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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 7, 2006, at 2 p.m.

Senate

MONDAY, FEBRUARY 6, 2006

The Senate met at 2 p.m. and was called to order by the PRESIDENT pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, the center of our joy, we find our delight in You. Thank You for giving us the desire to commit our lives to You and to trust You to fulfill Your purposes for creating us. Cleanse our hearts and thoughts so that we will be worthy to live in Your presence.

Bless our lawmakers. Give them confidence in You that will free them from fear of an uncertain future. May they live lives that boldly proclaim that You are at work in our world. Remind them of their accountability to You and that to whom much is given, much is expected.

Help us all to love others with the kind of love we have received from You. Lead us from blindness to sight and from illusion to reality. Make us grateful and faithful stewards of Your blessings, as we rejoice to be Your sons and daughters.

Today, we again remember Your daughter, Coretta Scott King.

We pray in Your loving Name.
Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this afternoon we have scheduled a period of morning business. I mentioned at the close of business last week that it had been my intention to begin consideration today of the bipartisan asbestos legislation. Unfortunately, we are unable to start consideration of the bill itself today because of an objection that has come forth from the other side of the aisle. Therefore, it will be necessary to file a cloture motion on the motion to proceed to the asbestos bill. Unfortunately, this will delay starting the bill, but I hope cloture will be invoked and we will be able to discuss the substance of that bill.

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2005—MOTION TO PROCEED

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 131, S. 852, the Fairness in Asbestos Injury Resolution Act.

Further, I ask unanimous consent that the motion be set aside until 3 p.m. today. Before the Chair rules, we expect Chairman SPECTER to begin the debate at 3, and we welcome additional speakers to come down this afternoon on the topic of asbestos reform.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I will have more to say on the significance of this bill in a few minutes. We will be filing the necessary cloture motion prior to adjourning today. Under the order from last week, that vote will occur at 6 p.m. tomorrow night. I will be leading a bipartisan Senate delegation attending the funeral of Coretta Scott King tomorrow, and we delayed that vote to accommodate the travel of those Senators. So that vote will be at 6 o'clock tomorrow night.

For the remainder of the week, we expect to be on the asbestos bill and to make progress on consideration of that important piece of legislation by considering relevant amendments. Senators can expect votes each day as we debate and vote on those amendments.

We also may have to revisit the Tax Increase Prevention Act, the Tax Relief Act, this week once again when we receive the House message on the bill. We passed that bill last week by a vote of 66 to 31. We discussed a whole range of amendments and voted on the amendments at the end of last week. It is time to get that bill to conference. I hope that we can work together to come to an agreement and arrangement to get that bill to conference without much of a delay. I will be talking to the Democratic leader as we determine how to expedite that process.

I encourage Members to come to the floor this afternoon to discuss the asbestos litigation that we will begin formally on Tuesday, if allowed by the motion to proceed. For this piece of legislation, it is now or never. I said months ago we would be considering

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S697

the asbestos litigation or asbestos reform early on, and that time has now come.

CHICKAMAUGA LOCK IN TENNESSEE

Mr. FRIST. Mr. President, on another issue, I rise to briefly address an issue that is of critical importance to Tennessee, to the region around Tennessee, and to economic development.

Every year, millions of tons of cargo pass through Chickamauga Lock in my home State of Tennessee. This critical structure is the commercial gateway to more than 300 miles of navigable waterways that serve 16 States in the region. Workers, small business owners, and communities all across that region depend on the lock to work smoothly every day, around the clock.

But all of this is at risk. All of this is in danger. After 65 years, Chickamauga Lock needs to be replaced. It is being destroyed by a chemical reaction known as "concrete growth." The lock is crumbling and engineering experts tell us that it is only a matter of time before the lock fails, and we cannot let that happen.

That is why I want to draw attention to the President's request today, which came out in the budget, to fund continued construction of the new lock. It is the first White House budget proposal to contain construction funding since Congress authorized that new lock in 2003. I thank the President for his attention to this pressing issue.

