

Congressional Closeup by Carl Osgood

Defense Authorization Gives Rumsfeld Powers

On Nov. 7, the House of Representatives passed, by a vote of 362-40, and with little debate, the \$407 billion Fiscal 2004 Defense Authorization bill. Included was legislative language giving Secretary of Defense Donald Rumsfeld the authority to reorganize the Defense Department's civilian workforce as he sees fit. Instead of Congress creating a new civilian personnel system, Rumsfeld has been given that authority, and the ability to bypass much of the present civil service law, including the provisions on collective bargaining and employee appeals.

The defense bill came out of the conference committee with the original House language largely intact and then was voted through so quickly that many Democrats had not had a chance to read the bill before being forced to vote on it. Rep. Martin Frost (D-Tex.), who voted for President Bush's Iraq war resolution last year, complained that the leadership shut Democrats out of the conference committee meetings on the bill. He pointed to a "clear and dangerous pattern" by the House Republicans to lock Democrats out of the legislative process.

Rep. Henry Waxman (D-Calif.) said, "This bill makes a mockery of labor relations at the Defense Department." He added that the bill gives the Pentagon the authority to waive collective bargaining rights for the next six years, as well as the authority to decide what issues will be bargained and how labor-management impasses will be resolved.

Even though the civil service reform was only one of many provisions in the bill that made many House members uncomfortable, few were willing to take the risk of being seen

as "not supporting the troops," given that the bill included many benefits for military personnel—including health-care benefits—that had wide support in the House.

GOP Begins Marathon Anti-Filibuster

Senate Republicans, frustrated with Democratic blocking of three judicial nominees out of 168 submitted by the Bush White House, began a marathon session on Nov. 12, to try to force Democrats to give up their filibusters. In announcing the strategy on Nov. 6, Senate Majority Leader Bill Frist (R-Tenn.)—fresh from shutting down the Senate Select Intelligence Committee to protect Vice President Cheney—invoked the Constitution. "The goal is to break these partisan filibusters and give, not necessarily approval of these nominees, but that up-or-down vote, consistent with advice and consent in the Constitution of the United States."

The Republicans plan to try to take arcane quorum rules that normally apply *after* a cloture vote ends a debate, and apply them in a pre-cloture vote situation, in order to force the Democrats to talk, rather than allowing them to use quorum calls to avoid talking. The marathon session was to go through the night of Nov. 12 to at least midnight Nov. 13. The GOP even made a show of bringing cots into the Capitol Building to dramatize what they are doing.

For his part, Senate Minority Leader Tom Daschle (D-S.D.) appeared unintimidated by the GOP strategy. On Nov. 12, Daschle called the planned marathon session "a colossal waste of time." He added, "We only wish they would devote the kind

of attention they are to these 30 hours, to the matters that the American people care most about." He meant the loss of 3 million jobs in the last three years, the rising cost of health insurance, and the lack of funding of education programs and homeland security measures.

The GOP's larger political goal seems to be to create some kind of popular revolt against the Democrats' obstructionism among the voters. While that may be doubtful, what is certain is that the 30 hours they plan to spend on judicial nominations will not be available for other important business, including appropriations bills and, more particularly, investigation of Vice President Dick Cheney's manipulation of Iraq war intelligence.

No Budget, Yet Another Continuing Resolution

As the Senate fights over judicial nominations, the Fiscal 2004 appropriations process continues to languish. Under these circumstances, the House passed another continuing resolution, on Nov. 5, to keep the government open, this one running until Nov. 21. Only four of the 13 annual spending bills have been sent to President Bush for his signature: the Defense, Homeland Security, Legislative Branch, and Interior Department appropriations bills. The Senate has sent six others to conference committee, the most recent being the Agriculture Department bill on Nov. 6, but has yet to act on the three remaining bills. The House had finished the last of its bills in early September.

