

American people support it. When the President says we should make sure that teachers and policemen and firefighters do not lose their jobs in this tough economy, overwhelmingly the American people support it. When the President says millionaires should pay a little bit more in their taxes to make sure the American recovery is underway, overwhelmingly the American people support that, too.

In fact, 56 percent of Republicans, when asked, say that is a reasonable way to pay for a jobs program. Unfortunately, none of those 56 percent serve with the Republicans in the Senate who happen to believe their No. 1 task and goal is to protect the incomes of the wealthiest people in America.

We can do better. We need to make sure we move forward on a bipartisan basis to create jobs. This President inherited a very weak economy. Under President Bush we had more than doubled the national debt. When President Bush took office, our national debt was \$5 trillion. When he left office, it was over \$10 trillion, two wars he didn't pay for, programs he didn't pay for, and tax cuts for wealthy people in the midst of a war—something no President had ever done. President Obama inherited that, and it has been a tough road, he will tell you, to get this economy back on track. Now he has a plan and the Republicans offer nothing. They vote against the President—whatever he wants they are opposing—and they vote against common sense, which says helping working families, helping small businesses, helping our veterans find jobs, and paying for it so it doesn't add to our deficit is a sensible approach to getting America back on the right track.

I urge my colleagues on the other side of the aisle, put the campaigning aside for a moment. Take a look at what it takes to create jobs and bring your best ideas to the table. Let's sit down and put together a bipartisan bill. We will have the President's proposals as a starting point. Bring your ideas too. Let's do something for this country on a bipartisan basis. I think that is why we were elected.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Arizona.

Mr. McCAIN. Mr. President, as always I listened with interest to my friend and colleague from Illinois. I did not come to the floor with my colleagues to discuss that particular issue, but it is interesting, the justification for the bailout of General Motors and Chrysler, when the fact is there are thousands of small businesses and companies all over America that had to go into bankruptcy but did not get the bailout that was favorable to the trade unions. Why couldn't General Motors have gone into bankruptcy the way every other company and corporation has had to do in these hard economic times, restructured, and then gone back into business again?

Instead, this administration and my friend from Illinois seemed to favor the

trade unions who obviously got very favorable treatment rather than the normal bankruptcy procedures. Unlike the treatment the favored trade unions and automobile corporations were able to get, thousands of small businesses and companies all over America were unable to get the benefit of their largesse.

#### PRESIDENTIAL BUS TOUR

Mr. McCAIN. Mr. President, I came to the floor this morning with my colleagues to discuss the National Defense Authorization bill. Before I do, I wish to mention there has been a lot of talk dominating certainly part of the talk radio and television about the bus tour the President is on. A lot of it is centered around the bus. I am not going to discuss that anymore except to say that in 2008 when I ran for President I didn't need a bus to be paid for and billed by the government and the taxpayers of the United States. I understand that now there has been another bus purchased for who ever the Republican nominees are. How do you justify that? The Republican nominee may not want a bus.

The fact is, after having said that, the most important point here is that the President is now, on the taxpayers' money, campaigning for 3 days in North Carolina. It says in today's Washington Post "On N.C. Bus Tour, Obama In Full Campaign Mode." I say I have seen other Presidents, both Republican and Democrat, who have hedged and come right up to the edge, and sometimes crossed over it, charging the taxpayers for what has been clearly campaign activities. But never do I believe any of us have seen the kind of activity the President is engaged in, and all of it being charged to the taxpayers of America. That is wrong. That is the wrong thing to do.

According to recent reports, the President's campaign has raised record amounts of money already. The campaign should be paying for this North Carolina trip of his. I do not begrudge him beating up on us and criticizing us and making all kinds of allegations about not understanding his stimulus 2 package, which we understand very well is more of the same. But at least his campaign should be paying for this kind of campaigning.

Mr. President, I ask unanimous consent to engage in a colloquy with my colleagues from Georgia, Senator CHAMBLISS; from New Hampshire, Senator AYOTTE; and the distinguished Republican leader, Senator MCCONNELL, for purposes of a colloquy.

