United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, FRIDAY, NOVEMBER 4, 2005 No. 145

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who lays up the deep in storehouses, help us to never turn Your glory to shame. Lord, the hearts of world leaders are in Your hands and Your power guides the Nation.

Today, we thank You for Your infinite wisdom. Each day You demonstrate to us that Your way leads to life and joy. You are at work, bringing answers and insight to those who seek You.

Inspire our Senators to seek Your wisdom. As they wrestle with complex issues, guide their minds. May the wisdom of sacrificial love influence their deliberation.

And Lord, we ask You to comfort the family of Henry Giugni, the former Senate Sergeant at Arms.

We pray in Your blessed Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for the military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Today we resume consideration of the Defense authorization bill. Under the agreement reached on October 26, we have a limitation of amendments and debate to Defense authorization. Chairman WARNER and Senator LEVIN are here today and are prepared for Members to come to the floor to offer their defense-related amendments. I noted last night there will be no rollcall votes today, and we will delay votes until Monday at approximately 5:30. We will announce later on how many votes Senators can expect on Monday.

Finally, I do want to thank everybody for their participation and cooperation over the course of yesterday's session, a lengthy session. I think it was 22 consecutive rollcall votes. We didn't have any scheduled breaks and things went very smoothly. Indeed, we were able to meet our goal of 6 o'clock last night to allow Senators to attend what was a wonderful event where we had over 50 former Senators—men and women who had served in this body in the past—come back and join us for a bipartisan event last night. It would not have been possible without the patience of Senators and the efforts of so many staff members who worked so hard to bring that deficit reduction bill to completion by a vote of 52 to 47.

BUDGET RECONCILIATION

This was an important piece of fiscal legislation; I think clearly the most important piece of fiscal legislation over the course of the year, a bill that was called the deficit reduction bill because almost $35 billion in savings does go down directly to reduce the deficit. That is a period of 4 years, $35 billion. Over 10 years, it would be right at $100 billion.

A number of people have said, well, spending cuts that we put in yesterday don't go far enough, and I would not disagree with that statement. The deficit reduction package we passed last night, however, was a major and important first step forward in reining in what has become out-of-control Federal spending, so I congratulate our colleagues.

I also thank the committee chairmen one more time for their hard work and leadership, both sides of the aisle working together. There was in many instances bipartisan support for their recommendations. In particular, I thank the chairman of the Budget Committee, Chairman JUDD GREGG, for his strong leadership. I also thank Senator MCCONNELL, our assistant Republican leader, for his deft handling of the process yesterday, keeping us on track to success.

The Senate staffers, several of them were thanked last night. And there are so many, I always hesitate to start naming them, but in truth, as always, they are the ones who give the discipline to the engine that makes it possible: Kyle Simmons, Scott Gudes, Bill Hoagland, Sharon Soderstrom, Eric Ueland, all deserve special recognition for their tireless efforts in bringing that bill to completion.

By rallying our resources and our will, last night the Senate passed the first spending reduction bill in 8 years. It was last in 1997 that such a reconciliation on the spending side was passed. We took a tough look at the budget, and we came up with a strong package of fiscally responsible savings. And it is worth reflecting where we were even just 10 months ago. We tend to focus so much on minute to minute here and day to day here, but if we look back 10 months ago when the President submitted his budget proposal, at that

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time the projected deficit was well past $400 billion and on its way up to $500 billion. Critics had bet against the majority's success. They said we could never pass a budget and be able to drive down the deficit, and we have proved those critics wrong. Not only have smart progrowth fiscal policies cut the deficit by $100 billion but direct action in the Senate yesterday cut the bottom line by another $35 billion. Our GDP growth rate is strong right now, in the last quarter, 3.7 percent, with over 4 million jobs created since May, about 15, 16 months ago.

Hurricane Katrina hit and we know hit hard, but not even Hurricane Katrina could knock our economy off track. As Alan Greenspan told the Joint Economic Committee yesterday, the economic fundamentals remain firm.

The Republican-led Senate has defied the critics at every turn. They said we could not pass a budget resolution, and we passed a budget resolution. They said we could not pass the 12 appropriations bills on this floor, and we did. We passed the PATRIOT Act, we passed the bankruptcy bill, we passed the class action bill, we passed the highway bill, we passed the Energy bill, we passed the gun liability reform bill—all this year, but we have a lot more to do.

Yesterday, I should add, as part of that deficit reduction bill, we passed exploration in ANWR which will help reduce our dependence on foreign oil. It will strengthen our domestic supplies, again a real tribute to this body. Meanwhile, throughout the fall we have tackled relief and recovery for the victims of Katrina and we have continued to support our troops in the war on terror. We will be doing our Defense authorization bill shortly, again, to focus on continued aggressive support of the troops.

So despite all of the naysayers and sometimes pessimistic attitudes as to what is going on, we are moving this country forward in a positive and a constructive way.

Some have called the deficit reduction package yesterday immoral, and it really does bother me when people use words like that because, to me, what is immoral is saddling future generations with huge debt. What is immoral is ducking or hiding from today's challenges with inaction or empty platitudes or barriers to progress. What is immoral, to me, is proposing more debt while accusing others of being fiscally irresponsible.

During the budget process, the other side proposed spending amendments, and we saw much of it on our spending speedometer—spendometer, I guess we call it—of over $460 billion. The other side proposed over $460 billion in increased spending. And who would pay for this? I guess their answer would be raising taxes. It is unacceptable. We have a different approach, an approach that strengthens our economic growth, strengthens our national security, that delivers real relief, real relief to American families.

The deficit reduction package we passed last night will drive down the deficit. It will increase America's energy supply. It will help students and families meet the cost of college tuition. It will take critical steps to protect America's retirees, a huge victory for the American people. We support real, measurable solutions and will continue moving America forward. Our goal is to strengthen America's families and secure America's future.

We have a lot more work to do, Mr. President. Next week we have some of the world's top oil executives coming to Washington to explain why gas prices are going so high, above $3, and why oil and home heating oil prices are so high, and at the same time, we are seeing these record profits going into their coffers.

The question that our constituents ask, and we ask, is Why? And those executives will have that opportunity to explain, and we will get to the bottom of it.

We also plan to continue our work on the nomination of Judge Samuel Alito to the Supreme Court of the United States. The chairman and ranking member of the Judiciary Committee announced a schedule yesterday that does provide the strongest platform for Judge Alito to argue and to explain and describe the judicial restraint, the crux of his philosophy, and he will be confirmed by January 20.

Finally, we will continue to address the pressing issues the American people sent us to Washington to resolve after the first of the year, issues such as border security and immigration.

As I mentioned last night, we had a wonderful occasion in terms of having a bipartisan reunion with one out of every three former Senators who are still alive in our midst last night. Most all of our colleagues were there sharing stories, sharing intergenerational stories which did remind us what a powerful institution this is, the legacy that it leaves, the important role it plays as the world's greatest deliberative body. It was a reminder to all of us serving in this Senate it is an honor and it is a privilege.

I look forward to continue working in a bipartisan way to deliver bold and innovative solutions to keep this great country moving forward.

Mr. NELSON of Florida. Will the majority leader yield for a question?

Mr. FRIST. Be happy to.

Mr. NELSON of Florida. I thank the majority leader for making reference to Hurricanes Katrina and Rita, and I just wanted to remind our distinguished majority leader that Hurricane Wilma, which hit the State of Florida, hit at a point on the southwest coast picking up steam as it crossed the Everglades so that the back end of the hurricane gave a huge punch to the southeast coast where we have 20,000 structures uninhabitable and where the winds were clocked at Lake Okeechobee at 150 miles an hour. That is a category 5. So I just don't want us to forget Hurricane Wilma and the people who are suffering in Florida at this time.

Would the majority leader just keep that in mind as we address these problems?

Mr. FRIST. Mr. President, that is very well said. I think the description and comments by the Senator from Florida demonstrate our responsibility to respond appropriately and smartly to natural disasters. If we look at our response to hurricanes and natural disasters in the past, I think we have done so.

It is sometimes frustrating because we cannot do everything, and a lot of people think the Federal Government has a responsibility to come in and solve all the problems.

Our challenge in responding to all these natural disasters is to respond quickly, responsibly, smartly, working hand in hand with the locals.

I very much appreciate the Senator's attention to one other natural disaster we must face.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader.

DEFICIT REDUCTION BILL

Mr. REID. Mr. President, with regard to the deficit reduction bill, you can have a cow and put a sign on him saying he is a horse, but he is still a cow. I think we would be better informed if we called this the bait-and-switch bill. How do you call a bill deficit reduction when it raises the deficit in 1 year by $30 billion? How do you call a bill a deficit reduction bill when it increases the deficit? If there was ever an Orwellian pronouncement, that is it. I guess if you keep saying deficit reduction, some people are going to believe it is deficit reduction. It increases the deficit.

This could have been a good week for the American people. It could have been a week Republicans joined Democrats and finally addressed priorities of working families. The polls around the country today make a pronouncement: President Bush's approval rating is 35 percent. Do you think it could be because we are trying to call a bill a deficit reduction bill that isn't one? How does the majority feel they can do that? The American people can see through that: A deficit reduction bill that increases the deficit $30 billion, and the Republicans are bragging about increasing the deficit? They think they can get around that by calling it a deficit reduction bill? No wonder this White House has an approval rating of 35 percent.

This week could have been a week we agreed to do something about the record debt. It could have been the week we addressed the needs of middle-class families. The rich are getting richer, the poor are getting poorer. The middle class is being squeezed between declining incomes, rising prices of health care, college tuition, gas, and heat.

It could have been the week we finally got serious about helping our

brothers and sisters in the gulf coast. We can hear pronouncements from the Republican majority that the response to these disasters has been excellent. Prove that to the American people with the developments after Katrina.

Listen to the radio. I listened to public radio this morning, and they had a segment on about what is happening to the people in Louisiana. They cannot go to school; there are no schools there.

This could have been the week we finally got serious about the gulf coast, and we have not. That is the kind of week that we Democrats hoped to have. The record will show we fought for multiple amendments that would have helped working Americans.

Let me take a comment on the so-called spendometer. One of the Senators brought that in the other day, and I commented on it. All the amendments that have been offered by the Democrats, with rare exception, have all been pursuant to Senator CONRAD's pay-as-you-go amendment that he offered; that is, we had offsets. They did not increase the debt.

This spendometer is as phony as this deficit reduction bill. We could have, if we had followed the direction of the amendments we offered—there was one by Senator BILL NELSON to keep Medicare premiums from increasing. That was defeated on a party-line vote. The Republicans beat us on that. Senator MURRAY offered an amendment to protect prescription drug coverage for many of our Nation's seniors. That was defeated on a straight party-line vote. Senator LINCOLN tried to provide emergency health care for survivors of Katrina. That was defeated on a straight party-line vote. Senator JACK REED tried to ensure an adequate supply of housing, and that was defeated on a straight party-line vote. Finally, Senator CANTWELL had an amendment to protect the Arctic National Wildlife Refuge in Alaska from oil drilling. We fought for these amendments on this side of the aisle. We reached out to the other side and asked: Join us, please join us, because we understand that together America can do better.

I believe the Republicans have misplaced priorities. Unfortunately, the good week we could have given the American people turned into a great week for special interests.

My distinguished friend, the majority leader, talks about all these great accomplishments we have had this past year. I am not going to talk about every one of the items he mentioned, but I will talk about the Energy bill.

The Energy bill did nothing to help the American consumer. All it did was give a big sop to the already fat and beefy oil industry. They had $100 billion in profits this year. I don't think it was much of an Energy bill. I really do believe we can do better.

The Republican budget we focused on this week cuts $27 billion from Medicare and Medicaid. It cuts housing, it cuts support for our farmers, and then turns around and spends billions on tax breaks for special interests and multimillionaires. The big tax cuts are going to come the week after next. We will wind up with $30 billion, if things go as has been indicated by the Finance Committee. I hope we can do better than that.

Let's take a look at the tax breaks. Those who make over $1 million will see a benefit of about $35,000. Those with incomes of between $50,000 and $200,000 will see a benefit of $112, and those with incomes of less than $50,000, the benefit will be $6.

Can't we do better than that? Yes.

Let's look at the lucrative benefits we handed out to the oil and gas industry in the Energy bill I spoke about earlier and, of course, opening the pristine Arctic National Wildlife Refuge to drilling. It takes our country in the wrong direction. We should diversify, becoming less dependent on oil as an energy source. We didn't do that in this legislation.

Finally, let's look at what we didn't do this week. We didn't do anything. Very minimally did we do anything to help those people who are the survivors and those who were devastated along the gulf coast. We didn't do anything to reduce energy prices. We didn't do anything to deal with the pension crisis we are facing in America. We did nothing to deal with the health care crisis we are facing in America. We have not passed the Terrorism Reinsurance Act.

I think most Senators have gotten calls from major companies who can't build. I got a call yesterday from one major hotel owner who has hotels all over the world who said they have in Las Vegas four properties they want to build and they cannot build them. They cannot get anybody to give them the insurance.

We have 2 weeks before our next recess, and we have much to accomplish. The American people are counting on us, and we on this side of the aisle, the Democrats, are going to do everything we can to not let them down. Just because you call something a Deficit Reduction Act doesn't mean it reduces the deficit, by definition of a Republican-controlled Washington.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry: Is the Senate now on the Defense bill?

The PRESIDING OFFICER. The Senator is correct. Will the Senator permit the Chair to make an announcement?

Pursuant to the order of October 26, all amendments previously pending to this measure are withdrawn.

The list of withdrawn amendments is as follows:

Withdrawn:

Inhofe amendment No. 1311, to protect the economic and energy security of the United States.

Inhofe/Kyl amendment No. 1313, to require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross.

Ensign amendment No. 1374, to require a report on the use of riot control agents.

Ensign amendment No. 1375, to require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

Durbin amendment No. 1379, to require certain dietary supplement manufacturers to report certain serious adverse events.

Hutchison/Nelson (FL) amendment No. 1357, to express the sense of the Senate with regard to manned space flight.

Thune amendment No. 1389, to postpone the 2005 round of defense base closure and realignment.

Kennedy amendment No. 1415, to transfer funds authorized to be appropriated to the Department of Energy for the National Nuclear Security Administration for weapons activities and available for the Robust Nuclear Earth Penetrator to the Army National Guard, Washington, District of Columbia, chapter.

Allard/McConnell amendment No. 1418, to require life cycle cost estimates for the destruction of lethal chemical munitions under the Assembled Chemical Weapons Alternatives program.

Allard/Salazar amendment No. 1419, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date.

Dorgan amendment No. 1426, to express the sense of the Senate on the declassification and release to the public of certain portions of the Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, and to urge the President to release information regarding sources of foreign support for the hijackers involved in the terrorist attacks of September 11, 2001.

Dorgan amendment No. 1429, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Salazar amendment No. 1421, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation.

Salazar amendment No. 1422, to provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965.

Salazar/Reed amendment No. 1423, to provide for Department of Defense support of certain Paralympic sporting events.

Collins (for THUNE) amendment No. 1489, to postpone the 2005 round of defense base closure and realignment.

Collins (for THUNE) amendment No. 1490, to require the Secretary of the Air Force to develop and implement a national space radar system capable of employing at least two frequencies.

Collins (for THUNE) amendment No. 1491, to prevent retaliation against a member of the Armed Forces for providing testimony about the military value of a military installation.

Reed (for LEVIN) amendment No. 1492, to make available, with an offset, an additional $50,000,000, for Operation and Maintenance for Cooperative Threat Reduction.

Hatch amendment No. 1516, to express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force.

Inhofe amendment No. 1476, to express the sense of Congress that the President should

take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

Allard amendment No. 1383, to establish a program for the management of post-project completion retirement benefits for employees at Department of Energy project completion sites.

Allard/Salazar amendment No. 1506, to authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims.

McCain modified amendment No. 1557, to provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

Warner amendment No. 1566, to provide for uniform standards and procedures for the interrogation of persons under the detention of the Department of Defense.

McCain modified amendment No. 1556, to prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

Stabenow/Johnson amendment No. 1435, to ensure that future funding for health care for veterans takes into account changes in population and inflation.

Murray amendment No. 1348, to amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC.

Murray amendment No. 1349, to facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom and to assist school districts serving large numbers or percentages of military dependent children affected by the war in Iraq or Afghanistan, or by other Department of Defense personnel decisions.

Levin amendment No. 1494, to establish a national commission on policies and practices on the treatment of detainees since September 11, 2001.

Hutchison amendment No. 1477, to make oral and maxillofacial surgeons eligible for special pay for Reserve health professionals in critically short wartime specialties.

