

upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 2498), as amended, was read the third time and passed.

#### NEEDLESTICK SAFETY AND PREVENTION ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5178, which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (H.R. 5178) to require changes in the bloodborne pathogens standard in effect under the Occupational Safety and Health Act of 1970.

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

Mr. REID. Mr. President, this is an important piece of legislation. Although we will not spend time on the floor debating it or talking about it, that does not take away from the significance of the needlestick bill.

I extend my appreciation to everyone on the majority side and the many people who have worked on our side for coming up with a bipartisan bill to alleviate a significant problem that nurses in America have had for many years.

Mr. President, on October 17, 1997, 28-year-old Lisa Black, a registered nurse from Reno, Nevada, was nursing a man in the terminal stages of AIDS when a needle containing his blood punctured her skin.

Today, Lisa Black is infected with Hepatitis C and HIV.

She must take 22 pills a day to keep her HIV infection from progressing to full-blown AIDS and to delay the effects of Hepatitis C.

Karen Daley, a nurse for over 20 years and President of the Massachusetts Nurses Association, sustained a needlestick injury when she reached her gloved hand into a needle box to dispose of the needle with which she had drawn blood.

Karen Daley did everything in her power and took all the necessary precautions—including wearing gloves and following proper procedures—to reduce her risk of exposure to bloodborne pathogens. Her injury did not occur because she was careless or distracted or not paying attention to what she was doing.

Karen Daley has good reason to believe that had a safer needle and disposal system been in place at her hospital, she would not be sick today. According to the CDC, eighty percent of all needlestick injuries can be prevented through the use of safer needles.

I am pleased that today we are passing bipartisan legislation—the

Needlestick Worker Safety and Prevention Act—that will help reduce the incidence of needlestick injuries and illnesses, like those sustained by Karen Daley and Lisa Black.

The Health Care Worker Safety and Prevention Act will strengthen the Occupational Safety and Health Administration's (OSHA) standard on bloodborne pathogens to encourage greater utilization of newer, safer devices in health facilities. It will require the involvement of workers who provide direct patient care in determining which safer needles and sharps to use in the workplace and a more consistent documentation of all needlestick injuries.

I would like to thank Senators KENNEDY, JEFFORDS, and ENZI as well as Representatives BALLENGER and OWENS for their commitment to this legislation. I am pleased that we were able to come together across party lines to protect the health and safety of our front-line health care workers.

Mr. KENNEDY. Mr. President, I commend Senator JEFFORDS, Senator ENZI, and Senator REID for their effective work on this important legislation. And I also commend the American Nurses Association, the American Federation of Teachers, the Service Employees International Union and the American Federation of Federal, State, County and Municipal Employees for their effective efforts in supporting it.

Needle stick protection is vitally important to health care professionals and to the many others who come in contact with them. Last year, as many as 800,000 health care professionals suffered needle stick injuries. Over 1,000 health care workers were infected with serious diseases, including HIV, Hepatitis B and Hepatitis C.

These injuries were preventable, and because of this bill, many future needle stick injuries will be prevented. The Center for Disease Prevention estimates that this bill will reduce needle stick injuries by as much as 88 percent.

But numbers alone cannot convey the human tragedy of these injuries. One of my constituents, Karen Daley of Boston, is the President of the Massachusetts Nurses Association and was a registered nurse, a job she loved and found very fulfilling. In January 1999, while on duty in an emergency room in Boston, Karen was accidentally stuck by a contaminated needle. Six months later, she tested positive for HIV and Hepatitis C. Fortunately, Karen is in reasonably good health today, although she may never again be able to practice her chosen profession of nursing.

The Needle Stick Safety and Prevention Act will help prevent tragic accidents like Karen Daley's. This bill requires employers to use, where appropriate, safety-designed needles and other sharp devices to reduce the potential transmission of disease to

health care workers and patients. It is not enough to rely solely on one type of control, such as disposable needles and other equipment, when safer, appropriate medical devices are available and can be effective in reducing the risk of contaminated needle injuries.