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

#### DEFENSE AUTHORIZATION

Mr. McCAIN. Mr. President, today we come to the floor to talk about the importance of the Defense authorization bill. For 50 years the Congress of the United States has enacted a Defense authorization bill, enacted it into law

and had it signed by the President of the United States. There have been times when this legislation has been very contentious—days during the Vietnam war, days during Operation Desert Storm, Operation Iraqi Freedom, Bosnia, Kosovo. All of those times the Defense authorization bill has been a vehicle for debate and votes on the floor of the Senate concerning transcendent issues of national security.

For 50 years we have cared for the men and women who have served and provided them with the equipment, the pay, the benefits those men and women of this country deserve after hundreds of hours of deliberation, thousands of hours of written testimony and testimony before the committee—the full committee and subcommittees such as that under the chairmanship of the Senator from the State of Georgia.

Because of a part of the legislation, the majority leader has decided that we will not take this bill to the floor of the Senate. That is a betrayal of the men and women who are serving this Nation.

I understand there are differences on the issue of detainee treatment. I understand it is an emotional issue. But should it be a reason for the Senate not to carry out its 50-year tradition to debate and discuss and amend and vote and then come out with a package that provides for the needs, the training, the equipment, the benefits of the men and women who are serving?

I quote from a letter from the distinguished majority leader to Senator LEVIN and to me, "However, as you know, I do not intend to bring this bill to the floor until concerns regarding the bill's detainee provisions are resolved."

Is that the way the Senate works, that we do not bring bills to the floor unless objectionable matters that are disagreed with by one side or the other are not resolved? I always believed the way these issues are resolved is through debates, through amendment, through votes, through allowing the American people also to see and hear our deliberations, our discussions, and our debate.

Obviously the fiscal year has expired so this bill is obviously long overdue. Now we are in a position where apparently the majority leader wants to take up the President's jobs bill in parts, one by one, in complete disregard of the needs and requirements of the men and women who are serving our national security.

Part of that bill also is the portion from the Intelligence Committee. By the way, I note the presence of the Senator from South Carolina, who knows more about detainees than any Member of this body without question. He continuously travels to Iraq and Afghanistan, he has visited the prisons. He understands the issues better than anyone. I would be willing to ask him how he feels about the detainee provisions, after the Senator from Georgia makes

a comment about the importance of the intelligence portion of the Defense authorization bill.

Mr. CHAMBLISS. Mr. President, I thank the Senator. This is the ninth Defense authorization bill I have been involved in since I have been a Member of the Senate. I must say the refusal by the majority leader to bring this Defense authorization bill to the floor is truly disheartening. It is critically important that we address the issues not only of what is going on in Iraq and Afghanistan but the day-to-day operations of our military from the standpoint of pay raises, quality of life, purchase of weapons systems for future use—any number of issues that are included. The refusal of the majority leader to bring this to the floor because of his objection to a very critical aspect of this bill truly is disheartening.

During committee consideration of the bill, the committee considered and adopted, by a vote of 25 to 1, a comprehensive bipartisan provision relating to detainees. We have no detainee policy in this country today. If we had captured bin Laden, what would we have done with him? If we had captured Anwar al-Awlaki, what would we have done with him? Certainly we could have gained actionable intelligence from either one of those individuals, but we have no detainee policy in this country today. We have nowhere to take them, where we can hold these individuals and ensure that they do not get lawyered up quickly and that we are unable to get the type of information we need to get from individuals such as that.

