Judiciary Committee. He didn't have to worry about a lot of names on the calendar because he simply held no hearings in the Judiciary Committee. The same situation is prevailing now. So we don't have a lot of people on the calendar because they are not having any hearings to speak of in the Judiciary Committee.

I have spoken here on the floor before about the nomination of Felipe Restrepo for the Third Circuit Court of Appeals in Philadelphia. After repeated, repeated, and repeated delays, the committee is finally considering his nomination on Wednesday. He has been waiting for months. This is an incredibly qualified nominee who enjoys vast bipartisan support, including both Pennsylvania Senators, one a Democrat and one a Republican. The Republican Senator from Pennsylvania has said that Judge Restrepo would be a ''superb addition to the Third Circuit.''

In that case we have waited months to even have a hearing.

So it must have been shocking for the junior Senator from Pennsylvania to learn that his judicial pick would face another delay—a delay indefinitely, perhaps. This is a blatant rejection of the Senate's constitutional duties.

Just as Senator MCCONNELL argued for fairness for President Bush's nominations, it is not unreasonable for Democrats to expect that same measure of fairness that President Bush got in the 110th Congress.

Regardless of whether a State had two Democrats, two Republicans or a split delegation, Senate Democrats brought President Bush's nominees up for a vote. By this point in the seventh year of George W. Bush's Presidency, Senate Democrats confirmed 18 judges, including 3 circuit court judges.

In almost 6 months, the Republican Senate has only confirmed four district court judges. To put this in perspective, during the Presidency of Bush, we confirmed four in 1 month.

So perhaps the majority leader's comments about a judicial slowdown were just confirming what he has already done to block the President's nominees. I repeat. The committee is being run the same way that the present chair of the Finance Committee did when he was chair of the Judiciary Committee—just holding no hearings. That way, there is nobody on the calendar—or very few.

The Republican Senate hasn't confirmed even a single circuit court judge—not even a consensus nominee such as Kara Stoll to the Federal Circuit. She was reported out of committee by a voice vote in April. Nothing so far—they are not even having hearings, I repeat, on most nominees. Therefore, there is no one to report to the floor.

Actions speak louder than words, and the majority leader can demonstrate that his remarks were misinterpreted—and I would certainly hope so—by scheduling a prompt vote on the Stoll nomination. We should schedule a vote on her nomination no later than this week. Kara Stoll is the only appeals court judge awaiting a vote before the Senate.

For the reasons I have just said, people have been in the pipeline, but they won't hold hearings. Both of these nominations—Restrepo and Stoll—need a vote now. Let's hope the majority leader will reflect upon his past statements about fair consideration of judicial nominees, in comparison to what he said on a talk show—I guess appealing to the rightwing even more than what has happened recently, and that is quite a bit. Let's hope he does not treat judicial nominees as they have never been treated before. Let's hope that the Senate will quickly confirm at least these two qualified judges. We need a lot more, but these two would be a step in the right direction.

I note there is no one on the floor, and I ask that the Chair announce the business of the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1735, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (H.R. 1735) to authorize appropriations for fiscal year 2016 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:

McCain amendment No. 1463, in the nature of a substitute.

McCain amendment No. 1456 (to amendment No. 1463), to require additional information supporting long-range plans for construction of naval vessels.

Reed amendment No. 1521 (to amendment No. 1463), to limit the availability of amounts authorized to be appropriated for overseas contingency operations pending relief from the spending limits under the Budget Control Act of 2011.

Cornyn amendment No. 1486 (to amendment No. 1463), to require reporting on energy security issues involving Europe and the Russian Federation, and to express the sense of Congress regarding ways the United States could help vulnerable allies and partners with energy security.

Vitter amendment No. 1473 (to amendment No. 1463), to limit the retirement of Army combat units.

Markey amendment No. 1645 (to amendment No. 1463), to express the sense of Congress that exports of crude oil to United States allies and partners should not be determined to be consistent with the national interest if those exports would increase energy prices in the United States for American consumers or businesses or increase the reliance of the United States on imported oil.

Reed (for Blumenthal) amendment No. 1564 (to amendment No. 1463), to increase civil penalties for violations of the Servicemembers Civil Relief Act.

McCain (for Paul) modified amendment No. 1543 (to amendment No. 1463), to strengthen employee cost savings suggestions programs within the Federal Government.

Reed (for Durbin) amendment No. 1559 (to amendment No. 1463), to prohibit the award of Department of Defense contracts to inverted domestic corporations.

