

than one's self-interest, and for this I will always be thankful.

Everyone knows that Bob is a decorated veteran through his sacrifice in World War II and that he faced a very hard road to recovery upon his return—a road that many selfless men and women today are similarly facing upon their return from the war in Iran and Afghanistan. Like Bob, they, too, are American heroes and they need and deserve to be reminded of that fact as often as possible.

Bob Dole's distinction among his peers could have rested with his military service. But instead, he chose to continue serving his country and was as effective as he was, in my view, largely because of his experience as a war veteran. For example, his Senate leadership was essential to the efforts of Presidents Reagan and Bush to win the Cold War. He built majority coalitions to help restore the readiness and modernization of our Armed Forces, which had been so badly neglected in the previous decade. Thanks to his vision, America is better prepared to defend herself and others from those who want to cause us harm.

While Bob may no longer be daily in the public eye as he enjoys life in the private sector, he still continues to focus his energy on issues of importance to our country. He cochaired the Families of Freedom Scholarship Fund with former President Clinton, helping to raise money for the families of the victims of 9/11 to pursue secondary educations. Bob also continues with his efforts on behalf of the disabled. And, of course, since leaving the Senate 10 years ago, he is also now enjoying the obligations of a Senator's spouse.

Bob Dole is an American hero, and I am privileged to call him my friend.

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

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DURBIN. Mr. President, will you please inform me of the business before the Senate.

The ACTING PRESIDENT pro tempore. The Senate is in a period of morning business. The minority's time has begun, with 28 minutes 30 seconds remaining.

OPPOSITION TO THE NOMINATION OF RICHARD STICKLER

Mr. DURBIN. Mr. President, I rise to oppose the confirmation of Richard Sticker as Assistant Secretary of

Labor for Mine Safety. I also ask the Senate to send a message of confidence and hope to the miners across America that we in the Senate are no longer willing to put coal industry executives that care more about profits than lives in charge of their safety.

How many of us recall the recent news stories coming out of Kentucky and West Virginia—heartbreaking stories—where lives were lost and families waited expectantly aboveground praying that those miners would be found and be brought back safely, and how many times that was not the case.

What brings about safety in these coal mines, so deep in the Earth? The vigilance of the agencies, Federal and State, that keep an eye on the companies that are operating out of the view of most of the world. Those are the things that are important. Today, we will have a chance to vote on a man who wants to head the Federal agency when it comes to mine safety. Unfortunately, Mr. Stickler is yet another in a long line of coal industry executives nominated by this administration.

The last industry appointee to the Mine Safety and Health Administration withdrew or delayed final action on 18 mine safety rules. The result was disastrous—disastrous to the tune of 33 coal mine deaths in America in 2006.

Two of the rules that could have been enacted and were not by the predecessor to the man being appointed to this position had the potential to speed the rescue and increase the chance of survival for the 14 miners killed in the recent West Virginian Sago and Alma mine disasters. One would have sped up the formation of rescue teams. The other would have provided more oxygen for the miners. Both of these rules could have saved miners' lives this year. But the Mine Safety and Health Administration didn't enact the rules. Why? Because doing so would have cost the coal companies money. It is just that simple. And now 33 miners have paid with their lives, and Congress was forced to act.

We passed a new law this year—a law that was pushed by the Senators from West Virginia, Senators BYRD and ROCKEFELLER—which I was happy to support because of the coal mining in my own home State of Illinois. It is called the Mine Improvement and New Emergency Response Act of 2006. It mandates the formation of two mine safety teams available within an hour of an accident. Such quick response mine rescue teams might have saved lives at these coal mines in America this year.

This new law also mandates the purchase of wireless tracking and messaging equipment and extra oxygen for miners underground. Both of these provisions could also have saved lives.

My concern with Mr. Stickler's nomination is not solely that he is a coal executive—that doesn't disqualify

him—but that he clearly stated during his confirmation hearing that these new provisions in the law are not needed. He unequivocally stated that no new laws are needed and that the laws on the books, which haven't been updated, incidentally, in 30 years, to adjust for new technology in coal mining, according to Mr. Stickler, those 30-year-old laws are just fine. And he said this after the Sago mine explosion that took the lives of 12 coal miners.

I can't support a nominee to be head of mine safety when he opposes the recently passed Miner Act. This law, which the Senate passed by unanimous consent, without one single Senator dissenting, was a recognition by all of us that mine safety laws need to be updated in order to protect the coal miners and to stop the unnecessary and sad and tragic loss of life. But Mr. Stickler, who wants to be head of this Federal agency to protect coal miners across America, disagrees.