Over the past several years there has been an ongoing debate about the importance of being able to fully and lawfully interrogate suspected terrorists. One thing is clear after all these years: that our Nation still lacks this clear and effective policy. This bipartisan detainee compromise goes a long way toward ensuring we can get timely and actionable intelligence from newly captured detainees connected to al-Qaida and other terrorist organizations. The compromise also provides for a permanent process for transferring Guantanamo detainees to other countries. We are in the midst right now of a review within the Intelligence Committee of the thought process that went into the transferring of detainees by both the Bush administration and the current administration. I will tell you that there are real flaws in that policy. Those flaws have resulted, according to the DNI—General Clapper—of a recidivism rate of Guantanamo detainees of 27 percent. That means 27 percent of the individuals we have released from Guantanamo and sent to other countries that have been willing to take them under various agreements—27 percent of them have returned to the battlefield and are killing or are seeking to kill Americans. The policy not only about detainees but policies with regard to what we do with Guantanamo detainees is extremely important.

There were a number of us who were involved in the amendments that went

into the authorization bill in committee. Senator GRAHAM from South Carolina was. Senator AYOTTE from New Hampshire was integrally involved. Let me turn to Senator AYOTTE and, from the perspective of the people of New Hampshire, ask: Where does the Senator think we are with respect to a detainee policy in this country today?

Ms. AYOTTE. I thank Senator CHAMBLISS. I would say this. The Senator highlighted the importance, No. 1, as did Senator MCCAIN, of passing Defense authorization. I have been to the floor twice on this issue because I think it is so important for our country, the notion that it has been half a century since the last time we failed to pass this authorization. What is at stake for our troops and the message it sends to them? We are in two wars. There are threats that face our country and our military men and women every day. We owe it to them that they know we are going to pass this authorization to address issues such as pay increases and weapons that they need and all of the fundamental day-to-day issues to make sure they know we are behind them.

I would summarize the issue of the detainee policy of this country over the past few months in the Armed Services Committee as military leader after military leader has come before our committee and we have asked them about this issue, about how we treat detainees. I questioned GEN Carter Ham, commander of the Africa command, about what we would do if we captured a member of al-Qaida in Africa. Do you know what he said? He said he would need lawyerly help to answer that one. Is that what we have come to, our commanders need lawyerly help in order to know how to deal with captured terrorists and how to treat them within our system to make sure we have a secure place to gather intelligence from them and to ensure that the American people and our allies are protected?

The majority leader is holding up the entire authorization bill with this detainee compromise, which was an overwhelmingly bipartisan compromise. This provision in the committee was voted 25 to 1 in support of this because there is such a need to address how we treat detainees. As Senator CHAMBLISS already highlighted, we have a 27-percent recidivism rate from those who have been released from Guantanamo. Here are a couple of examples of what those individuals are doing right now against us, our troops, and our allies. For example, the No. 2 in al-Qaida in the Arabian Peninsula was someone we released from Guantanamo.

Another top commander of the Taliban in the Quetta Shura who is out planning attacks against us is someone we released from Guantanamo. That is why this issue cries out for a detention policy for our country. This is a very important issue to be brought to the floor along with the entire authorization.

I see my colleague from South Carolina here, Senator GRAHAM, who I know

has worked very closely on these detention issues as a JAG attorney and is someone who visited Afghanistan in August.

First, I would ask, during his time in the Senate, has he seen the Senate act like this with the Defense authorization? Second, how important does the Senator think it is we address this detainee issue?

Mr. MCCAIN. I thank the Senator from New Hampshire for the enormous contribution she has made in putting together this legislation. I wish both her and my friend from South Carolina to address this.

In the letter sent to Senator LEVIN and me to address this issue, Senator REID, the majority leader, as the rationale for not bringing the bill to the floor, says: I do not intend to bring this bill to the floor until concerns regarding the bill's detainee provisions are resolved.

It goes on and on and then he says: As Deputy National Security Adviser John Brennan stated in a recent speech—he said in summary, this approach, talking about the approach that we have taken in the bill—I believe the vote was 25 to 1. He said: This approach would impose unprecedented restrictions on the ability of experienced professionals to combat terrorism, injecting legal and operational uncertainty into what is already enormously complicated work.

I wonder, does Mr. Brennan understand what is in the legislation?