Mr. MCCAIN. Madam President, I note with some interest over the weekend in the New York Times that ''Russia Wields Aid and Ideology Against West to Fight Sanctions.''

On the front page of the New York Times:

The war in Ukraine that has pitted Russia against the West is being waged not just with tanks, artillery and troops. Increasingly, Moscow has brought to bear different kinds of weapons, according to American and European officials: Money, ideology, and disinformation.

Yesterday and today in the Wall Street Journal: ''Iraqis Call for a Deeper Overhaul of Army.'' Also: ''Mistrust of military leadership among troops is widespread in crisis of confidence.''

Right below that: ''Airstrikes Kill Dozens as Fighting in Yemen Intensifies.''

The reporting of a world in turmoil, as described by my friend LINDSEY GRAHAM as on fire, continues.

To top it all off, today, speaking to reporters at the G7 summit in Germany, President Obama said: ''We don't yet have a complete strategy about how to combat ISIS.''

I would remind my colleagues that on August 28, 2014, nearly a year ago, President Obama stated: ''We don't have a strategy yet to fight ISIS in Iraq and in Syria.''

My friends, nearly a year after the President said we don't have a strategy yet to fight ISIS in Iraq and in Syria, he said again: We don't yet have a complete strategy about how to combat ISIS.

I would like to see the incomplete strategy. I would like to see something. I would not like to see continue that 75 percent of the combat missions that are flown in Iraq and Syria return to base without firing a weapon because we don't have forward air controllers on the ground.

When is this administration going to figure out that if we want to destroy the enemy, we have to be able to identify the enemy, and that requires forward air controllers on the ground and that means U.S. troops.

I know that whenever I and some others say we need additional U.S. troops, people recoil and say, Oh, no, here we go again. Well, what is going on now is ISIS is succeeding. Bashar Assad is hanging on. Iran is on the move. They now dominate four countries: Syria, Iraq, Yemen, and Lebanon. And the President of the United States says we don't yet have a complete strategy.

Well, the Pentagon is a pretty big place. There are hundreds of people who work for the National Security Advisor, and somehow, nearly a year later, we don't yet have a strategy? Wow. ISIS goes from house to house in Ramadi with lists of names and they execute people and they kill 3-year-old children and they burn their bodies in the streets. And the atrocities in Syria continue as Bashar Assad barrel-bombs innocent men, women, and children—barrel bombs, by the way, supplied by Iran and Russia—and we don't yet have a ''complete strategy.''

Well, I have never seen the world in more crises, nor has Henry Kissinger, nor have most other longtime observers of our Nation and the world.

I urge my colleagues to take a look at a map of the Middle East from January of 2009, when President Obama was sworn in as President of the United States, and look at that same map today and color in where there is ISIS, where there is Iranian domination, where there is conflict, and where there is a complete lack, except in the State of Israel, of democratization or the kinds of freedoms the United States of America stands for.

All I can say is one has to wonder whether this President just wants to wait out the next year and a half and basically do nothing to stop this genocide, blood-letting, and the horrible things that are happening throughout the Middle East, where, in the view of the Director of the Federal Bureau of Investigation and the Director of the CIA, they say, as far as ISIS is concerned, they pose a threat to the security of the United States. Why do they say that? Obviously, because these thousands of young men who have gone to Syria and Iraq and are being radicalized and trained are going to go back to where they came from. Everybody knows that.

On the day Baghdadi, the leader of ISIS, left our Camp Bucca—where he spent 4 years along with about 25,000 others—he said to the Americans: We will see you in New York. Mr. Baghdadi is not known for his sense of humor.

What we are trying to do in this legislation that is before the Senate is to provide the means, the training, the equipment, the care for the men and women, and the much needed reforms that I have been over and will continue to go over, whether it be in retirement, whether it be in acquisition, whether it be in a number of other areas of the Department of Defense and the way we defend this Nation. That is, in my view, long, long overdue. Now we see the President of the United States threatening to veto this legislation, if it gets through the House and the Senate, over the issue of OCO. That, as my colleagues know, is overseas contingency operations, which began with the conflicts in Afghanistan and in Iraq as a means of providing additional funds to pay for and fund the operations in those countries as the name implies—overseas contingency operations.

I have opposed sequestration. I think it is a terrible thing to inflict on the men and women who are serving in the military, much less on our national security. I agree with our uniformed leaders, every one of whom has testified before the Senate Armed Services Committee that if we continue sequestration, it puts the lives of the men and women who are serving in the military at greater risk. I don't know of a greater obligation that we have than to prevent putting the lives of the young men and women who have volunteered to serve this country at greater risk. But that has been lost on my colleagues on both sides of the aisle.