Graham/McCain modified amendment No. 1505, to authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

Nelson (FL) amendment No. 762, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

Durbin amendment No. 1428, to authorize the Secretary of the Air Force to enter into agreements with St. Clair County, Illinois, for the purpose of constructing joint administrative and operations structures at Scott Air Force Base, Illinois.

Durbin amendment No. 1571, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Levin amendment No. 1496, to prohibit the use of funds for normalizing relations with Libya pending resolution with Libya of certain claims relating to the bombing of the LaBelle Discotheque in Berlin, Germany.

Levin amendment No. 1497, to establish limitations on excess charges under time-and-materials contracts and labor-hour contracts of the Department of Defense.

Levin (for HARKIN/DORGAN) amendment No. 1425, relating to the American Forces Network.

Mr. WARNER. Mr. President, now that we are on the bill, it is my intention to eventually deliver an opening statement, but in courtesy to our colleague from Florida—and I believe he will be followed by Senator MCCAIN to be followed by Senator ALLARD—I think we ought to proceed immediately to the amendments. Senator LEVIN and I will be on the floor to assist all Senators who wish to bring any matters to the attention of the Senate.

Mr. President, I ask unanimous consent that the Senator from Florida, Mr. NELSON, be recognized for 15 minutes, to be followed by the Senator from Arizona, Mr. MCCAIN, for such time as he requires, to be followed by the Senator from Colorado, Mr. ALLARD, to be followed on this side of the aisle—we are trying to alternate—with such amendments as Senator LEVIN may recommend.

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

The Senator from Florida is recognized.

AMENDMENT NO. 2424

Mr. NELSON of Florida. Mr. President, I call up amendment No. 2424.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR, proposes an amendment numbered 2424.

Mr. NELSON of Florida. 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 repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan)

At the end of subtitle D of title VI, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after ''to whom section 1448 of this title applies'' the following: ''(except in the case of a death as described in subsection (d) or (f) of such section)''; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: ''The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking ''October 1, 2008'' and inserting ''October 1, 2005''.

Mr. NELSON of Florida. Mr. President, this is a very serious amendment to this Defense authorization bill, but I am compelled to add a couple of words to the colloquy that I had with the distinguished majority leader regarding the hurricanes.

In the huge tragedy that occurred with Hurricane Katrina and the continuing observations of the reconstruction efforts, attention has been lost to the severe losses that have occurred in the last week and a half in my State of Florida with a hurricane that hit with the force of a category 3 on the southeast coast of Florida and parts of that area having had winds of a category 5, with 20,000 residences lost.

We have now under consideration in the Department of Commerce appropriations subcommittee conference committee deliberations additional personnel for the National Hurricane Center, which hopefully the Senate's position will be taken which provides that additional personnel. But one huge, potential downfall is that we need some kind of backup for the high-flying jet, the G–4, the Gulfstream-4, that measures the steering currents that is owned by NOAA.

In the middle of this storm, that jet had to go down for maintenance. Lord knows what would happen if that jet had an accident and could not fly. The accuracy of our predictions of where

the hurricane is going is 25 percent greater by being able to fly at 41,000 feet measuring those steering currents.

It is my hope that we can see coming out of the Senate a provision for a backup for NOAA, perhaps a jet shared with another agency, such as the Air Force or NASA, but that would give us that protection, and that accuracy, as we know all too well, is so important to warn people in the accurate path of that storm because then prediction becomes a matter of life and death.

Mr. President, I am honored today to speak about an amendment that is necessary to fix a longstanding problem in our military survivor's benefit system. The system in place right now, even with the important changes we have made recently, does not take care of our military widows and the surviving children in the way it should, and we should act now to correct this deficiency.

We don't have to go any further than the Good Book to remind us that one of our greatest obligations is to take care of the widows and the orphans.

That is what we have. This amendment will protect the benefit of widows and orphans of our 100-percent disabled military retirees and those who die on active duty.

I will give some background on how this problem developed. Back in 1972, Congress established the military Survivor Benefit Plan—SBP for short—to provide retirees' survivors an annuity to protect their income. If we have a military retiree and they are deceased, we want to protect the income of their survivors. This benefit plan is a voluntary program, and it is purchased by the retiree or it is issued automatically in the case of servicemembers who are active duty and who die on active duty.

Retired servicemembers pay for this benefit from their retired pay. Then upon their death, their spouse or dependent children can receive up to 55 percent of their retired pay as an annuity. So it is a plan that has been in place since 1972 which the retired military person can purchase, and they do.

Surviving spouses or dependent children of service-connected 100-percent disabled retirees or those who die on active duty are also entitled to dependency and indemnity compensation under the Department of Veterans Affairs. This is a separate program. So these surviving spouses or dependent children of service-connected disabled veterans are entitled to indemnity compensation.

So there are two different laws, two different eligibilities, but watch what happens under current law. The annuity paid by the Survivor Benefit Plan and received by a surviving widow or a child, what they pay for on the pie chart that is in red, this is already paid for for the surviving widow or the child. Under current law, they are also entitled, as a service-connected disability, to that under the Veterans' Administration. Under current law, one offsets the other. So what happens is the amount of the SBP is reduced by the amount of the DIC under current law, and a big slice of the pie, almost half of it, is lost when, in fact, the survivor is entitled under the law to both. So this big slice shows what they are losing.

I wish to introduce my colleagues to Jennifer McCollum. She is from Jacksonville, FL. This is her with her son and a photo of her husband, a U.S. marine who was killed in 2002 while deployed in support of the war on terror. Jennifer was 4 months pregnant when he was killed, and now she has realized that her survivor benefits are being taken away by that offset that I just described. That is what this amendment is going to stop. Jennifer's situation is unacceptable, and we have to fix it for the sake of the widows and the orphans.

I do not know of any other annuity program in the Government or private sector that is permitted to offset, terminate, or reduce payments because of disability payments a beneficiary may receive from another plan or program. That is the necessity for this amendment I am offering today.

It also makes effective immediately a change to the military SBP program that was enacted back in 1999. The Congress has already agreed that military retirees who have reached the age of 70 and paid their SBP premiums for 30 years should stop paying a premium. We agreed back in 1999 that when a person reached the age of 70 and they had paid their SBP premiums for 30 years, they ought to stop paying a premium. But what happened? Recently, we delayed the effective date for this relief until 2008.

The program began over 30 years ago. Under current law, people who signed up at the beginning must pay long beyond the 30 years that Congress intended. Do my colleagues know who this group is largely made up of? It is made up of World War II veterans. We call them the ''greatest generation.'' Well, what it creates is the ''greatest generation'' tax in SBP, and we should not be delaying their relief any further.

This chart is going to give an example of the ''greatest generation'' tax. A lieutenant colonel or a commander in the Navy who joined SBP in 1972 when it began has paid 33 years and will continue to pay under the current law until 2008, for a total of 36 years. But someone of the same rank who retired 6 years later also will stop paying in 2008 under the current law, but they will have paid less. The older retiree will have paid 30 percent more over that time period.

Of course, many of those fighting men and women are going to pass away by then and never enjoy the paid-up status that Congress intended for them. This amendment I am offering today will fix the SBP system to make sure it provides what Congress intended for our military retirees.

The United States owes its continued strength and protection to generations of soldiers, sailors, airmen, and marines who have sacrificed throughout our history to keep us free. We owe them and those they leave behind a lot—no less than a President who suffered through war, President Lincoln, instructed us that ours is an obligation to care for him who shall have borne the battle and for his widow and for his orphan. Too often, we have fallen short of this care. I believe we must meet this obligation with the same sense of honor as the service they and their families have rendered.

We need to continue to do right by those who have given this Nation their all and especially for their loved ones they leave to us for our care. Remember the instructions of the Good Book: The greatest obligation is to take care of the widows and the orphans.

I reserve the remainder of my time.

Mr. WARNER. Mr. President, I am opposed to Senator BILL NELSON's amendment, and I intend to introduce a second degree amendment that would give the Commission on Veterans' Disability Benefits, which Congress established to study survivor benefits, the opportunity to complete its work before further changes are made to the Survivor Benefit Plan, or SBP.

I oppose Senator NELSON's amendment, because this blue ribbon Commission on Veterans' Disability Benefits has been established, is currently at work examining this issue, and, I believe, will provide vitally needed facts and recommendations regarding veterans' benefits.

The commission includes two Medal of Honor winners, two Distinguished Service Cross winners, and 6 winners of the Silver Star. They can be relied on to provide a comprehensive study. The commission was established to help the Congress, DOD, and the Veterans Administration determine what steps should be taken to best assist disabled veterans and their families. We should not implement another change to the SBP until the Commission completes its work.

Let's remember that in last year's Defense Authorization Act, the Senate significantly improved benefits provided under the SBP. Congress directed the elimination of the so-called ''2-tier'' system which reduced the monthly SBP annuity when the survivor reached age 62. This was a significant change that works to the benefit of military retirees and their spouses. We should stop and allow an assessment by the commission of the effect of that change before we conclude that the SBP is in need of change.

Here is another consideration: Senator NELSON's amendment does not take into account the great improvements in death benefits for military survivors that have been enacted this year. There has been an increase in the death gratuity—from $12,000 to $100,000—and an increase from $250,000 to $400,000 in the Servicemembers' Group Life Insurance, or SGLI. These changes clearly are substantial, and

they have improved the quality of life for many of the survivors who my friend, Senator NELSON, advocates for today. There have been various other benefits implemented for retirees and their survivors since 2001.

I ask unanimous consent to have a list of these legislative improvements printed in the RECORD.

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

NATIONAL DEFENSE AUTHORIZATION ACT (NDAA) AND OTHER LEISLATION IN SUPPORT OF RETIREES AND MILITARY SURVIVORS

NDAA FY 2001—TRICARE for Life Benefit for Military Retirees (overage of 65 and their Families.—Under this program, TRICARE pays what Medicare does not pay, and a highly valuable pharmacy benefit at minimal cost.

NDAA FY 2002—Extension of Survivor Benefit Program SBP to All Active Duty Members.—This legislation gave SBP coverage, at no cost, to all military members' survivors who die on active duty.

NDAA FY 2003—Special Compensation for Certain Combat-Related Disabled Uniform Services Retirees (''Purple Heart Plus'').—This afforded additional monetary monthly compensation for any disabled military retiree whose condition was the result of a wound or injury for which the Purple Heart was awarded, and also for retirees with combat-related disabling conditions rated at 60 percent or greater.

NDAA FY 2004—Elimination of prohibition on concurrent receipt.—This legislation (phased in through 2014) permits receipt of military retired pay and veterans' disability compensation. It provides additional payments for all disabled military retirees who have a rated disability of 50% or greater.

NDAA FY 2005—Survivor Benefit Plan Improvements.—Eliminated SBP ''two tier'' system (phased over three years) which will result in no reduction in monthly annuity when survivor becomes eligible for Social Security at age 62. Also directed an ''open season for one year'' that will enable retirees to opt in to SBP under prescribed conditions.

NDAA FY 2005—Accelerated Concurrent Receipt for 100 Percent Disabled.—This amendment eliminated the phase in period for collection of both military retired pay and veterans' disability compensation for individuals who have been rated at 100 percent disabled.

Emergency Supplemental FY 2005—Increased Death Gratuity.—This legislation approved payments of $238,000 to survivors of military personnel who died from combat-related causes retroactive to October 7, 2001, the beginning of Operation Enduring Freedom. This increased benefit is part of S. 1042.

Emergency Supplemental FY 2005—Increased SGLI.—This legislation, which has been made permanent by the Veterans' Committee, increased the maximum amount of Servicemembers' Group Life Insurance (SGLI) available from $250,000 to $400,000. Additionally, a Traumatic Injury Protection Program (TIPP) has been authorized that will provide lump sum payments of up to $50,000 to certain wounded and injured military personnel.

Commission on Veterans' Disability Compensation Established.—The 13 member Congressionally-chartered Commission begins its work.

Mr. WARNER. Mr President, the Department of Defense has opposed Senator NELSON's proposal.

I ask unanimous consent that the DOD points of opposition be printed in the RECORD.

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

ELIMINATION OF SURVIVOR BENEFIT PROGRAM DEPENDENCY AND INDEMNITY COMPENSATION

DOD POSITION: OPPOSE

The Department opposes eliminating the Survivor Benefit Plan (SBP) and Dependency and Indemnity Compensation (DIC) offset.

SBP and DIC for active duty deaths are fully funded by the Government. The offset of DIC from SBP avoids the duplication of Government benefits. Since retirees pay premiums to cover a portion of SBP funding, those premiums attributed to the reduction for DIC are returned to the beneficiary, generally in a lump-sum payment.

The policy is consistent with the private sector. In 2004, the Department contracted with the SAG Corporation to conduct a comprehensive review of military death benefits and compare them to other public and private sector benefits.

Their study found the SBP/IDIC offset to be consistent with the benefits offered by other employers. When more than one annuity is available to survivors, the survivors must generally choose one, or the annuities are sequential (one commences when the other stops).

An active duty election exists. The National Defense Authorization Act of Fiscal Year 2004 authorizes survivors of members who die on active duty who have children to elect to have the SBP paid to the children. Thus, for Service members who die on active duty, survivors have the option to pay DIC to the spouse and SBP in the children's name.

Eliminating the SBP offset for all widows entitled to DIC would cost the Military Retirement Fund more than $5 billion over 10 years.

The Department opposes costly efforts that serve to duplicate benefits.

Mr. WARNER. Mr. President, finally we can't ignore the cost of this amendment. CBO estimates the cost of Senator NELSON's changes to the SBP as $903 million in Fiscal Year 2006 and $9.3 billion over 10 years. This is all mandatory spending for which there is no provision in the budget resolution and no offset in the legislation before us.

I urge my colleagues to support my second degree amendment and look to the Commission on Veterans' Disability Benefits before we implement any further changes to the Survivor Benefit Plan.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2425

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], proposes an amendment numbered 2425.

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: Relating to persons under the detention, custody, or control of the United States Government)

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1074. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Mr. MCCAIN. Mr. President, I ask unanimous consent that at the conclusion of my remarks, letters from the Navy League of the United States and from Abraham Sofaer of the Hoover Institution to PATRICK LEAHY, which I think are important documents as far as constitutional aspects of this issue, be printed in the RECORD.

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

(See exhibit 1.)

Mr. MCCAIN. Mr. President, this amendment is identical to the one that was adopted by a vote of 90 to 9 on the appropriations bill, and it does the following: Establishes the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees and, two, prohibits cruel, inhumane, and degrading treatment of persons in the detention of the U.S. Government.

Because of the extraordinary support for this legislation and its importance

to our men and women in uniform, it is imperative that these provisions remain on the appropriations measure which is now in conference, although I understand the conferees have not been appointed on the House side.

There is a rumor that with the inclusion in the authorizing bill, then an argument will be made to have it taken out of the appropriations bill, and then the authorizing bill would never reach agreement in conference. That is a bit Machiavellian. Most of all, it is very important because it thwarts the will of 90 Members of the Senate, an overwhelming majority of the House of Representatives, and an overwhelming majority of the American people.

I hope very sincerely that the inclusion of this provision on the authorization bill, which is important in the authorizing process, does not in any way give an excuse to have it removed from the appropriations bill.

I commend Congressman MURTHA for his leadership and efforts to date to offer a motion to instruct conferees to keep this amendment intact without modification. I hope that no one seeks procedural maneuvers to thwart the overwhelming majorities in both Chambers.

I thank the leadership of the Armed Services Committee, particularly our leader Senator WARNER, as well as the ranking Democrat, Senator LEVIN, who have provided guidance, leadership, and encouragement on this very important issue. I am very grateful for their leadership.

Let me be clear.

Mr. WARNER. Will the Senator yield?

Mr. MCCAIN. I would be glad to yield.

Mr. WARNER. I ask unanimous consent to be an original cosponsor, as I have been consistently on the Senator's amendments. He will recall that our first meeting was when I was Secretary of the Navy when he returned from Vietnam. So our relationship on this issue has a long history, and I firmly believe it is in the best interest of the Department of Defense that this manual be the guide for our men and women of the U.S. military. I commend the Senator.

Mr. MCCAIN. I thank the Senator. I ask unanimous consent that both Senator WARNER and Senator LEVIN be added as original cosponsors of the amendment.

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

Mr. MCCAIN. I thank my dear friend. Maybe he does not want me to recall that was 32 years ago when we first had the opportunity of knowing each other, where I served under, with many layers in between, then Secretary of the Navy Senator WARNER. I remember the many kindnesses he extended to me and my friends who had returned at that time. I also recall—and I do not want to take too much time of this body—that Senator WARNER at that time had to make a very tough decision about a couple of people who had not performed to the standards we expected in that environment in Hanoi. Sometimes tough decisions have to be made, and I think Senator WARNER made a very correct decision at that time.

I might add, he has not aged a bit since that moment when I first saw him on my return.