Furthermore, Mr. Stickler argues that the duty to comply with safety laws falls on the shoulders of the mine companies, and that the agency he wants to head plays no role. He told a committee of the Senate that he believes there is a compliance problem, not an enforcement problem, in the mine industry. Mr. Stickler doesn't seem to understand that without enforcement, there will be no compliance. Any industry left on its own to comply with Federal and local laws will often fail to do so. That is a reality—a reality Mr. Stickler doesn't even understand.

I am astonished that President Bush would nominate a person to head this important safety agency who has such little regard for the need to enforce the laws of the land, to protect the lives of coal miners, and to spare families from the grief that so many have suffered this year.

Mr. Stickler's statements at his confirmation hearing fly in the face of reality, and I ask: What do his comments say to the families of those 33 lost miners?

Many of these families oppose the confirmation of Mr. Stickler because of his opposition to revising mine safety laws and his live-and-let-live position on enforcement regulations. They are not alone. The United Mine Workers and the AFL-CIO also oppose Mr. Stickler's nomination. All of us in the Senate supported passage of a new law to save miners' lives. We unanimously supported it. Mr. Stickler doesn't believe that legislation was even necessary.

We also know that enforcement of the laws is needed to compel mine operators to comply with the laws. Mr. Stickler, again, disagrees.

We learned a bitter lesson about 11 months ago on the gulf coast. Hurricane Katrina, the worst natural disaster to strike America, came with

warning, devastating New Orleans and many communities in Louisiana, Mississippi, and Alabama. Even with 3 or 4 days' warning that this hurricane was about to strike and could have devastating impact, the Federal Emergency Management Administration was not ready. They were not prepared.

Unfortunately, the person who headed up the agency effort, Mr. Michael Brown, didn't do everything he could have done and, as a result, lives were lost, people suffered, there was damage that was totally unnecessary, and the rescue effort was slow to come and, sadly, too late for many.

The lesson from Michael Brown at FEMA was that you don't put a person whose speciality in life is Arabian horses in charge of the Federal Emergency Management Administration. He wasn't ready for the job, and as a result of that people died and people suffered.

So now what do we have today? We have Mr. Richard Stickler, an executive from a coal company, who is now going to be put in charge of watching coal companies. Why? Because he is charged with the safety of coal miners. When one listens to his responses to the questions at the committee hearing, it is clear that he has taken a position with which most coal companies would agree: We don't need no more regulation; we don't need no more enforcement; we don't need no more meddling Federal agencies.

Maybe that point of view would have prevailed some time past, but this year we know better.

Coal mining, one of the most dangerous occupations in America, has claimed 33 lives this year. This Congress understood it. We passed unanimously a change in the law to protect those coal miners. We cannot afford to put in that agency a person in charge who is not going to spend every minute and every ounce of his strength to protect those coal miners and be an advocate for their families. Mr. Stickler is not that person.

On behalf of the 3,500 coal miners in my home State of Illinois and all of the coal miners across the country, I urge my fellow Senators to oppose the confirmation of Mr. Stickler for this important position.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise today to join my colleague from Illinois in expressing my deep concern about the nomination of Richard Stickler to be Assistant Secretary of Labor for Mine Safety and Health. That is a long title, but it means one thing: This is the person who is going to be in charge of the health and safety of every miner in America.

That is a very serious responsibility, and it requires a serious leader, someone with a strong background in mine safety and a strong commitment to ag-

gressively protect America's mine workers. I sit on the committee that oversees the nomination. I have to tell the Senate, Mr. Stickler offered neither. I believe the President, respectfully, should withdraw his nomination and send us at this time a more suitable nominee.

As we all know, just 6 months ago, 12 miners were killed in the Sago disaster. In the wake of that tragedy, many of us in the Senate worked hard—and I commend the Senator who is sitting in the chair for his work—on this incredibly important issue. We did the right thing. We came together and passed the most comprehensive mine safety update in a generation.

I was honored to work on that historic bill with Senators KENNEDY and ENZI, Senator ISAKSON, who is in the chair, and Senators ROCKEFELLER and BYRD. But we have to do more than just pass a law. We need to make sure we provide the resources, and we need to make sure we provide the leadership to carry this out. That is why it is so disturbing to me that the Senate majority leader is today trying to push an unqualified nominee through to head this agency.

Senator BYRD, who represents the Sago families, has raised some very valid concerns about Mr. Stickler's qualifications and, following Senate tradition, those concerns should be heeded. They should give all of us pause. Indeed, we see the leadership today departing from the usual process and trying now to push this nominee through the Senate. I believe that is the wrong course of action when the lives of our American miners are at stake.