So now we have the OCO, and it funds the defense of this country at the levels the President requested. I don't like it. I don't like it because it can only give them 1 year of planning. What the military really needs is to be able to plan for at least 5 years ahead of time. We can't build new weapons and new ships and new airplanes on a year-to-year basis. But it is better than the sequestration, which, as I said, increases the threat to this Nation's security.

Last week, the White House issued a Statement of Administration Policy threatening to veto this national security legislation. The threat hardly comes as a surprise. After all, the President has threatened to veto, for some reason or another, every Defense authorization bill since 2011. The White House's compilation of complaints is long, but it is woefully short on substance.

The Statement of Administration Policy makes clear that the true basis for the administration's veto threat has nothing to do with defense. Objecting to the use of $38 billion in overseas contingency operation funds—or OCO—to meet the President's request of $612 billion, the statement said the President ''will not fix defense without fixing nondefense spending.''

It is incomprehensible that as America confronts the most diverse and complex array of crises around the world since the end of World War II, that a President of the United States, who has not yet been able to come up with a ''complete strategy'' for the challenges we face, would veto funding for our military to prove a political point.

The threats we confront today are far more serious than they were a year ago and significantly more so since the Congress passed the Budget Control Act in 2011. That legislation arbitrarily capped defense spending and established the mindless mechanism of sequestration which was triggered in 2013. As a result, with worldwide threats rising, we as a nation are on a course to cut nearly $1 trillion of defense spending over 10 years. Every single military and national security leader who has testified before the Armed Services Committee this year has denounced sequestration and urged its repeal as soon as possible. This legislation doesn't end sequestration, unfortunately. Believe me, our committee would have done so if the NDAA were capable of it, but it is not. The NDAA is a policy bill. This legislation is a policy bill. It is the appropriators who deal with the money. It only deals with defense issues, and it doesn't spend a dollar. It provides the Department of Defense and the men and women in uniform with the authorities and support they need to defend the Nation. It fully supports President Obama's budget request of $612 billion for national defense, which is $38 billion above the spending caps established by the Budget Control Act.

Let me repeat that. The legislation gives the President every dollar of budget authority he requested. The difference is that this legislation follows the Senate budget resolution, which was voted on time after time all night long and was agreed to by both Houses of Congress. It is the Senate budget resolution.

Now, this is not my preferred option, as I said. That is why the committee included a special transfer authority in this legislation that allows the Department of Defense to transfer the additional $38 billion from OCO to the base budget in the event legislation is enacted that increases the statutory limits on discretionary defense and nondefense spending in proportionately equal amounts. This was the product of a bipartisan compromise, and it was the most we could do in the Defense authorization bill to recognize the need for a broader physical agreement without denying funding for our military right now.

Here on the floor we have heard a number of misconceptions about OCO funding, many of which have been fed by this administration's rhetoric. While OCO is not the ideal way to budget our defense, technical and budgetary consequences to using OCO funding have been greatly exaggerated. OCO is authorized and appropriated on an annual basis, just like base funding. OCO funding is allocated to the same

DOD accounts as base funding. In fact, the Defense bill purposely placed the additional $38 billion of OCO funding in the same accounts and activities for which the President himself requested the money. These activities have historically had a large share of OCO funding, and the account has been designated by the President as OCO eligible in the past, and there are no laws that make OCO funding expire any differently than base funding.

The White House threat to veto this legislation and the desire for increases in nondefense spending are misguided and irresponsible. With global threats rising, it simply makes no sense to oppose a defense policy bill—legislation that spends no money but is full of vital authorities that our troops need—for a reason that has nothing to do with national defense spending. The NDAA should not be treated as a hostage in budget negotiation. The political reality is that the Budget Control Act, which the President signed, remains the law of the land. So faced with a choice between OCO money and no money, I choose OCO, and multiple senior military leaders testified before the Armed Services Committee this year that they would make the same choice for one simple reason: This is $38 billion of real money that our military desperately needs and without which our top military leaders have said they cannot succeed.

The bottom line is this. The NDAA authorized $612 billion for national defense. This is the amount requested by the President and justified by his own national security strategy. If the President and some of my colleagues oppose the Defense bill due to concerns over nondefense spending, I suspect they will have a very difficult time explaining and justifying that choice to Americans who increasingly cite national security as a top concern.

