POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

March 21, 2012

**S. 1361**

Introduced by Senator Alexander

S. Printed 3/21/12--S. [SEC 3/22/12 12:58 PM]

Read the first time March 21, 2012.

**THE GENERAL COMMITTEE**

To whom was referred a Senate Resolution (S. 1361) to commend the use of reformed military commissions at the trial of alleged terrorists who were involved with attacking innocent Americans, intentionally causing serious bodily injuries, etc., respectfully

**REPORT:**

Has polled the Senate Resolution out majority favorable.

**A** **SENATE RESOLUTION**

TO COMMEND THE USE OF REFORMED MILITARY COMMISSIONS AT THE TRIAL OF ALLEGED TERRORISTS WHO WERE INVOLVED WITH ATTACKING INNOCENT AMERICANS, INTENTIONALLY CAUSING SERIOUS BODILY INJURIES, MURDER IN VIOLATION OF THE LAW OF WAR, AND PROVIDING MATERIAL SUPPORT OF TERRORISM.

Whereas, the September 11, 2001, terrorist attacks on the United States resulted in the deaths of nearly three thousand Americans; and

Whereas, these attacks stand as one of the most horrific acts of mass murder in the history of our Nation; and

Whereas, the United States government has captured those who were allegedly responsible for the planning and execution of these attacks; and

Whereas, despite the horrifying nature of the crime that was perpetrated against our Nation and our people, a basic tenet of the American justice system is that the accused should be guaranteed a fair trial no matter how abhorrent their acts; and

Whereas, we have an obligation to use all instruments of our national power and authority to counter the ongoing threats of terrorists who purposely attack civilian populations; and

Whereas, we must recognize that while the most effective instruments for countering these threats are those that are constrained and guided by our core values, including the rule of the law, we must also, as Justice Jackson said at the Nuremberg Trials, “stay the hand of vengeance” and sure that “power [pays tribute] to reason”; and

Whereas, reformed military commissions have been modeled after the federal criminal justice system and are comparable to federal courts in their incorporation of the fundamental guarantees of a fair and just trial, specifically:

(1) the accused is presumed innocent;

(2) the prosecution must prove guilt beyond a reasonable doubt; and

(3) the accused has all the rights accorded to him by law, including the right to notice of the charges; the right to counsel and choice of counsel; the right to be present during the proceedings; the right against self-incrimination; protection against use of statements obtained through torture or cruel, inhuman, or degrading treatment; the right to present evidence, cross-examine witnesses, and compel attendance of witnesses in his defense; the right to exculpatory evidence that the prosecution may have as to guilt, sentencing, and the credibility of adverse witnesses; the right to an impartial decision-maker; the right to suppression of evidence that is not reliable or probative or that will result in unfair prejudice; and the right to appeal to a federal civilian court of appeals and ultimately to the United States Supreme Court; and

Whereas, the rules for reformed military commissions remain consistent for the rule of law and to ensure that the commission can provide accountability during armed conflict when there would otherwise be no adequate or effective means to do so; and

Whereas, reformed military commissions are guided closely by United States federal practice in matters of transparency, including the commitment to providing victim family members, the media, and general public access to the proceedings. Now, therefore,

Be it resolved by the Senate:

That the members of the Senate of the State of South Carolina support reformed military commission as the appropriate venue in the case of those charged with planning the 9/11 terrorist attacks and that proceedings in that venue will deliver the best obtainable justice for the accused that will stand the test of time and reinforce core American values.

Be it further resolved that the Senate of the State of South Carolina encourages the fair, transparent but vigorous prosecution of those terrorists who killed so many innocent Americans and who continue to pose a serious and adaptive threat.

Be it further resolved that a copy of this resolution be forwarded to President Barack Obama and Leon E. Panetta, Secretary of Defense.

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