

the Israeli Parliament—got through the serious security that surrounds that building, got into the Parliament, and sat 10 rows behind Benjamin Netanyahu with a plastic gun in his possession. So this is not science fiction. It is not just a perceived or imagined threat. This is real, this is now, and we have to do something about it.

One of the things that has happened in the wake of Sandy Hook is that schools have invested in enormous amounts of security. I am somebody who does not believe ultimately that is the way you keep schools safe. But to the extent that schools have put in more metal detectors, have put in more security platforms around their entryways and exit ways, it does not do any good if somebody can walk through that school, who wants to do great damage within it, with a plastic firearm that will be legal in this country in one way, shape, or form if we do not pass an updated version of this bill right now this week.

It is time we recognize the future is here, plastic guns are real. As we approach the 1-year anniversary of the most horrific school shooting this country has ever seen, it is time for us to do what we have many times before: reauthorize and update the Undetectable Firearms Act.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1197, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1197) to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Reid (for Levin/Inhofe) amendment No. 2123, to increase to \$5,000,000,000 the ceiling on the general transfer authority of the Department of Defense.

Reid (for Levin/Inhofe) amendment No. 2124 (to amendment No. 2123), of a perfecting nature.

Reid motion to recommit the bill to the Committee on Armed Services, with instructions, Reid amendment No. 2305, to change the enactment date.

Reid amendment No. 2306 (to (the instructions) amendment No. 2305), of a perfecting nature.

Reid amendment No. 2307 (to amendment No. 2306), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before we left for the Thanksgiving break, Senator INHOFE and I said we would come

to the Senate floor today to update Members on the status of the National Defense Authorization Act for Fiscal Year 2014.

Before the break we spent a week on the Senate floor trying to bring more amendments up and to have them debated and voted on, but we were unable to do so. We tried to reach agreement to limit consideration to defense-related amendments, but we were unable to do that. We tried to get consent to vote on two sexual assault amendments—the Gillibrand amendment and the McCaskill amendment—that had been fully debated, but we could not get that consent. We tried to get consent to lock in additional amendments for votes and to move a package of cleared amendments, but we were unable to do so.

At this point, the House of Representatives will be adjourning for the year at the end of this week, and there is simply no way we can debate and vote on those amendments to the pending bill, get cloture, pass the bill, go to conference with the House, get a conference report written, and have it adopted by the House of Representatives all before the House goes out of session this Friday. There simply is no way all of those events can take place to get a defense bill passed.

So Senator INHOFE and I believe it is our responsibility to the Armed Services Committee, to the Senate, to our men and women in uniform, and to the country to do everything we can to enact a defense authorization bill. For this reason, we are taking the same approach we took when we were unable to finish the bill and go to conference with the House in 2008 and 2010. What we did is we sat down with our counterparts on the House side—in this case, chairman BUCK McKEON and ranking member ADAM SMITH of the House Armed Services Committee—and we set our staffs to work to come up with a bill that would have a chance of getting passed by both Houses.

The four of us have reached agreement on a bill that we hope will be passed by the House before it recesses this Friday and, if it does, then be considered by the Senate next week.

We worked hard to blend the bill that was overwhelmingly voted out of the Senate Armed Services Committee with the bill that was overwhelmingly approved by the House of Representatives. We have worked, as we always do, on the SAS Committee on a bipartisan basis.

We took into consideration as many proposed Senate amendments as we could. We focused on amendments that had been cleared on the Senate side when the bill was being debated in the Senate. We approached these amendments and others in much the same manner as we did provisions that were in the bill, working to come up with language, wherever possible, that could be accepted on the Democratic and Republican sides in both the Senate and the House.

The bill we have come up with is not a Democratic bill or a Republican bill. It is a bipartisan defense bill, one that serves the interests of our men and women in uniform and preserves the important principle of congressional oversight over the Pentagon. Here are some examples of what will be in the bill that will be considered by the House later this week and then hopefully by the Senate next week.

