

Lastly, if we are trying to make health care more affordable, how do you leave out tort reform? After all, litigation and the resulting practice of defensive medicine add tens of billions to the cost of health care. In Mississippi we passed comprehensive tort reform in 2004, partially to stop lawsuit abuse in the area of medical liability. It worked. Medical liability insurance costs are down 42 percent, and doctors have received an average rebate of 20 percent of their annual paid premium. The number of medical liability lawsuits against Mississippi doctors fell almost 90 percent one year after tort reform went into effect. Doctors have quit leaving the state and limiting their practices to avoid lawsuit abuse.

With all the issues concerning a government-run health care system, I wanted to warn you of the state tax increases Mississippi will shoulder on top of the federal tax increases in the pending bills as well as my concern for the increased costs our senior citizens will face as Medicare Advantage is cut. Congress must slow down and work in a bipartisan manner. Everybody agrees that health reform is needed, but it should be done thoughtfully. I hope you'll keep this important information in mind when proposals that shift costs to states—or to our senior citizens—are considered.

Sincerely,

HALEY BARBOUR,
Governor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

ALASKA TERRITORIAL GUARD

Ms. MURKOWSKI. Madam President, on January 22 of this year, I came to the floor to inform our colleagues in the Senate about a decision by the Department of Defense that service in the Alaska Territorial Guard during World War II would not be regarded as Active-Duty service for purposes of military retirement. That decision reversed the position that had previously been taken by the Army that this service did count toward military retirement.

As a consequence, 26 elderly Alaskans, descendants of the aboriginal people who originally inhabited Alaska, 26 Native people, predominantly Eskimo, were about to see a substantial reduction in their military pensions, this all happening in the dead of an Alaska winter when we were paying extraordinarily high fuel prices.

At that time when I came to the floor, I wondered out loud what kind of government, what kind of "Cruella" would cut the pensions of 26 elderly people who stood up to defend Alaska and our Nation during World War II with absolutely no prior warning, no advanced notice? The answer was our government, on advice of the lawyers.

In the Defense Appropriations Act for fiscal year 2001, Congress recognized service in the Alaska Territorial Guard as Active-Duty service. Section 8147 required the Secretary of Defense to issue discharge certificates to each member of the Alaska Territorial Guard under honorable conditions if the Secretary determined the nature and duration of the service of the individual so warrants. The military first concluded that included retirement

benefits and then abruptly reversed that position with immediate effect.

As Lieutenant Colonel McNorton explained in a story carried by the Associated Press, section 8147 applies to military benefits, including health benefits, but it does not make members of the Territorial Guard eligible for retirement pay.

I must emphasize, at this point, that no Alaska Territorial guardsman claimed a military pension solely because of his service in the Territorial Guard. The Alaska Territorial Guard was created in 1942 and disbanded in 1947. Many members of the "Tundra Army," as some called it, continued to serve in the Alaska National Guard and other units of the military. That service, combined with service in the Territorial Guard, forms the basis for the claim.

I have come to learn that when you use the term "Cruella" on the Senate floor, people sit up and take notice. My remarks were telegraphed across the blogosphere and national media outlets. The response that came from across the country to the plight of the 26 elderly Alaskans was truly heartwarming. Across the ideological spectrum, the response from the American people was outrage over this situation. The high level of national interest in the plight of these Alaska Territorial Guard members was not lost on the senior leaders of the Army. The Secretary of the Army rose to the occasion. He reached into his emergency and extraordinary expense fund—the triple E fund—to continue the payments to those elders for 60 days, in the hope that Congress would have an opportunity to address the issue by then.

My colleague, Senator BEGICH, and I promptly introduced legislation to correct that situation, but the legislation was not considered before the 60 days of temporary payments ran out. The Alaska Legislature stepped up to fill the gap, and they enacted legislation to continue the payments from State funds until February of 2010 in order to, again, give Congress the time to fix the problem.

With the support of our colleagues—and I especially appreciate the leadership and support from Senator LEVIN, my colleague and friend Senator INOUE, and Senator COCHRAN—language to clarify that service in the Alaska Territorial Guard counts toward eligibility for retirement pay that was included in that 2010 Defense authorization bill—

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Ms. MURKOWSKI. Madam President, it was my understanding that I was to have 15 minutes under this time agreement; is that correct?

The ACTING PRESIDENT pro tempore. The Chair is aware of no such agreement, and the time for the Republican side has expired.

Ms. MURKOWSKI. Madam President, I do have additional comments I wish

to make. I ask unanimous consent that I have 5 minutes to conclude these remarks, if that is acceptable.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MURKOWSKI. Madam President, I also wish to recognize my friend and colleague, Senator MCCAIN, who was there at the end to help us with this issue.