Mr. GRAHAM. I thank the Senator from Arizona and all of my colleagues working on what is a very difficult subject matter. When 25 to 1 is the outcome, that is pretty good. I like Senator REID. This goes back to the White House. This is President Obama's team. This is not HARRY REID. This is not the Senate holding up this bill, it is the White House holding up this bill. They have an irrational view of what we need to be doing with detainees. They have lost the argument—and I tried to help—to close Guantanamo Bay. It is not going to close. We are not going to move those prisoners inside the United States. The Congress has said no. The American people have said no.

The reason they lost that argument is after working with the White House for about a year and a half to try to find a national security centric detainee policy that would assure the American people we are not going to let these people roam around the world and treat them as common criminals, they could never pull the trigger on the hard stuff. We are here because the White House cannot tell the ACLU no. There are 48 people at Guantanamo Bay being held under the law of war, who will never see a courtroom, military or civilian courtroom, and that is part of military law. You don't have to let an enemy prisoner go. Most enemy prisoners are never prosecuted. They are held at Guantanamo Bay under the

law of war. An Executive order issued by the Obama administration gives them an annual review. We have been trying to work with the Obama administration to deal with every class of detainee we may run into in this war that will go well beyond my lifetime. The reason Mr. Brennan objects is because there was a decision made by the Congress to say if a detainee is captured and interrogated by the high-value interrogation team—which I like, which is an interagency combination of the CIA, FBI, military, and other law enforcement agencies to make sure we get the best intelligence possible, that we create a presumption for military custody.

The reason we are doing that is because the Obama administration has been hell bent on criminalizing this war. Khalid Shaikh Mohammed, the mastermind of 9/11, had charges against him in military commissions during the Bush administration, and he was ready to go to trial, literally ready to plead guilty. The Obama administration withdrew those charges and was going to put him in New York City, giving Khalid Shaikh Mohammed the same constitutional rights as an American citizen, then take that show on the road from Guantanamo Bay and have a trial in the heart of New York City that would cost \$300 million alone in security. That blew up in their face. They don't get it. Most Americans don't see these people as some guy who stole a car or robbed a liquor store. Most Americans see detainees who were captured on the battlefield as a genuine threat to this country.

I applaud the Obama administration for taking the fight to the terrorists and going after bin Laden, for using Predator drones on the battlefield throughout Pakistan and Afghanistan. What I have fought with them over is we have no way of capturing someone and acquiring good intelligence because you have locked down the system. This detainee legislation we have before the Senate will allow a way to go forward.

What happens if you capture someone tomorrow? Where do we put them? What jail do we have, as a nation, to put a captured terrorist in? We don't have a jail because they will not use Guantanamo Bay. They captured a terrorist and put him on a ship for 60 days. The Navy is not in the detention business. We don't build ships to make them jails. We build ships to fight wars. This aversion to using Guantanamo Bay is going to bite us as a nation.

This legislation allows us to move forward. If you capture someone, you can gather good intelligence. There is a presumption that they will be held as an enemy combatant, but there is a waiver provision. What I don't want to do is read rights to everybody we capture in the United States as part of a terrorist organization's plot. We are not fighting a crime, we are fighting a war. Under the rules of war, you can

hold an enemy combatant and interrogate them as long as necessary to find out what the enemy is up to. That is what this legislation does.

To my colleagues, you have written a very balanced approach. This idea of never using Guantanamo Bay again is dangerous. The idea that the CIA cannot interrogate enemy prisoners as a policy is dangerous. By Executive order the President of the United States, President Obama, within a week of taking office, took off the table an enhanced interrogation technique under the Detainee Treatment Act that was classified, that was not waterboarding within our values, but techniques available to our intelligence community, which Senator CHAMBLISS oversees, that would allow them over time to acquire good intelligence.

One of the reasons we killed bin Laden is because of the intelligence picture we acquired over 10 years. This President, within a week, said by Executive order the only interrogation tool available to the United States of America is the Army Field Manual, which is online. You can read it yourself.

