

hearings to discuss the IOM's findings and explore ways to implement the recommendations outlined in the IOM report. The FY 2001 Labor-HHS appropriations bill contained \$50 million for a patient safety initiative and directed the Agency for Healthcare Research and Quality—AHRQ—to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices; and research ways to improve provider training. In Fiscal Year 2002 and Fiscal Year 2003, \$55 million was included to continue these initiatives. We are awaiting a report, scheduled to be issued in September by the Department of Health and Human Services, which will detail the results of the patient safety initiative.

There is evidence that increases in insurance premiums have been caused, at least in part, by insurance company losses, the declining stock market of the past several years, and the general rate-setting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable lag time between the payment of the premium and litigation which results in a verdict or settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in insurance premiums. A similar result occurred in Texas on homeowners' insurance where cost and availability of insurance became an issue because companies lost money in the market and could not cover the insured losses on hurricanes.

In structuring legislation to put caps on jury verdicts, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women who comprise a jury to reach a just result reflecting the values and views of the community.

Jury trials in modern tort cases descend from the common law jury in trespass, which was drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This "representative" jury right in civil actions was protected by consensus among the state drafters of the U.S. Constitution's Bill of Rights. The explicit trial by jury safeguards in the Seventh Amendment to the Constitution were adaptations of these common law concepts harmonized with the Sixth Amendment's clause that local juries be used in criminal trials. Thus, from its inception at common law through its inclusion in the Bill of Rights and today, the jury in tort/negligence cases is meant to be representative of the judgment of average members of the community—not of elected representatives.

The right to have a jury decide one's damages has been greatly cir-

cumscribed in recent decisions of the United States Supreme Court. An example is the analysis that the Court has recently applied to limit punitive damage awards.

In recent cases, the Court has shifted its Seventh Amendment focus away from 2 centuries of precedent in deciding that federal appellate review of punitive damage awards will be decided on a de novo basis and that a jury's determination of punitive damages is not a finding of fact for purposes of the re-examination clause of the Seventh Amendment which provides that "no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law". Then, earlier this year, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9/1 will likely be considered unreasonable and disproportionate, and thus constitute an unconstitutional deprivation of property in non-personal injury cases. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio, and appellate courts have far greater latitude to disallow or reduce such an award.

These decisions may have already, in effect, placed caps on some jury verdicts in medical malpractice cases which may involve punitive damages.

Consideration of the many complex issues on the Senate floor on the pending legislation will obviously be very difficult in the absence of a markup in committee or the submission of a committee report and a committee bill.

The pending bill is the starting point for analysis, discussion, debate, and possible amendment. I am prepared to proceed with the caveat that there is much work to be done before the Senate would be ready, in my opinion, for consideration of final passage.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

#### CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk on the pending motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the consideration of Calendar No. 186, S. 11, the Patients First Act of 2003.

Bill Frist, Mitch McConnell, John Ensign, Craig Thomas, Rick Santorum, Larry E. Craig, George V. Voinovich, John Cornyn, Trent Lott, Ted Stevens, Michael B. Enzi, James M. Inhofe, Chuck Hagel, Jon Kyl, Judd Gregg, Pat Roberts, John E. Sununu.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum, as provided for under rule XXII, be waived.

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

Mr. FRIST. Mr. President, this cloture vote will occur Wednesday morning. I will announce, during tomorrow's session, the precise timing of this vote for Wednesday.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO MARGARET SEALS

● Mr. BUNNING. Mr. President, I pay tribute to one of Kentucky's finest citizens. On July 29, 2003, Margaret Seals of Winchester, will be inducted into the Kentucky Civil Rights Hall of Fame for the significant contributions she has made to the Commonwealth of Kentucky in the areas of civil and human rights.

After decades of putting the interests of others above her own, Margaret has distinguished herself as a leader. Upon attending the Lafayette Vocational School, where she developed the skills necessary to succeed, Margaret remained determined to remain a member of the workforce in order to provide for her two children. In Lexington, Margaret was the first African-American to be employed by the Social Security Administration in 1964. While she served in a number of occupational fields, some of her notable accomplishments include her service to the Winchester Board of Commissioners and the Winchester Municipal Utilities Commission.

Margaret has participated in a wide range of other public service projects including the Generations Center Board, the Urban Renewal Development Board, and the Winchester Solid Waste Committee. Her span of contributions also include the Clark County United Way Distribution Committee where she served since 1995, the same year she graduated Leadership Winchester. Margaret also remains an active member of the Elk Club. For her outstanding efforts, Reverend E. Baker, Sr., a retired pastor of the Broadway Baptist Church and an inductee into the Kentucky Civil Rights Hall of Fame nominated Margaret to receive this distinguished honor.