Mr. President, as you well know, I am very passionate about this issue because I have worked on mine safety issues with you and with the Senator who is arriving on the floor as I speak, Senator KENNEDY. In fact, at the hearing of this nominee, it was my questioning of his confirmation hearing that revealed to me his business-as-usual approach to miner health and safety.

When Richard Stickler testified at his HELP confirmation hearing in January, he told me he believed the current mine safety laws are adequate. That was before we passed our legislation. He said those current mine safety laws were adequate. I couldn't disagree more, and neither could the House and Senate, which, after that, passed the most significant mine safety improvements in a generation.

I was disappointed in his responses at the hearing, so I asked him further questions in writing. In reply to that, Mr. Stickler could not suggest a single way to improve mine safety—not one single suggestion. Think about that for a minute. We would not put someone in charge of food safety who has no idea about how to make consumers safe. We

wouldn't put someone in charge of airline safety who has no idea how to make air traffic safer. And we certainly shouldn't put someone in charge of mine safety who has no idea about how to make our mines safer.

We need a leader now more than ever at the Mine Safety and Health Administration who will not just accept the status quo that has cost miners their lives in this country. It is a wrong turn to have the enforcement of our mine safety laws turned over to a former coal company executive with no background in miner health and safety.

Here is how the head of the United Mine Workers of America put it in a letter to President Bush. He said:

The Nation's miners cannot tolerate having another mine executive running the agency responsible for protecting their health and their safety. For too many years, miners have endured an agency directed by coal mining executives. Too often these mining executives place a priority on productivity, but fail to focus on miners' health and safety. Too many times MSHA has not done all it is charged with doing to promote miners' health and safety.

Clearly, we need a new direction at that agency and, clearly, Mr. Stickler does not provide a new kind of direction.

The words that I just quoted are the words of Cecil Roberts, international president of the United Mine Workers of America. He and the AFL-CIO oppose this nomination and with good reason.

With America's miners risking their lives every day, as we all know—and a new law in place, thankfully, because of the leadership of the Presiding Officer, that has to be vigorously enforced—we cannot entrust our mine safety to someone who has not shown the background or the passion or the desire to make sure those laws work well and will fight for the health and safety of American miners.

When it comes to mine safety, we know now that we cannot tolerate business as usual. I believe the Senate should reject this nominee and demand a leader, someone who will stand up for our miners.

Mr. KENNEDY. Mr. President, will the Senator be good enough to yield?

Mrs. MURRAY. Yes, I will.

Mr. KENNEDY. I ask the Chair, how much time do we have remaining on our side?

The ACTING PRESIDENT pro tempore. There is 12 minutes 55 seconds remaining.

Mr. KENNEDY. Will the Presiding Officer let us know when we have 7 minutes remaining?

The ACTING PRESIDENT pro tempore. Yes.

Mr. KENNEDY. Mr. President, I thank the Senator from Washington, who is the ranking member of the subcommittee that has been dealing with this issue, for an excellent statement. I wonder if she agrees with me that we

have passed very important mine safety legislation that the President of the United States is going to sign. It has strong bipartisan support. Our committee, which was led by Chairman ENZI, visited the Sago mine. We had extensive hearings on the issue. Does the Senator agree with me that if we are going to have this new beginning in terms of mine safety that we need to have someone who is going to effectively run that program, who is going to be someone who understands both the history of what has been happening in the mines in West Virginia, in Pennsylvania, in Kentucky, and throughout the Midwest, and has demonstrated leadership in terms of protecting miners? Does the Senator agree with me that what we are looking for is strong leadership to implement that legislation?

Mrs. MURRAY. Mr. President, I would say to my friend from Massachusetts through the Acting President pro tempore, I couldn't agree more. I think the country sat at its dinner tables and watched the mine accidents that have occurred increasingly over the past year. So we understand what it takes in this country is leadership at an agency. Just look back at what happened with Katrina with the head of FEMA. It takes leadership in an agency. It takes all of us to put laws in place. But if there is not someone at the head of that agency who is sending a direction down through the ranks that our miners' safety and health has to come first, any law we pass will just be something written in a book.

Mr. KENNEDY. Mr. President, would the Senator agree with me that there are, it seems to me, three major tests. We all know that Mr. Stickler was a miner and comes from a mining family, and we respect that. We have a great deal of respect for that. I am sure he was a great miner, as is his family, I am sure. But what we are looking at now is the record of Mr. Stickler regarding mine safety.

Would the Senator agree with me that if you look over the record that he has in terms of mine safety—this chart represents the Stickler-managed mines which racked up thousands of safety citations. This is 1989 all the way through 1996. There were a total of 2,800 citations, 97 closures, and we have here—there is some time overlap between that chart and this one—the Eagle's Nest Mine where the managed mine injury rate is nearly triple the national average.

