

S. CON. RES. 38

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Friday, April 11, 2003, or Saturday, April 12, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 28, 2003, or until such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first, and that when the House adjourns on any legislative day from Saturday, April 12, 2003, through Friday, April 18, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Tuesday, April 29, 2003, or until Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED & PROPOSED

SA 531. Mr. SUNUNU (for Mr. HATCH) proposed an amendment to the resolution S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements.

TEXT OF AMENDMENTS

SA 531. Mr. SUNUNU (for Mr. HATCH) proposed an amendment to the resolution S. Res. 117, recognizing the 100th anniversary of the founding of the Laborers' International Union of North America, and congratulating members and officers of the Laborers' International Union of North America for the union's many achievements; as follows:

Strike all after the resolving clause and insert the following: "That the Senate—

"(1) recognizes the founding and establishment of labor organizations, which have made a tremendous contribution to the structural development and building of the United States, and to the well-being of countless workers;

"(2) congratulates labor organizations for their many achievements and the strength of their membership; and

"(3) expects that labor organizations will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and work environment for laborers and other workers in generations to come."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet to conduct a markup on Friday, April 11, 2003, at 10 a.m., in Dirksen Room 226.

I. Nominations: J. Leon Holmes to be U.S. District Judge for the Eastern District of Arkansas; Susan G. Braden to be Judge for the Court of Federal Claims; Charles F. Lettow to be Judge for the Court of Federal Claims; Cecilia M. Altonaga to be United States District Judge for the Southern District of Florida; and Patricia Head Minaldi to be United States District Judge for the Western District of Louisiana

II. Bills: S. 274—Class Action Fairness Act of 2003; S. 731—Secure Authentication Feature and Enhanced Identification Defense Act of 2003 ("SAFE ID ACT"); S. Res. 108—Designating April 21 through 27, 2003, as "National Cowboy Poetry Week" [BURNS, HATCH, REID, BROWNBACK]; S. Res. 111—Designating April 30, 2003 as "Día de los Niños: Celebrating Young Americans" [HATCH]; and S.J. Res. 8—A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month [BROWNBACK, BIDEN, DEWINE, SCHUMER].

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. I ask unanimous consent for fellow Julianne Carter to have the privilege of the floor for the duration of this debate and when we come back for debate on Jeffrey Sutton.

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

SMALLPOX EMERGENCY PERSONNEL PROTECTION ACT OF 2003

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate immediately proceed to H.R. 1770, which is being held at the desk.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1770) to provide benefits and other compensation for certain individuals with injuries resulting from administration of smallpox countermeasures, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I rise today in strong support of the Smallpox Compensation Act of 2003.

I applaud the leadership of Senator JUDD GREGG, the distinguished Chairman of the Health, Education, Labor, and Pensions Committee. He has done a tremendous benefit for the Nation through this critical legislation when there is such great need to improve our public health preparedness.

I commend Senator EDWARD KENNEDY for his efforts to achieve bipartisan

consensus on the smallpox legislation we are considering today. I also thank all of the members of the Senate Health, Education, Labor, and Pensions Committee, and for the work of Representatives BILLY TAUZIN and JOHN DINGELL for their efforts to develop and pass this legislation.

Finally, the President of the United States deserves great credit for working to ensure that America is prepared against the threat of bioterrorism, and that the Nation's healthcare workers, first responders, and their families are protected from adverse affects that may result from smallpox vaccinations. Without President Bush's commitment, we could not have reached this critical agreement.

We know the grave danger that a smallpox attack poses. Smallpox is one of the deadliest diseases known to man. Health experts, the Federal Government, and State and local health entities continue to address the smallpox threat, including the development of a long-term immunization plan.

The administration has taken great steps to meet this threat by setting forth an immunization plan for our Nation's healthcare workers and first responders.

However, too many healthcare workers have been deterred from receiving the smallpox vaccine—in part because of uncertainties about what would happen, and how they would provide for themselves, if they suffered a serious adverse reaction to the vaccine.