Mr. WARNER. Mr. President, I think the RECORD should also reflect that in the course of my service as Under Secretary and Secretary of the Navy, I had the great privilege of working with the Senator's father, a naval officer without peer, distinction and achievement. He was commander in chief of all forces Pacific during several of those critical years in Vietnam when the Senator was incarcerated.

Mr. MCCAIN. I thank my friend.

Mr. President, I say again on this issue, No. 1, it is not going away. It is not going away. If, through some parliamentary maneuver, temporarily the will of the majority of both Houses, both bicameral and bipartisan, is thwarted, it will be on every vehicle that goes through this body because you cannot override the majority of the American people and their elected representatives in a functioning democracy.

No one wants this issue to go away more than I. This issue is incredibly harmful to the United States of America and our image throughout the world. The article on the front page of the Washington Post the day before yesterday, describing prison systems that are run by the CIA—the CIA wasn't set up to run prisons.

I point out there is no nation in the world that faces a greater threat of terrorist attacks on a day-to-day basis than the State of Israel. The State of Israel Supreme Court decided, and its military and civil Government has implemented, a prohibition against cruel and inhumane treatment and torture, and they do not practice it. They do practice interrogation and, through various techniques—many of which I am sure are classified—that are not violations of the rules laid down by their Supreme Court, they obtain information, valuable and necessary information.

Why is it some people feel we should carve out an exemption for a branch of our Government to practice cruel and inhumane treatment or even torture? Let me tell you what the consequence of that is, in case of another war. If we get in another war and one of our men or women in the armed services is captured, they will be turned over to the secret police because they will use the same rationale that is being argued by the proponents for the continuation of cruel and inhumane treatment and torture, that they have to have this information. We all know we need intelligence. We all know it is vital. We know how important it is. But to do differently not only offends our values as Americans but undermines our war efforts because abuse of prisoners harms, not helps, us in the war against terror.

First, subjecting prisoners to abuse leads to bad intelligence because under torture a detainee will tell his interrogator anything to make the pain stop. Second, mistreatment of our prisoners endangers U.S. troops who might be captured by the enemy, if not in this war then in the next. And third, prisoner abuses exact on us a terrible toll in the war of ideas because inevitably these abuses become public, as was revealed—or at least a prison system was revealed; I don't know what goes on in them—on the front page of one of our major newspapers.

If we inflict this cruel and inhumane treatment, the cruel actions of a few darken the reputation of our country in the eyes of millions. American values should win against all others in any war of ideas, and we cannot let prisoner abuse tarnish our image.

Yet reports of detainee abuse continue to emerge, in large part because of confusion in the field as to what is permitted and what is not. That is why part of this amendment would establish the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees—so there is no confusion. Confusion about the rules results in abuses in the field and that is not just my opinion, but it is the opinion of GEN Colin Powell, GEN Joseph Hoar, GEN John Shalikashvili, RADM John Hutson, RADM Don Guter, and many others, those who have had the experience of being involved with treatment of detainees/POWs. These and other distinguished officers believe the abuses at Abu Ghraib, Guantanamo, and elsewhere took place in part because our soldiers received ambiguous instructions.

My friend from South Carolina is very aware and may chronicle the development of these guidelines for treatment of prisoners which was done without the consent of the military uniformed lawyers, and then a couple of months later, because of how outrageous they were, they had to be retracted. It is still not clear. It is still not clear what the practices are that are sanctioned in treatment of prisoners.

The second part of this amendment is a prohibition against cruel, inhumane, and degrading treatment. If that doesn't sound new, that is because it is not. The prohibition has been a longstanding principle in both law and policy in the United States. To mention a few examples: The prohibitions are contained in the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights, to which the U.S. is a signatory; and the binding Convention Against Torture, negotiated by the Reagan administration and ratified by the Senate.

Nevertheless, the administration has held that the prohibition does not legally apply to foreigners held overseas. They can, apparently, be treated inhumanely. That means America is the only country in the world that asserts a legal right to engage in cruel

and inhumane treatment. How far have we come?

What this also means is confusion about the rules becomes rampant again. With this simple amendment we can restore clarity on a simple and fundamental question: Does America treat people inhumanely? My answer is no, and from all I have seen, America's answer has always been no.

I noted this for my colleagues' consideration when I mentioned this earlier. While the State of Israel is no stranger to terrorist attacks, in 1999 the Israeli Supreme Court issued a unanimous decision to this effect—it contained words we may wish to reflect on today. I quote from the Israeli Supreme Court:

> A democratic, freedom-loving society does not accept that investigators use any means for the purpose of uncovering the truth. The rules pertaining to investigations are important to a democratic state. They reflect its character.

As I have said many times in response to a few Members of the Senate: It is not about them; it is about us.

Let there be no question about America's character. In deciding these rules, each Member of this body has a vital role. Under article I, section 8 of the U.S. Constitution, the Congress has the responsibility for making—I quote from the U.S. Constitution: '' . . . rules concerning captures on land and water.'' Not the executive branch, not the courts, but Congress.

Our brave men and women in the field need clarity. America needs to show the world that the terrible photos and stories of prison abuse are a thing of the past. Let's step up to this responsibility and speak clearly on this critical issue.

We should do it not because we wish to coddle terrorists; we should do it not because we view them as anything but evil and terrible; we should do it because we are Americans and because we hold ourselves to humane standards of treatment of people, no matter how evil or terrible they may be. America stands for a moral mission, one of freedom and democracy and human rights at home and abroad. We are better than these terrorists—and we will win. I have said it before, but it bears repeating: The enemy we fight has no respect for human life or human rights. They do not deserve our sympathy. But this isn't about who they are, it is about who we are. These are the values that distinguish us from our enemies, and we can never allow our enemies to take those values away.

I hope we could adopt this by voice vote at the appropriate time. Since we voted recently by a vote of 90 to 9, I don't see any reason why we should force people to be on record again.

Again, my heartfelt thanks to both Senator WARNER and Senator LEVIN. I hope we can make this issue go away so we can begin repairing the image of the United States of America throughout the world and still carry on a very effective intelligence capability this Nation so badly needs.

I thank my colleague.

EXHIBIT 1

NAVY LEAGUE
OF THE UNITED STATES,
Arlington, VA, November 1, 2005.

Hon. C.W. BILL YOUNG,
Chairman, House Appropriations Subcommittee on Defense, Washington, DC.

DEAR CHAIRMAN YOUNG: On behalf of the more than 65,000 members of the Navy League of the United States, I want to express our support for Sections 8154 and 8155 in the Senate's version of H.R. 2863, the Defense Appropriations Act of Fiscal Year 2006. These legislative provisions establish the U.S. Army Field Manual on Interrogations and the Convention Against Torture as the uniform standard for interrogation of individuals detained by the Department of Defense, and prohibit degrading treatment of detainees.

We encourage you to support adoption of Sections 8154 and 8155 in conference negotiations on H.R. 2863. America's hard-earned reputation for respect of the rule of law and human dignity is an integral part of our greatness as a Nation. The world will judge us by our actions, and our troops have a proven record of excellence. Establishing a written standard for interrogation will only underscore this superb record. The Navy League is proud to align itself with the position of numerous credible voices in support of this action.

On behalf of the men and women of the sea services, for whom the Navy League has advocated for more than 100 years, thank you for your consideration of this important concern.

Sincerely,

JOHN A. PANNETON.

HOOVER INSTITUTION,
Stanford, CA, January 21, 2005.

Hon. PATRICK J. LEAHY,
Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: I have read your letter of January 19, 2005, and am prepared to provide my views to you on the issue you raised

First, I must disassociate myself from those who have attacked Alberto R. Gonzales in connection with issues related to the Torture Convention. I support his appointment and urge you to vote for his confirmation. Judge Gonzales has relied on the opinions of other attorneys on this and other issues, and a distinction must be maintained concerning those opinions and his own considered judgments. Moreover, attorneys acting ethically and in good faith can reach different conclusions on issues. It is unhelpful in developing national policy when personal attacks are launched on those with whom we disagree, despite ample grounds for professional differences.

Second, I have read some but not all the documents to which you refer in your letter, and given the time available have relied on the material quoted in your letter and on my recollection with regard to the intentions of the Bush Administration in submitting the Convention for ratification.

Third, the issue in your letter, as you state, is not whether acts amounting to torture under the Convention are forbidden in areas within the jurisdiction of the US, but to which the Eighth Amendment would not apply. As I understand it, Judge Gonzales has made clear that he believes the Torture Convention and U.S. law require the U.S. government to undertake to prevent and to punish acts amounting to torture committed by US officials anywhere in the world.

Having made these disclaimers, I do not hesitate to say that I disagree with the merits and wisdom of the conclusion reached by the Department of Justice and cited in the response of Judge Gonzales concerning the geographic reach of Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 16 on its face limits the obligation of the United States to undertake to prevent cruel, inhuman, or degrading acts not amounting to torture to ''territory under its jurisdiction.'' Within such territory, the US is obliged to undertake to prevent such ''other'' acts, even if they do not amount to torture.

As you state in your letter, the Senate agreed to ratify the Torture Convention at the urging of the Reagan and Bush Administrations, and one of its reservations was that in applying Article 16 the US government would not be obliged to undertake to enforce its provisions, anywhere, in a manner inconsistent with the US interpretation of its almost identically worded Eighth Amendment prohibiting cruel and unusual punishment. As I testified at the time, in writing and orally, the purpose of this reservation was to prevent any tribunal or state from claiming that the US would have to follow a different and broader meaning of the language of Article 16 than the meaning of those same words in the Eighth Amendment. The words of the reservation support this understanding, in that they relate to the meaning of the terms involved, not to their geographic application: ''the United States considers itself bound by the obligation under article 16 . . . only insofar as the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments. . . .'' (Emphasis added.) The Department of Justice at the time characterized this reservation as ''modest,'' and explained its purpose as being to use established meanings under the Eighth Amendment instead of the Treaty's vague terms that had not yet evolved under international law. No evidence of which I am aware indicates that the reservation was intended to enable the US to refuse to enforce Article 16 in any territory ''under its jurisdiction.''

The Department of Justice contends, as I understand it, that Article 16 has no application outside the territory of the US, because the Supreme Court has interpreted the Eighth Amendment to be inapplicable beyond our territorial limits. The Department reasons that since the Senate reservation limited enforcement of Article 16 to the US understanding of the Eighth Amendment's language, and since the Supreme Court has concluded that the Eighth Amendment is inapplicable beyond US territory, Article 16 itself is inapplicable beyond US territory. On the basis of my understanding of the purposes of the Convention, and of the purpose of the reservation related to Article 16 and the Eighth Amendment, I disagree with the Department's view and would urge the Attorney General Designate to accept a different view.

The US has been in the vanguard of efforts to protect human rights within the US and abroad. As President Bush has repeatedly affirmed, the dignity and equality of all human beings stems from natural law, i.e. the principle that the Creator of life has endowed us all equally with the right to be protected from abhorrent conduct. We agreed in the Torture Convention that all humans should be protected against official acts amounting to torture, or ''other acts'' covered by Article 16, and we undertook to ''take effective legislative, administrative, judicial or other measures to prevent acts of torture'' and the other acts covered by Article 16, when they occur ''in any territory''

under US jurisdiction. Article 2 of the Treaty requires us to take measures against acts of torture in territory under our jurisdiction, and we understand this to mean any territory, not just the territory of the US to which the Eighth Amendment is applicable. Since the underlying objective is the same everywhere—to prevent official acts of torture, cruelty, or other abuse covered by the meanings of the words involved which are within our legal capacity to prevent—no good reason can be given to conclude that the geographic scope of the words in Article 16 should be narrower than the geographic scope of the same words in Article 2.

In conclusion, the reference in the reservation to the Eighth Amendment's language was intended to prevent inconsistent interpretation of our obligations under Article 16, not to excuse us from abiding by its obligations within the ''territory'' to which it applies by its terms, i.e., territory that is within the jurisdiction of the United States. To interpret it to limit our obligation under Article 16 would arguably allow US officials to act inconsistently with the Treaty—and inconsistently with the Eighth Amendment—in parts of the world in which we have jurisdiction to prevent them from doing so. Judge Gonzales said in his testimony that ''we want to be in compliance, as a substantive matter under the Fifth, Eighth and Fourteenth Amendment.'' I imagine that he and any other person who shares the President's beliefs would not condone or seek to protect any official from the full, potential consequences of behavior so offensive as to violate the cruel and unusual punishment clause in any place where the US has jurisdiction to prevent and punish such conduct.

I hope that these views are helpful to you and the Committee.

Sincerely,

ABE SOFAER.

Mr. WARNER. Mr. President, with regard to the McCain amendment on which I spoke in favor, I have an obligation as manager of the bill to present views of those who differ in some respects with Senator MCCAIN and myself.

I ask unanimous consent that the remarks made by Mr. Stephen Hadley, National Security Adviser to the President, on Wednesday, November 2, be printed in the RECORD. The material is taken directly from a transcript, which I presume is authentic.

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

PRESS BRIEFING WITH NATIONAL SECURITY ADVISOR STEPHEN HADLEY

Q. Can I ask you a quick one on another subject? Why does the administration feel it's necessary to maintain a network of secret detention centers around the world, out of sight of the Congress and the American people, and out of reach of American law and values?

Mr. HADLEY: There have been some press reports this morning that have touched on that subject. And as you can appreciate, they raise some issues about possible intelligence operations. And as you know, we don't talk about intelligence operations from this podium.

Q. Don't they also raise issue of our values and our reputation in the world?

Mr. HADLEY: Right, and I think the President has been pretty clear on that, that while we have to do what we—do what is necessary to defend the country against terrorists attacks and to win the war on terror, the President has been very clear that we're going to do that in a way that is consistent with our values. And that is why he's been very clear that the United States will not torture. The United States will conduct its activities in compliance with law and international obligations.

And in some of the issues involving detainees and the like, as you know, where they have been allegations that people have not met the standard the President has set, there have been investigations, and they have been of two forms. There are over a dozen investigations that have been done in the Department of Defense to find out what has been going on. Two things have happened as a result. There have been revisions of procedures and practices to ensure that the standard the President set is met; and then there have been investigations, prosecutions, and people punished for the failure to meet those standards. So we think that, consistent with the President's guidance, we are both protecting the country against the terrorists and doing it in a way that is consistent with our values and principles.

Q. If I could just press you on that, how do those self-correcting mechanism that affirm our values and laws, how do they work if the sites are secret to begin with?

Mr. HADLEY: Well, the fact that they are secret, assuming there are such sites, does not mean that simply because something is—and some people say that the test of your principles are what you do when no one is looking. And the President has insisted that whether it is in the public, or is in the private, the same principles will apply, and the same principles will be respected. And to the extent people do not meet up, measure up to those principles, there will be accountability and responsibility.

Mr. WARNER. Mr. President, before we move to a vote, I see another colleague who may wish to speak to this issue, the distinguished Senator from South Carolina, who has been very much a part of the integral working group of Senator MCCAIN, myself, and the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. I echo the general themes of Senator MCCAIN. This is an important event in the war on terror. He described very well that this is about us, not the terrorists. The terrorists are not having this debate in their world. There is not much debate going on about how they should behave toward innocent people, how they should behave toward people under their control. We know how they behave.

The war is about, Is that a justified way of doing business? The answer is, No.

Everyone condemns what they do, everyone who believes in freedom. This war is about two sets of values, theirs and ours. As we adjust in the war on terror, I think we have to understand that adjustment is necessary, but the adjustments cannot equate to eroding what we are fighting for. I am all for the PATRIOT Act. I think it has been very good that we adjust the way we have electronic surveillance. I think it has been very good that we allow the intelligence community and domestic law enforcement personnel to talk to each other about what is going on in the terrorist world. We are knocking some walls down with the PATRIOT Act that have made us less secure.

We are adjusting our military policy. We are adjusting our legal positions to adopt to a war that is new and different. Here is the new and different part about it: The enemy we are fighting is nontraditional in terms of the Geneva Conventions. I think the President instinctively got it right, right after 9/11. He made a declaration that al-Qaida members are not going to be treated under the Geneva Conventions, considered Geneva Conventions qualified. He was right because al-Qaida is not a standing army. It is a group of terrorists who are not fighting for a nation. They don't wear a uniform. They randomly attack civilians. To give them Geneva Conventions protection would be undermining the purpose of the Geneva Conventions that rewards people for playing fair.

The Geneva Conventions has within it reporting requirements and other devices that I think would undermine the war on terror. Some people that we catch, senior al-Qaida operatives or associates of al-Qaida, we don't want the world and their fellow terrorists to know we have them. Under the Geneva Conventions it would require reporting.