The bill will extend the authority of the Department of Defense to pay combat pay and hardship duty pay for our troops. The bill, relative to Guantanamo, includes that part of the Senate language easing restrictions on overseas transfers of Gitmo detainees, but it retains the House prohibitions on transferring detainees to the United States.

Although we were unable to consider the Gillibrand and McCaskill amendments on the Senate floor or in the bill itself that will be forthcoming, the bill includes more than 20 other provisions to address the problem of sexual assault in the military that were in the Senate bill that came to the floor out of the committee and that were in the House of Representatives bill as well.

These provisions include the following: They provide a special victims' counsel for survivors of sexual assault, make retaliation for reporting a sexual assault a crime under the Uniform Code of Military Justice. The provisions require commanders to immediately refer all allegations of sexual assault to professional criminal investigators. They would end the commanders' ability to modify findings and convictions for sexual assaults, and would require higher level review of any decision not to prosecute allegations of sexual assault.

The bill will do the following that will be hopefully coming here next week: Make the Article 32 process more like a grand jury proceeding. Under the UCMJ, the Uniform Code of Military Justice, currently the proceeding that is taken under Article 32 is more like a discovery proceeding rather than a grand jury proceeding, and it has created all kinds of problems, including for victims of sexual assault who would have to appear and be subject to cross-examination by the defense.

This bill will extend supplemental impact aid to help local school districts educate military children. The bill will extend existing military land withdrawals in a number of places that would otherwise expire, leaving the military without critical testing and training capabilities. The bill includes a new land withdrawal to enable the Marine Corps to expand its training area at 29 Palms.

The bill provides needed funding authority for the destruction of the Syrian chemical weapons stockpile and for efforts of the Jordanian Armed Forces to secure that country's border with Syria.

Earlier today GEN Martin Dempsey, the Chairman of the Joint Chiefs of

Staff, wrote a letter to the leadership of the Senate and the House of Representatives in which he strongly urges completion of action on the National Defense Authorization Act this year. General Dempsey's letter provides a long list of essential authorities that will lapse if this bill is not enacted. This is just one paragraph from his letter:

The authorities contained [in the National Defense Authorization Act] are critical to the Nation's defense and urgently needed to ensure we all keep faith with the men and women, military and civilian, selflessly serving in our Armed Forces.

Mr. President, I ask unanimous consent that General Dempsey's letter, with that attachment, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE JOINT  
CHIEFS OF STAFF,

Washington, DC, December 9, 2013.

Hon. HARRY REID,  
Majority Leader, U.S. Senate, Washington, DC.

As we enter the final weeks of December, I write to urge you to complete the National Defense Authorization Act this year. The authorities contained therein are critical to the Nation's defense and urgently needed to ensure we all keep faith with the men and women, military and civilian, selflessly serving in our Armed Forces. Allowing the Bill to slip to January adds yet more uncertainty to the force and further complicates the duty of our commanders who face shifting global threats. I also fear that delay may put the entire Bill at risk, protracting this uncertainty and impacting our global influence. For your reference, enclosed is a list summarizing expiring authorities.

I deeply appreciate congressional efforts to achieve a budget deal and subsequent appropriations. Your efforts to provide the Joint Chiefs the Time, Certainty, and Flexibility in both our budget and authorities will help ensure we keep our Nation safe from coercion.

I appreciate your continued concern for and support of our men and women in uniform

Sincerely,

MARTIN E. DEMPSEY,  
General, U.S. Army.