The Statement of Administration Policy raises specious concerns with the sweeping defense acquisition reforms in the NDAA. For example, the White House asserted that transferring some acquisition authority back to the services is somehow inconsistent with the Secretary of Defense's exercise of authority, direction, and control over all of the Department of Defense's programs and activities. I could not disagree more with that assertion. What this legislation does is merely switch who does what in certain circumstances from different people who all directly report and serve under the authority, direction, and control of the Secretary of Defense. In this legislation, for a limited number of programs to start with, the Secretary of Defense will look to the service Secretaries directly for management of these acquisition programs rather than looking to the Under Secretary of Defense for Acquisition, Technology, and Logistics, or AT&L. This is not usurpation of the Secretary of Defense's power. It is called streamlining of authorities and reducing layers of unnecessary bureaucracy. There is a section in the legislation that would allow the Secretary of Defense to continue to rely on more layers of management, if he chooses, but only if he certifies to Congress that this makes sense. There simply is not any undermining of the Secretary of Defense's authority in here.

Another concern raised has been that the transfer of milestone decision authority to the services would reduce the Secretary of Defense's ability—through AT&L—to guard against unwarranted optimism in program planning and budget formulation. Unwarranted optimism is indeed a plague on acquisition, and there is not a monopoly of that in the services. Nothing in this bill overrides a requirement to use better cost estimates from the Office of Cost Assessment and Program Evaluation. In fact, new incentives and real penalties imposed on the services in this legislation are designed to put some of this optimism in check.

Some in the White House and the Department of Defense want to perpetuate the absurd fiction that the current system is working. Even after a wave of 25 program cancellations by former Secretary Gates, all of the programs that are left under AT&L management have over $200 billion in cost overruns.

I want to repeat that. Under the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics, there are programs that have over $200 billion in cost overruns. AT&L is trying to have it both ways, claiming credit for the improvements in the acquisition system while blaming the services for its long list of failures.

This is exactly the program this legislation is trying to address, blurred lines of accountability inside the Defense Acquisition System that allow its leaders to evade responsibility for results. The reality is that in the modern world the AT&L management process takes too long and costs too much. For example, an Army study looked at the time it would take to go through all of the AT&L reviews and buy nothing. I repeat: To go through all those reviews and buy nothing. What was the answer? Ten years—10 years to buy nothing. The Government Accountability Office looked at the much vaunted milestone reviews that the Office of the Secretary of Defense is touting as a success. Just one review takes on average 2 years. A similar review at the Missile Defense Agency takes about 3 months. Our adversaries are not shuffling paper. They are building weapons systems. It is time for us to do the same.

I find it disappointing or maybe just outright laughable that the Statement of Administration Policy expressed concern about the Armed Services Committee's decision to downsize and streamline the bureaucratic overhead of the Pentagon, while at the same time complaining that we are not letting them downsize the fighting forces. Let me repeat. The administration wants to keep more Pentagon bureaucrats while drawing down our forces and cutting military equipment such as fighter aircraft.

Is there any Member of this Chamber who believes we should increase the Army staff by 60 percent over a decade, and then turn around and slash our Army brigade combat teams from 45 to 32? Of course not.

The administration cites reductions already taking place in headquarters activities, but ignores the fact that the Air Force is trying to achieve those reductions by playing a shell game—creating two new organizations and shifting people around. Moving the deck chairs on the Titanic didn't keep the ship from sinking, and shifting people around in a game of ''hide the headquarters staff'' will not keep our national security from sinking under the weight of bureaucratic empires.

As the White House asks the Senate to preserve bloated staffs, the Statement of Administration Policy laments the Committee's effort to address dangerous strike fighter capacity shortfalls across the services. As deliveries of the F–35 have continued to fall short of projections, the Air Force has continued to drain combat power. Senior Air Force officials have repeatedly testified to the alarming reality that their service is the smallest in its history, with readiness at very low levels, all while our airmen perform ongoing combat operations in the Middle East, theater support packages in Eastern Europe, presence and reassurance to our allies in the Asia-Pacific, and maintain a strong strategic nuclear deterrence posture. The misallocation of airpower resources over the past 6 years, coupled with the mismanagement of very expensive aircraft weapons systems procurement programs, places America's national security interests in jeopardy and endangers the lives of our men and women in uniform.

