

No matter how big the demand, if we buy only from two people and there is a contamination problem, we are in trouble. In the announcement earlier this week, we saw what happened to Chiron and with that the consequences of what has happened there on Americans and on children abroad. That is our protection from life-threatening illnesses.

Again, 36,000 people die every year of this little virus which can be prevented, and the vaccine helps prevent it. We have the demand, we have the money, but we do not have the manufacturing base because of this chaotic lawsuit frenzy, the frivolous lawsuits.

We have seen shortages in childhood vaccines in recent years. We have experienced shortages in the influenza vaccine in recent years. After this week's announcement, we will clearly experience another shortage in the United States this year despite the tremendous planning and the unprecedented Federal efforts, including the wonderful work done by Dr. Julie Gerberding at the CDC and Secretary Tommy Thompson at HHS. We have to address the underlying causes. We have to address the root causes of the vaccine shortages in the near term. The long-term effects can even be more devastating if we do not.

That is why I bring it to the Senate's attention late on a Sunday evening. It is our responsibility. The Senate must act. No one else has been able to address that underlying problem that deals with our tort system, but we can. We should. If we are not able to stabilize the world's vaccine supply and make the market stable, give it a firm foundation, it will not be viable. This will affect not only our ability to manufacture vaccines that exist today, but what about that HIV/AIDS virus which has killed 23 million people, has 45 million people infected, and will likely kill another 60 million people—and maybe more than that unless we act. Figure out a vaccine. People are not going to have an incentive to research and invest in research and development in a vaccine if there will not be a market because of frivolous lawsuits which destroy anybody entering that manufacturing base.

I talked earlier today about Alzheimer's disease. Right now, could there be a vaccine for Alzheimer's disease? The answer is yes. Will we have appropriate research and development? Well, I don't know; it depends on whether people are given some incentive to enter that field. To do that, we have to have a strong manufacturing base.

We have to have companies willing to do the research and willing to take the risks to develop safer vaccines that, ultimately, we know will protect us, will save lives, not just for adults, but for kids, against these biological agents, against these viruses, whether it is HIV/AIDS, or smallpox, where we were successful, or influenza that is of current concern.

What have we done in the past? In the past, I have sponsored two pieces of legislation that go a long way toward moving us to stabilization of this market. One of those bills, the Improved Vaccine Affordability and Availability Act, which was S. 2053 in the 107th Congress and S. 754 in the 108th Congress, would restore balance to the litigation system for childhood vaccines by clarifying the congressional intent that all vaccine litigation regarding childhood vaccines should proceed through the Vaccine Injury Compensation Program.

The program that I mentioned that is set up has worked well in the past. We just need to fix the program so we will not have these frivolous lawsuits circumventing the program.

These bills would expand the remedies to help compensate those who are injured, those who suffer serious side effects from vaccines, while at the same time ensuring that unwarranted litigation does not further destabilize the supplies.

The legislation—again, this is legislation in the 107th Congress and the 108th Congress which, in effect, the lawyers have beat back and have not let us pass; but it is going to come forward again—would also require the Federal Government to maintain a stockpile of prioritized vaccines. This will help stabilize supplies and help us prepare for years ahead in which vaccine production may or may not be able to keep pace with the need.

These bills—again, it was S. 2053 in the last Congress and S. 754 in this Congress—would also expand the funding available for State and local efforts to boost immunization rates among children, especially those in underserved areas or those at a high risk to vaccine-preventable diseases.

Each of the major provisions included in the legislation was recommended by the Advisory Commission on Childhood Vaccines. That is a Federal expert panel composed of vaccine manufacturers, health care providers, and trial lawyers. The legislation also has been endorsed by a broad range of medical and children's health groups, including the American Academy of Pediatrics, Every Child By Two, and Parents of Kids with Infectious Diseases.

We must return to this legislation in the next Congress. And we will consider other steps to address the vaccine situation in the future.

Recently, over the course of the week—and really it plays off in the Presidential election again and in other discussions—people are trying to seize upon hot issues and turn them to their political advantage. Let me just say several things.

No. 1, it is irresponsible to say that there is a quick fix. It is complex. It takes study. We have done that study. We are ready to legislate. But there is no quick fix.

Again, there have been people—I believe it has been on the floor of the Senate, but I know it has been in the

press—who are terribly misinformed. Yet when they say something, people accept it as fact. And a statement to suggest somehow that this is an issue that arises by brand drugs keeping generics off the market does not make sense. People can say that, and people nod their head, but it does not make sense.

Why do I say that? Because a flu vaccine has to be unique each year. The generic is standardization; you just produce a lot of it. The flu vaccine has to be tailored. It has to be modified. And it takes several years to do those modifications.