LIST OF EXPIRING AUTHORITIES

Title	Expiration
Authority Issues:	
Afghanistan Security Forces Fund	9/30/2013
Authority for Joint Task Forces to Provide Support to Law Enforcement Agencies Conducting Counter-Terrorism Activities	9/30/2013
Authority for Reimbursement of Certain Coalition Nations for Support Provided to United States Military Operations	9/30/2013
Authority to Provide Additional Support for Counter-drug Activities of Other Countries	9/30/2013
Authority to Support Unified Counter-drug and Counter-terrorism Campaign in Colombia	9/30/2013
Commanders Emergency Response Program in Afghanistan	9/30/2013
Authority to Establish a Program to Develop and Carry Out Infrastructure Projects in Afghanistan	9/30/2013
Logistical Support for Coalition Forces Supporting Operations in Afghanistan	9/30/2013
Pakistan Counterinsurgency Fund (DoS)	9/30/2013
Task Force on Business and Stability Operations in Afghanistan and Economic Transition Plan and Economic Strategy for Afghanistan	9/30/2013
Enhancement of Authorities Relating to DoD Regional Centers for Security Studies	9/30/2013
Authority to Support Operations and Activities of the Office of Security Cooperation in Iraq	9/30/2013
Ford Class Carrier Construction Authority	9/30/2013
North Atlantic Treaty Organization Security Investment Program	9/30/2013
Reintegration Activities in Afghanistan	12/31/2013

LIST OF EXPIRING AUTHORITIES—Continued

Title	Expiration
Military Special Pays and Bonuses	12/31/2013
Expiring Bonus and Special Pay Authorities provided by P.L. 112-239, sections 611-615 (National Defense Authorization Act for Fiscal Year 2013)	12/31/2013
Travel and Transportation Allowances	12/31/2013
Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Federal Civilian Employees Working Overseas	12/31/2013
Non-Conventional Assisted Recovery Capabilities	9/30/2013
Support of Foreign Forces Participating in Operations to Disarm the Lord's Resistance Army	9/30/2013
Authority to Provide FAA War Risk Insurance to CRAF Carriers	12/31/2013
Authority to Provide Temporary Increase in Rates of Basic Allowance for Housing Under Certain Circumstances	12/31/2013
Acquisition Issues:	
New Starts, Production Increases, Multiyear Procurements	Various
80/20 Rule	N/A
General Transfer Authority & Special Transfer Authority	N/A
AP of Virginia Class	10/1/2013

Mr. LEVIN. We have not failed to pass a National Defense Authorization Act for 52 years even when, as I mentioned, in a couple cases in recent years the final bill was the result of a process like we have had to follow with this year's authorization bill.

This is not the best way to proceed, but our troops and their families and our Nation's security deserve a defense bill, and this is the only practical way to get a defense bill done this year. There is no other way, because, as I indicated before, the House of Representatives is—we could not get a bill done before the end of this week if we brought back the bill that was pending before Thanksgiving. There is no way we can do it. And the experience in the week before the Thanksgiving recess demonstrated pretty clearly there is no way we could get a defense bill, such as the one that was pending, passed in this body before the end of this week.

The problem is that the House of Representatives is done at the end of this week. If we use the pending bill that was previously pending as the vehicle, we cannot possibly get to a conference, get an agreement on a conference, get a conference report, go back to the House of Representatives, and then get a conference report here, because the House of Representatives is done on Friday.

This is the only path to a bill. We have not missed in 52 years, and the reason we do not miss is our troops and their families and the national security of this country. That is why we have not failed. We cannot fail this year. The only practical way to avoid failure is if we follow the course which Senator INHOFE and I are now proposing to this body. Again, it is not the preferred course. It just happens to be the only course.

I thank Senator INHOFE and all the members of our committee for the way they have worked on this bill for now almost a whole year and for the final product, which I believe will have the full committee support or at least almost all of us. There were only three members of our committee who did not vote for the bill that came to the floor before.

I yield the floor.

The PRESIDING OFFICER (Mr. KING). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me express my appreciation for not just since this last Monday—a week ago today—when we met and put together a negotiated settlement, a negotiated bill, but all year long, in the previous year, Senator LEVIN has been very good to work with. We did our best to get a bill. We passed our bill out of committee months ago—months ago—and the problem has been here.