So we have the citations which are an indication in terms of the mine safety, we have a comparison with what has happened in terms of the average, and then when he was running the mine safety program in Pennsylvania, we had inspectors who were threatening to quit because they thought he was failing to protect miners. This chart shows the mine safety inspectors

and harmed coal miners, and his policy—that is the policy of Mr. Stickler—is a detriment to safety that would, without a doubt, make the coal industry less safe for two-thirds of its workers.

So we have his record in terms of mine safety in the mines. As an administrator, we have inspectors of the mines who are prepared to resign. Then, the third strike, which I think is enormously powerful, is, as the Senator from Washington pointed out, his response to the questions.

The Senator remembers, because she commented on this, when he was asked whether there needed to be any changes in the existing law, he said he thought that the existing laws were adequate. This is prior to the time that we passed the new legislation, as I remember.

Mrs. MURRAY. Mr. President, I would answer the Senator in saying, that is absolutely correct. Prior to any action by this body and the House in passing tougher laws, this nominee said no changes were needed.

Mr. KENNEDY. And when he was asked whether he would implement the law requiring a mine rescue team on site at every mine, Mr. Stickler said: No, Senator, I can't commit to that at this time. I will study this.

Does the Senator remember that when asked what he would do with information about new mine safety technology, Stickler said: I think that needs to be looked at.

When asked whether he would require the use of new technology like tracking devices, Stickler said: I look forward to reviewing the results of the technical evaluation.

When asked whether he would enforce the current standard prohibiting the use of belt air if it was shown that the use of belt air caused the Alma mine fire, Stickler said: I would re-evaluate the standard. Here are the series of questions, many of them asked by the Senator from Washington and others.

Does the Senator not agree with me having read the answers, plus attending the hearing, that one could say that the miners of this country deserve to have someone who is going to be more aggressive in terms of looking at new technology and in looking at additional safety standards, in looking at more effective kinds of enforcement and protecting the lives of the workers?

The ACTING PRESIDENT pro tempore. There are 7 minutes remaining.

Mr. KENNEDY. I would ask the Chair to let us know when 2 minutes remain.

Mrs. MURRAY. Mr. President, I would just say to the Senator from Massachusetts, I want in charge of this agency someone who will stand up and say, We are going to make the mines safer for the families who send a loved one there every day.

I went to that hearing, and all of what the Senator from Massachusetts just presented and the attitude this nominee presented—to me, this is not someone, despite his background, who is going to stand up and lead. I believe that we need to send this nominee back and we need to have somebody who we can proudly say is going to lead this agency at a most critical time.

Mr. KENNEDY. Mr. President, finally, I would like to get the Senator's reaction to these letters that we have gotten from families of those who were lost in the Sago mines and in other mines. I found them enormously powerful. When we visited the Sago mine, we had—I see in the Chair presiding over the Senate a member of our committee and someone who was enormously involved and active in getting this legislation passed, and I pay tribute to Senator ISAKSON. But in that meeting, I can remember it was the sense of all of the members, Republicans and Democrats, who were so moved by the tremendous tragedy and sadness, particularly when they had the sense of hope at the Sago mines that their loved ones might have been able to survive we made a commitment to them that we were going to do everything possible to make sure that others who go into the mines were going to be protected. We have come back here and passed a good, bipartisan bill, and also in the House of Representatives. There was a real question among many of us here whether we could get a good one that the President would sign, and now the President has announced that he is going to sign it on Thursday.

The mines themselves are having record problems. The mines themselves we find out are having record deaths. We passed good legislation and we promised those individuals that we were going to do everything we possibly could to make sure that the tragedies that happened to their loved ones would not happen again.

We passed the legislation. Now we have the letters from so many of these families who have read the record of this individual and have pleaded with us—pleaded with us—pleaded with us, that if we honor the memory of those who died in these mines, that we put someone in charge who is going to really implement that legislation and to fight for safety.

Is the Senator not moved, as I am, by the letters we received from the miners' families who have been lost, many of whom came to our hearings and who listened to the testimony on this individual? They have studied his record, and now they plead with us—plead with us—that we get someone else to provide the leadership for implementing the mine safety laws. Is the Senator moved by those letters?

Mrs. MURRAY. Mr. President, I would say to the Senator from Massachusetts, every Senator on this floor

should take a few minutes to read those letters from the families who have been impacted by mining disasters. I would say to my colleagues and to the President that we ought to be thinking we have to put someone in place in this agency who is going to wake up every single day he is on the job and say, What am I doing to make sure that in my responsibility of taking care of hundreds of miners every single day, I am moving the ball forward.

