

These issues were strong recommendations of the Secretary's Advisory Committee on Transplantation, and COT in fact went further and requested a study from NIH to define the reasons for African Americans to have diminished graft survival. And just earlier this fall, HRSA announced 8 grants that it was funding to test social and behavioral interventions to increase organ and tissue donation—five of these, totaling more than \$1.6 million, focused on minority and underserved populations.

And we have a bill today that has been developed through a bipartisan, bicameral process intended to allow us to make quick action on the bill. I appreciate the Senator's willingness to support this bill, and look forward to working with him in this area next year.

Mr. KENNEDY. I commend his work and congratulate him on passage of this bill. I look forward to working with the Senator from Tennessee and others to build on this important start and draft bipartisan legislation in the next session to address the unique health and health care needs of minority and underserved populations.

Mr. MCCONNELL. I ask unanimous consent that the committee substitute be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 573), as amended, was read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 478, 490, 495 through 508, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, 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:

NOMINATIONS

DEPARTMENT OF HOMELAND SECURITY

Michael J. Garcia, of New York, to be an Assistant Secretary of Homeland Security.

DEPARTMENT OF HOMELAND SECURITY

James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security.

AIR FORCE

The following named officer for appointment in the United States Air Force to the

grade indicated while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be lieutenant general

Maj. Gen. William Welser, III, 0000

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Paul F. Capasso, 0000
Colonel Floyd L. Carpenter, 0000
Colonel William A. Chambers, 0000
Colonel Paul A. Dettmer, 0000
Colonel David K. Edmonds, 0000
Colonel Jack B. Egginton, 0000
Colonel David J. Eichhorn, 0000
Colonel David W. Eidsaune, 0000
Colonel Burton M. Field, 0000
Colonel Alfred K. Flowers, 0000
Colonel Randal D. Fullhart, 0000
Colonel Marke F. Gibson, 0000
Colonel Robert H. Holmes, 0000
Colonel Stephen L. Hoog, 0000
Colonel Larry D. James, 0000
Colonel Ralph J. Jodice, II, 0000
Colonel Jan Marc Jouas, 0000
Colonel Jay H. Lindell, 0000
Colonel Kay C. McClain, 0000
Colonel Robert H. McMahon, 0000
Colonel Stephen P. Mueller, 0000
Colonel William J. Rew, 0000
Colonel Katherine E. Roberts, 0000
Colonel Kip L. Self, 0000
Colonel Michael A. Snodgrass, 0000
Colonel David M. Snyder, 0000
Colonel Larry O. Spencer, 0000
Colonel Robert P. Steel, 0000
Colonel Thomas J. Verbeck, 0000
Colonel James A. Whitmore, 0000
Colonel Bobby J. Wilkes, 0000
Colonel Robert M. Worley, II, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Stephen L. Lanning, 0000

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robin E. Scott, 0000

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Larry J. Dodgen, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John M. Curran, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Keith M. Huber, 0000

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Dennis E. Hardy, 0000

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James R. Sholar, 0000

To be brigadier general

Col. Henry J. Ostermann, 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Walter B. Massenburg, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Robert E. Cowley, III, 0000

Rear Adm. (lh) Steven W. Maas, 0000

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Brian G. Brannman, 0000

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Raymond K. Alexander, 0000

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Donald K. Bullard, 0000
Rear Adm. (lh) Albert M. Calland, III, 0000
Rear Adm. (lh) Robert T. Conway, Jr., 0000
Rear Adm. (lh) John J. Donnelly, 0000
Rear Adm. (lh) Bruce B. Engelhardt, 0000
Rear Adm. (lh) Charles S. Hamilton, II, 0000
Rear Adm. (lh) John C. Harvey, Jr., 0000
Rear Adm. (lh) Carlton B. Jewett, 0000
Rear Adm. (lh) Matthew G. Moffit, 0000
Rear Adm. (lh) Michael P. Nowakowski, 0000
Rear Adm. (lh) Harold D. Starling, II, 0000
Rear Adm. (lh) James Stavridis, 0000
Rear Adm. (lh) Michael C. Tracy, 0000
Rear Adm. (lh) John J. Waickwicz, 0000

AIR FORCE

PN1073 Air Force nomination of Gary H. Sharp, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1074 Air Force nomination of Jeffrey N. Leknes, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1075 Air Force nomination of Samuel B. Echaure, which was received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1076 Air Force nominations (2) beginning THOMAS E. JAHN, and ending RODNEY D. LEWIS, which nominations were received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1077 Air Force nominations (5) beginning SAMUEL C. FIELDS, and ending KEVIN C. ZEECK, which nominations were received by the Senate and appeared in the Congressional Record of October 23, 2003.