I am critical of the leadership of the Senate and a lot of the people who wanted amendments. I have to say this: On the Republican side, we agreed, finally, to cut it down to 25 amendments, which I think is very reasonable, and we were denied that. I could be critical. It does not do any good to be critical of the majority right now because we are where we are now.

The chairman has stated that looking at December we only have between now and Friday at 11 o'clock. That is it; the House is gone. They have already made that decision. They have made the announcement. It is going to happen. So mechanically, if we are all going to embrace and love each other and not disagree with anything, it still could not be done. There is no way in the world we can have a defense authorization bill this year except to do the negotiated bill we got together on.

By the way, when people say they want to wait until January, keep in mind that on December 31 the services will no longer be authorized to pay hazardous pay to the troops serving in hostile-fire areas. After December 31 the services will no longer be authorized to offer 37 specific special and incentive pays, including enlistment and reenlistment bonuses.

These people in service, those who have been in service, we know they approach them when it is getting close to the time they are going to get out. They say: These are the benefits that are going to be there if you will reenlist. It is absolutely necessary that they have that information. All of a sudden, we are pulling the rug out from under them, after they had anticipated what their reenlistment would be.

Those things stop December 31. If you say: Well, we will come back in January and do it, I can show you this calendar right here. We start on January 6, and we are going to be in the CR on January 15. There is no way they are going to pay any attention to Defense authorization during that time period. There is not the time to do it.

I will not be redundant and repeat what the chairman talked about that would not happen.

Gitmo is controversial. However, the provisions in the Fiscal Year 2013 NDAA which prohibit the transfer of Gitmo detainees to the United States have expired. The prohibitions, which are currently in effect, which prevent the transfer of detainees to the United States are provisions which were included in an Appropriations Act. That Act, which has been extended due to

the CR, is set to expire in January. Therefore, it is important to enact the FY'14 NDAA since our bill will extend these prohibitions for all of 2014. Of course, we also passed prohibitions on construction and modifying facilities in the United States. However, all of these prohibitions could come to an end if we do not have this bill.

Now, we have covered this. I appreciate the fact—and I want to repeat what the chairman said—that we actually had and cleared and considered some 87 amendments. In this bill we got 79 of the amendments; that is, Democratic and Republican amendments. So we have done this in the areas where we are supposed to be accomplishing it.

I looked at some of the things in military construction. We will have to stop work on any major projects that are currently under construction. I mean, they could be partway through a project. For example, the bill contains \$136 million to continue construction for the replacement of a command center for the U.S. Strategic Command at Offutt Air Force Base in Nebraska. If this amount is not authorized for appropriations, DOD will have to stop work halfway through construction, leading to a contract claim, lost time, maybe even lawsuits, but certainly extra work. I can say the same about areas in Maryland, Kentucky, Washington, Texas, and New York. If we look at the construction of aircraft carriers, without the congressional action we have in this bill to update the statutory cap on construction of the CVN-78—the USS *Ford*, the first aircraft carrier of the *Ford* class—the Navy will be forced to cease construction of the CVN-78 when it is already 75 percent complete, denying our Nation this critical asset after we have already spent \$12 billion on it. We are talking about huge amounts of money. We are talk about defending the United States of America.

I hate to think we got here the way we did. We should not have had to do that. There is some blame to go around on both sides, but nonetheless we have been unable to do it the way we have done it in the past.

I will tell you something that is kind of interesting. We did a study. We found that in the last 30 years we have never gone into January before. Never. Not once.

The two times we went in were after a veto of the bill, and then after that we immediately overrode the veto and we were home free. So this has not happened before. For people to say that it has and that it is not unusual to go into January, factually that is just not true.

So we have special operations, and we have land use agreements. This is a big one that will ensure special operations forces have sufficient access to training ranges. The SEALs, the Navy SEALs—I think many of us have been to the Chocolate Mountain Aerial Gunnery Range in California, which serves

an indispensable role in training the Navy SEALs for deployment. Failure to adopt the NDAA agreement we are talking about now will result in sending Navy SEALs to combat with insufficient training, undermining mission effectiveness and increasing the risk of losing lives.

