

the highest possible rating of “well qualified” from the American Bar Association.

Given his wide support from the legal community, and his record of fairness, what could prevent the U.S. Senate from confirming this outstanding jurist’s appointment to the District Court of the Northern District of California?

I am in the opinion that nothing should prevent it. But elements of the extremist media have launched cynical attacks against Judge Chen. Unarmed by facts, accusers resort to tired smears that Judge Chen is a “radical leftist,” someone “who doesn’t appear to love America.”

But these charges are completely without basis. Those interested in the true picture of Judge Chen’s work and outlook need only look at his actual 8-year record on the Federal bench. I believe that this record is exactly where discussions of his nomination should focus in our Senate Chambers, where good judgment should prevail. Judge Chen has written over 300 published opinions, and what those opinions show is a judge who is committed to the rule of law. He follows case precedent. He checks any personal views at the courthouse door, and rules impartially in each and every case. His decisions reveal a belief in fairness to all.

Judge Chen, like so many others, values diversity in the Federal judiciary. Judges from different backgrounds bring varied life experiences to the court, and this diversity of background and experience helps foster balanced and accurate decisionmaking according to the rule of law.

Judge Chen’s belief in the value of diversity is joined also by Supreme Court Justice Samuel Alito. During his 2006 confirmation hearing, Justice Alito stated, “When I get a case about discrimination, I have to think about people in my own family who suffered discrimination because of their ethnic background or because of religion or because of gender. And I do take that into account” in reaching balanced and accurate decisions. Justice Clarence Thomas underscored this very point in his statement about the importance of broad representation in the judiciary: “My goal is to have a court that is fair, and I think it’s fair when we are fair in selecting people from all parts of the country, from all walks of life.”

I believe Judge Chen brings valuable experience and a solid record of judicial fairness to the Federal court. He is faithful to the rule of law. He is committed to impartiality and equality for all. I believe that upon fair and honest consideration by my Senate colleagues, Judge Chen and his judicial record will earn approval. Judge Chen has my full support and deserves to be confirmed by the Senate without delay.

#### REQUEST FOR CONSULTATION

Mr. COBURN. Mr. President, I ask unanimous consent that my letter to

Senator MCCONNELL dated May 18, 2010, be printed in the RECORD.

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

U.S. SENATE,  
MAY 18, 2010.

Hon. MITCH MCCONNELL,  
*Senate Minority Leader, U.S. Senate, Washington, DC.*

DEAR SENATOR MCCONNELL: I am requesting that I be consulted before the Senate enters into any unanimous consent agreements or time limitations regarding H.R. 1741, the Witness Security and Protection Grant Program Act of 2009. In short, although I support the goals of this legislation and believe that witness security and protection is essential to the effective administration of justice, I do not believe that the federal government bears responsibility for witnesses in state and local courts. My concerns about H.R. 1741 include, but are not necessarily limited to, those outlined in this letter.

As you know, I am extremely concerned about the Nation’s fiscal well-being. The national debt is nearly \$13 trillion and rising, which amounts to almost \$42,000 owed by each U.S. citizen. Moreover, Congress recently raised the national debt ceiling by nearly \$2 trillion, and the federal government borrows 41 cents for every dollar that it spends. This dire situation demands that Congress address its spending addiction and adhere strictly to the enumerated powers defined by Article I, Section 8 of the U.S. Constitution.

Providing basic services such as witness security and protection in state courts is the obligation of the states. Budgets everywhere are tight, but state and local governments—like the federal government—must set priorities and eliminate wasteful spending in order to ensure that the highest responsibilities are fulfilled.

Although the Nation’s debt crisis demonstrates that Congress no longer has the luxury of funding anything other than the highest federal priorities, I would note that federal dollars are already available for the same purposes contained in H.R. 1741. Those funding sources are as follows:

Edward Byrne Memorial Grant Programs—One of the seven permissible purposes of Byrne/JAG funds is “crime victim and witness programs” (P.L. 109162). Significant amounts of federal dollars are available through this program. In FY2009, Congress provided more than \$2.5 billion in JAG funding, and in FY2010, Congress provided \$519 million for the same programs. In addition to this JAG funding, which is awarded on a formula basis, Congress provided a total of \$178.5 million in FY2009 and \$185.3 million in FY2010 in Byrne “discretionary” funding. This money, totaling \$363.8 million, was awarded in the form of congressional earmarks. Competitive funding was limited to \$30 million in FY2009 and \$40 million in FY2010. In total, the federal government sent approximately \$3.4 billion to state and local law enforcement through Byrne grant programs in the last two fiscal years alone. To the extent that states need federal funding for witness protection and security, it would seem that there is ample funding available and that they should consider prioritizing such projects in their requests and budgets.