PN1116 Air Force nomination of Robert G. Cates, III, which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1117 Air Force nomination of Mary J. Quinn, which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1118 Air Force nominations (2) beginning CHRISTOPHER C. ERICKSON, and ending MARK A. MCCLAIN, which nominations were received by the Senate and appeared in

the Congressional Record of November 17, 2003.

ARMY

PN1087 Army nomination of Lance A. Betros, which was received by the Senate and appeared in the Congressional Record of October 30, 2003.

PN1088 Army nominations (69) beginning THOMAS B. SWEENEY, and ending PAUL L. ZANGLIN, which nominations were received by the Senate and appeared in the Congressional Record of October 30, 2003.

PN1120 Army nominations (2) beginning JOHN D. MCGOWAN, II, and ending KENNETH E. NETTLES, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1121 Army nominations (2) beginning VERNAL G. ANDERSON, and ending DONALD J. KERR, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1122 Army nominations (3) beginning GASTON P. BATHALON, and ending PAULA J. RUTAN, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1123 Army nomination of William B. Carr, Jr., which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1124 Army nominations (3) beginning JOHN E. ATWOOD, and ending WILLIAM E. ZOESCH, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1125 Army nominations (2) beginning CHERYL KYLE, and ending TERRY C. WASHAM, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1126 Army nominations (9) beginning MICHAEL A. BULEY, and ending GARY M. ZAUCHA, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2003.

PN1129 Army nomination of Gary R. McMeen, which was received by the Senate and appeared in the Congressional Record of November 17, 2003.

COAST GUARD

PN1095 Coast Guard nominations (13) beginning Jeffrey L. Busch, and ending John S. Welch, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 2003.

PN1096 Coast Guard nominations (270) beginning William D. Adkins, and ending Michael S. Zidik, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 2003.

MARINE CORPS

PN326 Marine Corps nomination of Michael S. Nisley, which was received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN328 Marine Corps nominations (2) beginning LEONARD HALIK, III, and ending ERNEST R. HINES, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2003.

PN1089 Marine Corps nomination of David B. Morey, which was received by the Senate and appeared in the Congressional Record of October 30, 2003.

NAVY

PN1090 Navy nomination of Patrick J. Moran, which was received by the Senate and appeared in the Congressional Record of October 30, 2003.

PN1091 Navy nomination of Lawrence J. Chick, which was received by the Senate and appeared in the Congressional Record of October 30, 2003.

PN1098 Navy nomination of Robert E. Vincent, II, which was received by the Senate and appeared in the Congressional Record of November 3, 2003.

PN1099 Navy nominations (56) beginning RODNEY A. BOLLING, and ending JAY S.

VIGNOLA, which nominations were received by the Senate and appeared in the Congressional Record of November 3, 2003.

PUBLIC HEALTH SERVICE

PN1010 Public Health Service nominations (174) beginning Vincent A. Berkley, and ending James A. Syms, which nominations were received by the Senate and appeared in the Congressional Record of October 2, 2003.

NOMINATION OF ADMIRAL JAMES LOY TO BE DEPUTY SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY

Mr. LIEBERMAN. Mr. President, I commend Admiral Loy for his willingness to take on the position of Deputy Secretary of the Department of Homeland Security, one of the most important and also most difficult jobs in the federal government. The fledgling Department of Homeland Security is a critical undertaking for our government and our country. We know that we face real and ongoing threats to our domestic security from terrorism, and the Department is our best hope of bringing the critical focus, resources and leadership to bear on these new and insidious threats. It is a momentous undertaking fraught with challenges, and we must give the Department every support we can to achieve its vital task. Unfortunately, in the face of numerous expert reports chronicling the terrorist threat to United States citizens—and the need for a dramatic infusion of new federal funds—President Bush has consistently failed to embrace the challenge of homeland security with vision or resources.