The people of Alaska thank our colleagues, Senator INOUE, Senator MCCAIN, and so many others for the consideration that was given these Alaska Territorial guardsmen. Last Friday, we were disappointed to learn that some in the administration might not share our enthusiasm for putting this matter to bed and restoring the retirement benefits for the 26 elderly Alaska Native veterans.

The statement of administration position on the Defense appropriations bill contains two sentences that read as follows:

The administration objects to a new General Provision that would count as "active duty" service the time the Alaska Territorial Guard members served during World War II. This provision would establish a precedent of treating service performed by a State employee as active duty for purposes of the computation of retired pay.

The notion that restoring these benefits establishes a precedent of treating service performed by a State employee as active-duty service defies logic and it defies history. Not only is it inconsistent with the letter of Congress's finding in section 8147 of the 2001 Defense Appropriations Act that the service was indeed Federal service, it is inconsistent with the facts, and I believe it is inconsistent with the law.

When our Lieutenant Governor—retired LTG Craig Campbell—heard this, he remarked:

The administration doesn't understand what the territorial guard is. This was an initiative of the Federal Government. They provided a federal service.

General Campbell recently retired as Adjutant General of the Alaska National Guard, and he is absolutely correct on this.

The Alaska Territorial Guard was created back in 1942 to protect Alaska from invasion by the Japanese. The notion that Japan had an interest in Alaska was far from speculative, as we know. The Japanese bombed Dutch Harbor and landed in Attu and Kiska in the Aleutian Chain. Enemy submarines lurked in the Bering Sea.

The ATG was organized by U.S. Army MAJ Marvin Marston under the leadership of a territorial Governor who reported to Washington. These were Uncle Sam's men. All who served were volunteers. They were not State employees. It was organized in the name of the President of the United States, and it was armed by the U.S. Army. The operations of the units were inspected by the U.S. Army, and the unit was disbanded in 1947 by order of the U.S. Army. The unit was well known

for its skill in protecting Alaska. These gentlemen were Native hunters and fishermen, but they knew the land better than any soldier that the army might have sent up from the lower 48. They kept watch over 5,000 miles of coastline for enemy vessels and submarines, shooting down Japanese balloon bombs, protecting the Lend-Lease Route between Alaska and Russia and recovering downed airmen. These were the core missions of the territorial guard.

It is very disappointing that 62 years after the Alaska Territorial Guard was disbanded the value of their service to our Nation and to our success in World War II has been drawn into question.

When I came to the floor on January 22 of this year, I gave the Defense Department the benefit of the doubt. I believe, as did General Campbell and his staff judge advocate, that the 2000 legislation entitled members of the ATG to all the military benefits merited by their service. The military at one time held that position, but then on January 22, they didn't. I called upon the Department of Defense to work with me, to work with Senator BEGICH, to make things right. The Alaska congressional delegation wrote to the President to enlist his personal support for this effort.

Nine years now have passed since Congress determined that service in the Alaska Territorial Guard during World War II was Federal service. Nine years have passed since the Secretary of Defense ordered that these brave members of the tundra army who remain alive are entitled to discharge certificates from the U.S. Army; 9 years since they were granted full Federal veterans benefits. I would suggest it is 9 years too late for the Defense Department to reopen the question of whether service in the ATG was Federal service. The Congress has answered this question with finality.

I mentioned that many Americans have registered their opinions on the Internet over the administration's position on territorial guard retirement benefits. Many think it is cruel to continue to deny these benefits. And many believe the administration's position denigrates the service of the Alaska Territorial Guard. Some have suggested the men who served deserve an apology. But one perceptive individual suggested, I doubt that President Obama actually made this decision or even knows about it.

So once again, I ask that President Obama personally support us in our quest to obtain justice for a few elderly Alaska Natives who once served our Nation with patriotism, with pride, and with distinction.

President Obama, show some heart, do the right thing, and support our efforts to restore military retirement benefits for these 26 individuals.

With that, Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. BEGICH. Madam President, I ask unanimous consent to speak as in morning business for up to 7 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing no objection, it is so ordered.

Mr. BEGICH. Madam President, I rise today to seek the continued support of my colleagues for recognition of a group of patriotic heroes who defended our Nation and Alaska from our enemies in World War II.

In 1935, famed Army GEN Billy Mitchell told Congress:

I believe that in the future, whoever holds Alaska will hold the world. I think it is the most important strategic place in the world.