Our military commanders know this is true. That is why, for example, the Chief of Naval Operations and the Commandant of the Marine Corps included in their unfunded priorities lists requests for 12 F–18 Super Hornets for the Navy and 6 F–35B Joint Strike Fighters for the Marine Corps. The NDAA funds these requests because senior Navy and Marine Corps leaders have repeatedly testified to significant strike fighter shortfalls in the maritime services due to unanticipated increased combat operations in the Middle East, aging and obsolete fighter aircraft, and significant delays in the F–35 Joint Strike Fighter delivery schedule. Bizarrely, the White House has apparently disregarded that testimony and instead labels these requests for more combat power from our military commanders as ''unnecessary.''

The Statement of Administration Policy opposes the strong oversight measures put in place by the NDAA on the Ford-class aircraft carrier program. The administration objects to a

provision in this legislation that reduces the cost cap for the USS *John F. Kennedy* by $100 million from $11.498 billion to $11.398 billion. But in the budget request, the Navy estimated the cost of this ship at $11.348 billion. In other words, the NDAA still provides a buffer of $50 million. The provision simply locks in the savings the Department has advertised, which comes after more than $2 billion in cost growth—$2 billion in cost growth of one aircraft carrier. Unless the budget request is misleading or inaccurate, this provision should not result in reduced capability or a breach of the cost cap as the administration claims.

It is also unfortunate that the administration doesn't recognize the importance of conducting full-ship shock trials on the USS *Gerald R. Ford*, known as CVN–78. With the abundance of new technology, including the catapult, arresting gear, and radar, as well as the reliance on electricity rather than steam to power key systems, there continues to be a great deal of risk in this program. Testing CVN–78 will not only improve the design of future carriers but also reduce the costs associated with retrofitting engineering changes. Absent this provision, the Navy will delay by up to 7 years full-ship shock trials and shift the test from the lead ship in the class to the second ship. That poses the risk that CVN–78 will deploy and potentially fight without this testing, putting the lives of our sailors at risk.

The Statement of Administration Policy also raised objections to a number of provisions related to military personnel. For instance, the administration bemoans the fact that the Committee did not adopt its plan to raise existing TRICARE fees and implement new fees for Medicare-eligible retirees and their family members. The so-called Consolidated Health Plans would not have created a modern, value-based health care system. The administration made no attempt at all to improve access to care, quality of care or beneficiary satisfaction. The NDAA, on the other hand, addresses those issues and more without raising enrollment fees or creating new fees.

The White House expressed concern about the provisions in the NDAA that call for a plan to privatize commissaries and a 2-year pilot program at no fewer than five commissaries in the largest markets of the commissary system to assess the feasibility and advisability of the plan. But the rationale is confusing. The administration claims that ''there is an independent study underway to determine whether privatization is a feasible option and we should wait for those results prior to making any policy changes.'' The bill did require a comprehensive review in fiscal year 2015 by an independent organization of the management, food, and pricing options of the commissary system. But in that section, there was no requirement to study the feasibility of privatization of the commissary system. It is also curious that the administration warns against implementing a pilot program on privatization before the results of an independent study, while at the same time encouraging the Congress to adopt their own proposed pilot program.

The White House's policy statement reflects the President's feckless policy towards Russia. Despite the advice of nearly every statesman and policy expert who has appeared before the Armed Services Committee in recent months—Henry Kissinger, George Shultz, Madeleine Albright, Zbigniew Brzezinski, and others—and against the advice of both the Secretary of State and Secretary of Defense, the President has refused to provide defensive lethal assistance to Ukraine. The President's continued inaction, for fear of provoking Russia, is seen by Putin as weakness and invites the very aggression we seek to avoid.

The Ukrainian people aren't asking for U.S. troops. They are simply asking for the right tools to defend themselves and their country, and those are the tools that this legislation would provide.

We have seen Vladimir Putin commit aggression, draw back, commit more aggression, draw back. We are now in the phase where any day now we will see continued aggression and territory-grabbing by Vladimir Putin as he establishes his land bridge to Crimea and puts additional pressures on Baltic countries and Moldova. Meanwhile, we refuse to give the Ukrainians weapons with which to defend themselves.

This bill does not force the President to provide lethal assistance to Ukraine. Trust me, if there were a way to do that, it would be in this bill. The President has a decision to make on providing lethal assistance to Ukraine. That decision has consequences far beyond whether the President obligates the full amount of funds authorized in a decision that is long overdue.

Making matters worse, the Statement of Administration Policy seeks flexibility to continue our Nation's dependence on Russian rocket engines. The NDAA would put an end to this dependence by 2019 and stop hundreds of millions of dollars from going to Vladimir Putin and his cronies. It eliminates a launch subsidy that the commander of Air Force Space Command has stated impedes fair competition, and it directs the administration to stop playing games, develop a domestic rocket engine—not a new rocket system—to replace the Russian RD–180.