So we have every reason to be concerned about this. We have only one way that we are going to be able to get a defense authorization bill. If we do not do it, this will be the first year in 52 years that we have not had one. So that is how serious this is. I do not like the way it was done, but I can like the end product.

I think the chairman mentioned the sexual assault discussion we have had. We had the Gillibrand amendment, and we had the McCaskill amendment. We did not get a chance to talk about those. But we actually have 27 specific reforms to support victims and encourage sexual assault reporting, expanding it and so forth. So we have done a lot.

I do not think anyone can argue that we would in any way be better off not having an authorization bill or just lumping it together and putting it on a clean CR. That is not any way to do business. It does not accomplish any of what I just mentioned and that the chairman mentioned as progress in this bill.

With that, I am happy to join the chairman of the committee in a bipartisan way to help try to defend America. The first thing we need to do is to pass our negotiated bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to engage in a colloquy with the chairman and ranking member if necessary as we discuss this legislation—

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

Mr. MCCAIN. Or lack of legislation, which may be unique in the history of the Senate in that for 51 years this body has passed a defense authorization bill, gone to conference between the two Houses, and sent a bill to the President's desk—legislation that I think most Americans would agree is our first priority, and that is to defend the security of this Nation.

I guess one of the questions I have for the distinguished chairman of the committee, and obviously the ranking member, is that by us not acting on this bill before the end of the year, is it not true, I would ask Chairman LEVIN, that we have already done some damage to the military and our readiness? Is it not also true that in the years that Senator LEVIN and I and Senator INHOFE have been together in the Armed Services Committee, we have never tried to do an authorization bill in a week? There are too many issues that are worthy of debate and votes on the part of this body. So is it not true, I would ask Senator LEVIN, that if we fail to take up this legislation, we will

be embarking into unknown and uncharted waters because then we will be leaving it, isn't it true, to various appropriations bills or continuing resolutions or a patchwork kind of addressing what I would argue—and I do not know how anyone could dispute—is the most important obligation the Congress of the United States has; that is, to authorize the provisions in law that are necessary to defend this Nation? I would ask the Senator from Michigan those questions.

Mr. LEVIN. The point of the Senator from Arizona is extremely well taken. There is, relevant to his point, a list of expiring authorities which we have just received from the Chairman of the Joint Chiefs, General Dempsey. I put that letter in the Record; we got it literally a few hours ago—listing some of the expiring authorities, including a number that the Senator mentioned and—

Mr. MCCAIN. Would the chairman mention a couple of those?

Mr. LEVIN. Special pay and bonuses, combat pay, travel and transportation allowances, nonconventional assisted recovery capability, the authorities to do MILCON, which were mentioned by the Senator from Oklahoma. It is a long list. There will be a real chasm if we don't do this this year. You cannot just say: Well, it will go to next year. Senator INHOFE pointed out, I believe, that in one or two cases where it actually did get signed in the year after the bill was passed, it was because there was a veto by a President and the veto override took place, I believe, in the weeks after January.

But these expiring authorities are very serious. We are going to tell men and women in combat that there is a gap in their combat pay? We don't know for sure that it will ever be filled. This is what General Dempsey mentioned in his letter. He said: Allowing the bill to slip to January adds yet more uncertainty to the force and further complicates the duty of our commanders who face shifting global threats. I also fear that delay may put the entire bill at risk, protracting this uncertainty and impacting our global influence.

Then he gave us a list of the expiring authorities.