This bill also provides that employers must establish an injury log to record the kind of devices, and the location, of all needle stick accidents. This information must be considered when determining appropriate devices to be used.

This bill strikes a critical balance between the reasoned judgment of health care professionals on patient safety and OSHA's responsibility to protect the health and safety of employees. The bill also provides that non-managerial employees and their representatives—those on the front lines of service delivery—must participate in determining the appropriate devices used in health care settings. Nothing in this bill would justify the establishment of an employer-dominated labor organization or the bypassing of a collective bargaining representative in violation of the National Labor Relations Act.

I urge all of my colleagues, on both sides of the aisle, to support this important legislation.

Mr. ENZI. Mr. President, I am extremely pleased to speak today at the passage of H.R. 5178, the Needlestick Safety and Prevention Act. By passing this bill, we ensure a safer workplace for the men and women who perform the valuable service of taking care of the people of this country. The bipartisan nature of this bill is a testament to the importance of the problem we have addressed and the fairness and reasonableness of the solution. I want to commend the hard work of my colleagues Senators JEFFORDS, KENNEDY, and REID and their staff in crafting this solution. I also want to recognize the efforts of my House colleagues, Representatives BALLENGER and OWENS and their staff. This truly was a bipartisan and bicameral effort and it is a wonderful example of what we can accomplish when we all work together.

We came together over this bill to address the convergence of increased concern over accidental needlestick injuries in health care settings ("needlesticks" is a term used broadly, as health care workers can suffer injuries from a broad array of "sharps" used in health care settings, from needles to IV catheters to lancets) with the technological advancements made over the past decade in the many types of engineering controls that can be used in the workplace to help protect health care workers against sharps injuries. We responded to these two factors by drafting a bill that highlights the importance of using newer, safer technologies but also allows health care employers the flexibility to choose the technology that provides

the best protection under the circumstances. I have further elaborated on my views on the substance of this legislation in the Joint Statement of Legislative Intent, submitted with the legislation.

The passage of this bill today is extremely significant on several levels. First and foremost, this bill will save lives because fewer health care workers will contract deadly diseases from accidental needlesticks. Almost equally as important, it will also reduce the number of health care workers who are forced to suffer the living hell of not knowing whether they contracted a deadly disease after a contaminated needlestick. The health care workers on the front lines in hospitals, clinics, and other locations are absolutely critical to this country and I hope this bill will provide some peace of mind to these individuals.

Finally, I want to reiterate the significance of the bipartisan and bicameral nature of this legislation. I believe this bill brings employers and employees together to improve safety in the workplace and I hope to be able to work with my co-sponsors and my colleagues in the House on more such measures in the future.

Mr. JEFFORDS. Mr. President, I rise today to express my gratitude and delight because of the successful outcome of a bipartisan, bicameral effort to protect the health of those who protect the health of others. I speak, of course, of our nation's health care workers, who dedicate their lives to caring for others. And I am gratified because today we have enacted legislation, the Needlestick Safety and Prevention Act, which addresses an important health issue threatening our nation's care givers.

In March of this year, the Centers for Disease Control and Prevention estimated that more than 380,000 percutaneous injuries from contaminated sharps occur annually among health care workers in United States hospitals. Estimates for all health care settings are that 600,000 to 800,000 needlestick and other percutaneous injuries occur annually. Due to these injuries, numerous health care workers have contracted fatal or other serious viruses and diseases, including the human immunodeficiency virus, (HIV), hepatitis B, and hepatitis C.

The statistics paint a bleak picture, but there is hope. There has been an explosion of technological development, resulting in a substantial increase in the number and assortment of new, and much safer, medical devices, such as needleless systems, retractable needles, and syringes with needle guards or sheaths. The legislation that we have passed today will require employers to identify, evaluate, and make use of these devices. As a result, lives will be saved.