This legislation helps to respond to that fear. It makes clear that adequate compensation will be available if an individual becomes ill or dies as a result of receiving the smallpox vaccine.

Passing this legislation will help strengthen President Bush's plan to vaccinate healthcare workers, public health officials and first responders—a vaccination strategy that is vital to our national security.

This legislation is part of a long-term strategy. We must continue to work to ensure appropriate liability and compensation measures for future countermeasures, as well as strong communications, surveillance, capacity-building and research efforts to strengthen our overall public health infrastructure to respond to emerging public health threats.

Indeed, this is not purely a public health issue; it is also an issue of national security. We must ensure that an adequate number of healthcare workers and first responders are vaccinated in order to protect the American people should smallpox be used as an offensive weapon. Dr. Anthony Fauci of the National Institutes of Health, NIH, has noted, in fact, that we would have perhaps only 2-3 days to vaccinate exposed individuals and prevent death in the event of an outbreak. This task would be nearly impossible without having an adequate number of individuals vaccinated prior to an outbreak.

While the risk of a smallpox attack is not necessarily high, the risk is real.

And the results could be devastating. They would surely be even more devastating without having enough people vaccinated before an outbreak. So we need to act here, and we need to act quickly.

In addition, we also must act in the coming weeks to pass the President's Project Bioshield Act of 2003 and legislation to improve our overall vaccine liability system. These are also critical longer term steps in rebuilding our defenses against infectious disease outbreaks, whether naturally-occurring or as a result of the use of offensive use of weapons of mass destruction.

Again, I commend the President, Chairman GREGG, Senator KENNEDY, and all of my colleagues, who have worked to craft this bipartisan legislation. I am very pleased to support this legislation.

Mr. GREGG. Madam President, with a mortality rate of over 30 percent, smallpox was one of the world's most feared diseases until a collaborative global vaccination program eradicated the disease in the 1970s. Smallpox no longer occurs naturally, and today can only be found in laboratories in the United States and Russia. Or so we believe. With the fall of the Soviet Union, some in the intelligence community are concerned that samples of the virus may have found its way to other countries, including Iraq. This is of grave concern to our Nation and the entire global community. Highly contagious and easily dispersed in the air, smallpox virus can be a deadly weapon in terrorist hands.

Congress and the administration have responded to this potential threat by authorizing the purchase of approximately 300 million doses of smallpox vaccine, enough for every man, woman, and child in America. Equally important, the administration developed a plan to respond in the event of an outbreak of the disease. Since the administration launched its smallpox vaccination plan on January 24, 2003, over 30,000 health care workers have been inoculated. To adequately prepare our Nation for the possibility of such an attack, however, more health care providers must be immunized. Additionally, it is critical that we begin vaccinating other emergency personnel, such as law enforcement officers, firefighters, and paramedics.

However, confusion as to the threat posed by the smallpox virus and concerns about the safety and potential side-effects of the vaccine, as well as the availability of compensation for any vaccine-related injuries, have impeded the program's progress. Although severe adverse reactions to the smallpox vaccine are very rare, we must ensure that health care and emergency workers who suffer such reactions receive appropriate medical care and compensation. Moreover, since the smallpox vaccine is made up of a live virus, we must also provide protection to any family members, patients, and others who are accidentally infected by these inoculated workers.

That is why I introduced the Smallpox Emergency Personnel Protection Act of 2003 (S. 313), which I chair. The bill before us reflects the bipartisan agreement that was reached after many weeks of hard work and long discussions with Republicans, Democrats, and the White House on this legislation.

The Smallpox Emergency Personnel Protection Act would create a "no fault" system to compensate vaccinated health care and emergency workers injured by the smallpox vaccine and other smallpox countermeasures, including any persons who accidentally contract smallpox from the vaccine. All persons experiencing any adverse events from the smallpox vaccine would be reimbursed for all reasonable necessary medical expenses and be compensated for lost wages.