So the Senator from Arizona raises a very critical issue. Now, it is not desirable for us to pass a bill as we have. But with the help of the Senator from Arizona when he was the ranking member, we were able, on two occasions, in a situation where there were objections to amendments being offered on the Senate floor—I will not go into all the details, but 2 of the last 5 years we were put in a position where we could not get the usual course followed, where the bill had a full amendment process on the Senate floor—it had some, as this bill has, but not enough time. Then we ran into that wall, and we were able to work out a bipartisan resolution to present to the Senate, sort of a virtual conference report—not

technically a conference report but a bill, a fresh bill, a new bill which merged and blended the bill that passed the Senate Armed Services Committee in those 2 years with the bill that passed the House of Representatives. We then on a bipartisan basis presented those two bills to the Senate, and they were passed.

Mr. INHOFE. Let me mention a couple of others to the Senator from Arizona. His specific question is, What expires on December 31? In addition to the hazard pay that was articulated by the chairman, we also have the reenlistment bonus. I think any of us who have served in the military remember that as you get close to your date of discharge, you make a plan for the future as to what you are going to do in terms of reenlistment. It is all based on assumptions of reenlistment bonuses. If all of a sudden they disappear, you could not have that. What is that going to do to our forces? Impact Aid. Impact aid is something people do not really think about unless they happen to be in an area that has a lot of military activity where people have been taken off the tax rolls. On January 1, impact aid would end.

So, yes, there is a lot of concern over this. We talked for a long time about what will happen with this bill in terms of military construction that is partially done or the building of various platforms. But what would actually happen as of January 1 would be really a crisis if we were to have to stop these things.

Mr. MCCAIN. I should have stated at the beginning that I am very proud of the leadership that both Senator INHOFE and Senator LEVIN have provided to the Armed Services Committee.

I serve on a number of committees and have served on a number of committees in my time in the Senate. The bipartisanship and cooperative legislating that is exemplified by both Senators makes me proud and makes me believe there is still some hope for bipartisanship in the Senate. Their leadership has been vital in putting together an authorization bill which is, as we have described, incredibly important.

I ask both of my colleagues, I am hearing—especially now from this side of the aisle—it is OK if we let this go over into January. After all, we only have another week. We have the farm bill, we have the budget agreement, et cetera. The House, the other side of the Capitol, is going out of session.

Why isn't it OK to wait until January? We will be back early in January and work on this legislation then.

I am sure I know the answer, but I ask of the chairman if that isn't nearly as easy as it sounds, even if, contrary to custom in January, we would do anything legislatively.

Mr. LEVIN. The Senator points out the reality, which is what is likely to happen in January. There is another reality that what will happen in January

is it will be very difficult to get to this bill because of the crushing business of CRs and other crushing business in January, even if we meet in January.

The shortest answer I could give to my friend from Arizona is the following: I am in combat. I am in combat somewhere in the world and I am going to read: Combat pay stops on December 31.

There are dozens of these kinds of authorizations that are listed in General Dempsey's letter, dozens of them, that just stop on December 31. Take only that one. Think about that and what kind of an impression we are giving to our men and women who are in combat, in harm's way, when they read: Combat pay stops.

Yes, maybe it will be extended in January or in February, but that is actually unsatisfactory. It will be outrageous for us not to pass this bill.

Mr. MCCAIN. Does the Senator from Oklahoma have a response?

Mr. INHOFE. Yes. I wish to note that the average time it takes to debate on the floor and to pass the NDAA is 9 days. That is the average over the last 10 years.

As I look at the calendar for January, we return on January 6 and we have the CR on January 15. We are going to be spending that time on the CR. Then, of course, we will be faced with the debt ceiling. I don't see that is going to happen. I think it is going to happen in some other way, but it is not going to happen in these reforms.

I very much appreciate the Senator from Arizona calling this to attention, that we can't wait until January. It is not going to work. We know it is going to expire December 31. We also know it can't happen in January because there flat isn't time.

Mr. MCCAIN. I don't know if my colleagues wish to respond, but I wish to make two comments: One is that I am deeply disappointed—deeply, deeply disappointed—in the majority leader for not taking up this legislation much earlier. The majority controls the calendar. That is one of the key elements of the majority winning elections and majority in the Senate.