U.S. Marshals—Current law, 18 U.S.C. §3521, authorizes the Attorney General to provide for relocation and other protection of state witnesses, as well as their family members or close associates, in certain circumstances. That law allows the Attorney General to provide relocation and other protection for state witnesses, as well as their family members or close associates, where

there is concern for a witnesses’ safety. It allows for, but does not require, reimbursement by the State (18 U.S.C. 3526(b)(1)).

Community-Based Justice Grants for Prosecutors Program—Existing law, 42 U.S.C. §13862, already authorizes federal grants for state and local governments to “create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.” This authorization, enacted in 2008, has never been appropriated. Although it remains my belief that Congress lacks both the resources and the responsibility for funding such programs, it should be noted that the statutory authority to provide for state witness protection already exists.

I regret that I am unable to support H.R. 1741. Again, I share concerns for the safety of citizens who participate in our justice system. I believe, however, that the Nation’s skyrocketing debt demands that Congress make tough spending choices. Where responsibility lies with state and local governments to provide a service, and especially where federal money is already available, I cannot consent to spending additional taxpayer dollars for the same purpose.

Sincerely,

TOM A. COBURN, M.D.,  
*United States Senator.*

#### NATIONAL HEPATITIS AWARENESS MONTH

Mr. JOHNSON. Mr. President, I rise today in recognition of National Hepatitis Awareness Month to raise awareness of this public health threat and encourage greater prevention, diagnosis and treatment efforts.

Viral hepatitis is a highly infectious disease that directly attacks the liver and, if left untreated, can lead to life-threatening cirrhosis of the liver, liver failure and liver cancer. The Centers for Disease Control and Prevention—CDC—estimate that roughly 5 to 6 million Americans are infected with viral hepatitis. Yet these chronic infections are silent killers, as those who are infected experience no obvious symptoms until advanced liver damage has occurred after years without treatment. Consequently, up to 50 percent of Americans infected with hepatitis B and 75 percent of Americans infected with hepatitis C are unaware of their disease. Without appropriate screening and management of the disease, viral hepatitis carriers can pass on the infection to others before suffering a premature death from liver cancer or liver disease.

Similar to the human immunodeficiency virus—HIV—hepatitis B and C are spread through infected blood and needles. Despite awareness campaign efforts from advocacy groups and the CDC, there continues to be nearly 50,000 new infections each year in the United States, resulting in 15,000 deaths from chronic viral hepatitis-related diseases. While continued education and outreach is vital to discourage risky behaviors that expose individuals, it is only one part of preventing further spread of hepatitis.

Perhaps most disturbing is the incidence of hepatitis B and C transmission

occurring in healthcare settings from exposure to infected blood or the reuse of contaminated syringes. According to the CDC, unsafe injection practices are one of the leading causes of infections in healthcare settings. Although most healthcare workers are aware of the dangers and strictly follow safety guidelines when administering injections, outbreaks of hepatitis in recent years have shown the continued need for awareness, education, and stringent safety practices in healthcare settings.

Chronic liver disease is among the top ten killers of Americans and hepatitis C accounts for 40 to 60 percent of all cases. While there is a safe vaccine for several types of viral hepatitis, no vaccine exists for hepatitis C. It has been identified as one of the most significant preventable and treatable public health problems facing the United States. Clearly we must continue to increase awareness of the disease to prevent new infections, encourage screening and tests, and link those that are infected with the care they need.

It is my hope that awareness efforts throughout the month of May will bring to light the significant and silent health threat of hepatitis, encourage appropriate screening and management of the disease, promote vigilant safety practices in healthcare settings and prevent further transmissions of the disease.

#### HIV VACCINE AWARENESS DAY

Mr. COBURN. Mr. President, I rise today to express grave concern regarding the misplaced priority of annually deeming this day, May 18, HIV Vaccine Awareness Day. This year marks the 13th annual observance of a day that epitomizes our government's inability to set priorities with the Federal dollars this body is entrusted.

According to the National Institute of Allergy and Infectious Diseases, NIAID, Web site:

This annual observance is a day to recognize and thank the thousands of volunteers, community members, health professionals, and scientists who are working together to find a safe and effective HIV vaccine. It is also a day to educate our communities about the importance of preventive HIV vaccine research.

As a practicing physician and former cochair of the Presidential Advisory Council on HIV and AIDS, I believe the development of a safe and effective HIV vaccine should be among our Nation's highest health care priorities. HIV/AIDS continues to devastate communities in the United States and around the world. In the United States, more than 50,000 people become infected with HIV each year. Approximately 40 million people are living with HIV around the world, with more than 5 million new infections each year. To date, more than 25 million men, women and children are believed to have died from AIDS worldwide.