Mr. MCCAIN. Can I ask my colleague—it is a fact, as the Senator from New Hampshire pointed out, that 27 percent of the detainees who have been released from Guantanamo Bay have returned to the fight. Not only have they returned to the fight, the fact that they were in Guantanamo gives them an automatic kind of charisma and aura and leadership in al-Qaida and other terrorist organizations. Does the Senator think the American people find that acceptable, that one out of every four we have released from Guantanamo Bay has reentered the fight and clearly is responsible for the deaths of at least some of the brave young Americans and may be responsible for the deaths of Americans in the future?

Mr. GRAHAM. Not only are most Americans upset about that but they worry about what comes down the road. That is what I am worried about. The Senate legislation is trying to create a pathway forward for the future. What do you do with these people we have in Guantanamo Bay who may never go on trial? What do you do with these people at Guantanamo Bay who come from countries where, if you return them to that country, they would be back in the fight by the end of the day?

Mr. MCCAIN. As has happened in Yemen.

Mr. GRAHAM. We have a bipartisan proposal that will allow us as a nation to make rational decisions about detention, and the White House is holding it up. There are provisions in this bill that affect the day-to-day lives of the men and women in our military. The White House is saying detainee policy driven by the ACLU is more important to them than a bill that would allow the CIA the authorization they need to fight this war that would provide wounded warriors assistance at a

time when wounded warriors need it the most. You talk about a perverse view of things, you talk about having it wrong in terms of what is most important, allowing the detainee issue to deny the CIA the authorization they need to protect us all is dangerous. To put the needs of the men and women in uniform in terms of their health care, their pay, their ability to take care of their families secondary to detainee policies that make no sense and is driven by the far left of this country is what this debate is about.

To the White House, we are not going to change this bill.

Mr. MCCONNELL. Would the Senator yield for a question?

Mr. GRAHAM. Yes.

Mr. MCCONNELL. Am I correct, I would say to my friends from South Carolina and New Hampshire and Arizona, that because of the administration's opposition to a detainee treatment provision that was, I gather, approved overwhelmingly in the Armed Services Committee, we will for the first time deny everybody in the Senate an opportunity to offer any amendments on any subject with the DOD authorization bill and, in fact, will not consider it on the floor of the Senate for the first time in four decades?

Mr. GRAHAM. The minority leader is absolutely right. I would add to my good friend from Kentucky, it is even more. It is not just about us. What we are denying General Petraeus, the new CIA Director, is new authorization language that he needs to fight the war. What we are denying men and women in uniform is pay raises, health care benefits they desperately need because of the detention policy driven by, I think, the most liberal people in this country, and 25 out of 26 Senators blessed this package.

Senator MCCONNELL is absolutely right. Not only does the Senate not have a say on what would be the way forward for our detainees, the men and women in uniform, the CIA operatives taking the fight to the enemy do not have the tools they need because of one area of this legislation. It would be a national tragedy if we could not pass this bill, which is sound to its core in all areas, because the ACLU doesn't like what we have done on detention.

Mr. CHAMBLISS. If the minority leader would yield for a question, as the Senator well knows, the intelligence community depends upon the Defense authorization bill for the authorization to operate in the intelligence community. Whether it is the budget or policy, all of that is compromised in the majority leader's refusal to bring this bill to the floor. Without the authorities in the respective intelligence bills that are passed by the House and the Senate, then our Intelligence Committee is handicapped and hamstrung in policies that are needed as we move forward in this ever-changing war on terrorism.

I would ask the Senator from Kentucky if he has ever, in his long experience in the Senate, seen any bill of this

nature held up and not allowed to come to the floor because of any single Senator's refusal to accept the provisions that are in the bill by an overwhelming vote such as this?

Mr. McCONNELL. Mr. President, I am not sure who has the floor, but I would say, in response to my friend from Georgia—

Mr. McCain. Mr. President, I say to the Senator, we have unanimous consent for a colloquy.