For us to wait since June, when we passed the bill out of the Armed Services Committee, until only a short time ago and then only allowing a few days is a grave disservice—not so much to the Members of the Senate—and a lack of prioritization of the importance of this legislation.

I am deeply disappointed the majority leader of the Senate, because of his manipulation of the calendar, has put us in this position.

Having said that, I spent time—as I know the Senator from Oklahoma and the Senator from Michigan, our distinguished chairman—in the company of the men and women who serve. One of our obligations, as members of the Armed Services Committee, is to spend time with the military. I know the Senator from Oklahoma and the chairman do as well.

Their morale isn't good. They have seen sequestration take place, across-the-board cuts that have been done with a meat ax and not a scalpel.

All three of us would agree there are enormous savings that could be enacted in our Nation's Defense Department. We haven't even received an audit of the Defense Department. Year after year we demand that an audit be conducted by the Department of Defense by a certain year, and it has never happened.

We are not apologists. In fact, I believe the chairman and the ranking member have been zealous in their efforts to reduce waste, mismanagement, and duplication in the Armed Services and the Defense Department through their work on the Armed Services Committee.

The morale of our men and women who are serving is being harmed. It is not something that shows up in dollars and cents, but it does show up over time.

I say to the Senator from Michigan it does show up over time in their willingness to remain in the military. I was recently in Fort Campbell, KY, with the Senator from Tennessee, Mr. ALEXANDER. We had an excellent briefing from the colonels, the generals, and the chief master sergeants of the U.S. Army.

Their unanimous view was that they believe we in the Congress of the United States are not taking care of them. They have always looked to us to provide them with the pay, the benefits, the housing, the equipment, and the training that is necessary to do their job.

They don't believe we are doing that anymore. They believe, when we enact sequestration with a meat-ax cut across the board—don't ask me about it. Ask General Odierno and the Chiefs who testified before the Armed Services Committee about the devastating effect of cuts to readiness, training, acquisition and, most of all, on the morale of the men and women who are serving. They literally don't know, some of them, what they are going to be doing the next day. The next day they don't know if they will be able to fly their airplanes, run their tanks or have the exercises that have been planned for months and even years. They don't know because we are almost day-to-day trying to apportion funds that are remaining in the most efficient and beneficial way.

I stand before my colleagues in the Senate and the two leaders in the authorization committee, and I am embarrassed—embarrassed—and a bit ashamed that we have done this to these good men and women who are willing to put their lives in harm's way to defend us. We can't even pass a bill that authorizes what they need to defend this Nation. It is shameful.

I wish to thank the chairman and ranking member for the hard work they have done on this legislation and the thousands of hours they have spent

on behalf of defending this Nation and the men and women who serve it.

I yield the floor.

Mr. LEVIN. I thank the Senator from Arizona for everything he has been doing for so many decades for this country, including our committee. It is invaluable. We are going to get this bill passed. That is our determination.

It will be a shock to every American if we are unable to pass the Defense authorization bill. It will be totally intolerable. I know Senator INHOFE and I will help Senator MCCAIN and others get this bill done this year.

I yield the floor.

Mr. INHOFE. One last comment I wish to make is people listen to us speak on the floor and do not understand the full impact. I carry this card with me. The very top military person in the country, the Chairman of the Joint Chiefs of Staff, General Dempsey, told our committee: We are putting our military on a path where the force is so degraded and so uneasy that it would be immoral to use force.

He is the No. 1 Chief. The No. 2 Chief is Admiral Winnefeld, who stated that "there could be for the first time in my career instances where we may be asked to respond to a crisis and we will have to say that we cannot."

We can't correct all of that with this bill, but we can keep it from getting worse and get back and do what we have done over the last 52 years and pass the NDAA bill.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided and controlled in the usual form.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I know we are not voting on this nomination today. I think it will be tomorrow. But I do not think there will be time to make remarks tomorrow, so I

am expressing not only my opposition to the nominee being confirmed but also the bigger issue of whether or not there should even be any additional judges put on the DC Circuit.