I have held countless conversations with the administration on the importance of constructing the new lock, and I appreciate the President and the administration taking this bold action.

America's transportation system is the lifeblood of our economy. Without airports and railways and seaports and highways, our products would never have the opportunity to be moved, goods would never be exchanged in the global marketplace, and commerce would simply come to a halt.

One of the most overlooked elements of America's transportation network is our inland waterway system. Commerce literally flows over and through a vast network of more than 12,000 miles of inland and coastal waterways. Water transportation is often the most efficient, inexpensive, and environmentally friendly method of shipping cargo over long distances.

In 2003, with my support, Congress authorized the construction of a new lock that would meet the region's economic needs. I fought hard to provide the necessary Federal funding to begin work on this project and worked closely with the administration to ensure adequate funding is available to get the job done.

Today's budget request of \$27 million represents a major investment, and we are all working together as a team to make it a success.

I am tremendously proud of all the hard work that has taken place to re-

serve this vital economic corridor. Moving forward with this construction is important to our transportation infrastructure, and my colleagues and I have worked hard to make sure that new lock is built.

In fact, I particularly thank Congressman ZACH WAMP for his tremendous leadership in this endeavor.

While there is a lot more to be done in replacing that Chickamauga Lock, it is a major priority to me, and I will continue to work with my colleagues at the local, State, and Federal levels to make this project a success.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from West Virginia is recognized.

MINE DISASTERS

Mr. BYRD. Mr. President, it has been 36 days since 12 coal miners perished at the Sago Mine in Upshur County, WV. One died from the explosion that ripped through the underground mine. The other 11 succumbed to carbon monoxide poisoning.

It has been 18 days since two coal miners perished in an underground fire at the Aracoma Alma in Logan County, WV. It has been 5 days since two miners perished in separate mine accidents in Boone County, WV.

Sixteen coal miners dead, in four separate accidents, in only 36 days.

These deaths have shaken communities across the State of West Virginia and alarmed a nation. Three additional coal mine fatalities in the States of Utah and Kentucky in the last 28 days confirm that this series of accidents is national in scope and demands swift action.

Mr. President, after years of delay, the Coal Mine Safety and Health Administration at last acknowledges the need to reassess some technology and regulations but cannot give any definite timetable about when the action will be taken. I, for one, do not want to see more delay. This Federal Government, which is empowered by our Constitution to "promote the general welfare"—and that applies to our Nation's coalfields as well as anywhere else—must not wait.

The West Virginia congressional delegation has introduced legislation outlining a series of actions that can be taken immediately to make America's coal mines safer. We know, for example, that technology exists right now

to improve mine rescue communications. We know that additional emergency breathing devices can be stored in the mines. We can do these things today, right now. The Senate could pass the West Virginia delegation bill today to implement these requirements in the mines.

I have asked the Republican and Democratic leadership to schedule immediate action on this matter. The Democratic leadership has pledged to do everything it can, and the Republican leadership has been very positive in its response. A bipartisan and growing coalition of Senators from mining and nonmining States has asked to be added as cosponsors to our legislation. They recognize its importance and the need for its immediate passage.

I have spoken with the chairman and with the ranking member of the Senate Health, Education, Labor, and Pensions Committee, and they fully understand the urgency driving this legislation. They not only organized a committee trip to Sago Mine in January, but they also committed to reviewing the West Virginia delegation bill within hours of its introduction. These Senators are on our side.

I am confident they will do all they can do to ensure quick action. I am happy to work with all Members of the Senate to expedite passage of this bill. With quick work, I see no reason why this Senate cannot move expeditiously. We should and, in fact, we must. Every day we delay increases the risk for coal miners in the field.