Mr. McCONNELL. There may have been examples, but I am hard pressed to think of one recently. The tradition of passing the Defense authorization bill is there for a good reason. The national defense of the United States is the most important thing the Federal Government does. The committee upon which the Senator from Georgia and the Senator from Arizona and the Senator from New Hampshire serve is expert on this matter, and I find this truly astonishing.

It is consistent, however, I must say with the pattern around here in recent times: no amendments, fill up the tree, deny the majority and the minority—in this case, both the majority and the minority—the opportunity to have any input on a piece of legislation that determines what we do on the Federal Government's most important responsibility.

I think this is another example of the way the Senate has deteriorated into operating like the House, and it is an extremely bad direction for this institution and for the American people.

Ms. AYOTTE. I wish to add as well, this detainee compromise, as Senator McCain and I have talked about before, is actually for—the group of individuals we are talking about here—having military custody for members of al-Qaida or affiliated groups who are planning an attack against the United States or its coalition partners. You think about that category of individuals. The most dangerous category of individuals we have to address is why we came to the compromise in committee, that the default would be military custody for those individuals, and it is inconsistent with the administration's position.

If you think about it, they are, rightly so—and I agree with them—undertaking taking out members of al-Qaida around the world who fall under that category, who are out there killing Americans and plotting against Americans and our allies. Yet they are objecting to a provision, a detainee provision, that would give guidance to our military and intelligence leaders that those individuals should be treated, in the first instance, with military custody. It seems to me to be very inconsistent with what they have been doing in other contexts, and, obviously, this is a category of individuals who, on a bipartisan basis, we agreed in committee was the most dangerous category of individuals, who should be held in the first instance in military custody.

I want to add that Mr. Brennan, whom the majority leader has cited on behalf of the administration as objecting to this provision, does not seem to—in his speech at Harvard that he gave recently—appreciate who this provision applies to and that there is actually a national security waiver in the provision. So I would ask the administration and Mr. Brennan, again, to read the provisions that were passed on a bipartisan basis by the committee because this is such a key issue to move forward to give guidance to our military. But I am concerned that the administration's objections to this are misguided and they have not read the actual legislation on which we are working.

It is my hope, as our leader, the minority leader, has said, that we will move forward with passing the critical pieces for our troops because our troops deserve nothing less than for us to bring this forward to the floor because of the pay raises, the weapons systems they deserve to have, everything that is in that bill. But, also, I would ask the administration to revisit its position because it seems inconsistent with its own policies, and they do not seem to have actually read the compromise that was overwhelmingly passed out of the Armed Services Committee.

Mr. McCain. Mr. President, I thank the Senator from New Hampshire.

I know we have addressed this issue in some depth, but I would remind my colleagues, this is the Defense authorization bill. This is the product of thousands of hours of work, of staff work, hundreds of hours of testimony and hearings, a week-long markup of the full committee putting this package together. The thoughts, the ideas, the recommendations of the administration, and people in and out of the administration, the knowledge and expertise of thousands of individuals go into this most important piece of legislation.

For 50 years it has been taken up, debated, amended, passed, and signed into law by the President of the United States. Now, because of one small provision of this bill, the majority leader of the Senate, at the behest of the White House, has decided we will not take up the Defense authorization bill for the first time in 50 years.

I think the distinguished Republican leader and I, who have been around here for quite a while, have seen this process now deteriorate to the point where we now cannot debate, amend, and pass legislation that is so vital to our Nation's security and the men and women who take part in preserving it. This is kind of a sad day for this Member.

Mr. McConnell. Finally, I would ask both the Senator from Arizona, who has been our leader on national defense issues, and the Senator from New Hampshire: Is the basis of this that the administration wants to establish the precedent that they can capture enemy

noncombatants anywhere in the world and send them straight into the United States into an article 3 court? Is that the crux of this, I would ask my friends?

Ms. AYOTTE. I would say to our distinguished Republican leader, I think that is what is at the heart of this, that they want to treat these individuals in the context of our civilian court system; otherwise, why would you object to a provision on military custody for those who are members of al-Qaida who are planning an attack against the United States or have attacked the United States? Also, I would point out, there is a national security waiver in this provision. So the only thing I can take from it is that they do want to treat this war as people who are at war with us as civilians as opposed to who they are—enemies of our country.