This bipartisan success resulted from a shared concern about this health haz-

ard, and a shared belief of how to resolve it, among myself, and Senators ENZI, KENNEDY and REID. I must also thank our dedicated staffs, and also Representatives CASS BALLENGER, and MAJOR OWENS, and their staffs. Senators ENZI, KENNEDY, REID, and I have also worked together on a Joint Statement of Legislative Intent. I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD. I also ask unanimous consent that a letter from Charles N. Jeffress, Assistant Secretary for Occupational Safety and Health, to Senator JIM BUNNING, and a letter from Representatives BALLENGER and OWENS, addressed to me, be made a part of the RECORD.

I thank all my colleagues who have joined in helping to adopt this important legislation. It is a vital step in ensuring worker safety in health care settings.

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

JOINT STATEMENT OF LEGISLATIVE INTENT ON  
H.R. 5178

The legislation derives from the convergence of two critical circumstances which have a profound effect on the safety of health care workers in the United States. The first circumstance is the increased concern over accidental needlestick injuries in health care settings. "Needlesticks" is a term used broadly, as health care workers can suffer injuries from a broad array of "sharps" used in health care settings, from needles to IV catheters to lancets. The second circumstance is the technological advancements made over the past decade in the many types of engineering controls that can be used in the workplace to help protect health care workers against sharps injuries. Because of the convergence of these two circumstances—and because of increasing concern over the public health issue related to the spread of hepatitis C, it is appropriate to take this action at this time.

Section 1 of the Bill provides the title the "Needlestick Safety and Prevention Act." Section 2 of the bill provides the Congressional findings.

Section 3 of the bill directly modifies the Bloodborne Pathogens Standard, 29 C.F.R. §1910.1030, one of the health and safety standards promulgated by the Department of Labor's Occupational Safety and Health Administration (OSHA). The legislation builds on the most recent action taken by OSHA related to the Bloodborne Pathogens Standard—the revision in November 1999 to OSHA's Compliance Directive on Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens ("Compliance Directive").

In modifying the Bloodborne Pathogens Standard ("BBP standard") this bill makes narrowly-tailored changes to the BBP standard. It makes clear in the BBP standard the direction already provided by OSHA in its Compliance Directive: namely, that employers who have employees with occupational exposure to bloodborne pathogens must consider and, where appropriate, use effective engineering controls, including safer medical devices, in order to reduce the risk of injury from needlesticks and from other sharp medical instruments ("sharps"). This bill is not intended to change the existing application of OSHA's BBP standard to all employees

who are reasonably anticipated to have occupational exposures to blood or other potentially infectious materials, including health care workers, laboratory personnel, housekeepers and waste disposal employees, among others.

The bill accomplishes this in several ways. First, the BBP standard is modified so that the definition of "engineering controls" at 29 C.F.R. §1910.1030(b) includes as additional examples of such controls, "safer medical devices, such as sharps with engineered sharps injury protections and needleless systems." Following that step, the BBP standard is amended so that both "sharps with engineered sharps injury protections" ("SESIPS") and "needleless systems" are added to the definitions of the standard.

The citing of these examples should not be considered an endorsement or preference of a specific product or assurance of a specific product's effectiveness. Rather, it is the intent of this legislation to reflect innovation and evolving technology in the marketplace, in particular development in safer medical devices such as SESIPS and needleless systems. This legislation anticipates that hospitals and other employers, in crafting their Exposure Control Plans, will adopt procedures and use devices that have been proven to reduce the risk of needlestick injuries. Employers use their Exposure Control Plans to evaluate appropriate practices and devices for reducing occupational exposure. To focus attention on the need for employers to look at changes in technology, this legislation further modifies the BBP standard by adding to the existing requirements concerning Exposure Control Plans at 29 CFR §1910.1030(c)(1)(iv). Through these modifications, employers will be required to demonstrate in the review and update of their Exposure Control Plans that their Exposure Control Plans reflect changes in technology and also that they document annually the consideration and implementation of appropriate, commercially available and effective safer medical devices.