While four deadly accidents in the past 36 days occurred in West Virginia, any State in the Union with coal mines could be next. Today it is my State of West Virginia and the States of Kentucky and Utah that mourn the tragic loss of life in our coal mines. Tomorrow it could be Pennsylvania, Alabama, Indiana, Virginia, Ohio, or Illinois. Who knows.

I was at the memorial service for the miners who died in the Sago mine disaster. I saw their families. I saw their grief. I saw their pain. I have no desire to see more. The longer we wait to approve this legislation, the more likely it is that additional miners will die. If more miners die, more mines could be closed and for longer periods of time in order to ensure safety. Mine closures not only will put families out of work but will also disrupt coal and energy production, with the economic effects rippling across the national economy.

We must never forget that a coal miner has the legal right to walk out of an unsafe coal mine. A miner cannot be forced to work if he or she feels their life is threatened. Today when coal provides such an important part of this Nation's energy supply and our Nation is dangerously dependent upon foreign oil, we must keep our coal mines open and operating, but first we must make them safe.

For the sake of America's coal miners, for the sake of their families and their communities, and for the sake of

the energy security of our Nation, I urge that this much-needed legislation be approved as soon as possible. There is a moral imperative to act, and we must not delay.

Mr. President, I ask unanimous consent that Senators SPECTER, KERRY, and CLINTON be added as cosponsors of S. 2231, the Federal Mine Safety and Health Act of 2006.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senate, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I commend my friend and colleague from West Virginia for once again giving focus to this issue of national proportion and importance. I know he recognizes that those extraordinary mine tragedies at Sago struck the heart and soul of all Americans. I had the opportunity to visit with the families from that community. I want him to know that as a member of the HELP Committee, which has some jurisdiction over the measure he introduced, we are going to work closely with him to ensure, to the greatest extent possible, safety for miners.

We have seen an example of what has been done in Canada with the 36 or 37 miners who were locked in the bowels of a mine for several days and they walked out because they had oxygen available. We have seen other miners who have been saved in other parts of the world, such as Australia, because they had communications which permitted them to be warned about the dangers of mines.

He raises an issue that is of central importance, not just to the people of West Virginia but to all who care about those families who make such a difference not only to their communities but to our country and to our energy needs. I thank him and look forward to working with him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts, Mr. KENNEDY. He is always sensitive to the problems that occur in West Virginia. He is always mindful of the coal miners and their problems, their sorrows.

I thank him for being such a steadfast partner with the two West Virginia Senators and such a steadfast friend throughout the years to our fellow West Virginians. I thank the Senator.

Mr. KENNEDY. Mr. President, at the present time, the Judiciary Committee is meeting with the Attorney General. I am necessarily absent from that meeting so I can make comments on the asbestos legislation which is now pending. I will return.

As I understand it, Senators SPECTER and LEAHY and others involved will have a chance to speak. I ask unanimous consent to speak in morning business for 25 minutes, if there is no objection.

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

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2006

Mr. KENNEDY. Mr. President, the real crisis which confronts us is not an asbestos litigation crisis, it is an asbestos-induced disease crisis. Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, there were 27 million workers in this country who were exposed to asbestos on the job, and nearly 19 million of them had high levels of exposure over long periods of time. That exposure changed many of their lives. Each year, more than 10,000 of them died from lung cancer and other diseases caused by asbestos. Each year hundreds of thousands of them suffer from lung conditions which make breathing so difficult that they cannot function at all. Even more have become unemployable due to their medical condition, and because of the long latency period of these diseases, all of them live with fear of premature death due to asbestos-induced disease. These are the real victims. They deserve to be the first and foremost focus of our concern.

As this chart indicates, asbestos mortality will likely peak around 2015, reflecting the heavy exposures in the 1970s. We are going to see this is not an issue that is going to diminish, in terms of the impact on the workers, workers' lives, their families, and their communities, but is actually going to increase in terms of those who are going to be adversely impacted and affected.