Here is what we are trying to do, with Senator MCCAIN's amendment. Even though they are not Geneva Conventions qualified, the President said they will be treated humanely. We have had interrogation techniques in the past for enemy combatants, people who do not fall under the Geneva Conventions, but they have never been in one source document. The Army Field Manual is an attempt on our part to provide clarity to the troops.

I have gone with the chairman to Guantanamo Bay and I asked the question to the interrogators: Is there anything in the Army Field Manual that would prevent you from getting good intelligence, being involved in interrogations that would be fruitful to protect our Nation? They said no. They don't see the Army Field Manual as written or being drafted or revised as an impediment to doing their jobs.

So what is the upside? The upside is the people in the Department of Defense—who may find themselves in a situation where they will have a group of prisoners, detainees, some Geneva Conventions qualified, some not—will have a source document. The reason we are doing this amendment is right after 9/11 there was an attempt by the Department of Justice to cut corners, in my opinion, to give strained legal reasoning to the Convention on Torture, trying to define what torture is in a way that would get our own people in trouble.

The idea that you could actually break bones and that not be torture under the convention, that it would have to be a near-death experience—that gets us in a very dangerous area about physical abuse. The point we were trying to make, and the uniformed JAGs were trying to make, is when you start that reasoning, you have to understand there are other

laws on the books that govern our military.

The Uniform Code of Military Justice has a whole section about what is in bounds and out of bounds when it comes to detainees and how you treat detainees. It has an assault provision, making it a crime for a military member to degrade or assault someone in our charge.

The concern of the JAGs is that this new interpretation of the Convention on Torture allowing certain activity would put military personnel in jeopardy of being court martialed because of other laws on the books. Now is the time to reconcile this. Now is the time to come up with a standard that looks at every legal source of who we are and how we behave. The Army Field Manual will be one-stop shopping.

It will have interrogation techniques classified and unclassified that will be a roadmap of how we handle people at the Department of Defense who are non-Geneva qualified. It is the best thing we can do for the troops. Everybody is for the troops. We should be for the troops. If you are for the troops, I believe the best thing you can for them is to give them clarity so they will not run afoul of our values and our laws. It is the best thing we can do to help them as they execute this war on terror when it comes to interrogating people.

The second part of Senator MCCAIN's amendment is equally important but for a different reason. Abu Ghraib happened. Things happen on our watch in war that we are not proud of. But that happens in every war. The fact that some people make mistakes, some people commit crimes, some people go too far, is a part of war. How you deal with it is really about you.

What has made us different is that we hold our own people accountable, and we don't let the end justify the means. We have been doing that for a very long time because we are trying to set a value system in place that will be good for the world. And when we take someone who is a member of the military and prosecute them for abusing a prisoner, that is different in a lot of places in this world. If we are prosecuting people for abusing prisoners, the worst thing we could do is confuse people about what is in bounds and what is out of bounds. That is why the Army Field Manual is necessary. But the statement Senator MCCAIN is making about treating people humanely and cruel and unusual punishment interrogation techniques being out of bounds applies to everybody in the Government.

I believe we have to make a decision soon that that is what we are going to do for many years to come. The war on terror is going to be a long, hard road. We are going to be constantly asked to adapt to win the war. The question is, Should we sometimes set aside exceptions that are totally different than the way we have lived our lives for 200 years to win this war? My answer is, Absolutely not, because this war is not about taking down a capital, sinking a navy, or capturing an army; this war is about tolerance, values, religion, and respect for human rights. This war is truly about character.

I believe with all my heart and all my soul that what happened in Abu Ghraib is an aberration in terms of the men and women in the military. It doesn't reflect on who they are and what they believe. But it has done great damage to this country. To the terrorists, they are not the audience; it is those millions of people out there who are looking at democracy, checking under the hood, and trying to figure out which way to go.

As a nation, we need to say as strongly as we can that no terrorist will have a safe haven. We are coming after you. We are going to fight you to the death. But if we capture a terrorist, we will want good information. We want to try them for their crimes, but once we have them in our charge, then it becomes about us because if you do not practice what you preach, your children will go astray if you are a parent. If you do not practice what you preach, your value set that has made you a great nation, standing out in a world in a unique way—you will tarnish who you are. The only way we are going to win this war is to have American values shine brightly. And character is about doing the right thing when nobody watches.

I am hopeful that we can have a compromise and accommodation between the executive branch and the legislative branch on this issue; that we can have a policy statement that if you are in the hands of the CIA or a non-DOD agency, you can be interrogated aggressively, but you will be treated with a value set that this country has been fighting for in the past and is fighting for now. As the President reaffirmed just days ago, no matter where the prison is, no matter whether it is a prison known or unknown, American values follow that prisoner. That is what it has to be.

Can we do better language? Maybe. I am certainly openminded to working on language that makes who we are crystal clear. But I will not entertain a retreat. I will not entertain an exception that washes away what we have been standing for and fighting for and what over 2,000 young men and women have died for.

The courts are confused. The courts are crying out for congressional involvement. The executive branch is trying to adapt. I really do believe that the best thing we could do for this President and all future Presidents is for the Congress to get into the game and be an ally on how you detain, interrogate, and prosecute enemy combatants. That is missing. We have been AWOL. It is now time for us to step up to the plate and exercise our constitutional responsibility—not to weaken the Presidency but to make the executive branch stronger in the eyes of the courts.

If you had a policy that was signed off on by the Congress, signed off on by the executive branch, I am totally convinced that the judicial side of our Government would be much more deferential. They are telling us that. What benefit would that be? We could go to the world, and this President and the next could say that America at every level of Government is united. We are going to have aggressive interrogation techniques, we are going to detain people who are enemy combatants, and we are going to take them off the battlefield. And some of them are going to stand trial for their crimes. But we are going to do it together, and we are going to do it within our values. That would be the strongest message we could extend to the world. It would be the right message to send to our own troops. If we do not get this right now, people after us are going to pay a heavy price.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I followed that statement with great care. I commend the Senator. I think he articulated the key issues. He used the word ''compromise'' and keeping an open mind.

I wish to assure those who are following this that our group that supports Senator MCCAIN's amendment have taken careful consideration of the continuing need to collect our intelligence, first and foremost to protect our troops and, of course, first and foremost to protect our citizens back here in this Nation from terrorists or other attacks.

It is a balanced approach that we have tried to take on this, a careful one, thoughtfully moving each step of the way and entertaining carefully the views of others who have views different from our own.

Mr. KENNEDY. Mr. President, the war against terrorism is as much as a contest of values and ideals as it is a military conflict. In this struggle, America should lead as it always has, setting an example by treating others as we would want to be treated ourselves, even in times of war.

This golden rule has been tarnished and abandoned by the Bush administration. As a result, for much of the world, the American face in the war on terror is represented by images of torture and abuse. The ''anything goes'' attitude at the highest levels of the Bush White House has made the war on terror much harder to win. And it has placed our own soldiers at risk throughout the globe, should they be captured.

How can we demand that the rest of the world abide by standards of common decency when we abuse prisoners ourselves?

So I come to the floor today in strong support of the McCain amendment to protect American honor by ensuring clear rules for the interrogation

of prisoners. This common sense proposal ensures that we have one standard of interrogation for our Government, and it makes sure the rules are clear so that our interrogators and case officers know what the limits are.

Before September 11, 2001, everyone knew what the limits were. They were clearly laid out in the Army Field Manual, our laws, and our treaty obligations. Yet this administration began systematically taking those rules apart.

COL. Larry Wilkerson, the chief of staff to Secretary Powell, said on NPR yesterday, ''The Secretary of Defense, under cover of the Vice President's office began to create an environment . . . of allowing the President in his capacity as Commander-in-Chief to deviate from the Geneva Conventions.''

William Taft, the State Department legal advisor in President Bush's first term, knew the consequences of that fundamental shift. In an address at American University, he said that the decision to violate international standards ''unhinged those responsible for the treatment of the detainees . . . from the legal guidelines for interrogation . . . embodied in the Army Field Manual for decades. Set adrift in uncharted waters and under pressure from their leaders to develop information on the plans and practices of al Qaeda, it was predictable that those managing the interrogation would eventually go too far.''

The Judge Advocate Generals from the Air Force, Navy, Army and Marines—in other words, the chief lawyers for every one of the uniformed services—warned that the adoption of interrogation policies contrary to the Geneva Conventions would result in grave harms. These are all professional military lawyers who have dedicated their lives and distinguished careers to serving the men and women in uniform and protecting their Nation. In an extraordinary set of memos they strongly opposed the legal theories foisted on them by the administration's lawyers. The JAGS warned that the policies would harm not only our efforts to stop terrorism, but would also put U.S. forces at risk who were themselves detained in this and future conflicts. One legal scholar called the administration's case some of the worst legal reasoning he had ever seen.

As Air Force Major General Jack Rives said: ''We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.''

Yet; despite the condemnation of these new interrogation policies by experienced diplomatic and military personnel alike, the administration persists in pursuing these disturbing practices. Just last week, Vice President CHENEY himself suggested that the CIA should be exempt from the prohibitions against cruel, inhuman, and degrading treatment. As of this week, it is clear why. The CIA apparently is holding more than a hundred detainees in secret prisons around the world to interrogate them with the techniques roundly rejected by the military lawyers.

This is unacceptable. In America, no one is above the law. There is no reason the CIA—or any other agency of our government—should be immune from American norms and standards of conduct.

This amendment will make our message clear. As Americans, not only do we fight for our ideals, but we live by them. We can no longer tolerate ambiguity when it comes to the very standards we are trying to enforce around the world.

In the first gulf war, our compliance with the Geneva Conventions—the international gold standard for treatment of captives—was called ''the best of any nation in any conflict in the history of the Conventions'' by the International Red Cross, the organization charged with overseeing compliance with the conventions.

There are good reasons that we should abide by the Geneva Conventions. They protect our own troops. The Conventions require that all captured combatants or prisoners of war must be visited by the Red Cross to help assure the world that their treatment is humane. The International Red Cross visited U.S. servicemen held prisoner in Kosovo in the 1990s. They visited our troops held in the first gulf war.

As Milt Bearden, a former CIA official, wrote in this morning's New York Times, ''the treatment of prisoners generally reaches symmetry in any war.'' In other words, if we abuse prisoners in a war, others will abuse our soldiers if they are taken prisoner.

As Mr. Bearden pointed out, our actions make a difference, even in extreme situations. He wrote, ''The policy of three presidents—Jimmy Carter, Ronald Reagan, and George H.W. Bush—was that both the Afghan mujahedeen insurgents we supported and their Soviet adversaries would be treated within the precepts of the Geneva Conventions when taken prisoner. I can state without reservation that the United States used its influence consistently to promote that policy, with overwhelmingly positive results.''

Sadly, our treatment of detainees at Abu Ghraib, in Afghanistan, Guantanamo, and other sites, makes it far more difficult for us to guarantee the protections of the Geneva Conventions for our military if they are captured, and degrades the international consensus against such abuse.

America must lead by example. After the abuse of the detainees at Abu Ghraib, President Bush said, ''Their treatment does not reflect the nature of the American people. That is not the way we do things in America.''

Let's make the President's bold words into a reality and adopt the McCain amendment.

Mr. President, I ask unanimous consent that full text of Mr. Bearden's op-ed be printed in the RECORD.

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

[From the New York Times, Nov. 4, 2005]

WHEN THE C.I.A. PLAYED BY THE RULES

(By Milt Bearden)

Today the Supreme Court justices are expected to debate whether they will hear a case involving a Yemeni named Salim Ahmed Hamdan, who is accused of being Osama bin Laden's driver. A federal appeals court found that Mr. Hamdan, who was captured in Afghanistan in 2001 and is being held at Guantanamo Bay in Cuba, was not entitled to the protections of the Geneva Conventions; he has appealed to the high court.

If the court does not choose to review the appellate court's decision, and then overturn it, America's national security will be endangered. I say that based on my experience as the senior American intelligence officer during the final three years of the Soviet occupation of Afghanistan (1986 to 1989). And I also feel that our intelligence agencies and military commanders should make clear to the Bush administration that our country's most fundamental commitments of humanitarian treatment have long been extended to the Afghan battlefield.

The policy of three presidents—Jimmy Carter, Ronald Reagan and George H. W. Bush—was that both the Afghan mujahedeen insurgents we supported and their Soviet adversaries would be treated within the precepts of the Geneva Conventions when taken prisoner. I can state without reservation that the United States used its influence consistently to promote that policy—with overwhelmingly positive results.

When in Pakistan, I oversaw America's covert support to the Afghan resistance that had begun in December 1979. Throughout that war, countless thousands of Afghan insurgents fell into the hands of Soviet forces; a far smaller number of Soviet soldiers were taken prisoner by the Afghan irregulars. I urged the Afghans, the Pakistani officers who supported them, and the politicians on both sides of the ''zero line'' (the Afghan border with Pakistan) that all combatants taken prisoner deserved the protection of the Geneva Conventions. My most effective argument was founded on reciprocity—that the treatment of prisoners generally reaches symmetry in any war.

The Afghan war was exceptionally brutal, with more than a million Afghans killed, a million and a half wounded, and three million more driven into exile by the Soviet invaders (who had 15,000 of their own killed). Early in the conflict, the Afghans were brutal to their prisoners, using them as beasts of burden and objects of amusement in traditional knife play; the Soviets responded in kind. But as American involvement deepened, the Afghans were persuaded to change that behavior; at the same time, the Soviet troops, too, began treating their prisoners in accordance with international protocols.

One incident in particular drives home the wisdom of this policy. In early August 1988, I was informed that a Soviet Su–25 ground attack aircraft had been brought down, lightly damaged, that day by antiaircraft fire in eastern Afghanistan. Was I interested in ''buying'' it?

I was delighted. An Su–25, a superb plane often called the Frogfoot, would nicely augment the equipment the United States had been collecting from the Afghan battlefield over the previous decade. After a little haggling, I agreed to give the Afghan guerrillas eight Toyota pickup trucks and a few rocket

launchers in exchange. Almost as an afterthought, the Afghans told me they had also taken the pilot, a silver-haired colonel. Was I interested?

I was, indeed, interested. I remembered that just after I arrived in Pakistan, I was shown a photograph of a Soviet pilot in a silver flight suit, up to his waist in snow, skin burned by the relentless sun, with a bullet hole in the side of his head. His Tokarev semi-automatic pistol was still clutched in his hand. He had killed himself rather than be captured by insurgents. Back then, Soviet pilots had it particularly rough when captured.

I had made it clear from that moment that American policy was that captured pilots be treated as prisoners of war under international agreements, and that I would offer rewards for any pilots used in prisoner exchanges, repatriated to the Soviet Union, or, if they so desired, resettled in the West.

I threw in another couple of Toyotas and the pilot came with his downed aircraft in a sort of package deal. The colonel was handed over to the Pakistanis—not wanting to create an incident, I stayed clear of him, though I did make sure he knew that a condominium in Phoenix, or wherever, was an option open to him. He eventually chose to return to the Soviet Union, where he was hailed as a national hero. Part of the swap, though, was the extraction of certain guarantees from the Soviet commanders that their treatment of Afghan prisoners would reach ''symmetry'' of a sort with the treatment of that pilot.

The story didn't end there, however. The next time I saw that colonel he was on TV, helping beat back the 1991 coup against Mikhail Gorbachev. He soon became Boris Yeltsin's vice president, then turned on Mr. Yeltsin in 1993. His name is Aleksandr Rutskoi, and he remains a voice for democracy and one of President Vladimir Putin's leading critics.

There are two salient points here. First, the present war in Afghanistan must be seen as part of a struggle that has been under way for more than a quarter-century. The Afghan insurgents themselves are not likely to distinguish to any large degree the differences between being taken prisoner by the Soviets in Mazar-i-Sharif in 1985 or by the Americans in the same tortured city in 2005.

The second thing being missed, or more likely ignored, is that there was an American policy toward insurgents taken prisoner by the Soviets in Afghanistan during the Soviet occupation. That policy was to urge both sides toward accepting that the Geneva Conventions applied, and to reach a point where each side treated its prisoners within established rules. In the case of Colonel Rutskoi, a graphic point was made to both sides.

It is a point that has become muddied in the Hamdan case. The issue is not whether Mr. Hamdan is a Qaeda terrorist, but whether as a captive of the United States he should be treated under the traditional rules of the Afghan conflict—that is, under international norms. A unilateral change in those rules dictated by America—the latest in the line of foreign powers to find themselves in Afghanistan—is not only unseemly, but would also put our troops there and elsewhere in the struggle against terrorism in harm's way.

The questions of applicability and enforcement of the Geneva Conventions posed by the Hamdan case should not go unanswered by the Supreme Court. We are a better nation than that.

The PRESIDING OFFICER. All time is yielded.

The question is on agreeing to the amendment.

The amendment (No. 2425) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we had announced earlier—I see my distinguished colleague, a member of the Armed Services Committee, Senator REED—that we would move to Senator ALLARD and then follow with the Senator from Rhode Island, Senator REED.