It is through an employer's Exposure Control Plan that engineering controls, including safer medical devices, are considered and deployed in the workplace. It is not the intent of this legislation to disturb OSHA's existing determination that to the extent that specific types of devices, such as catheter securement devices or sharps destruction devices can reduce the risk of needlestick injuries, such devices could be appropriate components of an employer's comprehensive exposure control plan. OSHA expressed its understanding of and agreement with this intent in a letter to Senator Jim Bunning, dated October 13, 2000. The letter is submitted as an attachment to this joint statement.

It is also not the intent of this legislation to disturb the underlying flexible, performance-oriented nature of the Bloodborne Pathogens Standard. For example, this legislation's reference to the consideration and implementation of safer medical devices is hinged upon the "appropriateness" and the "commercial availability" of such devices. Finally, while this may be stating the obvious, it is not the intent of this legislation, nor for that matter of the current Bloodborne Pathogens Standard, for employers to implement use of any engineering control, including a safer medical device, in any situation where it may jeopardize a patient's safety, an employee's safety or where it may be medically contraindicated. Moreover, all of the affirmative defenses available to an employer under the current BBP standard

remain intact with this legislation. It is not the intent of this legislation to alter OSHA's current enforcement of the BBP standard in these circumstances. Attached to this Joint Statement is a letter from Representatives Ballenger and Owens, the co-sponsors of H.R. 5178, expressing their full support for the views expressed in this statement.

The drafters are aware that some of the newer most effective technologies are more expensive than others and may create higher costs for health care facilities. Because some entities largely dependent on Medicare and/or Medicaid, such as long term care providers, will be required to comply with this legislation, we encourage the Health Care Financing Administration to examine the costs of the new technologies and consider these costs when determining Medicare reimbursement rates. Similarly, we hope that the states will examine these costs and determine whether the costs should be reflected in the Medicaid reimbursement rates.

Section 3 of the bill amends the BBP standard in two additional ways. First, it adds a requirement that in addition to the recordkeeping requirements already found in the BBP standard, employers must record percutaneous injuries from contaminated sharps in a sharps injury log. The legislation sets out the minimum information to be included in such a log, namely the type of device used, an explanation of the incident, and where the injury occurred. Employers are free to include other information should they find it helpful. However, this legislation does require that in recording the information and maintaining the log, the confidentiality of the injured employee is to be protected.

The requirement for a sharps injury log is consistent with current OSHA recordkeeping in two specific ways. First, the sharps injury log requirement does not apply to any employer who is not already required to maintain a log of occupational injuries and illnesses under 29 CFR §1904. Second, employers are not required to maintain the sharps injury logs for a period of time beyond that currently required for the OSHA 200 logs.

The sharps injury log is to be used as a tool for employers so that they may determine their high risk areas for sharps injuries and use it as a means to evaluate particular devices that may or may not be effective in reducing sharps injuries. At a House Subcommittee on Workforce Protections hearing in June, representatives of the American Hospital Association testified that many health care settings, particularly hospitals, already have in place some type of "surveillance system" for tracking needlestick and other sharps injuries. The AHA witness noted that hospitals have found this to be an effective tool to provide necessary information to help reduce such injuries.

The second way in which Section 3 amends the BBP standard is by specifying that employers must solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation and selection of effective engineering and work practice controls. Employers are also to document this in the Exposure Control Plans. The intent of this section is simple—to involve in the selection of engineering controls those workers who are potentially exposed to needlestick injuries.

Section 4 of the legislation explains that the modifications as delineated by Section 3 of the bill can be changed by a future rulemaking by OSHA on the Bloodborne Pathogens Standard.

Finally, Section 5 of the bill directs that the modifications to the BBP standard are to be made without regard to the standard OSHA rulemaking requirements or the requirements of the Administrative Procedures Act. Admittedly, preemption of the OSHA rulemaking procedures is not an action to be undertaken lightly. Indeed, the requirements of this bill are driven by the unique circumstances surrounding this narrow and particular public health issue. Although there is no such thing as binding precedent for Congress, it is not the intent of this legislation, through the process used here, to diminish the carefully constructed requirements and procedures for OSHA rulemaking.