Mr. McConnell. Could I ask the Senator from New Hampshire, a former attorney general, a further question?

Does this not lead, inevitably, in the further direction of a mindset that would say, on the battlefield, if you capture an enemy combatant—and that enemy combatant is, inevitably, on the way to an article 3 court—could it lead to the feeling that that enemy combatant should be read his Miranda rights on the battlefield, if he is viewed as an individual who is on the way to a U.S. court under U.S. law? Where does it end, I ask my friend from New Hampshire?

Ms. AYOTTE. I would say that is an absolute concern here because this would be the first war in the history of our country where we would be giving those we capture on the battlefield the rights to our civilian court system. Where do we draw the line? It would be outrageous to require members of our military and intelligence officials to immediately ask: Do I have to give Miranda rights? Do I have to worry about some of the speedy trial and presentment issues that come from a civilian court system?

That is why, in the guidance of the committee, on a bipartisan basis, for this category of individuals, the presumption should be military custody because these are individuals who are enemy combatants with whom we are at war. That is fundamentally what is at issue. It does seem inconsistent—with what the administration is doing in terms of rightly going after these individuals around the world, and killing them in certain instances—that we would not provide them with military custody in the first instance.

Mr. McCain. Could I also point out to my friends and my colleagues that, as is the case quite often, even though the vote was 25 to 1 on this provision in the Senate Armed Services Committee, we did provide, at the request of the administration, a waiver for national security. So we included a waiver that says:

The Secretary of Defense may, in consultation with the Secretary of State and the Director of National Intelligence, waive the requirement of paragraph (1)—

That is the detainee issue—

if the Secretary submits to Congress a certification in writing that such a waiver is in the national security interests of the United States.

So there is a national security waiver. We have given the President of the United States a way that he could waive every provision of this legislation—something I was not particularly happy about, but in the spirit of compromise, we gave a waiver.

Could I say, also, I am sure—I see the majority leader on the floor—yes, there have been contentious times. There was contention last year about the don't ask, don't tell act. The year before, there was contention about the fact that they added the hate crimes bill, which had nothing to do with national security, onto the bill. But at least we ought to go ahead and take up and debate and amend and have the Senate act, as the American people expect us to; that is, consideration, voting, and the President, if it is that objectionable, obviously, could veto the bill.

But to say, because of these few pages—these pages right here of the bill—that, therefore, we will not even take up the bill, for the first time in 50 years, in my view, is a great disservice to the men and women who are serving.

I thank my friends, the Senator from New Hampshire and the minority leader.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The majority leader is recognized.

#### OBSTRUCTION

Mr. REID. Mr. President, I have had several very good conversations with Senator McCAIN and Senator LEVIN about the provisions they have spent a lot of time on this morning. Discussions have been very positive. And, hopefully, these concerns can be resolved. Of course, if they cannot be, the only way to resolve them would be here on the Senate floor. I hope in the next several days we can work something out on this somewhat difficult provision that is in the bill reported out of the committee.

First of all, let me say to my friends who came and spoke on the floor today, I understand their concern about the defense of this country. Anytime JOHN MCCAIN comes to the floor or comes anyplace in the world and talks about anything dealing with the security of this country, everyone should listen. He is a man we all know, we respect, and hold in the highest regard, not only because of his legislative skills—he has been a Presidential nominee—but the fact is, he is a certified American military hero. So I want everyone to understand that I have no problem at all with Senator MCCAIN coming to the floor talking about something he knows a lot about.

But I do want to remind everyone that we are now in the 10th month of

this Congress and we have been blocked, obstructed, prevented, and held up from moving legislation for 10 months. We have wasted months and months because of obstructionism, threats to shut down the government.