I have to say to the Senator from Massachusetts, there was no passion when I saw the presentation. I did not see someone in front of me who understood the tremendous responsibility that he was being given and who would wake up every single day and say, What am I doing to improve mine safety? That is my responsibility.

That is the kind of person I want in charge of this agency, I say to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. If I could have recognition myself.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 minutes and 30 seconds.

Mr. KENNEDY. Mr. President, I want to thank the Senator from Washington again. We have worked very closely together. We have worked with the administration. We have worked with our colleagues and friends, Senator ROCKEFELLER and Senator BYRD. We have worked together with Governor Manchin and other Governors. We have worked with the workers, the mine workers, the families. We have worked very closely together. This isn't in any sense a partisan issue. We have come together. There wasn't a dissenting vote here in the U.S. Senate in passing this legislation. There were a few votes in the House that wanted to have even stronger legislation. So we are basically all together and we are asking ourselves, given the fact we are all together and given the fact that we have this extraordinary challenge and problem that is affecting these workers, are they not entitled to someone who is going to be an effective leader in terms of providing safety.

I commend the Senator from Washington for making a strong case. We want to try to have a common position with our colleagues and friends within the administration. But this person—if we are going to I think meet our responsibility to those miners, we have to do better.

I thank my friend from Washington for her excellent presentation. I thank her for her conclusions.

We are facing a major challenge in this Nation about safety in our mines. We have seen the expansion of these mines as our energy situation has become more acute, and now is the time to have real implementation. Now is the time to fulfill our commitment to

these families and to these workers. Now is the time to honor the memory of those who have gone into the mines and who have lost their lives. Now is the time to help those whose primary desire is honoring the members of their families by passing an effective bill and have it implemented effectively. Now is the time to do that. If we are going to do that, this is not the individual who is equipped to be able to do it. He is a fine gentleman, and I admire the fact he and his family have been miners. But you have to look at the record: Whether he has been running the mines and overseeing the mines effectively. In testifying, by nature of disposition, he is not the man to implement this, and we should reject his nomination.

The ACTING PRESIDENT pro tempore. The minority time has expired.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2766 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2766) to authorize appropriations for fiscal year 2007 for 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.

Pending:

Warner (for Frist/Reid) amendment No. 4208, to express the sense of Congress that the United States Armed Forces, the intelligence community, and other agencies, as well as the coalition partners of the United States and the Iraqi Security Forces should be commended for their actions that resulted in the death of Abu Musab al-Zarqawi, the leader of the al-Qaida in Iraq terrorist organization and the most wanted terrorist in Iraq.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:15 p.m. shall be equally divided between the Senator from Virginia, Mr. WARNER, and the Senator from Michigan, Mr. LEVIN, or their designees.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. LEVIN. Pursuant to the unanimous consent agreement which we adopted last night, it is my recollection that on the Democratic side we were going to be offering an amendment immediately following the pending Warner amendment.

I stand corrected. Apparently there was an understanding on this, between myself and Senator WARNER, which was not incorporated.

The PRESIDING OFFICER. An understanding but not a consent agreement.

Mr. LEVIN. I thank the Presiding Officer. Pursuant to that understanding, then, I ask unanimous consent that the pending Warner amendment be temporarily laid aside so I can offer an amendment on behalf of Senator LAUTENBERG.

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

The Senator is recognized.

AMENDMENT NO. 4205

Mr. LEVIN. Mr. President, I call up amendment No. 4205, an amendment on behalf of Senator LAUTENBERG, and ask for its immediate consideration following the disposition of the Warner bipartisan amendment.

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

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) for Mr. LAUTENBERG, proposes an amendment numbered 4205.

Mr. LEVIN. 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: To provide a temporary prohibition on an increase in copayments required under the retail pharmacy system of the pharmacy benefits program of the Department of Defense)

At the end of subtitle A of title VII, add the following:

SEC. 707. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

Subsection (a)(6) of section 1074g of title 10, United States Code, as amended by section 702(b) of this Act, is further amended by adding at the end the following new subparagraph:

“(D) During the period beginning on April 1, 2006, and ending on December 31, 2007, the cost sharing requirements established under this paragraph for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) may not exceed amounts as follows:

“(i) In the case of generic agents, \$3.

“(ii) In the case of formulary agents, \$9.

“(iii) In the case of nonformulary agents, \$22.”.

Mr. LEVIN. Mr. President, the President's budget proposes that the copays for prescriptions under the TRICARE Prescription Benefit Program be increased for our troops and their families and for retirees, and that the increase in the copays be, on the generic