The Russians are being paid billions of dollars for their rocket engines, and there is a ''middle man'' who has made tens of millions of dollars just by moving those rockets from Russia to the United States. There is an individual who runs this outfit who has been sanctioned by the U.S. Government, and we have elements in the Pentagon who still want to deal with him for as long as possible.

In testimony before the Armed Services Committee in March, Gen. John Kelly, the commander of U.S. Southern Command, testified: ''With the amount of drugs and people that move across our southwest border, it doesn't seem all that secure to me.'' General Kelly went on to state that the threat of terrorists crossing our southern border is ''extremely serious'' and that ''if a terrorist or almost anyone wants to get into our country, they just pay the fare.'' They just pay the fare.

That is why this bill would provide $45 million for Operation Phalanx, increasing border security operations by the National Guard along the southern border, and boosting aerial surveillance of the region by up to 60 percent. To date, Operation Phalanx has directly contributed to more than 96,000 apprehensions along the border and the interdiction of more than 282,000 pounds of drugs destined for our communities.

The legislation directs the Secretary of Defense to provide up to $75 million in additional assistance to Customs and Border Protection operations to secure the southern border, potentially including the deployment of personnel, surveillance assets, and intelligence support from the U.S. military. The NDAA would authorize an additional $50 million to address U.S. Southern Command's unfunded priorities to increase surveillance and interdiction operations in Central America—a primary transit point for illicit trafficking into the United States.

Finally, I am disappointed by the administration's puzzling response to provisions in the NDAA related to the detention facility at Guantanamo Bay. The administration argues that this legislation's limitations placed on Guantanamo Bay transfers are unnecessary and beyond the scope of congressional authority. That is false. Congress has long had constitutional authority over wartime detention matters, and there are good reasons for Congress to assert its authority in this instance.

For over 6 years, the administration has stated that one of its highest policy priorities is to close the detention facility at Guantanamo Bay. But for that same period of time, Members of the Senate have repeatedly requested a plan that explains how the administration will handle each of the detainees currently held there, and unfortunately, over the last 6½ years, the administration has consistently failed to provide that plan.

As the terrorist threat continues around the world and grows and metastasizes, the administration continues to demand that the facility be closed while failing to explain how it will do so. There are serious legal and security challenges inherent in moving this population to other locations, whether inside or outside of the United States. Congress is simply asking the executive branch to explain where it will hold those set for trial, how it will continue to detain dangerous terrorists pursuant to the laws of war, and how it

will mitigate the risks of moving this population. If the administration can provide those answers to these basic questions to the satisfaction of the American people, then congressional restrictions on the movement of these detainees will be lifted and the plan can be implemented.

Now, Congress's need for answers is even more acute after the administration transferred five senior Taliban detainees under secret agreement to Qatar without prior notification to Congress as required by law. The President of the United States blatantly violated the law—which required, before these five detainees were transferred to Qatar, that Congress be notified 6 months ahead of time—using the rationale that they were afraid the information might leak. Is that justification for breaking the law? And isn't it understandable, the skepticism here on both sides of the aisle about any plan they may have or may not have? Isn't it reasonable that the Congress of the United States should be presented with a plan, and shouldn't the Congress of the United States express its approval or disapproval?

The notification standard was enacted into law to allow the President the authority to implement his stated policy but with a good-faith understanding that the people's representative could weigh in on these important decisions before the transfers happened. The President's failure to abide by the notification provisions undermined any trust Congress had in the process.

Now, as the Taliban continues to plot attacks against U.S. servicemembers in Afghanistan, the administration is scurrying to figure out how to keep those five terrorists from the battlefield.

This is not congressional overreach; it is congressional oversight. The President has decided that the security risks of keeping Guantanamo open outweigh the security and legal risks of closing it. Congress is seeking information that will allow the American people and Congress to understand that decision.

The American people deserve an explanation for how the President plans to execute one of his most repeated policy goals. There is some dispute about what percentage of those who have been released from detention in Guantanamo have reentered the fight. Some say it is as high as 30 percent, and some say it is as low as 7 or 8 percent. There is no debate that detainees who were released from Guantanamo have reentered the fight, placing the lives of American service men and women in jeopardy and in danger. Of course, the five who were released were amongst the toughest, the worst, the hardest cases. Now there is some question as to whether they will remain under strict supervision in Qatar.

