

# United States Senate

COMMITTEE ON ARMED SERVICES  
WASHINGTON, DC 20510-6050

January 16, 2025

President Joseph R. Biden  
1600 Pennsylvania Avenue NW,  
Washington, DC 20500

Dear Mr. President,

Yesterday the Department of Defense Office of Inspector General (DOD OIG) released its report on Secretary of Defense Lloyd Austin's multi-day absence in December 2023, and January 2024 based on his medical incapacitation. The report found that Secretary Austin and Deputy Secretary of Defense Kathleen Hicks failed to notify Congress, the White House, the Comptroller General, and key officials within the Department of Defense that Secretary Austin was incapacitated. The report confirmed what we already knew – these failures to notify were clear violations of the Federal Vacancies Reform Act (FVRA), a law that is rooted in the Constitutional principle that the people control their government. Alarming, the OIG report not only found that Secretary Austin and Deputy Secretary Hicks violated the FVRA in December 2023 and January 2024, but they also violated it on two occasions in June 2024. These two additional violations were wholly unknown to Congress and demonstrate an utter disregard for oversight and accountability that should be completely unacceptable in the Department of Defense.

For days in December, January, and June, no one in Congress knew that Secretary Austin was unable to perform the functions and duties of the Secretary, or that Deputy Secretary Hicks was the acting Secretary. In fact, for several days in December and January, not even Deputy Secretary Hicks knew that she was the acting Secretary. Once she found out, she, too, failed to notify Congress and the White House as required by law. At the time of these absences, your administration was still reeling from a Chinese intelligence and reconnaissance balloon sailing across the United States, Putin continued his violent and illegal war on Ukraine all the while rattling the nuclear saber, and violent Islamic terrorists and other Iran-backed extremists were ramping up for an historic assault on Israel, emboldened by your disastrous abandonment of Afghanistan. The world was far from stable, and America was not safe. What makes this situation so much worse, however, is that the moment Secretary Austin's office became vacant, no one had control of the nuclear football, and the entire American nuclear enterprise was left idling.

It is incredibly fortunate that no major national security crisis occurred while Secretary Austin was incapacitated, however, the OIG report itself recognizes that if a crisis had occurred in that time frame, the outcome could have been disastrous for our nation. While we applaud the OIG for its thorough and objective report, it is clear that political officers within the DOD obstructed

and delayed the OIG's work until it had no choice but to release the report five days before you and Secretary Austin are to leave office.

There must be accountability for Secretary Austin's irresponsible behavior, your administration's multiple violations of the FVRA, and the mishandling of the nuclear football. Certainly, if a uniformed officer had done only one of these things he or she would be facing the end of their career. Sadly, those in charge seem to believe that the same standards do not apply to them. The American people will no longer accept a lack of accountability for the failures of our senior military leaders, whether civilian or uniformed.

In your last week in office, you must do the right thing and hold Secretary Austin accountable for his multiple failures to comply with the law and notify Congress of vacancies in his office.

Sincerely,



Roger F. Wicker  
United States Senator



Deb Fischer  
United States Senator



Tom Cotton  
United States Senator



Mike Rounds  
United States Senator



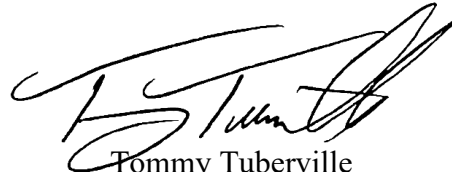
Joni K. Ernst  
United States Senator



Kevin Cramer  
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Rick Scott  
United States Senator



Tommy Tuberville  
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Markwayne Mullin  
United States Senator



Ted Budd  
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