Margaret's commitment to education, hard work, family and community are an inspiration to many. Her contributions have made a difference in the lives of many and have paved a path for generations to come. Margaret's example should be emulated throughout Kentucky and across our Nation. I thank the Senate for allowing me to recognize Margaret Seals and voice her praises. She is Kentucky at its finest.●

## CONGRATULATING RUTH ABBEY

• Mr. BURNS. Mr. President, I would like to congratulate Ruth Abbey of Malta, MT on her 99th birthday. Ruth is a pillar of her community and an inspiration to many, including her children, grandchildren, great-grandchildren, and great-great-grandchildren. Ruth was a teacher for many years and subsequently served as County Superintendent of Schools.

Ruth is exemplary of our Montana way of life, and I am honored to offer my congratulations on this special occasion.●

## LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in West Chester, OH. On September 11, 2001, a member of the West Chester's Islamic Center was brutally attacked in the mosque's parking lot. After the beating, members of the Islamic Center received a series of physical threats and the mosque was forced to close its doors.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

## ART STEPHENSON'S EXCEPTIONAL CONTRIBUTIONS

• Mr. SESSIONS. Mr. President, I would like to take this moment to pay tribute to Art Stephenson, former Director of NASA's Marshall Space Flight Center.

Mr. Stephenson joined Marshall in 1998, and has overseen the Center's work on critical NASA initiatives such as development of new reusable launch vehicles, Space Shuttle propulsion, advanced space transportation systems, research in microgravity, and science payload operations aboard the International Space Station, as well as the launch and continuing successful operation of the Chandra X-ray Observatory. Under his guidance the National Space Science Technology Center, a NASA partnership with local universities conducting cutting-edge propulsion research, was established and ground was broken for the critical Propulsion Research Laboratory.

For his exceptional contributions to the space program and the nation, Art Stephenson has been recognized with the NASA Outstanding Leadership

Medal, the NASA Group Achievement Award, and the NASA Exceptional Achievement Medal. In 2001, he was awarded an honorary doctorate by The University of Alabama System and was selected by the American Society for Engineering Management as the 2001 Engineering Manager of the Year. In 2002, he received the Career Achievement Award from the University of Redland, CA. Most recently, he was selected as the 2003 Martin Luther King Jr. Unity Award recipient by the Huntsville, AL, chapter of Alpha Phi Alpha Fraternity, Inc. He also received the 2003 Community Service Award from Oakwood College in Huntsville, AL.

The multiple honors and awards Art received are an indication of his devotion to our country and his dedication to NASA. Without question, Art Stephenson is a man of honor and ability, and I would like to add my thanks to those provided by so many others. His work has been given to the success of the NASA programs and he has done so without ever seeking personal gain or glory. I have been extraordinarily impressed with his integrity and commitment to service.

The State of Alabama, NASA, and the nation are immensely proud of Art's service. He will be missed by his colleagues at Marshall Space Flight Center and those at NASA Headquarters. Our Nation owes a great deal to the Stephenson family. Art's vision pushed us all toward the ultimate goal of space exploration. His vision and that goal are both worth noting today, and I am pleased to bring them to the attention of the Senate.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of January 7, 2003, the Secretary of the Senate, on June 30, 2003, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2350. An Act to reauthorize the Temporary Assistance for Needy Families block grant program through fiscal year 2003, and for other purposes.

H.R. 2474. An Act to authorize the Congressional Hunger Center to award Bill Emerson and Mickey Leland Hunger Fellowships for fiscal years 2003 and 2004.

Under the authority of the order of January 7, 2003, as modified on June 27, 2003, the enrolled bills were signed by the Acting President pro tempore (Mr. ALLEN) on June 30, 2003.

## MESSAGE FROM THE HOUSE

At 2:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health saving accounts, to provide arrangements, and for other purposes.

## MEASURES HELD OVER/UNDER RULE

The following resolutions were read, and held over, under the rule.

S. Res. 192. An executive resolution to discharge the David W. McKeague nomination.

S. Res. 193. An executive resolution to discharge the Susan Bieke Neilson nomination.

S. Res. 194. An executive resolution to discharge the Henry W. Saad nomination.

S. Res. 195. An executive resolution to discharge the Richard A. Griffin nomination.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 2, 2003, she had presented to the President of the United States the following enrolled bill:

S. 858. An act to extend the Abraham Lincoln Bicentennial Commission, and for other purposes.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST:

S. Res. 192. An executive resolution to discharge the David W. McKeague nomination; which was ordered to lie over, under the rule.

By Mr. FRIST:

S. Res. 193. An executive resolution to discharge the Susan Bieke Neilson nomination; which was ordered to lie over, under the rule.

By Mr. FRIST:

S. Res. 194. An executive resolution to discharge the Henry W. Saad nomination; which was ordered to lie over, under the rule.

By Mr. FRIST:

S. Res. 195. An executive resolution to discharge the Richard A. Griffin nomination; which was ordered to lie over, under the rule.

## ADDITIONAL COSPONSORS

S. 11

At the request of Mr. ENSIGN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S.