

Sunday's announcement is indicative of Coca-Cola's ongoing commitment to economic integrity and fairness. With this new policy, the company will be able to design whatever kind of options it believes will both best motivate employees and more align their interests with those of share owners, without regard for the options' accounting effects.

While Coca-Cola is the first company of its size to take this important step, I predict it will not be the last. As other corporations follow Coke's lead, investor confidence in our markets will grow once again.

#### NOMINATION OF DR. RICHARD CARMONA FOR SURGEON GENERAL

Mr. FRIST. Mr. President, this morning the members of the Senate Committee on Health, Education, Labor, and Pensions, HELP, voted to support the nomination of Dr. Richard Carmona for the position of U.S. Surgeon General. While the Surgeon General has played a major role on health care matters for more than one hundred years, the unique challenges confronting our Nation at the beginning of the 21st century require an elevated level of leadership.

The threat of bioterrorism is real—a fact made clear in the last year as anthrax attacks killed five people, infected 22, and exposed hundreds. These attacks highlighted the inadequacy of our Nation's public health infrastructure to prevent, detect, and respond to an infectious disease outbreak, whether such an outbreak is intentionally or naturally caused.

Since that time, much has taken place. We in Congress have passed, and the President has signed into law, the Public Health Security and Bioterrorism Preparedness and Response Act. We have significantly increased the Federal commitment to upgrading capacity in State and local health departments and we are now considering how a new Department of Homeland Security could enhance our efforts to prevent and respond to bioterrorism.

Despite these steps, we are still not fully prepared to meet the threat of bioterrorism and much work remains to be done to bolster our public health system. This will be one of the most important tasks facing the country and facing the incoming Surgeon General. Dr. Carmona's experience and expertise prepares him well for this effort.

As we strengthen the public health system's capabilities, we are also challenged by a growing epidemic of chronic disease that significantly impacts our Nation's health. Take, for example, obesity. Sixty-one percent of American adults and 13 percent of children and adolescents are overweight or obese, and these rates are increasing among all age groups. In my home State of Tennessee, the rate of obesity has grown from 12 percent to 22 percent over the past decade. An estimated

300,000 deaths each year in the United States are linked to being overweight or obese. Those who are obese have a 50- to 100-percent increased risk of premature death. This problem is now one of the most serious public health challenges facing the country. Next week, Senator BINGAMAN, Senator DODD, Senator STEVENS, and I will be introducing the Improved Physical Activity and Nutrition Act to help address this problem. I look forward to working with Dr. Carmona to address this issue.

Additionally, youth smoking and substance abuse are a significant concern. Twenty-five percent of adults smoke—with even higher rates among young adults. Tobacco use is the leading cause of preventable death in this country, and alcohol misuse contributes to one-third of motor vehicle crash related deaths. Over one-half of 10th graders have smoked tobacco. Sixteen percent of 8th graders have been drunk at least once in the past year. Twenty-five percent of high school seniors have used an illicit drug in the past 30 days.

There are a number of approaches we can take to these problems as legislators. Last Congress, we reauthorized the Substance Abuse and Mental Health Services Administration, in which we included a special emphasis on youth drug abuse. But the Surgeon General bears a special responsibility to help educate the Nation about the dangers of such behavior, and I am pleased that this will be a priority for Dr. Carmona as Surgeon General.

During the Health, Education, Labor, and Pensions Committee hearing on his nomination, Dr. Carmona emphasized that his priority will be prevention: to prevent unnecessary illness, disability and death. Many of the major health problems facing the country can be improved with a focus on prevention, and Dr. Carmona's focus on these issues will benefit the country as he serves us as Surgeon General.

Before the hearing on Dr. Carmona's nomination, there were concerns raised regarding some aspects of his professional background. The committee appropriately inquired about these issues during the hearing. Dr. Carmona's responses were forthright and direct, and I believe he has addressed concerns about his ability to perform the duties of the Surgeon General. His background and experience as a trauma surgeon, as a director of a county health system, and as an expert in emergency medical systems, along with her personal drive and commitment to improving the health of all Americans, will serve the country well. Mr. President, I intend to support Dr. Carmona's nomination. I urge my colleagues to support him as well.

#### CONFIRMATION OF LAVENSKI SMITH TO THE U.S. COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Mr. WELLSTONE. Mr. President, this week I voted not to confirm

Lavenski Smith to the U.S. Court of Appeals for the Eighth Circuit, which includes my State of Minnesota. While I have supported the vast majority of administration appointments that have come to the floor to date, I voted against this nominee because I am concerned about his lack of experience and qualifications, as well as about what I consider to be an excessively ideological approach to important issues, such as women's reproductive rights, in his legal work so far.

Our district needs and deserves the best judges, especially because they receive lifetime appointments. I regret that the President did not nominate a person with a more distinguished record to this important position.

Mr. Smith has just 7 years' experience practicing law, in which time he has gained minimal Federal experience and minimal appellate experience. He has no experience arguing cases before the Eighth Circuit, the court to which he has now been confirmed.

In addition to his lack of experience, Mr. Smith has advocated ideologically tendentious legal positions that I believe may cast doubt on his ability to adjudicate cases fairly. In the one appellate case in which Mr. Smith took a lead role, his argument in relation to reproductive rights was unanimously rejected by the Arkansas Supreme Court. The court's decision observed that Mr. Smith disregarded both judicial precedent and the plain meaning of the Arkansas Constitution in making his case.

The circuit court of appeals is one step from the Supreme Court. Yet the Arkansas Times wrote of this nominee: "Lavenski Smith of Little Rock is not the best qualified Arkansan President Bush could have chosen for the U.S. Eighth Circuit Court of Appeals, nor even close." Whatever State a nominee might come from, Minnesota and the Eighth Circuit deserve better.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 6, 1995, in West Hollywood, CA. A gay man was punched and kicked by several youths who made anti-gay remarks. The assailants, three teens, were charged with battery and interference with civil rights.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and