Unfortunately, we have not yet developed an effective HIV/AIDS vac-

cine—nor are we close. At a time when our national debt is approaching \$13 trillion and patients suffering from HIV/AIDS are being put on waiting lists for life-saving drug treatments, we simply cannot afford to misspend \$1 million a year to make people aware of a nonexistent vaccine.

Furthermore, this well-intentioned propaganda campaign is being funded at the expense of HIV vaccine research itself. Regardless of the intentions, the unfortunate fact is that finite resources intended for HIV vaccine research are being siphoned away for a project without any potential scientific benefit. With no effective vaccine likely anytime soon, it seems silly, or worse, to waste funding that could be much better spent on research or scientific investments that could one day lead to a vaccine.

The discovery of a vaccine or cure, after all, would be the best way to thank the researchers and volunteers. As every cent counts in this endeavor, it is unconscionable that precious dollars are being squandered by NIAID's well intentioned but unnecessary public relations campaign.

Between 2001 and 2005, NIH spent more than \$5.2 million on this "HIV vaccine awareness" campaign, not including staff time or travel expenses. It is reasonable to assume that the federal government continues to waste over \$1 million annually on HIV vaccine awareness, despite the fact that no vaccine exists and scientists believe that it is unlikely that a HIV vaccine will be developed anytime soon.

Some of the HIV Vaccine Awareness Day events supported in the past include various lunch and dinner receptions, a fashion show in Massachusetts, a bar night in Tennessee, a bar event and entertainment contest in Washington, and other gatherings and media events. Clearly, this awareness campaign serves no obvious public health or scientific value.

There is no doubt, however, that development of an HIV/AIDS vaccine should be a national priority. HIV/AIDS continues to devastate communities in the United States and around the world. At least 56,000 Americans become infected with HIV each year. More than 33 million people are living with HIV around the world, with more than 2.5 million new infections each year. To date, more than 20 million men, women and children are believed to have died from AIDS worldwide.

The development of a safe and effective HIV vaccine should be among our Nation's highest health care priorities. It imperative that not a single dollar of the Federal funds set aside for the development of an effective HIV vaccine is wasted.

This year, Dr. Anthony Fauci, head of the National Institute of Allergy and Infectious Diseases, NIAID, highlighted what he called "significant progress in HIV vaccine research during the past year." The study he referred to was a clinical trial in Thailand finding a vac-

cine to be 31 percent effective at preventing HIV infection. Unfortunately, the results of this study have been found to be statistically insignificant and the findings of the study have received much skepticism. This latest clinical trial is the latest in a long line of promising but unsuccessful attempts at creating an HIV/AIDS vaccine.

Dr. Fauci in recent years has conceded publicly that no one has been very close to developing a vaccine that would prevent infection. Over the past 5 years, in fact, two large clinical trials of HIV vaccines have failed to demonstrate efficacy of the candidate being tested. The disputed Thailand trial aside, this is still the case today.

Most scientists involved in AIDS research believe that an HIV vaccine is further away than ever and some have admitted that effective immunization against the virus may never be possible, according to a survey conducted released in 2008.

A poll of scientists reflects the declaration made at a NIH "summit meeting" in 2008 that was "tantamount to an admission that almost no progress has been made in the search for an AIDS vaccine in the past 25 years and that something close to new start is necessary." The government scientists announced that "more of their budget needs to be spent on basic lab research and less on testing the current crop of vaccines, none of which has proved useful in human trials." In light of these failures and daunting prospects, Dr. Fauci pledged to re-evaluate the use of all \$1.5 billion his agency spends on AIDS noting that "we are going to have to justify what we are doing."

Dr. Anthony Fauci has noted that while Federal funding for the National Institutes of Health, NIH, continues to increase, it will not increase as quickly as it has the past decade, and as a result, NIH must concentrate on more promising research. Fauci said the heads of NIH institutes such as his had been told to reexamine the entire research portfolio to ensure "the most bang for the buck." The AIDS vaccine candidates that don't show early results in clinical trials could be shut down, he said.

That may mean cutting back some AIDS vaccine research even though virtually all health experts agree a vaccine will be the only way to stop the pandemic of a virus that is incurable, always fatal and that continues to spread worldwide and in the U.S.

As I have done in the past, I am sending a letter today to the Secretary of Health and Human Services to inquire about this misuse of funds. It is my sincere hope that the Department of Health and Human Services will cease spending Federal dollars on this misplaced priority and reinvest these HIV/AIDS dollars into actual research or care.

Mr. President, I ask unanimous consent to have printed in the RECORD my letter dated May 18, 2010, to Secretary Kathleen Sebelius.