Think back a little while on trying to get the government funded until the 1st of October. I do not know at this stage how many votes we had but at least a half dozen extending the government for a week, a few days, with the threat of the government shutting down with every one of those extensions of the continuing resolution.

Then we moved to a new stage in the history of our great country; that is, extending the debt ceiling. Times in the past it has been done routinely—hundreds of times—18 times during the Reagan administration. But, no, we took months to do it for President Obama. And that has prevented us from doing a lot of the routine work we need to do here, including the Defense authorization bill. These items used to be routine under Democratic and Republican Presidents. But in this Congress, Republicans have turned even routine matters into crises.

Since the beginning of the year, they have blocked jobs bills using obstructionist tactics. They have filibustered everything by amendment. Remember the small business innovation bill—a bill I like to talk about because it has been one of the best things that has happened to this country. Small business entrepreneurs, people who had ideas on how to improve the economy did good things with these small grants they got. My favorite, of course, is the electric toothbrush, but there were other things that have been done. But that bill traditionally has been handled with minimal controversy—in fact, no controversy—always passes unanimously with help from both sides. Republicans amended this little piece of legislation—so good for our country in creating jobs—to death. The process took nearly 2 months. There was the Economic Development Revitalization Act, something that started during the time Richard Nixon was President. We did this routinely, most every time by unanimous consent. A bill that creates lots and lots of jobs, employment for our country—the Republican Senators blocked this bill, dragging out the process for months. Their obstructionism has cost this country millions of jobs, including 2 million that would have been created by the American Jobs Act.

Suddenly they are calling for a return to regular order. Well, after 10 months of dragging out the most routine matters, preventing the normal order of business here in the Senate, suddenly they are calling for us to move quickly on the Defense authorization bill, something that should have been done some time ago. They are threatening to shut down the government if they do not get their way. We have coming up, in less than a month, another threat by the Repub-

licans to shut down the government. That seems to be the mantra: If we do not get what we want, we will close the government.

The continuing resolution expires on November 18, right before Thanksgiving. My colleagues are right about the Defense Authorization Act—absolutely right. We need to do this. We have always done it, and we are going to do it this year. As I said to Senator MCCAIN on a number of occasions, and Senator LEVIN, I am eager to find a path to get this done.

My colleagues have said several times that they believe these provisions ought to be considered in regular order and that the Senate ought to proceed to debate them. As I indicated a few minutes ago, if that is the only avenue we have, then that is what we will do.

The Defense authorization bill is going to get done this year. But we have been held up for 10 months in doing the ordinary process this government is required to do.

Mr. DURBIN. Would the Senator yield for a question?

Mr. REID. I would be happy to yield to the Senator from Illinois.

Mr. DURBIN. I say to the majority leader, since I have listened to the colloquy by my Republican colleagues just a few minutes ago, and it related to the detainee policy, which is one of the controversial issues in the Defense authorization bill, I am sure he is aware of the fact that last week in Detroit, in an article III Federal court, an accused terrorist—the so-called Underwear Bomber—pled guilty to terrorism, having gone through the regular criminal process in article III courts, having been interrogated by the FBI, and even after Miranda warnings, surrendering very valuable information and intelligence to protect the United States.

Is it not true that when we look at the record about detainees or those accused of terrorism being tried, we find that since 9/11, over 200 of them have been successfully tried in article III courts under President Bush and President Obama and that under military commissions, exactly 4, 4 terrorists have been tried; and that the argument on the other side, which is that the article III courts are incapable of protecting the United States and successfully prosecuting terrorists, absolutely flies in the face of the facts: 200 terrorists convicted in article III courts, 4 by military tribunals. You would think it was exactly the opposite, from the arguments made on the floor by my friend from Arizona and others.

I would ask the Senator from Nevada, our majority leader, are we not trying to give to any President—this President and any President—the tools and the decisionmaking necessary to protect our Nation, to pick the best place to investigate and to prosecute those who are accused of terrorism?

Mr. REID. In response to my friend's question, he is absolutely right. Remember, this is not an Obama-driven