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'Don't ask, don't tell' procedural vote fails

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A Senate procedural vote to move forward with debate on a bill ending the military's "don't ask, don't tell" law failed Thursday to earn the 60 votes necessary to proceed, delivering a significant blow to efforts to allow gays to serve openly.

Despite the setback, senators fighting to end the ban said they would introduce a separate bill to repeal it.

The bill will be cosponsored by Sens. Joseph I. Lieberman (I-Conn.) and Susan Collins (R-Maine), who often work together on homeland security and defense issues. They said the bill will have bipartisan support.

President Obama expressed disappointment and urged senators to reconsider the National Defense Authorization Act before the end of the lame-duck session.

"Despite having the bipartisan support of a clear majority of senators, a minority of senators are standing in the way of the funding upon which our troops, veterans and military families depend," Obama said in a statement. "This annual bill has been enacted each of the past 48 years, and our armed forces deserve nothing less this year."

Senators voted 57 to 40 to advance the NDAA, which contained language ending the ban, as all Republicans except Collins held firm on a vow to block any legislation that does not address tax cuts or government spending. One Democrat, Sen. Joseph Manchin (D-W.Va.) voted against.

"We've tried every possible way to do this," Senate Majority Leader Harry Reid (D-Nev.) said Thursday before the vote. More than a week of negotiations with Collins and Lieberman.

Throughout the first 15 minutes of the vote, Collins repeatedly broke into huddles with Lieberman and Senate Armed Services Committee Chairman Carl Levin (D-Mich.), reading through legislative language on the floor, at times rolling it up into a ball and angrily waving her arms about how the process was handled. Collins voted with Democrats to proceed on the bill, though by then it was clear her vote would not effect the outcome.

Collins, Reid and Lieberman had negotiated for more than week on an agreement that would allow Republicans to introduce up to 10 amendments to the bill, with Democrats adding up to five.

Collins agreed to the amendment count Wednesday, but held firm to a request for at least four days of debate on the bill and amendments. Reid rebuffed her request, citing the need to proceed with the tax and spending measures before the Senate's planned departure next weekend.

"History will hold these senators accountable and so will many of their constituents," said Aubrey Sarvis, executive director of Servicemembers Legal Defense Network, a group pushing for repeal of the law. "There will be no place for these Senators to hide. The Senate and the president must remain in session and in Washington to find another path for repeal to get done in the lame-duck."

"Leaders of both parties let down the U.S. military and the American people," said Joe Solomonese, president of the Human Rights Campaign, a gay rights organization with close ties to the White House and Congressional Democrats "Instead of doing what is right, 'the world's greatest deliberative body' devolved into shameful schoolyard spats that put petty partisan politics above the needs of our women and men in uniform."

Thursday's vote saps gay-rights activists of their strongest legislative option for ending the ban; they now plan to pressure Obama to act on his own through executive action. Obama could order the Justice Department to stop appealing federal court cases challenging the constitutionality of the law or use his powers as commander-in-chief to issue a stop-loss order halting military discharges and the removal of any gay troops in violation of the ban.

Executive action by Obama is "imperative in order for him to fulfill his State of the Union promise," Solomonese said. "The only measure of success is an end to the discharges and anything less is unacceptable."

"I think the president strongly believes that one of two things is going to happen: Either Congress is going to solve this legislatively, or the courts are going to solve this," White House press secretary Robert Gibbs said Thursday before the vote. "The policy is going to come to an end."

A Pentagon spokesman said the Defense Department had no immediate comment. Defense Secretary Robert M. Gates and Joint Chiefs of Staff Chairman Adm. Mike Mullen support ending the ban through legislation this year, as do some of the military service chiefs. But the heads of the Army and Marine Corps last week expressed reservations about ending the ban this year as combat troops continue to face the pressures of ongoing conflicts in Afghanistan and Iraq.

The fate of the broader 2011 defense measure is also increasingly in doubt with Congress scheduled to depart next weekend. The measure, which authorized Pentagon policy and spending, has been approved for 48 consecutive years.