AMENDMENT NO. 2423

Mr. ALLARD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 2423.

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

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

The amendment is as follows:

(Purpose: To authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. RETIREMENT BENEFITS FOR WORKERS AT ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE, COLORADO.

(a) PROGRAM AUTHORIZED.—Subject to the availability of funds under subsection (d), the Secretary of Energy shall establish a program for the purposes of providing health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado (in this section referred to as the ''Site''), who do not qualify for such benefits because the physical completion date was achieved before December 15, 2006.

(b) ELIGIBILITY FOR BENEFITS.—A worker at the Site is eligible for health, medical, and life insurance benefits under the program described in subsection (a) if the employee—

(1) was employed by the Department of Energy, or by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at the Site on September 29, 2003; and

(2) would have achieved applicable eligibility requirements for health, medical, and life insurance benefits as defined in the Site retirement benefit plan documents if the physical completion date had been achieved on December 15, 2006, as specified in the Site project completion contract.

(c) DEFINITIONS.—In this section:

(1) HEALTH, MEDICAL, AND LIFE INSURANCE BENEFITS.—The term ''health, medical, and life insurance benefits'' means those benefits that workers at the Site are eligible for through collective bargaining agreements, projects, or contracts for work scope.

(2) PHYSICAL COMPLETION DATE.—The term ''physical completion date'' means the date the Site contractor has completed all services required by the Site project completion contract other than close-out tasks and services related to plan sponsorship and management of post-project completion retirement benefits.

(3) PLAN SPONSORSHIP AND PROGRAM MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term ''plan sponsorship and program management of post-project completion retirement benefits'' means those duties and responsibilities that are necessary to execute, and are consistent with, the terms and legal responsibilities of the instrument under which the post-project completion retirement benefits are provided to workers at the Site.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated to the Secretary of Energy in fiscal year 2006 for the Rocky Flats Environmental Technology Site, $15,000,000 shall be made available to the Secretary to carry out the program described in subsection (a).

Mr. ALLARD. Mr. President, I rise today to discuss the incredible achievements of the workers at the Department of Energy's Rocky Flats Environmental Technology Site and to offer an amendment on the behalf of these workers.

Rocky Flats is located just a few miles northwest of Denver, Co, and for over four decades, this facility was the Department of Energy's dedicated site for manufacturing plutonium pits for the U.S. nuclear weapons stockpile. This highly classified production facility was run by over 8,000 Coloradoans who worked day and night for most of the cold war and used some of the most dangerous substances known to man, including plutonium, beryllium, and uranium.

The workers at Rocky Flats were devoted to their job and believed in their mission. They risked their lives on a daily basis, but did so with the knowledge that their efforts were contributing to the security of our Nation.

When plutonium pit production ended in 1991, it was unclear what role these workers would play in the cleanup of Rocky Flats. They could have walked away from the job. Yet the workers at Rocky Flats were not ready to quit. They saw a new challenge in front of them—the cleanup of Rocky Flats.

Their task was anything but simple. Five large plutonium processing facilities, encompassing over a million square feet, were highly contaminated with dangerous radioactive material. The contamination was so severe that these buildings were ranked among the top 10 most contaminated facilities in the Department of Energy nuclear weapons complex.

I, however, had faith in the workers at Rocky Flats. I am pleased that the workers at Rocky Flats have not disappointed us. The cleanup at Rocky Flats was declared completed on October 12 of this year, a full year and 3 months ahead of schedule.

We must keep in mind that most of these workers had to literally develop an entire new skill set. They went from manufacturing plutonium pits to dismantling over 1,400 highly radioactive gloveboxes.

They tore down buildings while wearing stiff environmental protection suits. They cleaned up rooms that were so contaminated that they were forced

to use the highest level of respiratory protection available.

Listen to some of the Rocky Flats workers' accomplishments:

All weapons grade plutonium was removed in 2003.

More than 1,400 contaminated glove boxes and hundreds of process tanks have been removed.

More than 400,000 cubic meters of low-level radioactive waste has been removed.

All 802 facilities have been demolished.

All four uranium production facilities have been demolished.

All five plutonium production facilities have been demolished.

All 360 sites of soil contamination have been remediated.

The last shipment of transuranic waste was shipped this past April.

Completion of the cleanup—1 year and 3 months ahead of schedule.

Just as important, these workers were extraordinarily productive even though they knew they were essentially working themselves out of a job. With the completion of the cleanup and the closure of Rocky Flats, they knew they would have to find employment elsewhere. There was no guarantee for a new job.

Despite knowing they were going to lose their jobs, the workers at Rocky Flats remained highly motivated and totally committed to their cleanup mission.

Given the sacrifice and dedication demonstrated by these workers, you would think assisting those workers who lose their retirement benefits because of the early completion of the cleanup would be a top priority for the Department of Energy. After all, these workers saved the Department billions upon billions in cleanup costs.

Last year, however, it became clear that the cleanup at Rocky Flats would be completed much earlier than anyone expected. The workers were supportive of early closure, but were concerned that some of their colleagues would lose retirement benefits because of early closure.

I shared their concern and requested in last year's Defense authorization bill that the Department of Energy provide Congress with a report on the number of workers who would not receive retirement benefits and the cost of providing these benefits. After a lengthy delay, the Department of Energy reported that about 29 workers at three cleanup sites would not receive pension and/or lifetime medical benefits because of the closure, and the cost of providing benefits to these workers, according to DOE's report, was just over $12 million.

To my dismay, the Department of Energy report was woefully incomplete. I was informed later at least 50 workers would have qualified for retirement benefits had the Department of Energy bothered to include those workers who had already been laid off because of the accelerated closure schedule. This means as many as 75 workers at Rocky Flats will lose their pension, medical benefits or, in some cases, both because they worked faster, less expensively, and achieved more than they were supposed to. They not only worked themselves out of a job, but they also worked themselves out of retirement benefits and, most importantly, medical care.

Workers such as Doug Woodard and Leo Chavez now find themselves with either severely reduced benefits or no benefits at all. Doug started work at Rocky Flats all the way into 1982 and was responsible for monitoring radiation contamination at the site. He missed qualifying for medical benefits by less than 2 months. For Leo Chavez, who worked at Rocky Flats for 17 years, DOE's treatment was even worse. The Department of Energy thanked him for his service and showed him the door 6 working days before he qualified for lifetime medical benefits—I repeat, just 6 days before he qualified to medical benefits.

Sadly, the Department of Energy has failed to step up to the plate and help these workers who did so much to save American taxpayers so much money. Instead, the Department of Energy has played the numbers game with these workers. The Department argues that the contract signed with the workers already provided sufficient incentives, and those individuals already received an additional year of service time. Yet the Department will not bring up the numbers that matter most.

Here are a couple of examples. We saved over $35 billion, the amount of money the Department of Energy in 1995 thought would be needed to clean up Rocky Flats. That was with the 60-year cleanup schedule. Then we came in with a plan to dramatically shorten that length of time by one-tenth. The amount of money the American people saved when employees at Rocky Flats agreed in 1999 to accelerate the cleanup at Rocky Flats was $28 billion.

Now, $600 million exists. That is the amount of money the American taxpayer saved on top of the $28 billion because the workers at Rocky Flats exceeded even the accelerated cleanup schedule by over a year.

The Department of Energy does not talk about the hundreds of millions the American people will save when workers at the Savannah River, Hanford, and Idaho cleanup sites see they will not be punished for accelerating their cleanup activities. Many of the workers at Rocky Flats have served our Nation for over two decades. They have risked their lives, day in and day out, first by building nuclear weapons components and then by cleaning up some of the most contaminated buildings in the world. All they have asked for in return is to be treated with fairness and respect. To the great disappointment of the workers at Rocky Flats, the Department of Energy has no intentions of keeping its end of the bargain. These workers would have received their retirement benefits had the cleanup continued to 2035, as originally predicted. More importantly, these workers would have received their retirement benefits had the cleanup continued to December 15 of 2006, a little over a year, as the site cleanup contract specified. By accelerating the cleanup by over a year and saving the American taxpayer over $600 million, many of these workers will be left without the medical, health, and life insurance benefits they deserve and have earned.

The Department's refusal to provide these benefits has ramifications far beyond Rocky Flats. Because Rocky Flats is the first major DOE cleanup clean site, workers at other sites around the country are watching to see how the Department of Energy treats the workers at Rocky Flats. Unfortunately, they have seen how the Department of Energy has failed to step up and provide retirement benefits to those who have earned it. The workers at other sites now have no incentive to accelerate cleanup. The question is, why should they? The Department of Energy hasn't lifted a finger to help the workers at Rocky Flats. It would be foolish for the workers at other sites, such as Hanford and Santa Ana River, to think the DOE would act fairly with them.

To me, the Department's decision is penny wise and pound foolish. By refusing to provide these benefits, the Department saves money in the short term. Yet by discouraging the workers from supporting acceleration, the Department is going to cost the American taxpayer billions in additional funding in the long run.

To correct this mistake, I offer an amendment that will provide some of the benefits to those workers who will have lost them because of early closure. I am pleased my colleague from Colorado, Senator SALAZAR, has agreed to cosponsor this important amendment. This amendment is limited and narrowly focused. It provides health, medical, and a life insurance benefits to those workers who would have qualified had the site remained open until December 15, 2006, the date of the site cleanup contract. This amendment does not add to the budget. In fact, all it does is direct that a very small portion of the money already provided in this bill for Rocky Flats be used to help those workers.

To be clear, these benefits are not an additional bonus for a job well done, nor is it a going away present for two decades of service. The benefits—the health, medical, and life insurance benefits—are what these workers have already earned, nothing more and nothing less.

Some might suggest these workers already received a bonus and a year's worth of service time as part of their contract. Yet by closing a year early, the Department of Energy has taken many of the bonuses away from the workers, including the year of service time promised to them.

The workers at Rocky Flats are ordinary people who achieved some extraordinary goals. They made the impossible possible. We, in this Senate, have an obligation to correct the injustice being perpetrated by the Department of Energy. In my view, it is time for this Senate to correct this mistake.

I have, in the Senate, a number of illustrations to share with Members of the Senate. This is a picture of Rocky Flats in 1955. The whole area was covered with construction. Most believed at that time it would take 70 years and cost the American taxpayer $35 billion to clean up Rocky Flats. The Department of Energy found several buildings in this complex to be among the most contaminated in the country. Building 771, in particular, was dubbed by the national media as the most dangerous building in Colorado.

Now I will proceed to some of the challenges we had. This picture reflects the glove boxes. The most dangerous task the workers at Rocky Flats had was to dismantle and eventually ship out over 1,400 highly contaminated glove boxes. The workers placed their hands in the gloves and worked with the contaminated material inside the boxes to break these down and eventually ship them out. It was a real challenge. They had been used primarily to fashion the plutonium pits and other nuclear weapon components. Obviously, they were highly contaminated. Eventually, they had to be shipped out as a whole unit in order to dismantle these glove boxes.

The next illustration is the cleanup and demolishing of buildings at Rocky Flats, another dangerous task. The actual demolishing of the buildings and structures of Rocky Flats occurred with some very contaminated buildings. Specialized machinery had to be brought in and extra care had to be used to ensure the safety of all involved, as well as to prevent radiation exposure. The workers had to learn how to work in a new way in these cleanup processes. They had to use many techniques to protect themselves in buildings in which the very same workers had been working not too long before, building triggers for the same nuclear weapons.

The next illustration is Rocky Flats in 2005. I want the Members to compare the two illustrations. This is Rocky Flats before cleanup; this is Rocky Flats after cleanup. We are getting back to the prairie and the plains in Colorado. We have a great view of the mountains, with no buildings. This is Rocky Flats 2 weeks ago. There are no buildings, no waste deposits, no fences, not even asphalt. All this remains an open space.

The workers at Rocky Flats achieved this. They should be proud about saving the American taxpayer over $600 million. They completed the mission a year and 3 months ahead of schedule. They worked safely and in a manner that we can all be proud.

To give an idea of the kind of people we are talking about, here are some of the workers at Rocky Flats. This is a group of them. They are ordinary people. They performed their duties with professionalism and extraordinary competence. They made the impossible possible and achieved more than we ever expected. They deserve the benefits they would have received had they not worked as hard or had they waited until the date specified in the site cleanup time practice. They saved the American people over $600 million. It is the least we can do to provide them with the benefits they have earned.

I remind the Senate, it is time to act, it is time to correct this mistake.

I yield the floor and I reserve the balance of my time.

The PRESIDING OFFICER. The Senator reserves the balance of his time.

Under the unanimous consent, the Chair recognizes the Senator from Alabama.

Mr. SESSIONS. Mr. President, I see Senator REED is here. I will make a few comments on Senator ALLARD's amendment if that is all right. I ask the unanimous consent be modified to the extent that I be allowed to speak for a few minutes now and that Senator REED then be recognized immediately thereafter.

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

Mr. SESSIONS. Mr. President, I thank Senator ALLARD for his leadership in the Senate, his superb leadership on the Committee on Armed Services. We miss him. But he is also on the very important Committee on Appropriations. I am sure he had a painful decision to make, but I am sure it is a decision in which his constituents will join in his decision to leave us and go to Committee on Appropriations.

The Senator knows this issue because he dealt with it for so many years. In particular, he used to chair the subcommittee that I now chair that deals with the issue. He has been committed to dealing with and promptly and effectively eliminating the difficulties at Rocky Flats. Our country is in his debt and the debt of those people who have helped make the cleanup possible. Therefore, the Senator knows why I am most reluctant to oppose his amendment as written, but I must do so. I share a few thoughts about it.

The amendment reaches into a relationship between contract employees for the Government who were performing environmental cleanup and their employer, which was a private contractor, Kaiser Hill. Kaiser Hill won this contract with the Department of Energy to perform the cleanup work. They hired people under certain terms and agreements in a negotiated contract with their employees. They were hired under that basis.

So, in effect, the Government is undertaking now to modify, amend, alter, and fund additional moneys that relate to that contract between the contractor and the employees. It directs the Secretary of Energy to instruct Kaiser Hill to grant retirement and health benefits to employees which those employees would have earned if the cleanup had taken longer than it actually did.

The cleanup of Rocky Flats did not take as long as some predicted, but everyone knew this was a contract that would end promptly or at least at a certain date in the future. It came in quicker, for which everyone is delighted. But there was no doubt people knew it was not a permanent, lifetime contract.

So Rocky Flats is no more. Our country is the better for it. If you go to the site, you will see, as Senator ALLARD has shown, an empty space on that Colorado plateau. The workers for the most part have dispersed and gone on to other jobs. Many Government contracts complete early or do not run as long as originally anticipated. That is a fact. We cannot start down the road of altering the benefits of contractor workers when this happens, particularly when we have a contract that we know is not going to be for an extended period of time.

Also, I would call to the attention of all our Members that the Government and the contractor were not unaware of this problem, and they advanced 1 full year of credit toward retirement and health care benefits for every employee who was terminated. They also realized at some point that the contract was going to be terminated early.

So union negotiations took place, and an agreement was reached. It was agreed that,based on the termination date, additional funds would be paid to compensate the employees. As I understand it, $4,200 turned out to be the bonus, the incentive package, payment that they received as a result of completing the contract early. In other words, it gave them cash money they could use as a benefit or money they could utilize to transition to another employer.

The Department of Energy is very concerned that this amendment alters the bargain struck between Kaiser Hill and its employees. Most of the Kaiser Hill employees were covered under collective bargaining agreements, and staggered layoffs were anticipated as the cleanup neared.

I would like to offer, Mr. President, for the RECORD, and do offer for the RECORD, a summary of the benefits that were made available to the employees as a result of the anticipated early termination of this contract. I ask unanimous consent that summary be printed in the RECORD.

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

ROCKY FLATS EMPLOYEE BENEFIT INITIATIVES

The Department of Energy has instituted, through its closure contractors, numerous incentives to reward employees for accelerating closure. Rocky Flats-Kaiser Hill has implemented many benefit initiatives and has dedicated a significant percentage of their fee to support closure. The following lists the initiatives:

Retirement Plan Improvements—A ''Rule of 70'' was put in place that allows a laid off

employee to retire if their age and years of service equal at least 70 and the employee is less than age 50. This was reduced from the ''Rule of 80.'' This reduction results in an investment of tens of millions of dollars in additional retirement benefits provided to workers. The Rule of 70 allows employees access to retiree medical coverage. Upon layoff, they will be eligible for a reduced pension benefit which they have the option of taking in a lump sum distribution.

Robust Workforce Transition Program—This program was implemented to provide many services, including an onsite Career Transition Center, job search training, resume development, counseling, job fairs, and financial planning. Approximately 2000–2500 people took advantage of this program over the last two years.