Let me conclude by simply saying that the NDAA is far too important to be held hostage in a budget negotiation. For 53 consecutive years, the Congress has passed a national defense authorization act. With threats to our national security multiplying around the world, I would hope this year would be no different.

I thank my colleague from Rhode Island for all of the hard work he and his staff and Members on that side of the aisle have done in order to have legislation that passed overwhelmingly through the Senate Armed Services Committee. I hope we can move forward on getting that legislation through the Senate, in consultation and in compromise with the House, and to the White House for the President's signature.

I would say again that I read carefully the administration's objection to the legislation as it now stands. These are not valid in some cases. In other cases, we would be glad to negotiate with the White House as we go to conference with the House after completing this. I sincerely hope and pray that—there are so many provisions there that are important to the lives of the men and women serving in the military that I would hope the President would take into consideration how important this is to the men and women who are serving, their lives and their welfare, their equipment, their training, and their ability to defend this Nation.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LANKFORD).

The clerk will call the roll

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1559, AS MODIFIED

Mr. REED. Mr. President, I have a modification to amendment No. 1559, which I offered on behalf of Senator DURBIN, and I ask that the amendment be so modified.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 832. PROHIBITION ON AWARDING OF DEPARTMENT OF DEFENSE CONTRACTS TO INVERTED DOMESTIC CORPORATIONS.

(a) PROHIBITION.—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2338. Prohibition on awarding contracts to inverted domestic corporations

''(a) PROHIBITION.—

''(1) IN GENERAL.—The head of an agency may not award a contract for the procurement of property or services to—

''(A) any foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity; or

''(B) any joint venture if more than 10 percent of the joint venture (by vote or value) is owned by a foreign incorporated entity that such head has determined is an inverted domestic corporation or any subsidiary of such entity.

''(2) SUBCONTRACTS.—

''(A) IN GENERAL.—The head of an executive agency shall include in each contract for the procurement of property or services awarded by the executive agency with a value in excess of $10,000,000, other than a contract for exclusively commercial items, a clause that prohibits the prime contractor on such contract from—

''(i) awarding a first-tier subcontract with a value greater than 10 percent of the total value of the prime contract to an entity or joint venture described in paragraph (1); or

''(ii) structuring subcontract tiers in a manner designed to avoid the limitation in paragraph (1) by enabling an entity or joint venture described in paragraph (1) to perform more than 10 percent of the total value of the prime contract as a lower-tier subcontractor.

''(B) PENALTIES.—The contract clause included in contracts pursuant to subparagraph (A) shall provide that, in the event that the prime contractor violates the contract clause—

''(i) the prime contract may be terminated for default; and

''(ii) the matter may be referred to the suspension or debarment official for the appropriate agency and may be a basis for suspension or debarment of the prime contractor.

''(b) INVERTED DOMESTIC CORPORATION.—

''(1) IN GENERAL.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes before, on, or after May 8, 2014, the direct or indirect acquisition of—

''(i) substantially all of the properties held directly or indirectly by a domestic corporation; or

''(ii) substantially all of the assets of, or substantially all of the properties constituting a trade or business of, a domestic partnership; and

''(B) after the acquisition, more than 50 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership.

''(2) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN FOREIGN COUNTRY OF ORGANIZATION.—

''(A) IN GENERAL.—A foreign incorporated entity described in paragraph (1) shall not be treated as an inverted domestic corporation if after the acquisition the expanded affiliated group which includes the entity has substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

''(B) SUBSTANTIAL BUSINESS ACTIVITIES.—The Secretary of the Treasury (or the Secretary's delegate) shall establish regulations for determining whether an affiliated group has substantial business activities for purposes of subparagraph (A), except that such regulations may not treat any group as having substantial business activities if such

group would not be considered to have substantial business activities under the regulations prescribed under section 7874 of the Internal Revenue Code of 1986, as in effect on May 8, 2014.

''(c) WAIVER.—

''(1) IN GENERAL.—The head of an agency may waive subsection (a) with respect to any Federal Government contract under the authority of such head if the head determines that the waiver is required in the interest of national security or is necessary for the efficient or effective administration of Federal or Federally-funded programs that provide health benefits to individuals.

''(2) REPORT TO CONGRESS.—The head of an agency issuing a waiver under paragraph (1) shall, not later than 14 days after issuing such waiver, submit a written notification of the waiver to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives.

''(d) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any contract entered into before the date of the enactment of this section.