In the rare event of death, the victim's family would receive a \$262,100 lump-sum benefit payment. If there are any surviving children, then the family would have the option of receiving either the lump-sum or a \$50,000 annual death benefit payment until the children become 18 years of age.

Those who become permanently and totally disabled as a result of the vaccine could receive up to \$50,000 annually in lost wages. Those who are temporarily disabled could receive up to \$50,000 annually in lost wages, up to a lifetime total of \$262,100. No such lifetime limit would apply in the case of permanent and total disability.

While those harmed by the smallpox vaccine retain the right to sue the federal government for negligence, all vaccine related claims must first go through the compensation program. Finally, the legislation includes some clarifications of section 304 of the Homeland Security Act, to ensure that providers, such as hospitals, doctors, nurses, and public healthcare workers, are protected from personal liability in the administration of the smallpox vaccine and in caring for infected persons.

The Smallpox Emergency Personnel Protection Act is an important element of our national smallpox vaccination program that will help ensure its timely implementation. I do hope that the Secretary of Health and Human Services will carry out the smallpox vaccination program in a manner that appropriately monitors and evaluates newly proposed technologies, devices, and other elements of the program, in order to assure the safest route of administration. To this end, I anticipate that the Secretary will review periodically for possible inclusion under the program new and modified technologies, tasks, and procedures that may reduce the risks and increase the safety of the program and its administration. I understand that the Secretary will continue to engage in dialogue with the affected parties and to ensure the safe and effective administration of the smallpox vaccine.

Our Nation's healthcare and emergency workers will be on the front line

in responding to any smallpox attack. Now, more than ever, we need to provide piece-of-mind and security to healthcare and emergency workers who volunteer to be vaccinated. This compensation package will give these workers the confidence they need to proceed with vaccinations. It is imperative that Congress pass the Smallpox Emergency Personnel Protection Act as swiftly as possible, so that we can ensure that our healthcare and emergency workers and their families are protected and that this country is prepared to respond in the event of an attack.

Mr. KENNEDY. Madam President, America faces a crisis because of our lack of preparedness for a bioterrorist attack. For months, we've worked to develop a fair, reasonable package to end this crisis. Today, we can finally say that we have an agreement, and I commend Senator GREGG, Senator FRIST, Senator MIKULSKI and all our colleagues on the Health Committee for all they've done.

I also thank the many representatives of nurses and other health providers, police officers and fire fighters for working with all of us to create a fair compensation program. We have come a long way and we're grateful for their intense commitment to this urgent challenge.

Smallpox is one of the cruelest, most contagious, and deadliest diseases ever known. Modern medicine has eradicated this disease in nature, but unfortunately it has been preserved as a weapon of war. The former Soviet Union weaponized the deadly virus—and control over these dangerous biological materials is often weak. Other nations probably have stocks of the virus—and none of us can be sure that the virus won't find its way into the hands of a terrorist.

If we remain unprepared, an attack with smallpox could kill vast numbers of Americans. Smallpox is deadlier than tanks, or bombs. It is more lethal than machine guns or rocket-propelled grenades. It threatens the security of every American. We can and must protect our country against the use of smallpox as a weapon.

Vaccination provides almost complete protection against the disease—but the protection can come at a high price in some cases. For an unfortunate few, it can cause serious side effects such as encephalitis, blindness or severe infections. Recent deaths after the vaccination of civilian and military personnel have raised concern that the vaccine may cause heart attacks. The number of people who experience these devastating effects is small, so the cost of meeting their needs will not be great. But the failure to meet their needs can be devastating for them, and devastating for the overall preparedness effort.

At long last, after many negotiations, we can now say that the nation's first responders will have an effective compensation program. They deserve it and our nation's security demands it.