Severance Pay for Steelworkers—Lump sum severance pay was provided for steelworkers. Workers receive one week severance pay for every year of service up to 20 years plus an additional lump sum amount. 313 workers received a $5,000 lump sum payment and 358 workers received $7,000. (The amount was increased in October 2004).

Bonuses—880 steelworkers received up to $4,200 in performance bonuses. 365 salaried employees receive several thousands in bonuses as well. On-the-spot bonuses are also provided.

Improved Savings Plan—The 401(k) program was revised to allow hourly steelworkers employees immediate plan participation, and a Company match after 1 year of service. This of course is in addition to traditional pension program.

Enhanced Tuition Reimbursement Program—This program provides funds for education and retraining in non site specific careers for employees. This is available for two years after an employee is terminated.

Entrepreneurial Resource Program—This program provides up to $5000 assistance for new business endeavors.

Leave Incentives—This program removes caps on paid leave accrual, which allows employees to bank unused vacation time; this provides employees with the opportunity to build an additional financial cushion.

Relocation Incentives—This is provided for those who relocate to another DOE site. Actual cost or $5,000 is available. This is available for two years after an employee is terminated.

Mr. SESSIONS. Mr. President, I say this: This was anticipated. Compensation for early termination was negotiated and agreed upon. And at whatever date you choose, some will be out of it, and some will be in it.

So I note this: In the Deficit Reduction Act we just completed yesterday, we had a lot of talk about the fiscal situation in which this country finds itself. There was debate about the hard choices we face as a nation so we do not burden our children and grandchildren with obligations that, in retrospect, were not wise.

I respect my colleague from Colorado as much as I respect any Senator in the Senate. I commend the workers at Rocky Flats for what has been achieved. I am proud of that. But I believe, as we face this amendment as written, the concerns of the Department of Energy are legitimate, principled concerns. They are not skinflinty concerns, mean-spirited concerns, but a genuine concern that this is not a road we need to go down.

What if we agree to build so many aircraft and we cut that number in half? We do that every day. The number of ships, contracts are terminated based on the terms of those contracts, and closure penalties are paid, and we go on. We do not need to have the politicians come in and redo those.

So I respect my colleague from Colorado. As written, I am of the belief the Department of Energy's concerns are justified; therefore, I must reject and ask my colleagues to not support this amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alabama yields the floor.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I would like to respond briefly, if I may.

First of all, I would like to state for the record, I was the chairman of the Strategic Subcommittee on Armed Services before my good friend and colleague from Alabama took over that responsibility. I congratulate him for a job well done. There are some very difficult issues relating to cleanup. Rocky Flats is the first major nuclear facility in the country that has been cleaned up. This program has not been moved forward like it should be moving forward. I think it is important we leave a good taste with the workers because workers at other plants are obviously going to be watching what happens at Rocky Flats.

I would like to comment, the $15 million we have in here does not add to the spending picture. It is out of the savings that comes from early closure, which is about $600 million. So you can bring it down to about $575 million. I think that is still a pretty good savings.

My point is, workers at these other nuclear sites, they will be less willing to buy into these incentive contracts if they feel somehow or other the members cannot get health insurance and life insurance. We already have limited this amendment. We limit it to health insurance.

How would you like to be a citizen out there shopping for health insurance, being exposed to radiation to one degree or another for 15 years? Insurance companies do not insure those kinds of risks. So it is tough. For life insurance, it is the same thing because the incidence of cancer and everything is well known. It is elevated whenever there is increased exposure to radiation, particularly in the amounts we are talking about being handled out there in Rocky Flats. They do not care whether it is a little amount of exposure or a lot of exposure. A little amount of exposure would not be a problem with a lot of them, but it is the same concern that comes out of the insurance company; they do not try to differentiate.

So we have workers out there, and we are just talking about their health insurance and life insurance. I think that it is a small price to pay to be fair to these workers.

My hope is we can continue to negotiate with the Department of Energy. I hope we continue to negotiate with the staff and my good friend from Alabama. Perhaps maybe we can tighten this down if we have to, but we have already tightened it down a lot. We have it listed to a very specific group of employees from certain dates. We have tightened it down just to insurance and health benefits and nothing else. But we will look and work with them to see if perhaps maybe we can find a different way so we do not set a precedent. I am sensitive to that, that we do not set an unfair precedent. But we have to be fair to the workers, too.

I thank the Armed Services Committee and my good friend from Alabama. I know they have some real concerns. They have shown a willingness to want to work with us, so I thank them for that gesture.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I say to my colleague, maybe there is something that can be worked out. I look forward to continuing discussions.

I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Does the Senator from Colorado yield back?

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

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 2427

Mr. REED. Mr. President, I send an amendment to the desk on behalf of myself and Senator LEVIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for Mr. LEVIN, for himself and Mr. REED, proposes an amendment numbered 2427.

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

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

The amendment is as follows:

(Purpose: To make available, with an offset, an additional $50,000,000 for Operation and Maintenance for Cooperative Threat Reduction)

At the end of subtitle C of title II, add the following:

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

Mr. REED. Mr. President, I ask unanimous consent that Senator KERRY, Senator FEINGOLD, and Senator LAUTENBERG be added as cosponsors.

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

Mr. REED. Mr. President, we have spent the last several days making difficult decisions about national priorities with respect to spending. We also have to continue to make these difficult decisions within the context of the Defense bill.

The amendment I propose today, along with Senator LEVIN and my colleagues, would transfer $50 million from the Missile Defense Program to the Cooperative Threat Reduction Program. I believe this amendment properly reallocates scarce resources so we can deal with an immediate threat. That immediate threat is the proliferation of nuclear materials and nuclear weapons.

When President Bush first took office in 2001, he made missile defense one of his highest priorities. Since fiscal year 2002, approximately $45 billion has been spent on missile defense. In fact, this represents a huge amount. If you look back to 1984, when President Reagan began the search for a strategic defense initiative—we have spent, since President Bush took office, half again the amount of money that was spent from 1984 to 2002. This has been a huge program.

It has been named as a priority by the President. In fact, the Missile Defense Agency, as a result, rushed to field a system—any system—in fact, a system that many claim—and it seems to be the case—does not work very well.

So last year, six ground-based interceptors were placed in silos at Fort Greely in Alaska. Two interceptors were placed in silos in Vandenberg Air Force Base. In September 2004, President Bush declared that this missile system was operational. A seventh interceptor was put in place at Fort Greely last month.

Now, one of the critical aspects of declaring a system operational, it seems to me, is successful testing. Unfortunately, this element—successful testing—seems to be absent from the present ground-based system. In fact, it is highly questionable whether this is at all operational.

In missile defense, interceptor tests are critical, and they should involve a real missile intercepting a real target. These tests are the only means to truly assess whether a missile defense system has a chance to work against an enemy missile.

The first intercept flight test of the system was conducted in December 2002, and it was a failure. Over the next 2 years, seven other planned tests that were contemplated were canceled because of technical reasons. In December 2004, 3 months after the missile defense system was declared operational—3 months after we supposedly had a working system—the Missile Defense Agency conducted only the second integrated flight test on this multibillion dollar system. It failed. On February 14, 2005, there was another integrated flight test, and it, too, failed.

After three consecutive failures, Lieutenant General Obering, the Director of the Missile Defense Agency, established an Independent Review Team to examine test failures and recommend steps for improving the test program. The team made some interesting observations. The team's report stated:

> With the focus on rapid deployment of the Ground-based Midcourse Defense system, there was not always adequate opportunity to fully ground test the system prior to each flight attempt.

The team also found:

> Schedule has been the key challenge that drives daily decision making in the program.

What you have here today has been a rush to failure, a succession of flight test failures, a premature declaration of operational characteristics of the system. No one will argue that the development, in a deliberate way and in a technically feasible way, of a missile defense system is not a good thing for the country, but what has happened over the last several years has been this rush to failure.

In addition to the evaluation team I previously mentioned, General Obering requested RADM Kate Paige to direct a Mission Readiness Task Force to study the review team's recommendations and put the program on a path to success.

This task force made the following recommendation:

> There will be a significant increase in ground testing of all systems, components and processes before resuming flight testing. Contractors will be held accountable for their performance. The first flight test will not be an intercept test and the first intercept test will not take place for more than a year.

I commend General Obering and the Missile Defense Agency for implementing these recommendations, for realistically assessing their technical capacity, for realistically beginning to test on the ground before they fly, for doing the things that are both prudent and necessary in this regard. The next interceptor flight test is not scheduled until a year from now, so we will not know until fiscal year 2007 whether the problems that led to the past test failures have been fixed.

Let me evaluate where we are. We presently have nine interceptors in the ground, but we do not know if they will work because we have not had a fully successful flight test. In addition, the administration has requested and Congress has provided most of the money for 30 more interceptors. So we have nine in the ground which we have not adequately tested, and we have also, through the President's request and the majority's concurrence, purchased 30 more of these interceptors. Yet in the President's fiscal year 2006 budget request, he requested long lead funding for an additional 10 operational interceptors. These are in addition to 30 interceptors we are already buying on top of the 9 we have in the ground, all of which have not been adequately tested.

Furthermore, it must be noted there is also the issue of production rate capacity. Production rate capacity for the interceptor is 1 per month, or 12 per year. That means the Defense Department is seeking funding for more missiles than can be built in 1 year.

As we all know, this is an annual authorization process. There is no need to pay for more interceptors than can be built in 1 year, especially when there is no guarantee that any of them will work in operational circumstances.

At this point the responsible thing to do is to slow down funding and reallocate the money to a more pressing threat. That is what this amendment does. This amendment takes $30 million from the long lead procurement for more interceptors and $20 million for funding for initial construction of silos to house these interceptors and increases funding for the Cooperative Threat Reduction Program by $50 million. As we all know, the goal of the Cooperative Threat Reduction Program is to eliminate the threat of unsecured nuclear material from falling into the wrong hands.

A 2001 task force, chaired by former Senator Howard Baker and former White House Counsel Lloyd Cutler, studied nonproliferation programs for almost a year and concluded:

> The most urgent unmet national security threat to the U.S. today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home.

That was before September 11. Certainly since September 11, this warning is much more ominous and should be much more closely followed.

It is estimated that Russia has approximately 16,000 nuclear weapons stored at 150 to 210 sites. Only about 25 percent of these sites have received any upgrades for security in the past 5 years. At the rate planned in the fiscal year 2006 budget request, it would be around 2011 or 2012 before work at only a portion of the sites would be completed to bring them up to the levels of security and safety that we would feel confident this nuclear material would not be stolen, misplaced, or somehow diverted into the wrong hands.

Because of the agreement between President Putin and President Bush at the February summit in Bratislava, we have a unique opportunity to improve security at an additional 15 sites. The problem, of course, is funding. The cost of securing these 15 sites is $350 million, funding that is not in this budget. This project deserves top priority. This amendment provides some funding—not complete funding—$50 million toward securing nuclear material.

As I have said before, I support the concept and, deployment of a system

that has been tested and truly works for national missile defense. I think it is a system we should pursue. But I also believe the Missile Defense Agency is more than adequately funded for its fiscal year 2006 mission, and some money can and should be diverted to more pressing needs without harming this missile defense program.

This amendment does not affect the funding or deployment of the first 30 ground-based interceptors. They will continue to be built and deployed. Again, this is all in a situation in which we haven't had a truly effective, complete flight test of even the first missiles we have acquired.

This amendment does not touch $53 million included in the bill for long lead funding for eight test missiles. It is essential to produce these missiles for testing.

This amendment simply takes into account that only 12 interceptors can be produced in a year so the funding for the 6 that cannot be used should be reallocated to the dire threat of nuclear proliferation so that no one, no terrorist, can obtain nuclear material or a nuclear device because we have been negligent in securing those materials along with other countries, and use those weapons against our soldiers in the field or citizens here at home.

We have an obligation. The most existential threat that faces this country is a terrorist, nonstate actor obtaining a nuclear device, surreptitiously moving into the United States or some other area of vital interest to the United States, and detonating that device. The more we do to resist and thwart that threat, the more we are responding to the true threats that confront this country.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will speak in opposition to this amendment, but to accommodate a colleague who has remained on the floor, I yield such time as the distinguished Senator from Colorado, a former member of our committee, former expert on our committee on this subject, needs.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I miss the leadership on the committee and the committee. I like to stay involved in many of the issues the committee is still working on because of the importance of the many military installations in my own State and because it is good for the country.

I have some problems with the amendment proposed by Senators LEVIN and REED. The first is it is reducing a program that has already been reduced at $1 billion by the Department of Defense for fiscal year 2006 and over a longer period of time, from 2006 to 2007, for a total of up to $5 billion in this very vital program for our Nation's security.

The other concern I have is, the money they are taking here is going to another program that hasn't spent all the money we gave it last fiscal year. I don't see a need, when they haven't spent all their money in the previous year.

I talk about the program itself because I think sometimes this amendment brings up where we are going in missile defense and some of the questions there. I understand the amendment eliminates $30 million for long lead funding for ground-based interceptor missile defense and then $20 million for associated silo construction. Currently, we have nine ground based-interceptors emplaced to protect the United States against a long-term limited ballistic missile attack. The $50 million is supposed to be transferred to what we call the Cooperative Threat Reduction Program, which is fully funded in the bill we have before us and is $7 million more than we had last year. My understanding is the same program last year had $107 million in unobligated funds remaining after the 2005 fiscal year. So an additional $1.6 billion is funded for DOE nonproliferation programs in addition to this. I think we have put plenty of money in that area.

We do have a need in missile defense, and we should not back away from our plan or obligation to develop missile defense because of threats that we potentially could have from countries such as North Korea and Iran, for example. This amendment unnecessarily delays by 1 year the fielding of the ground-based interceptors scheduled for 2009. We simply cannot afford to delay it any more because we do have real and imminent dangers as based on the testimony from General Cartwright, Commander of the U.S. Strategic Command. I do believe North Korea is a threat. We have already had testimony a number of years back from the Director of Intelligence that missiles launched out of Korea have the capability of reaching our west coast. Now North Korea is ready to flight test another ICBM that many of us feel—and we have been informed—will reach the United States. Iran may have such a capability in 2015, according to the DIA. So we are facing a real threat.

We have already acted on this issue in the Defense appropriations bill. The long lead funding for ground-based interceptors 31 through 40 was included in this year's fiscal year 2006 Defense appropriations bill. And in the report language, the bill added $200 million to the budget request ''to maintain the production schedule for ground-based interceptors.''

With this amendment, we are backing off of that commitment we put in the appropriations bill. I don't think we should run counter to the Defense appropriations bill.

Mr. WARNER. Mr. President, I thank the Senator for bringing that point up. He is on that committee.

Mr. ALLARD. I am.

Mr. WARNER. Therefore, you were participating at the time this took place.

Mr. ALLARD. That is correct.

Mr. WARNER. And were the Senate to accede to the Reed amendment, it would, in effect, be overruling or reversing what the Appropriations Committee, through the conference report, will presumably bring before the Senate in a matter of days.

Mr. ALLARD. That is right. We would be reversing the Senate action on that. I appreciate the chairman emphasizing that point.

I do think it is important that we move ahead. Myself and two other members on the Armed Services Committee made a special trip out to the southern part of the test bed. We went to where they were launching the target missile. We have had a few failures, but you learn from failures. Our testing is not intended to be 100 percent successful. It is spiral development. We are pushing the system to its limits. Occasionally you learn from failures. We have had four successful prototype launches, and of the operationally configured booster we now have, we have had three successful flights. One of the problems we have in some of these tests is the target we were supposed to be launching wasn't launching. So we made a special trip to look at what was happening with missile defense in the southern part of the test bed.

I have to tell you, it is very impressive. There are three aspects to it. There is short range, midrange and long range. The role of the naval forces in this program is very impressive. Ground forces are coming along. Now we are working on some of the longer range missiles through the Air Force. I was impressed.

The target missile, unfortunately, the first time it didn't launch was because of a computer glitch. That has been corrected. The second one was because you had the wrong part in the wrong place and the arms, when they were supposed to retract for the missile, didn't come back all the way so the missile didn't launch. This was human error, things that were errors that should not have happened. They have been corrected. It didn't have to do with new technology. It is things we have had. We have been launching for years missiles out of silos, and this was the wrong part in the wrong place at the wrong time so launch did not occur.

We have run into these kind of things. Hopefully, they don't happen again. Fundamentally, the technology is there. We need to rely on it. The threat is there, and we need to be prepared for it.

I rise in opposition to the Levin-Reed amendment and thank Chairman WARNER for giving me an opportunity to make a few comments in this regard.

Mr. WARNER. Mr. President, we thank our former member, the Senator from Colorado.

Would the Chair kindly advise the managers as to the time remaining on both sides for this amendment?