As Deputy Secretary, Admiral Loy will be second-in-command and have influence over the full array of DHS policies and practices. As such, I hope he will work forcefully to close the existing gaps in our security—and in the administration's efforts on homeland security. I have detailed some of my concerns in other floor statements and in numerous letters to Secretary Ridge and other DHS officials. We are, to quote a distinguished report sponsored by the Council on Foreign Relations, "drastically underfunded, dangerously unprepared" with respect to our state and local first responders and the federal government's efforts here are falling far short. The administration is thwarting a critical congressional mandate to create a true intelligence fusion center within DHS. On critical infrastructure protection, our government has yet to complete vital threat and risk assessments, much less implement forceful measures to protect these critical assets. I will not repeat all those concerns here, but instead focus on the dangerous gaps I perceive with respect to transportation security—the issue that has been Admiral Loy's direct responsibility as head of the Transportation Security Administration, TSA, and one over which he will continue to exercise considerable influence.

TSA was created in the aftermath of 9/11 in response to the tragic weaknesses in the air security realm that were exposed by the attacks. Indeed, TSA has made important strides to improve certain aspects of aviation secu-

rity, such as passenger and baggage screening. But critical deficiencies exist in these and other areas of air security, and the agency has barely begun to tackle its broader transportation security mandate. Although Admiral Loy will be leaving his post as Administrator of TSA, I believe it is essential that he continue to place a high priority on resolving these critical issues.

By law, the Transportation Security Administration is responsible for security in all modes of transportation. But TSA has thus far focused almost exclusively on commercial aviation, leaving treacherous weaknesses in other transportation systems—a problem I outlined in a July 9 letter to Secretary Ridge. For fiscal year 2004, the administration sought \$4.3 billion for passenger aviation security, but only \$86 million for TSA's maritime and land security efforts. Congressional appropriators added some additional resources for maritime and land security, but there is still very little money available for these critical needs.

For instance, with respect to maritime transportation, the Coast Guard has identified billions of dollars worth of necessary improvements—and Congress has mandated greater security—yet the administration requested no money for port security grants to help make the changes and only \$125 million for this purpose was ultimately included in the DHS appropriations bill. Indeed, there is not even enough funding for Coast Guard employees to review the security plans mandated under the Maritime Transportation Security Act. This even as expert upon expert has identified the Nation's 360 commercial ports as a leading cause for concern on the homeland front—in large part because of the valuable goods and energy imports channeled through these ports and because the millions of containers that enter this country by sea can hide untold dangers.

Mass transit systems are another grave source of concern. We all remember the 1995 attack on the Tokyo subway, when members of a Japanese cult released sarin, a lethal chemical nerve gas, on five subway trains during rush hour. Twelve people were killed and thousands injured. Only mistakes by the terrorists kept the death toll from being far higher. Here in the United States, our transit systems remain vulnerable to such an attack. In many cases, transit officials have already identified steps to make the system more secure, but simply cannot afford to take them. Transit systems typically struggle just to meet operating costs and are simply not in a position to fund major new security investments on their own. A December 2002 GAO report concluded that "insufficient funding is the most significant

challenge in making . . . transit systems as safe and secure as possible." The administration did recently award some grants to help a number of urban transit systems, but nowhere near the kind of commitment that is needed to confront the problem.

Nor do we see a commitment to improve rail security, although vast quantities of hazardous materials are shipped by rail.

Given this vast amount of work to be done by TSA in all modes of transportation, it is inexplicable to me why the administration actually sought to decrease the agency's budget in FY 04.

But it is not simply a matter of money. TSA has not formulated the essential strategic plans needed to guide transportation security efforts. Admiral Loy testified last May that the agency was close to finishing such a document—the National Transportation System Security Plan or NTSSP. GAO has testified that this national plan is a "prerequisite" to investing wisely in transportation security. Yet as part of the hearing process for this nomination, Admiral Loy stated that such a plan is still months away, at best.

Even in the area of passenger aviation, where TSA has focused virtually all its resources, troubling gaps remain. Although TSA spent hundreds of millions to recruit and train screeners, thousands of these employees are gone due to layoffs and attrition and we now face serious screener shortages at some airports. While I recognize that this is a complex question, it simply is not clear that TSA has control of this issue and is implementing a staffing level needed to assure adequate security. There have been other problems. For example, TSA failed to complete background checks of many of the screeners hired before they were trained and deployed, resulting in the discovery last spring that over 1200 screeners had felony convictions or other disqualifying problems that required their termination. Investigations by the DHS Inspector General and TSA's Office of Internal Affairs into the baggage screener training program found that trainees were given the questions and answers to the final certification exam and that some of the test questions were "inane" or simply "gave away" the correct response. GAO has reported that TSA has not yet fully developed or deployed recurrent or supervisory training programs to ensure that screeners are effectively trained and supervised.