No. 2, I do want to applaud the Bush administration, the CDC, the Department of Health and Human Services, Dr. Julie Gerberding, who I mentioned, and Secretary Tommy Thompson. They had virtually as close to perfect as you can planning in terms of vaccines. They took immediate and prompt action as soon as this shortage became available.

A third point I want to close with is, we have to create a stable environment through a combination. This is where there is no quick fix. We need to address the future stockpile, perhaps with some guaranteed purchase by Government, public-private partnerships for research and development, increased funding for safer vaccines, and perhaps—I would argue most importantly—legal reforms. The flu vaccine shortage we are seeing right now is a symptom of the broader issues of risk and low return of developing any vaccines.

Lastly, healthy adults and kids not in the CDC-recommended categories should withhold this year so that we will have sufficient vaccines available for those who are at higher risk.

Mr. President, again, I bring this to the floor because it is a current topic. I do not want to see it politicized. We have an obligation in this body to address it head-on. It is a tort reform issue. It is the sort of issue that we are obligated to take on, and we will take on very directly in the next Congress.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—SENSE OF THE SENATE RESOLUTION

Mr. FRIST. Mr. President, I ask unanimous consent that the previous order be modified so that on Monday, Senator BOXER be recognized for up to 30 minutes, and that at that time the sense-of-the-Senate resolution submitted by Senator BOXER, which is currently at the desk, be considered and

adopted, with the motion to reconsider laid upon the table.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 916. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy.

SECOND PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Mr. FRIST. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of treaty document 108-26, relating to the convention between the United States and Barbados.

I further ask unanimous consent that the Senate proceed to its consideration and to the accompanying resolution of ratification, which is at the desk; I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that any statements be printed in the RECORD; and that the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of the treaty, the Senate return to legislative session.

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

Mr. FRIST. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division is requested.

Senators in favor of the resolution of ratification will stand and be counted.

Those opposed will stand and be counted.

On a division, two-thirds of the Senators present and voting having voted

in the affirmative, the resolution of ratification is agreed to.

The Resolution of Ratification is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Protocol Amending the Convention Between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, Signed on December 31, 1984, signed at Washington on July 14, 2004 (T. Doc. 108-26).

The PRESIDING OFFICER. The President will be immediately notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURES DISCHARGED

Mr. FRIST. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 2693, S. 2839, H.R. 5039, H.R. 4381, H.R. 4556, H.R. 4618, and H.R. 4632 en bloc, and that the Senate proceed to their immediate consideration, along with H.R. 4046, H.R. 5027, H.R. 5133, H.R. 5147, and H.R. 5051, which are at the desk, en bloc.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. When does the name of the committee change officially? The name of the committee now is Governmental Affairs. We changed the name yesterday, did we not? Will it change in the new Congress? I wanted to know.

Thank you.

The PRESIDING OFFICER. It is the understanding of the Chair the change occurs in the next Congress.

Mr. REID. Thank you very much.

The PRESIDING OFFICER. Is there objection to the pending request?

Mr. REID. No objection.

Mr. TALENT. Mr. President, I am certainly not going to object, but will the majority leader yield for a minute?

Mr. FRIST. I would be happy to.

Mr. TALENT. I had intended to make a few remarks as in morning business when I thought we would be staying in session for several more days. I figured I had a lot of time to do it. I am certainly glad that the leaders have been able to work out an arrangement to the contrary. But I wonder if your wrap-up request could include allowing me to speak as in morning business, if the Senator from Nevada does not mind, for maybe 20 minutes. It will not take any longer than that.

Mr. REID. You could do it tomorrow, too.

Mr. TALENT. I do not think there will be much time before the vote tomorrow.

Mr. REID. That is right.

Mr. TALENT. Afterwards we are all going to be trying to catch planes, so I ask if I could have a few minutes.

Mr. FRIST. We will make that part of our unanimous consent request. And you might consider making it 10 minutes instead of 20 minutes, but you will have up to 20 minutes.

Mr. TALENT. I appreciate it.

The PRESIDING OFFICER. Is there objection to proceeding to the measures?

Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the bills be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bills be printed in the RECORD.

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

LIEUTENANT JOHN F. FINN POST OFFICE

The bill (S. 2693) to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office," was considered, read the third time, and passed, as follows:

S. 2693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIEUTENANT JOHN F. FINN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, shall be known and designated as the "Lieutenant John F. Finn Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Lieutenant John F. Finn Post Office.

SERGEANT RIAVAN A. TEJEDA POST OFFICE

The bill (S. 2839) to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejeda Post Office" was considered, read the third time, and passed, as follows:

S. 2839

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERGEANT RIAVAN A. TEJEDA POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 555 West 180th Street in New York, New York, shall be known and designated as the "Sergeant Riayan A. Tejeda Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Sergeant Riayan A. Tejeda Post Office.

EVA HOLTZMAN POST OFFICE

The bill (H.R. 5039) to designate the facility of the United States Postal