The PRESIDING OFFICER. There is 22 minutes remaining in opposition and 20 minutes in favor.

Mr. WARNER. Mr. President, at this time I would like to grant time to our distinguished colleague from Alabama, a member of the Armed Services Committee, bearing in mind it is the desire of the manager to leave time for Monday. There are other colleagues on our side who wish to speak in opposition. We are pleased he will take the time to join us.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be notified at 5 minutes.

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

Mr. SESSIONS. Mr. President, I oppose this amendment that would eliminate $50 million in long lead funding for missiles 31 to 40 of the ground-based interceptor, a key component of the missile defense system protecting the United States against limited long-range ballistic missile attack. Senators LEVIN and REED have argued these funds would be better spent on the Department of Defense Cooperative Threat Reduction Program, but it is already fully funded at $415 million.

I don't believe they have spent all of their previous appropriations, and we are being asked to make a choice between these two issues.

In addition to authorizing the requested $415 million for the Department of Defense Cooperative Threat Reduction Program, the bill provides $1.6 billion for the Department of Energy nonproliferation programs. We have a lot of money being spent in these issues. These accounts are fully funded. They were not reduced. They do not need additional funding, especially not by taking money from our ballistic missile defense system.

While CTR is fully funded, it is important, please, to note that the Department of Defense, in its last-minute preparations of the 2006 budget, bit the bullet. They had some tough decisions to make, and they made a decision that I regretted but one I guess I would acknowledge and yield to, to make significant cuts in our missile defense program.

This year's request represents a $1 billion reduction, while the Missile Defense Agency has programmed a $5 billion overall reduction in years 2006 through 2011. So the Department of Defense did not reduce the Cooperative Threat Reduction Program and fully funded it, but they did make cuts in missile defense of a significant amount.

The $50 million identified as an offset for this amendment specifically targets the long-lead funding for ground-based interceptor missiles 31 through 40 and associated silo construction. These missiles are scheduled for manufacture in 2007, in the 2007 timeframe, for deployment in 2009 and 2010 to actually be deployed. Eliminating these funds would delay fielding this important defensive capability even while our intelligence and military officials tell us there is a near-term threat. Additionally, the amendment would cause a break in the GBI ground-based interceptor production line that would cost some $270 million to restart, according to General Obering.

I want to make that clear. This is the problem we are dealing with. We have cut that budget significantly. We have tightened up the missile defense budget. We have reduced it $1 billion a year, $5 billion in 5 years, but if we cut it any more, as this amendment suggests, we will break the production line that is ongoing today because if a manufacturer can't keep his employees producing at least a minimum number of missiles, then the assembly line breaks, and under the contracts and other ramifications, General Obering has estimated that it would cost some $270 million to restart that line.

The sponsors of this amendment argue that these missiles have not been sufficiently proven through operational testing, and they point to recent test difficulties as evidence that further procurement of GBIs is unwise at this time.

While I believe the GMD system requires additional testing—we are going to have additional testing, we must have additional testing—I would argue that the Missile Defense Agency has conducted sufficient ground and flight intercept testing over the past 5 years to provide the confidence necessary to acquire the basic ground-based interceptors on the current schedule.

I would point out that in fiscal year 2004, the annual report to Congress by the Director of Operational Test and Evaluation notes that ''the test bed architecture is now in place and should have some limited capability to defend against a threat missile from North Korea.''

The independent review team, established by the Missile Defense Agency to investigate the test problems, found that recent test problems are attributable to quality control factors rather than the basic technology necessary to hit a missile with a missile. In fact, it has been proven. For example, between 2001 and 2002, MDA conducted four out of five successful intercept tests using a GBI prototype, while in 2003 and 2004, MDA conducted three successful test flights with the GBI booster.

According to the director of MDA, it is unlikely we will discover something in our testing in the next year or 2 that would require any major redesign of the system.

With respect to the threat that we face, General Cartwright, the commander of the U.S. Strategic Command, has testified before the Armed Services Committee that ''we have a realistic threat. We have an imperative.''

The Director of Central Intelligence has testified that the North Korean Taepo Dong 2 missile is capable of reaching the United States with a nuclear warhead and that North Korea could resume flight testing at any time.

The Director of the Defense Intelligence Agency confirmed this assessment as recently as April 28 in a hearing before the Senate Armed Services Committee, and he has testified separately that Iran will have the capability to develop an intercontinental missile by 2015.

In closing, I ask for your support for the continuing production of the GBIs through missile No. 40 by defeating this amendment. The GBI production line has been stretched to the limit by slowing production to some 8 to 10 missiles a year, the result of Congressional actions last year. Moreover, General Obering recently announced plans to divert another four operational GBIs. Denying additional funding for additional missiles will break the assembly line.

Mr. President, I would oppose this amendment. I respect my colleagues but feel that we should not break the assembly line at the time.

I yield the floor.

Mr. WARNER. Mr. President, speaking on my time under my control on this amendment, I wish to express my opposition to this Levin-Reid amendment would transfer $50 million from the Ground-based Midcourse Defense, GMD, program to the Cooperative Threat Reduction Program. The impact of this amendment would be, first and foremost, to delay the fielding of ballistic missile defense capabilities to protect the U.S. homeland against the threat posed by long-range ballistic missiles; and secondly, to cause a break in the production of ground-based interceptors, GBIs—a production break that would cost the government $270 million to restart.

While I agree with the sponsors of this amendment that the Cooperative Threat Reduction Program is an important national security initiative, the defense of our homeland against the growing threat of long-range ballistic missiles is equally, if not more, important.

Asking us to choose between missile defense protection and CTR is a false choice: we need to do both. And, in fact, this bill fully funds the President's requested amount for both programs.

The bill before the Senate authorizes the requested amount of $415.5 million for CTR programs within the Department of Defense, and $1.6 billion for other non-proliferation efforts in the Department of Energy. There is no current need for extra CTR funds; in fact, the CTR program has an unobligated balance of some $100 million. With a backlog in spending, it is hard to understand why the proponents of this amendment think that more money is needed at this time for the CTR program.

The President's budget for missile defense, on the other hand, has already

taken its share of cuts. Due to last minute decisions made at the Pentagon as the fiscal year 2006 budget was being finalized, the missile defense budget request was reduced by $1 billion in fiscal year 2006, and $5 billion overall between fiscal year 2006 and 2011.

Sponsors of this amendment argue that we should not provide long-lead funding for GBI missiles 31–40 because of recent test failures. I am mindful of the recent difficulties encountered by the GMD system test program, but in my view—and that of independent test authorities—these difficulties do not represent serious technological hurdles for the GMD program. Indeed, such problems are to be expected during the research and development phase of complicated weapon systems.

To get at the root cause of these testing problems, the Director of the Missile Defense Agency, to his great credit, commissioned an independent review team, IRT, to examine these recent GMD test failures. The IRT found no fundamental GMD system design flaws related to the recent test failures. Moreover, the IRT found no evidence that major modifications of the current system hardware or software will be required. In other words, it is unlikely that future testing will find some major fault in the system that will require a costly retrofit to fielded GBIs.

For those of my colleagues concerned about testing, I point out that this bill before you contains a provision—developed in a bipartisan fashion during the committee's markup—which requires the Missile Defense Agency, the service operational test agencies, and the Director of Operational Test and Evaluation to plan and conduct tests that demonstrate the operational capability of the ballistic missile defense system. The bill also reallocates $100 million from longer term development efforts to GMD testing, consistent with the recommendations of the independent review team.

The current and growing threat posed to our country by long-range ballistic missiles argues for proceeding without delay with the Department's approach of concurrent testing and fielding of ballistic missile defense capabilities for the homeland.

Some of my colleagues suggest that because the current system is not fully proven, we should not procure additional missile interceptors. To this I would respond that General Cartwright, Commander of U.S. Strategic Command—the senior military official charged with advising the Secretary of Defense and the President on missile defense matters—has testified, with respect to the current GMD system, that ''in an emergency, we are in fact in the position that we are confident that we can operate and employ it.''

In addition, the Pentagon's chief independent weapons tester, the Director for Operational Test and Evaluation, noted in his most recent Annual Report to Congress that ''the test bed architecture is now in place and should have some limited capability to defend against a threat missile from North Korea.''

In my view, it is a good thing that we have some capability—albeit limited—to defend the homeland against long range missiles. For as General Cartwright testified before the Senate Armed Services Committee in April, ''we have a realistic threat here; we have an imperative.''

General Cartwright is referring to CIA and DIA estimates that the North Korean Taepo-Dong 2 ballistic missile is capable of reaching the United States with a nuclear warhead—and that North Korea could resume flight testing of the Taepo-Dong 2 at any time. The Defense Intelligence Agency also estimates that Iran will have the capability to develop intercontinental ballistic missile, IBCM, by 2015.

We simply can't wait until the threat is upon us to deploy missile defenses; we can't wait until the GMD system is fully and completely tested before we start providing some measure of protection against this threat. It is our responsibility to field what capabilities currently exist, even while we continue to test and improve the system. By continuing to field missile defenses today, we send a message to potential adversaries that we will not be deterred or coerced by their possession of long-range ballistic missiles.

In summary, I ask my colleagues to reject the amendment offered by Senator LEVIN. This amendment would needlessly delay the fielding of a ballistic missile defense capability to protect the homeland. As the Commander of STRATCOM warns, the threat is real. We must continue on the current path of fielding available capabilities—even while testing continues to improve the system over time.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2430

(Purpose: To establish a national commission on policies and practices on the treatment of detainees since September 11, 2001)

Mr. LEVIN. Mr. President, first, I thank my dear friend from Virginia for his invariable courtesies. We have brought a bill to the floor, finally, which I will have much more to say on Monday, but at this time I simply would call up an amendment that is at the desk. I think it is No. 2430.

I would make inquiry of the Chair as to whether I need to lay aside any pending amendments in order to do that.

The PRESIDING OFFICER. The Senator does need to lay aside pending amendments.

Mr. LEVIN. In that case, I ask unanimous consent to lay aside the pending amendment and to call up amendment 2430.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2430.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LEVIN. Mr. President, I introduce this amendment on behalf of Senators REED of Rhode Island, KENNEDY, ROCKEFELLER, BINGAMAN, BOXER, and DURBIN, and I ask unanimous consent that they be added as cosponsors.

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

Mr. LEVIN. The amendment would establish an independent commission on the treatment of detainees in Afghanistan, Iraq, Guantanamo, and elsewhere. This would be modeled after the bipartisan 9/11 Commission, which was an independent commission that we all recognize as being an extremely successful commission. This bipartisan independent commission would examine U.S. policies and practices related to the treatment of detainees, including their detention, interrogation, and rendition. It would also examine the causes of detainee abuses and assess the responsibility of military and civilian leaders within and outside the Department of Defense for policies, actions, and failures to act which may have contributed to such abuse. It would also evaluate the effectiveness and propriety of interrogation techniques and practices for producing intelligence. The independent commission would report on its findings and recommendations to the President and to the Congress.

Mr. President, our troops serve honorably, they serve courageously across the globe. Their honor is besmirched when some of those who we capture are abused. And on top of that our troops' security is jeopardized when people that we detain are not treated as we rightfully insist others treat our troops when they are captured.

The amendment that we are proposing today will help reaffirm the values that we cherish as Americans, will help to reestablish our credibility around the world, and will help to protect our troops should they be captured.

When Secretary Rumsfeld appeared before the Senate Armed Services Committee on May 7, 2004, shortly after the horrific pictures of Abu Ghraib appeared in the media, he asked the world to ''judge us by our actions.'' Those were his words. And he went on to say, telling everybody, ''watch how a democracy deals with wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own weaknesses.'' Secretary Rumsfeld asked all who were watching and within the sound of his voice to ask those who would spread hatred of America if ''the willingness of Americas to acknowledge their own failures before humanity doesn't like the world as surely as the great ideas and beliefs that make this nation a beacon of hope and liberty for all who strive to be free.''

Secretary Rumsfeld's words were direct and they were right. It is important to our efforts to defeat terrorism that the United States investigate itself openly and thoroughly. That is the standard by which we and our causes will be judged and should be judged.

In nearly 2 years since Specialist Darby courageously came forward to report the abuses at Abu Ghraib, the Defense Department has had every opportunity to investigate itself. But the results have fallen far short of the standard that Secretary Rumsfeld set up. Some seek to downplay the significance of these detainee abuses, arguing at the start that they were the result of aberrant behavior of a few rogue reserve Military Police on the night shift at Abu Ghraib, but with each successive of Department of Defense report it has become increasingly clear that the claim that these were the isolated acts of a few rogue reserve MPs does not explain the causes and the factors contributing to detainee abuse, and it does not explain the scope of those abuses.

There have been a number of Department of Defense reviews—8, 10, 12, pick a number. Every one of them has failed to provide a comprehensive picture of the extent and the causes of detainee abuses, and put together, they don't come close to a comprehensive picture of the extent and causes of detainee abuses.

Every one of those reviews and investigations of detainee abuse has been carefully circumscribed, leaving significant gaps and omissions.

I want to go through some of the gaps and omissions of these investigations because we are going to hear on the floor that there have been 10, there have been 12 reviews—whatever the number; you can count them different ways—but when you put them all together, there are massive gaps. That cannot be allowed to remain.

First, we don't know the role of the CIA and other parts of the intelligence community in the mistreatment of detainees or what policies apply to those intelligence personnel. Witness after witness who was in charge of these reviews has told us they had no jurisdiction to look into the intelligence community's mistreatment of detainees or what their role is. They all disclaim the capability, the competence, or the authority to look into the role of the intelligence community, which we know from public statement after public statement of people who have been found guilty and not found guilty, people who were pictured in these pictures at Abu Ghraib, that the intelligence personnel told them to soften up detainees. Yet gap No. 1, the policies of intelligence communities, their activities, their involvement, has not been reviewed.

Second, we don't know what the policies and practices are of the United States regarding the rendition of detainees to other countries, where they may be interrogated using techniques that would not be permitted at U.S. detention facilities.

Third, there is insufficient information, almost total lack, on the role of contractors in U.S. detention and intelligence operations. We are using contractors to interrogate detainees. What is their role? There is total silence, a total gap on their role, with all these reports we have.

Fourth, the detention and interrogation of detainees by special operation forces, that needs close examination.

Fifth, and this is one of the largest gaps of all, all of the unanswered questions regarding the legality under U.S. and international law of the interrogation techniques used by Department of Defense personnel, regardless of whether they were authorized or not authorized by a higher authority. We have sought for a year or more the two key documents that set forth the standards to be used in interrogation that were approved by the Department of Justice. We cannot get the Office of Legal Counsel documents.

These issues are not going to go away. They can't be swept under the rug. With each passing day, we have new revelations of detainee abuses. Courageous and honorable soldiers, such as Captain Fishback, come forward—just a few weeks ago now—with new allegations of mistreatment of prisoners, of confusion over what policies applied, and commanders who appear to have condoned this behavior. He was there. He is speaking out publicly.

There is not a week that goes by that there is not a revelation. We have to get an independent investigation going so that we can refer allegations to an independent commission, to put it in the hands of a bipartisan group.

These revelations only serve to further undermine our international standing and put our troops at risk of being treated similarly should they be captured. That is why a group of retired generals and admirals wrote to the President in September 2004 calling for an independent commission to investigate the treatment of detainees.

So we have a significant group of retired military leaders saying we must have an independent commission. That is why the American Bar Association has endorsed an independent commission.

The administration, I know, opposes this, just the way they have opposed Senator MCCAIN's amendment and Senator GRAHAM's amendment that will get us into the future as to what future standards there are. The administration doesn't want to look at the history. They are wrong. Let the chips fall where they may, wherever that may be. It will benefit everybody.

Most importantly, it will benefit the men and women who wear the uniform of the United States. They are entitled to have their honor. They deserve their honor. They deserve an independent commission which will look at how this happened and prove to the world this is not us. Whatever it is, whatever the policies were, whatever the practices were, we are willing to look them straight in the face and say: We are going to correct that. We are not going to hide it. We are not going to run away from it. We are not going to sweep it under the rug. We are going to look it square in the face. We are going to fill the gaps.

Those gaps are huge. No matter how often it is stated that we have had 8 or 10 reviews, it does not fill the gaps because of the limits placed on those reviews and the gaps that were left.

Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. LEVIN. I thank the Chair. I yield 5 minutes to the Senator from Rhode Island.

Mr. WARNER. Mr. President, I wonder if the Senator will yield a few minutes to me before he departs the floor?

There are evolving aspects with regard to the underlying goal of this amendment, as he and I speak, on information which is circulating which goes to how the administration dealt with these issues.

I am going to reserve until Monday exactly the approach the Senator from Virginia is going to take. I wish to consult with a number of my colleagues in that connection. But I wish to point out two things.