The agreement we have reached ensures that those who participate in the vaccination program will receive fair compensation if they suffer side effects from the vaccine. The compensation package is significantly more generous than the original proposal. Workers who are permanently and totally disabled will receive two thirds of their lost wages—three quarters if they have dependents—up to \$50,000 a year, with no lifetime cap on those benefits. Workers who are temporarily or partially disabled will receive the same benefit, but with a lifetime cap of \$262,100—the same cap as for firefighters and police officers. The children of anyone who dies as a result of vaccination will be eligible for the same benefits as those with permanent and total disability until they reach 18 years of age.

The intent of the bill is that these benefits should be exempt from taxation, as in other worker compensation programs, including the Public Safety Officers Benefit program. The intent is also that these benefits be indexed for inflation.

The benefits in this plan will go further than in the original plan in improving the health of those who are injured. Instead of limiting benefits to medical services and items needed only for immediate treatment of injury, the plan covers a wider range of medical needs including rehabilitative care and palliative care.

Our agreement also takes the important step of extending eligibility for compensation to all workers called upon to receive the vaccine. There are no deadlines to coerce persons into signing up for the program.

Thanks to the effective work of Senator MIKULSKI, the bill now includes strong provisions to make sure that the public has adequate information about the risks of vaccination, the voluntary nature of the program, and the availability of potential benefits and compensation. The bill also ensures voluntary screening for potential participants to identify health conditions that could put them at risk. Medical follow-ups will evaluate adverse health effects, and effective screening and counselling will reduce them.

So far, the vaccination plan is faltering. Only a small fraction of those who we rely on to protect us—the men and women in our hospitals and fire departments and police departments—have been willing to have smallpox vaccinations. They know the risks, and they worry that if they are injured or killed by the vaccine, they and their families will not be compensated adequately.

That is why it is so important to guarantee help for persons no longer able to work as a result of reactions to the smallpox vaccine, and to guarantee that their children have financial security as well.

Under certain circumstances, those who have been vaccinated can spread the virus used in the vaccine to others

and cause them to become ill. Recently, concerns about the safety of the vaccine were raised by two heart attack deaths among the 31,000 civilians who have been vaccinated, and one heart attack death among the 300,000 military personnel who have been vaccinated. Five other civilians suffered heart attacks that were not fatal. No one knows whether the heart attacks were the result of the vaccine—but they have added new concern about the vaccination.

This agreement is a major step forward. We still have far more to do to be fully prepared for bioterrorist attacks, but this agreement is a major step forward against what could well be the worst of all terrorist attacks, and I urge the Senate to approve it.

Mr. SUNUNU. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1770) was read the third time and passed.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. SUNUNU. Madam President, as in executive session, I ask unanimous consent that the HELP Committee be discharged from further consideration of the following nominations and that the Senate then proceed to their consideration: Thomas Meites, PN 479; Herbert Garten, PN 478; Florentino Subia, PN 75; Frank Strickland, PN 76; Robert Dieter, PN 79; and Michael McKay, PN 77.

I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and that the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

LEGAL SERVICES CORPORATION

Thomas R. Meites, of Illinois, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Herbert S. Garten, of Maryland, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Florentino Subia, of Texas, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Frank B. Strickland, of Georgia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

Robert J. Dieter, of Colorado, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Michael McKay, of Washington, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2004.

EXECUTIVE CALENDAR

Mr. SUNUNU. Madam President, I ask unanimous consent that the Senate consider the following nominations on today's executive calendar: Calendar Nos. 131, 133, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155 and 156.

I ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

VETERANS AFFAIRS

John W. Nicholson, of Virginia, to be Under Secretary of Veterans Affairs for Memorial Affairs.

ARMY

The following named officer for appointments as the Chief of the National Guard Bureau, and for appointment to the grade indicated under title 10, U.S.C., section 10502:

to be Lieutenant General

Maj. Gen. H. Steven Blum, 9926

DEPARTMENT OF STATE

Joseph LeBaron, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Reno L. Harnish, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Heather M. Hodges, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Gregory W. Engle, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Togolese Republic.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Wayne E. Neill, of Nevada, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the