Moreover, despite considerable attention to the safety of air passengers and their baggage, TSA has not developed a reliable system to screen commercial cargo loaded onto the very same planes. This cargo is still not being screened for explosives and TSA currently is relying on the airlines to implement a "known shipper" program as the primary method of ensuring the security of this cargo, despite the numerous vulnerabilities GAO and the De-

partment of Transportation Inspector General have identified in this approach. TSA has still taken only preliminary steps toward assessing security technologies that are needed to restrict access to secure areas of airports, despite the requirements of the Aviation and Transportation Security Act that it do so. Airport perimeter security also requires significant improvement, according to GAO, including the need to guard against possible terrorist attacks using shoulder-fired portable missiles from locations near airports. In addition, GAO has raised substantial concerns about the limited progress TSA has made in shoring up security at general aviation airports. To date, general aviation pilots and passengers are not screened before takeoff and the contents of general aviation planes are not screened at any point, leaving general aviation far more open and potentially vulnerable than commercial passenger aviation.

I understand that the administration's failure to seek adequate funding and TSA's deadlines have greatly contributed to the challenges TSA faces in remedying these and other gaps in our aviation security. I pledge to continue my efforts to increase the resources we devote to these needs. However, TSA has also exercised inadequate oversight of the contracts it has entered into to perform many of the essential tasks needed to improve aviation security. The resulting problems include the huge cost overrun of its screener hiring contract with NCS Pearson, which ballooned from an original estimate of \$104 million to over \$700 million. I intend to watch closely to make sure that TSA implements stringent management controls and procedures so that we can be assured TSA's programs are effective, appropriately focused and achieving expected results.

NOMINATION OF MICHAEL GARCIA

Mr. LIEBERMAN. Mr. President, although I do not intend to object to the confirmation of Michael Garcia to be Assistant Secretary of the Department of Homeland Security, Bureau of Immigration and Customs Enforcement, BICE, I do want to take this opportunity to express my concern about his handling of an issue that arose during the Committee on Governmental Affairs' consideration of his nomination. Specifically, I would like to describe my concerns about the way Mr. Garcia responded to questions from the committee related to his bureau's participation in a search for a plane belonging to a Texas state legislator. My concerns about the nominee's answers occurred in the context of problems we have been having getting clear and comprehensive answers from some other nominees for department positions, and from receiving satisfactory answers to inquiries related to our oversight responsibilities. I hope that by calling attention to these concerns, I can encourage the Department of Homeland Security, DHS to work with its oversight committees in a more

straightforward and cooperative fashion.

In this statement, I intend to describe in some detail the circumstances that I find troubling. To summarize, I have two main concerns. First, it took Mr. Garcia far too long—until well after the Governmental Affairs Committee reported his nomination—to acknowledge what until then had been a rather uncontroversial fact: that the pendency of an investigation by an agency's Inspector General does not preclude an official of that agency from responding to congressional requests for information about matters that are the subject of the IG's investigation. A significant part of Congress' work involves overseeing how agencies do their jobs, and this committee in particular often conducts investigations of alleged waste, fraud and abuse by agencies. If the pendency of an internal investigation stood as a *per se* bar to congressional information requests, our oversight work would often be stymied. Mr. Garcia's assertion of virtual immunity from being questioned about matters under internal investigation is unfortunately emblematic of this administration's and this Department's frequent stinginess with sharing information with Congress about matters that are appropriate topics of congressional oversight. That this refusal to provide information occurred in the context of a committee's consideration of a nomination was all the more troubling, because it suggested that even at the moment when the incentive for cooperation was the greatest, the department was urging its officials to resist appropriate requests for information. The department and Mr. Garcia now concede that a pending IG investigation is not grounds for refusing to provide Congress with information; as they acknowledge, Congress frequently inquires into—and receives information about—matters under investigation. Although it came frustratingly late, I appreciate their willingness to revisit their position and look forward to greater cooperation from them on such matters in the future.

Second, I was concerned that Mr. Garcia's answers to written questions were misleading, whether or not he intended them to be, and I am even more disturbed that after I challenged Mr. Garcia's responses, he and his advisers passed up a number of opportunities to clarify his responses. I will describe the back and forth in greater detail below, but in short, Mr. Garcia stated in written answers to the committee that he declined to answer questions about the search for the Texas legislator because the IG's office had directed him not to, even though neither he nor his advisers had even contacted the IG's office about my questions until he had twice declined to answer them. Mr. Garcia continued to maintain that the IG's office directed him not to answer my questions, even after I reported to him that the IG's office did not believe it