Rep. David Obey (D-Wisc.), the ranking Democrat on the House Appropriations Committee, attributed the

difficulties in the appropriations process to the Senate GOP leadership's inability to schedule consideration of appropriations bills, and the insertion into some of provisions that are so outrageously partisan that agreement cannot be reached. Obey gave as one example of the second problem, the school vouchers provision in the District of Columbia appropriations bill. The Republican majority, he said, "went beyond where they could go and still maintain a bipartisan consensus for that bill, and in the process lost the votes of" most of the Democrats.

In the Senate, rumblings of finishing up the year with an "omnibus" budget package continue, despite Majority Leader Bill Frist's assertions to the contrary. Sen. Robert Byrd (D-W.Va.), defending the Constitutional prerogatives of the Senate, warned, during debate on the Defense Authorization bill on Nov. 11, that an omnibus bill would compromise the Constitutional powers of the Senate. He said that the House can open the door to appropriations legislation, "but if the Senate is denied the opportunity to consider amendments, or is severely limited in the number of amendments which it may consider, Senators are thereby denied the opportunity to offer amendments of their own and the potential for the achievement of good legislation in the final results, accordingly, lessened."

Concerns About Military Readiness Aired in House

The ability of the U.S. military to sustain its current level of overseas commitments at its present level of personnel strength, and its dependence on the National Guard and reserves, came

into question on Nov. 5, during a hearing of the House Armed Services Committee. It began when Rep. Joel Hefley (R-Colo.), after noting that both active duty and reserve units are deploying more frequently, warned, "Our ability to deal with contingencies may be at risk, because our strategic reserve will shrink." He suggested that winning the war on terrorism may mean expanding the force structure"—i.e., increasing the armed forces.

The Administration witnesses, Undersecretary of Defense for Personnel and Readiness David Chu and Vice Chairman of the Joint Chiefs of Staff Gen. Peter Pace, both insisted that they were taking measures to make more people available, short of asking for a bigger force structure. Said Chu, "We have a lot of individuals who we believe are performing jobs that could, in fact, be done by civilians, freeing up a soldier, so to speak, to go back to another unit." Pace insisted that "the war games that we have done tell us that we will not need" an extra division, assuming training of new Iraqi security forces expected to take over security in Iraq from U.S. troops, etc. "But," he added, "it is clearly a judgment about current status, future needs, and the ability to transform within the sized force that we currently have."

Prison Industry Reform Voted

On Nov. 6, the House voted 350-65 to force the Federal Prison Industries to compete for more of its business. House Judiciary Committee chairman James Sensenbrenner (R-Wisc.) told the House that FPI's guaranteed mar-

ket for its products and very low costs for labor and capital "clearly amount to an unfair advantage when put in direct competition with private industries." FPI employs about 7,000 Federal prisoners in 111 factories and sells all of its products to the Federal government. According to Sensenbrenner, the bill would phase out, by Oct. 1, 2008, FPI's exclusive right to sell to government agencies. The bill also provides funding for inmate rehabilitation and vocational training in order to make up for the jobs that would be lost under the bill's provisions.

Rep. Bobby Scott (D-Va.) charged, in effect, that FPI was being made the scapegoat for the last three years' decline in manufacturing jobs. He said that when representatives of the textiles and furniture industries—two sectors said to be suffering substantial job losses as a result of competition from FPI—were asked, they conceded that "FPI sales represent an insignificant or negligible portion of their industries," and that other factors must be responsible for their job losses. Scott defended the program for giving real work skills to Federal inmates so that they can hold down jobs after release.

During the debate, Scott offered an amendment that would have allowed FPI to develop and produce goods and provide services for charitable organizations, and allowed FPI to produce goods for the commercial market that are otherwise only produced offshore—both in the form of pilot programs that pay prevailing wages to inmates. However, he agreed to withdraw the amendment when Rep. Peter Hoekstra (R-Mich.), a co-sponsor of the original bill, promised to work with all of those interested in reforming FPI to craft a compromise that will be acceptable to everyone.