''(2) TASK AND DELIVERY ORDERS.—This section shall apply to any task or delivery order issued after the date of the enactment of this section pursuant to a contract entered into before, on, or after such date of enactment.

''(3) SCOPE.—This section applies only to contracts subject to regulation under the Federal Acquisition Regulation and the Defense Supplement to the Federal Acquisition Regulation.

''(e) DEFINITIONS AND SPECIAL RULES.—

''(1) DEFINITIONS.—In this section, the terms 'expanded affiliated group', 'foreign incorporated entity', 'person', 'domestic', and 'foreign' have the meaning given those terms in section 835(c) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)).

''(2) SPECIAL RULES.—In applying subsection (b) of this section for purposes of subsection (a) of this section, the rules described under 835(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 395(c)(1)) shall apply.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by inserting after the item relating to section 2337 the following new item:

''2338. Prohibition on awarding contracts to inverted domestic corporations.''

Mr. REED. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1569 TO AMENDMENT NO. 1463

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1569 for Senator BURR.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. BURR, proposes an amendment numbered 1569 to amendment No. 1463.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure criminal background checks of employees of the military child care system and providers of child care services and youth program services for military dependents)

At the end of subtitle F of title V, add the following:

SEC. 565. CRIMINAL BACKGROUND CHECKS OF EMPLOYEES OF THE MILITARY CHILD CARE SYSTEM AND PROVIDERS OF CHILD CARE SERVICES AND YOUTH PROGRAM SERVICES FOR MILITARY DEPENDENTS.

(a) EMPLOYEES OF MILITARY CHILD CARE SYSTEM.—Section 1792 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) CRIMINAL BACKGROUND CHECK.—The criminal background check of child care employees under this section that is required pursuant to section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041) shall be conducted pursuant to regulations prescribed by the Secretary of Defense in accordance with the provisions of section 658H of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f).''.

(b) PROVIDERS OF CHILD CARE SERVICES AND YOUTH PROGRAM SERVICES.—Section 1798 of such title is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) CRIMINAL BACKGROUND CHECK.—A provider of child care services or youth program services may not provide such services under this section unless such provider complies with the requirements for criminal background checks under section 658H of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f) for the State in which such services are provided.''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 1735 on Tuesday, June 9, the time until 3 p.m. be equally divided between the managers or their designees; that following the use or yielding back of that time, the Senate vote in relation to the Reed amendment No. 1521. I further ask that there be no second-degree amendment in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. We are ready to schedule further votes on amendments after the 3 p.m. vote on the Reed amendment, and it is my expectation that we will be able to lock in those votes tomorrow morning. The ranking member and I have asked all of our colleagues to adhere to a filing deadline for first-degree amendments to the bill at 6 p.m. tomorrow, Tuesday. There are several hundred filed amendments already, and those with further amendments should bring them down tomorrow by close of business.

I also wish to add, my colleagues, I hope we can agree to the filing deadline. That will be approximately a week that we have been on the bill. I think that, hopefully, will be sufficient time for most of our colleagues or all of our colleagues to have time to file amendments.

Senator REED and I will continue the practice of allowing pending amendments, one on either side. We will be able then to schedule votes on pending amendments as they are, one on either side.

I thank Senator REED, and I hope we can get a lot of debate and discussion. The Reed amendment is a very important amendment. I respect Senator REED's view on this issue, and we obviously will let the body decide.

I do hope our colleagues understand that we have many filed amendments, and we would like to get to as many of them as possible. We would like to have as many Members be able to have their amendments on this bill as they feel necessary. We don't have to emphasize the importance of this legislation.

I also look forward to Members coming to the floor tomorrow and debating the Reed amendment. It is a very important amendment, and I think it deserves the views of as many Members as possible, including those who are on the committee.

Senator REED.

Mr. REED. The Senator and I concur that we should urge our colleagues to file their amendments. We have several hundred pending, as the chairman pointed out, and we hope that can be accomplished by 6 p.m. tomorrow. We will be debating amendments and then scheduling amendments tomorrow afternoon.

The PRESIDING OFFICER. The Senator from Arizona.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

MIAMI CONSERVANCY DISTRICT 100TH ANNIVERSARY

Mr. PORTMAN. Mr. President, I wish to recognize the Miami Conservancy District as it celebrates the 100th anniversary of its founding on June 28, 2015.

After the Great Flood of 1913, the people of the Miami Valley vowed ''never again'' and proceeded to raise $2 million in 2 months to fund the design of a flood protection system for riverfront cities on the Great Miami River