The legislation does prescribe, however, that the changes to the BBP standard are to be made by the Secretary of Labor and published in the Federal Register within six months of enactment and that the changes will take effect 90 days after such publication.

Submitted October 25, 2000.

James M. Jeffords, Edward M. Kennedy,  
Michael B. Enzi, Harry Reid.

U.S. DEPARTMENT OF LABOR, AS-  
SISTANT SECRETARY FOR OCCUPA-  
TIONAL SAFETY AND HEALTH,

Washington, DC, October 13, 2000.

Hon. JIM BUNNING,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BUNNING: Thank you for your inquiry regarding OSHA's enforcement of the bloodborne pathogens standard and the effect of OSHA's November 1999 Compliance Directive on Enforcement Procedures on Occupational Exposure to Bloodborne Pathogens.

OSHA has long required employers to protect employees from exposure to bloodborne pathogens through the use of engineering controls, which include sharps disposal devices such as sharps destruction devices. To the extent that specific types of engineering controls such as sharps destruction devices can reduce the risk of needlestick injuries, such controls could be appropriate components of an employer's comprehensive exposure control plan. OSHA has allowed, and intends to continue to allow, employers to use sharps destruction devices to help reduce the risk of needlestick injuries in appropriate circumstances, as set forth in OSHA's November 1999 Compliance Directive.

It is my understanding that S. 3067, like the House companion bill, is entirely compatible with and closely tracks the language of OSHA's November 1999 Compliance Directive and will not change in any way OSHA's treatment of needle destruction devices or OSHA's enforcement of the bloodborne pathogens standard's obligation that employers use engineering controls.

I hope that this letter is responsive to your inquiry. Thank you for your interest in occupational safety and health.

Sincerely,

CHARLES N. JEFFRESS,  
Assistant Secretary.

COMMITTEE ON EDUCATION AND THE  
WORKFORCE, U.S. HOUSE OF REP-  
RESENTATIVES,  
Washington, DC, October 25, 2000.

Hon. JIM M. JEFFORDS,  
U.S. Senate,  
Washington, DC.

DEAR CHAIRMAN JEFFORDS: Thank you for your sponsorship of The Needlestick Safety and Prevention Act and for your work on

this important legislation. We appreciate your sharing with us the Senate Joint Statement of Legislative Intent and want to express our full support for the views expressed in the Senate statement. We want to reiterate that it is not the intent of this legislation to alter OSHA's current enforcement of the Bloodborne Pathogens Standard.

Sincerely,

CASS BALLENGER,  
Chairman, Sub-  
committee on Work-  
force Protections.

MAJOR R. OWENS,  
Ranking Member, Sub-  
committee on Work-  
force Protections.

Mr. JEFFORDS. Mr. 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. 5178) was read the third time and passed.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I ask unanimous consent that following my remarks and those of Senator REID, Senator HOLLINGS be recognized for up to 10 minutes.

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

#### FAREWELL REFLECTIONS OF THE HON. RICHARD H. BRYAN

Mr. BRYAN. Mr. President, within the next few days, I will cast my last vote as a U.S. Senator, and by the end of this year, I will conclude 36 years of public experience.

Permit me to reflect for a moment on this experience and share with you some observations.

The last decade of the 20th century has witnessed more change than any decade in human history. When I began my Senate service in January of 1989, the world was a very different place than it is today. The Soviet Union and the United States faced off in a cold war, a cold war that dominated global politics from the end of World War II. The ancient capitals of Eastern Europe were satellite appendages of the Soviet Union. There were two Germanys and a wall divided Berlin. The economic pundits were telling us that the Japanese economic model represented the wave of the future, and it was feared that America was in decline.

All of that has changed. The Soviet Union has imploded. It no longer exists. Eastern Europe is no longer a series of satellite states of the Soviet Union, but nascent democracies are developing in most of eastern Europe. The Berlin Wall has come down. Germany is reunited. And once again, Berlin is the capital of that country. The