General Mitchell was right. Less than a decade later, Alaska became the first American soil occupied by a foreign enemy since the Revolutionary War. To counter Japanese aggression against the territory of Alaska during World War II, a group of Alaskan Natives voluntarily formed the Alaska Territorial Guard. These brave men engaged in direct combat, as described by my colleague from Alaska, Senator MURKOWSKI, with the enemy in protecting all of Alaska. They shot down Japanese air balloons, conducted scouting patrols, carried out rescue missions of downed airmen, and built military airstrips and rescue shelters.

They played a key role in logistics support for the U.S. military stationed in Alaska by delivering food, ammunition, and other equipment to the forces. Their actions were vital to successful U.S. military efforts, preventing our enemies from securing a strategic location during the war.

As you can see by these photos surrounding me, the Alaska Territorial Guard was a unique group. They were mostly subsistence hunters and fishermen—the main breadwinners in their families—living in some of the most remote villages in the entire country. Receiving no pay or recognition for their service, the territorial guard mission was driven by a single value: patriotism.

Many of these members continued their service for years in the U.S. military after the Alaska Territorial Guard was disbanded in 1947. Unfortunately, the contributions of the Alaska Territorial Guard during World War II went unrecognized for half a century. In 2000, Congress finally acknowledged our Nation's debt to these brave men by qualifying their time spent in the Alaska Territorial Guard as Federal service.

Congress also directed the Secretary of the Army to issue discharge certificates to all those who served in the territorial guard. These discharge certificates entitled ATG members to veterans' benefits and was interpreted by the Department of Defense to count as service in the Alaska Territorial Guard toward retirement credit. Twenty-six former members of the Alaska Territorial Guard finally began receiving a well-earned pension from the government. At long last, the sacrifice and

the contributions of Alaskan Natives during World War II were recognized.

Then in January of this year, abruptly and without warning, the Defense Finance and Accounting Service stopped issuing pensions to these 26 guardsmen. This was based on the finding that their service was not Federal and, therefore, the payments were not legal. Thankfully, former Army Secretary Pete Geren issued temporary payments to ease the economic hardship experienced by these heroes while we worked on a more permanent solution.

To its credit, the Alaska legislature stepped up where the Federal government fell short. The State is paying their pensions until Congress can provide a permanent legislative solution or until February 2010, whichever comes first. I cannot imagine another situation where Congress would stand by and let veterans' entitlements be revoked and their sacrifices go unrecognized.

Luckily, my Senate colleagues also recognized this injustice. I thank my colleague, Senator MURKOWSKI, who introduced S. 342, a bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay to restore pensions. I am a proud cosponsor of this legislation.

Working together with the leader of the Armed Services Committee, Senator LEVIN, and the ranking member, Senator MCCAIN, we were able to secure similar legislation to restore those pensions in an amendment to the National Defense Authorization Act for the year 2010, supported unanimously by the Senate. Most recently, the Senate Appropriations Committee included the same provision in the Defense Appropriations Act for fiscal year 2010.

However, I was extremely disappointed to learn in the statement of administration policy for fiscal year 2010 Defense Appropriations bill that the national administration has voiced objection to the provision that would count Alaska Territorial Guard service as active-duty time for retirement purposes. I remind my colleagues that the Alaska Territorial Guard members were not State employees. They were patriotic Alaska Natives answering the call of duty from their country.

Allowing their service in the Alaska Territorial Guard to count as Federal service cannot set a precedent because there is no other group like them in this country. They served the United States in a time of war by defending an American territory from the enemy. They engaged in combat. And they did this because they felt the same sense of patriotism during World War II that every active member of the Army and Air Force and every other military branch did.

These brave Alaskans are now in their 70s and 80s. Just this past Monday, one of them—Nicholai E. Nicholai

of Kwethluk—passed away before he could see this issue resolved. I ask my colleagues for their continued support to ensure that the now 25 Alaskan Natives who defended this Nation receive their earned pension by supporting the provisions in the National Defense Authorization Act and Defense Appropriations Act for fiscal year 2010.

I also join my colleague Senator MURKOWSKI in asking the administration to reexamine their objection to restoring the retirement payments and honoring our World War II veterans. Our time is running short to correct this injustice and restore these modest payments. The Federal Government turned its back on these men at the end of the war. I hope Congress and my colleagues in the Senate won't let that happen.

I yield the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3326, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3326) making appropriations for the Department of Defense for fiscal year ending September 30, 2010, and for other purposes.

Pending:

McCain amendment No. 2575, to provide for testimony before Congress on the additional forces and resources required to meet United States objectives with respect to Afghanistan and Pakistan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Madam President, I believe that the McCain amendment is the pending amendment. We will be offering or suggesting that a unanimous consent agreement be entered into where an amendment of mine could be voted upon side by side with the amendment, with the vote on mine occurring first, under the traditions of the Senate. We are trying to see if we can enter into a time agreement.