Approximately 6 months ago, on June 4, 2013, the President simultaneously nominated three people for the DC Circuit. Everyone knew then, just as they know now, that these judges are not needed. The DC Circuit has the lowest caseload in the country by far, based on the standards that the Democrats established just a few years ago when a Republican was in the White House. In fact, the caseload on the DC Circuit is so low that on April 10, 2013, approximately 2 months prior to these nominations, I introduced legislation together with every Republican member of the committee to eliminate one seat of the DC Circuit and move two others to different circuits where they had bigger caseloads and needed additional help. That would be the sensible way to address this issue. Don't spend \$1 million in taxpayers' money, per year, per judge, on judgeships that are not needed.

That is common sense, especially when the judges currently on the court say—and I quote one of them—in a letter:

If any more judges were added now there wouldn't be enough work to go around.

Don't waste \$3 million a year. Instead, simply move the seats to where they are needed, where there is a much bigger caseload. That would be the sensible and the good government approach.

But being sensible and good stewards of taxpayer dollars is not what the other side had in mind when they hatched this scheme. Far from it. No, the administration's move here was clear from the very beginning. They knew they could not pass their liberal agenda through a divided Congress. The American people had already rejected that agenda at the ballot box. But the administration still runs the Federal agencies, and through the agencies the administration can ignore the will of the American people and continue to pursue a job-killing agenda.

It doesn't matter that the American people do not want their government to pass cap-and-trade fee increases. The administration will simply force it upon the American people anyway through the Environmental Protection Agency.

It doesn't matter that the employer mandate penalty under ObamaCare does not apply to the 34 States that have not created insurance exchanges. The administration forced the employer mandate upon the American people anyway through an IRS regulation.

This has been the plan of the administration. It cannot get its liberal agenda through the Congress, but it has saddled the American people with its job-crushing agenda anyway through agency regulation.

But there is a catch to this scheme, a very big catch. Agency decisions are reviewed by the Federal judiciary. That happens to be our very independent third branch of government. So for this scheme to work, the White House needed to stack the DC Circuit with judges who were rubberstamps for its agenda.

As a result, the administration decided to ram their agenda through the agencies and simultaneously stack the DC Circuit with judges they believe would rubberstamp that agenda. That is why, on the very same day the President made these three nominations, I said:

It's hard to imagine the rationale for nominating three judges at once for this court given the many vacant emergency seats across the country, unless your goal is to pack the court to advance a certain policy agenda.

During the last few months we have debated this issue, and throughout the debate the other side has tried their best to obscure the objective. They have manipulated caseload statistics in an effort to deny the obvious: Judges are not needed and will not have enough work to go around as is.

They twisted the words of the administrative office of the U.S. Courts. They claimed that the Chief Justice of the United States believes these judgeships are needed, when of course statistics show that is not remotely close to being true. They even stooped so low as to accuse Republicans of gender bias. But no matter how the other side manipulated the data or tried to conceal their agenda, they could not overcome the simple and basic facts everyone knew to be true; that is, that under the standard established by the Democrats under the Bush administration, these judgeships are not needed and should not be confirmed.

As a result, when the Senate considered these nominations, it denied consent. The other side lost the debate. Under normal circumstances, that would have been the end of this matter but not this time. This time there is a Democrat in the White House, not a Bush in the White House, and a Republican minority in the Senate.

The caseload statistics that carried the day in 2006 when we had a Republican majority in this body no longer matter to today's Democratic majority. This time apparently there are only three Members of the majority who care more for the Senate as an institution than they do for their party or short-term political gain. Of course, the biggest difference is that this time what is at stake is a radical agenda and the other side's effort to remove any meaningful check and balance on that agenda.

In short, it is ObamaCare. In short, it is climate change regulation, and the method for doing it is Presidential rule by fiat. The other side decided they were no longer willing to play by the rules they established and pioneered in 2006 when we had a Republican President and a Republican majority in the