equipment, as well as \$1.5 billion for the Joint Improvised Explosive Device Defeat Organization.

Furthermore, I am pleased that the bill reported out by the Senate Appropriations Committee provides funding for a number of important South Dakota projects. Due to my seat on the Appropriations Committee, the South Dakota School of Mines and Technology received funding to develop a number of important defense related projects. Researchers at the school will receive over \$3.3 million to establish and staff a nationally competitive polymer and composites processing laboratory in South Dakota; they will work to develop new transparent armor for the Army's Future Combat Sys-

tems; and the school will develop a control system for laser powder deposition.

The South Dakota School of Mines and Technology is not the only organization conducting critical defense-related research in South Dakota. The Rosebud Sioux Tribe will receive \$5 million to continue their efforts to establish the Advanced Electronics Rosebud Integration Center. The center will research, develop, test, and demonstrate advanced electronics integration and fabrication technology on the Rosebud Sioux Tribe reservation in South Dakota. In addition, funding was provided to RPM & Associates to facilitate their efforts to use LENS technology for aerospace applications. Likewise, the Batcheller Consulting Group will move forward in developing innovative on-board sensor systems to assess the wear-and-tear to military vehicles and weapon systems.

Finally, the South Dakota National Guard will benefit from defense-wide funding increases I championed. For example, the Senate Appropriations Committee included nearly \$35 million above the President's request to meet the urgent needs of our National Guard and Reserve. This funding will help procure additional M22 Automatic Chemical Agent Alarms, Improved Chemical Agent Monitors, targeting pods for F-16 aircraft, and helmet mounted cueing systems.

Mr. President, while I continue to have deep concerns about the spending priorities of the Bush administration, I do believe that the funding included in this bill will go a long way toward providing our troops with the resources they need to defend our country.

MORNING BUSINESS

Mr. STEVENS. Mr. President, in behalf of the leader I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. 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. DEMINT. Mr. President, this is that time of year when Congressmen and Senators go back to their States and report to the people about what we have done and what we plan to do. I am looking forward to going back to the State of South Carolina. I know the people are going to be interested in things that are much simpler. They want to know if we are going to help make the future better than the past, if we are going to make them safer, if