I believe our staff is working on a unanimous consent agreement that would allow for that to happen pending the offering and acceptance of that, hopefully.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Madam President, may I say through the Chair to my friend, the distinguished chairman, I understand there will be side-by-side amendments. I would be glad to enter into a time agreement that is agreeable to the chairman, and not an extended length of time—it is not a complicated issue—and then votes on both side-by-sides. I hope we could announce that

agreement shortly, and I thank the chairman for his courtesy.

We are discussing now two amendments, as I understand it, and both of them call for testimony before Congress on meeting the United States objectives on Afghanistan and Pakistan. Many of us have been very concerned about the fact that we have not heard from General McChrystal and General Petraeus on this issue of our strategic policy in Afghanistan, and of course most importantly the disposition or dispatch, I might say, of American troops, and increasing American troops to Afghanistan to implement the strategy that, according to Admiral Mullen, the Chairman of the Joint Chiefs of Staff, was agreed upon last March.

I must say, without mentioning any classified information, the briefing that I attended yesterday with General Jones doesn't seem to corroborate that statement by Admiral Mullen. But the point is we need to hear from the architects and the commanders.

If the President does not want to talk to the commander in the field, General McChrystal very often—in fact, it was reported in a “60 Minutes” interview that he gave he said he had spoken to the President once in 70 days, although the President talks to labor leaders almost on a daily basis pushing his health care agenda—the fact is we as Members of Congress, a coequal branch of government, also have a responsibility in this decision-making process.

I respect the President's role as Commander in Chief. I respect the President of the United States making a decision. But I also cherish the role of the Senate and House of Representatives in being informed as to the views of our military commanders in whom we place the responsibility for the lives of our young men and women who are in harm's way.

All we are seeking with this amendment is a date certain, not immediately—the date for this requirement of testimony by General McChrystal, General Petraeus, General Stavridis and perhaps others if necessary—by November 15. That is a month and a half from now. Should not we hear a month and a half from now, within a month and a half, as to what we are considering? I hope the decision would be made clear.

Admiral Mullen, Chairman of the Joint Chiefs, in testimony said:

The President has given us a clear mission: disrupt, dismantle and defeat al Qaida . . .

But the President, in March, said of the situation—the President of the United States said the situation there was “increasingly perilous and that the future of this troubled nation is inextricably linked to the future of its neighbor Pakistan.” He also called it a “war of necessity,” and declared “America must no longer deny resources to Afghanistan.”

Obviously I agree with him. Time after time I have made my commitment of willingness and desire to work

with him. But it is very difficult for members of the Armed Services Committee and Members of the Senate to work with him if we are not informed by the uniformed commanders in the field. Admiral Mullen, the Chairman of the Joint Chiefs of Staff, emphasized in testimony before the Senate Armed Services Committee, time is not on our side. There are already somewhere between 62,000 and 68,000 American troops in the field in danger. Tragically, casualties have gone up. We have a responsibility also. We have a responsibility to hear from our commanders in the field.

Let me point out, General McChrystal was on “60 Minutes” talking about what we needed to do in Afghanistan. General McChrystal gave a speech in London just yesterday talking about what we needed to do. So it is OK with the administration for General McChrystal to go on “60 Minutes.” It is OK for him to give a speech at the Institute for Strategic Studies in London. But the administration does not want General McChrystal and General Petraeus before the Senate Armed Services Committee. How does that work?

I hope my colleagues will vote for my amendment, which calls for the same, basically, testimony by the commander of the United States Central Command, commander of the United States European Command, and Supreme Allied Commander—Europe, Commander of the United States Forces—Afghanistan, and of course we would like to hear from the United States Ambassador to Afghanistan, Ambassador Eikenberry.

This is pretty clear. This is a very clear decision we have to make. We are asking that within a month and a half from now these individuals appear before the respective committees and testify as to what they believe the best strategy is to be employed in order to achieve victory. Why should not the Senate and the Congress and the people of the United States hear, directly in testimony before the Congress, what they believe is the best way to ensure victory in Afghanistan?

I understand the debate that is going on within the White House and the deliberations that the President is undertaking as he considers the most heavy responsibility that any President has, and that is to send our young men and women into harm's way. I have some sympathy. But I would point out there are already close to 68,000 young Americans there, and casualties are going up.

According to Admiral Mullen, according to every expert, the situation is deteriorating in Afghanistan, so this should not and must not be a leisurely exercise. Decisions have to be made and we—I speak for myself and I am sure all of my colleagues—we want to be part of that decisionmaking. We do not want to make that decision because that is the responsibility of the President of the United States, but it