The Senator from Michigan said we should face—speaking, of course, to the committee but also the United States and colleagues in the Senate—this issue square on. I know my distinguished friend and colleague of so many years would say, by virtue of him and me being the two principal cosponsors of the McCain amendment, that we are within the rights of this committee facing certain aspects of this issue head on as it relates to the future conduct of this country.

I also hope at some point in our debate that we can address the very valuable contribution that two individuals, together with the staff and a third member of the commission—namely, former Secretary of Defense Schlesinger and former Secretary of Defense Harold Brown. Each of those extraordinary men—and I have been privileged to know and work with each of them quite closely through the years. Actually, I served under three Secretaries of Defense when I was in the Navy Department as Secretary, and one of them, the last, was Secretary Schlesinger. He remains to this day one of my closest confidantes and advisers on a wide range of issues.

Harold Brown, my colleague, the Senator from Michigan, will recall, I sponsored—and I think the Senator from Michigan joined me when I was on the Intelligence Committee in an overall review of our intelligence. The first chairman of that commission was a distinguished former Member of Congress, Les Aspin, and then, following his untimely death, Harold Brown. I

was the one who recommended he take over the work on that commission, on which I was privileged to serve as a member.

A lot of things have been done to address the issue, which is the goal of this amendment. Again, I am going to reserve until Monday just how I am going to further approach this issue, but I wanted to bring those two points up should the Senator from Michigan wish to comment on either.

Mr. LEVIN. Mr. President, I do appreciate that, and I will take 1 minute to respond.

The chairman very properly points out that there was a Schlesinger panel. That panel said the following relative to the lack of cooperation from the CIA with the panel, which is gap No. 1 I have listed as one of the reasons we need an independent commission. The Schlesinger panel said the following:

> The panel did not have full access to information involving the role of the Central Intelligence Agency in detention operations. This is an area the panel believes needs further investigation and review.

I agree they did good work, but they were limited in what they were allowed to do, and they themselves recommended further investigation and review.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Virginia.

Mr. WARNER. The order has it that the distinguished Senator from Rhode Island will now continue his contribution to the Levin amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise in support of the Levin amendment, which establishes a commission to look into the treatment of detainees by our national security forces.

Let me say as an initial point, I am a strong supporter of the McCain-Graham amendment which would clarify the law. But the issues we are confronting today with respect to Abu Ghraib and with respect to other notorious incidents is not simply a failure of law, a failure of lacking legal precedent; it is a failure of leadership and a failure of institutions. Unless we look carefully, objectively, and independently at this leadership and these institutions, we will be bound to repeat the mistakes of the past several years. I urge my colleagues to support the Levin amendment.

What prompts me to support this amendment is the belief and understanding that the treatment of our soldiers on the battlefield is a function of how we treat our opponents. If we do not have high standards of treatment, then we cannot make the moral claim that our soldiers, sailors, airmen, and marines should be similarly treated.

I understand the nature of our adversaries might reject those claims, might reject standards, but if we reject those standards, then our ability to protect our soldiers is diminished substantially.

I think also one just has to take note of the events of the last several years and understand that not only is there a legal and moral premise to our use of suitable standards of conduct, there is a very practical one. The incidents of Abu Ghraib, the reports of abuse of prisoners, have been a disastrous situation with respect to our progress in the Middle East. It is harming our efforts to convince people that we are there not to exploit them, not to abuse them, but to try to lift them up.

It is essential we get to the heart of these failures of leadership, institutional direction, and policy. I think it is also essential that we have accountability. One of the essential aspects of any military organization is accountability. Everyone who enters the military, particularly an officer, learns that the first rule is they are responsible for what happens and what fails to happen on their command. There has been a dearth of accountability when it comes to these issues of abuse of detainees.

The plan seemed to be from the very beginning to portray this as the fault of aberrant soldiers. In fact, if we look at those people who have been prosecuted, those people who have been brought to justice, it is a handful of enlisted soldiers. We know this process, this approach, was not simply the result of a few soldiers. It was the result of decisions that were made at the very highest level.

Today, in the International Herald Tribune, COL Larry Wilkerson, a former chief of staff to Colin Powell, pointed out that, in his words: There was a visible audit trail from the Vice President's office to the Secretary of Defense down to the commanders in the field authorizing practices that led to the abuse of detainees.

That suggests to me that the evidence has accumulated where we need to take a good look not just at individual soldiers, not just compartmental reviews of certain aspects, we have to take the approach that Senator LEVIN suggests, a comprehensive review by an independent panel on the model of the 9/11 Commission to look at how we came to this point; not just to establish accountability I think that is principal and important but to ensure that we do not do it again, to ensure that when we enter into a conflict everyone understands the law, everyone follows the law. That is to the benefit not only of the protection of our troops but also to claiming the moral high ground, aiding our mission, aiding our military forces in the field, by creating an image in the world that we are bound to the highest standards and we are not there for self-interest but to help other people.

If we fail to pursue this commission, we will see a situation where what has happened in the past will happen again. It will be replicated time and time again. It will create a terrible situation within our military forces. It will appear, as it appears now, that the only people who are punished for these abuses are low-ranking, enlisted personnel. They bear the brunt, but the officers who directed it, the officers who could have stopped it, the civilian leaders in our Government who might have directed it or encouraged it, will walk away. That is unfair and that is so corrosive that it will undermine our military forces in the future.

I urge passage of the Levin amendment.

I reserve the remainder of time on our side and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this amendment is one of great importance and has far-reaching consequences. As I said, as we speak, there are some facts coming into the public domain. I have no idea of evaluating their authenticity, but it does, in my judgment, bear on this issue. Therefore, speaking for myself, we will have further statements regarding this amendment Monday and quite likely Tuesday before we vote.

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. INHOFE. 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. 2432

Mr. INHOFE. Mr. President, I have an amendment to be considered. I consider it to be perhaps one of the most important amendments. It is referred to as the train and equip amendment.

What I am not going to do is take a lot of time today talking about it because in the event there is opposition to it, I want an opportunity to respond to that opposition.

Primarily, this is what our amendment would do: Under sections 1201 and 1204 of Title XII, it would allow the military to train and equip some of these countries where we see an opportunity to be using their resources and their militia as opposed to sending our troops there. Right now, in order to get it done, the process is one has to go through the State Department and then the Department of Defense. A good example is when the U.S. Government wanted to train and equip some of the Georgia forces for counterterrorism. Seven different authorities for funding and sources had to be stitched together to make this effort. It took 8 months. By the time 8 months goes by, the problem is no longer the same problem it was 8 months before.

What we would do is take existing O&M moneys, $750 million, that we would be able to use to train and equip in a streamlined way of doing this.

I will share some personal experiences and then I will yield the floor. We have been talking about the five African brigades, that we would be training and equipping various countries in regional areas in Africa to take care of some of the problems. I am sure

I am not the only one who has been in Djibouti and worked with our marines there. I have been very much concerned that they are not able to do as good a job and as fast a job at training some of the African forces as they could otherwise.

I have talked to President Museveni of Uganda. There are problems in the northern part of Uganda where they have adequate troops, but they are not trained and equipped to protect themselves against the global war on terrorism and would be dependent upon our troops if that should happen. It is far better for us to be able to train them than it is for them to have to be in a situation where they are going in untrained.

I say to my chairman, I visited with my counterpart in Angola. He is the second ranking member on the armed services committee there, although it is called something different. His name is Paiza. As we all know, in Angola they have been undergoing a civil war and there are endless numbers of troops. They have been bush troops. They have not been trained to do the kind of defense that would be necessary in our global war on terrorism. Consequently, what they say they need—they have the Unita forces, they have their forces on both sides of the civil war. They need to have an opportunity to train these people.

I also spoke with the President of Burundi 2 weeks ago when I was there. They had the fighting, as we all know, for a long period of time between the Hutus and the Tutsis, but they are now united. What they need, though, is to be able to be trained. I know that General Jones and others, and certainly Secretary Rumsfeld, feel very strongly that we need to have a streamlined process where we can go in and train these guys to do the job that otherwise American troops are going to have to do.

That is essentially what this is all about. I will wait until Monday to give a little more complete description of it.

At this time I would like to officially call up the amendment, No. 2432. I ask unanimous consent to set aside the pending amendment and call up amendment No. 2432 for its consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2432.

Mr. INHOFE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: Relating to the partnership security capacity of foreign military and security forces and security and stabilization assistance)

At the end of title XII, add the following:

SEC. ___. BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) AVAILABILITY OF FUNDS.—The Secretary of Defense may, at the request of the Secretary of State, support partnership security capacity building as authorized under subsection (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other Federal agency. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building provided by the Department of Defense under this section may not exceed $750,000,000 in any fiscal year.

(d) CONGRESSIONAL NOTIFICATION.—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be submitted not less than 7 days before the provision of such partnership security capacity building.

(e) COMPLEMENTARY AUTHORITY.—The authority to build partnership security capacity under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

(f) MILITARY AND SECURITY FORCES DEFINED.—In this section, the term ''military and security forces'' includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

SEC. ___. SECURITY AND STABILIZATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon a request from the Secretary of State and upon a determination by the Secretary of Defense that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State, or to any other Federal agency, to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(e) EXPIRATION.—The authority in this section shall expire on September 30, 2006.

Mr. INHOFE. Parliamentary inquiry: Since we have this in proper form to be treated, are the comments I made to be used as time for the amendment?

The PRESIDING OFFICER. That would be an appropriate allocation of time.

Mr. INHOFE. Can you tell me how much time has been used?

The PRESIDING OFFICER. The Senator has used 3½ minutes.

Mr. INHOFE. So it will be 20-some minutes. At this point I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. With permission from Senator WARNER, I would like to speak on the issue of this commission and express some comments on that.

Mr. WARNER. Mr. President, I am delighted my distinguished colleague, a member of the committee, would like to contribute his thoughts on this very important issue and take such time, I think up to 5 or 6 minutes.

Mr. SESSIONS. I ask to be notified in 5 minutes, and I will definitely try to keep my time within that.

The PRESIDING OFFICER. Will the Senator inform the Chair about which amendment he will be speaking?

Mr. SESSIONS. The Levin-Reed commission suggestion.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 2427

Mr. SESSIONS. Mr. President, my problem with this matter is that we have created, through our complaints—and some of it has been political, frankly—and debates beginning back during the past election, a determination to embarrass President Bush or undermine, maybe, even his policies by some; to call for the resignation of the Secretary of Defense. And all of these matters were taken out of context and blown up and distorted in a way that I think was unfortunate. Yes, we have had problems with abuse of prisoners. We really have. But not nearly as many as would be suggested.

Senator LEVIN said it seems like it is every week. It has been talked about every week. Somebody comes up and repeats something that occurs, and then they repeat it again like it is new. So we are keeping alive a perception that our military is not performing according to the high standards that it sets for itself with regard to prisoner abuse. I do not believe that is so.

I have been there. I have talked to the troops. But it is a tough war and a tough enemy. It is not great duty. We know what happened in Abu Ghraib, and I would point out the general there, within 1 day or 2 days—1 day of hearing of the Abu Ghraib problem—commenced an investigation, and 3 days later announced to the world that we were conducting an investigation of abuse and did so publicly to the TV, long before any photographs were ever released because the military, the Army, did not approve of what went on there.

They have had an investigation. It was suggested that the higher ups were responsible for this; interrogation tactics and procedures were not clear, and that is why all this happened.

I would just ask our colleagues to remember that when the evidence came out during the prosecution of those individuals, the conviction of them, and their being sentenced to jail, I point out it was never suggested that was part of an interrogation technique. These people were not being interrogated. Most of them were not even members of al-Qaida. A lot of them are street thugs that had been arrested for normal criminal behavior. They didn't have any intelligence to give us about the enemy we were facing over there. So all this that has been suggested, that we are completely out of control and somehow the Department of Justice memorandums about what is the maximum ability of a U.S. office to conduct investigation, somehow that affected that.

Remember Mr. Sivitz, a private, I believe, or a corporal or sergeant, who pled guilty and was convicted and sentenced to jail? He said our leaders didn't know what we were doing. If they had known what we were doing, it would have been hell to pay.

Do you remember the incident of the African-American colonel who had a sterling career who, in a fire fight, pulled out a gun and fired a bullet near the head of an individual he had captured to frighten him to get information he thought might help him save his troops? They cashiered him out of the Army.

We had case after case of people being disciplined. Over 200 have been. So this myth has been created that people didn't know what was going on and were not properly instructed.

We had hearings. I am on Judiciary, and I am on Armed Services in the Senate. We have House Judiciary and Armed Services and we have Senate Intelligence and we have Senate and House Intelligence. We have had over 26 hearings on this issue, more than any other.

We ought to spend some time trying to figure out how to win this war rather than going back and suggesting to the whole world, by hearing after hearing, after report after report after commission, that we are out of control, mistreating prisoners, when it is not so. Our soldiers are consistently abiding by the Geneva Conventions as they have been instructed, and they do their duty every day. The Field Manual applies to men and women in the military, and they know that. That has been reaffirmed to them with clarity, that that controls the treatment of the prisoners in Iraq.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. My 5 minutes is up? Mr. President, I will conclude—I may like to talk about this later on—with a letter from a sergeant from the Arkansas National Guard who was in Iraq from April 2004 to March of 2005. He said:

> My job was that of fire-team leader, responsible for three soldiers. We patrolled the streets of Baghdad daily [not a safe place to be] conducted raids, manned checkpoints, and cleared houses and other buildings. During our stay we detained dozens of Iraqis.
>
> So I was somewhat astounded at Capt. Ian Fishback's letter. . . .

He said he saw beatings, broken bones and other improper treatment of prisoners. That is inconsistent with my observations—of mine. I will offer this for the RECORD.

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

(See exhibit 1.)

Mr. SESSIONS. I will quote one paragraph.

> We never experienced the confusion that Capt. Fishback and his soldiers evidently experienced. Our directives were clear and our approach to treating detainees was consistent: I never saw a U.S. soldier physically mistreat an Iraqi. I saw professional treatment of detainees from top to bottom, and I was proud to be a part of this great combat team.

That is what is going on. That is the reality, in my view, of what is going on in Iraq. We have subjected ourselves and our soldiers to great risk because we demanded restraint on their part, and for the most part they have given us that.

There have been problems. We know that. But we are not allowing them to continue. We are stopping them and prosecuting people if they have violated the law, as they should be prosecuted. So I am concerned that what we do today sends a message to the world that Members of this body and members of the leadership of the U.S. Government believe that our military is out of control and that we need some sort of commission to get them in control.

That is not accurate in my view. We don't need another commission. We have had at least six, eight or nine major reports, and we have had, of course, over 20 hearings in the House and Senate. I have been a part of more of them than I would have wished.

I honestly and truly believe we need to watch our rhetoric and not demean the fine men and women who are serving us because we sent them there in harm's way, and they are serving us with fidelity to duty and the highest degree of professionalism, giving their lives to help the Iraqi people to have a better life. That is our goal. That is what we need to keep at. I hope we will remember that as we debate these subjects.

I yield the floor.

EXHIBIT 1

> I am a sergeant in the Arkansas Army National Guard, and I was in Iraq from April 2004 to March 2005. My job was that of fire-team leader, responsible for three soldiers. We patrolled the streets of Baghdad daily, conducted raids, manned checkpoints, and cleared houses and other buildings. During our stay in Iraq, we detained dozens of Iraqis.
>
> So I was somewhat astounded at Capt. Ian Fishback's letter to Sen. John McCain (R-Ariz.) about what he saw and observed in Iraq concerning beatings, broken bones and other improper treatment of prisoners [op-ed, Sept. 28]. His experience and observations are inconsistent with mine.
>
> Our unit was attached to the 1st Cavalry Division. We worked with active-duty soldiers, and when I moved to a forward operating base known as Headhunter, I worked every day with the 1st Cavalry, which I found to be a professional organization.
>
> We never experienced the confusion that Capt. Fishback and his soldiers evidently experienced. Our directives were clear and our approach to treating detainees was consistent: I never saw a U.S. soldier physically mistreat an Iraqi. I saw professional treatment of detainees from the top to the bottom, and I was proud to be part of this great combat team.
>
> I do not challenge Capt. Fishback or his observations. But I saw U.S. soldiers, both active-duty and National Guard, conduct themselves professionally on a daily basis.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Mr. President, I just made a presentation on my amendment No. 2432. I ask unanimous consent to add cosponsors—Senators STEVENS, ROBERTS, SESSIONS, ENSIGN, GRAHAM, THUNE, and KYL.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. WARNER. Mr. President, we have had a very good and productive morning on the Defense authorization bill, a continuation by the Senate of that important legislation.

Matters relating to the bill are concluded. I will now await the directions of the majority leader as to the concluding of today's proceedings before the Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. WARNER. Mr. President, I further ask unanimous consent there now be a period of morning business with