All too often the tragedy these workers and their families are enduring becomes lost in a complex debate about the economic impact of asbestos litigation. We cannot allow that to happen. The litigation did not create these costs; exposure to asbestos created them. They are the costs of medical care, the lost wages of incapacitated workers, and the cost of providing for the families of workers who died years before their time. Those costs are real. No legislative proposal can make them disappear. All legislation can do is shift those costs from one party to another. Any proposal which would shift more of the financial burden on to the backs of injured workers is unacceptable to me and should be unacceptable to every one of us.

I have consistently said throughout the long debate on asbestos legislation that I would support a properly designed and adequately funded trust fund bill. That legislation would have to fairly compensate all the victims of asbestos-induced disease in a timely way. It would put more money into the pockets of these injured workers than the current system of reducing transaction costs. This is not such a bill.

Senators SPECTER and LEAHY have devoted an enormous amount of time and effort to this asbestos trust fund legislation. They deserve great credit

for their work. But the bill before us contains fundamental flaws which make it both unfair and unworkable. It does not provide a reliable guarantee of just compensation to the enormous number of workers who are suffering from asbestos-induced disease.

The argument that there are serious inadequacies in the way asbestos cases are adjudicated today does not mean any legislation is better than the current system. Our first obligation is to do no harm. We should not be supporting legislation that excludes many seriously ill victims from receiving compensation and that fails to provide a guarantee of adequate funding to make sure injured workers will actually receive what the bill promises them. This bill will do harm.

The problem is that powerful corporate interests responsible for the asbestos epidemic have fought throughout this process to escape full accountability for the harm they have inflicted and, as a result, the focus has shifted from what these companies should pay victims to what they are willing to pay victims. That is preventing the Senate from enacting trust fund legislation that will truly help the workers who have been seriously injured by this industrial plague.

The Senate should not be proceeding to this asbestos bill at this time. Despite all the work Senators SPECTER and LEAHY and other supporters have done, S. 852 is simply not ready for floor consideration. There are too many unanswered questions, and the numbers do not add up.

This legislation does not provide sufficient funding to keep the promises of compensation it makes to those asbestos victims it purports to cover. Even if the entire \$140 billion the sponsors anticipate raising is paid to the fund, it will not be sufficient to fully compensate the projected number of eligible victims, and it is extremely unlikely the full amount will ever be paid.

The formula in the bill is based on highly questionable estimates of the number of companies that would be required to contribute and how much each one would pay, contained in a secret list known only to the asbestos study group, the key lobbyists for the bill. None of the relevant information has ever been made public. There is reason to believe far fewer companies would be contributing than the ASG projects. There will also be serious court challenges brought against the new law that are certain to at least significantly delay statutorily mandated payments and could result in the loss of substantial anticipated revenue.

Because of these problems, seriously ill victims are likely to wait for years in legal limbo, unable to proceed in court and unable to obtain compensation from the trust fund if this bill passes.

The legislation also fails to permit victims to quickly return to the court system should the trust fund become

insolvent. Victims are the losers at both ends.

These problems are far too complex to be fixed on the Senate floor with a few last-minute amendments. If they could not be resolved in the 3 years that the many Senators have worked on this bill, they cannot be corrected in a few days. S. 852 is the legislative version of the famous Spruce Goose—an ill-conceived plan too complex and cumbersome to ever get off the ground. As designed, it simply will not work. It is not a reliable vehicle for compensating the victims of asbestos disease. It should be sent back to the drawing board.

The list of serious flaws of S. 852 is, unfortunately, a long one. I will focus my remarks on several of the most egregious.

First, the financial inadequacy. Experts tell us that the asbestos trust fund created by this legislation is seriously underfunded. The funding plan in this bill relies on very substantial borrowing in the early years as the only way to pay the flood of claims. The result will be a huge debt service cost over the life of the trust that could reduce the \$140 billion intended to pay claims by as much as \$30 billion or \$40 billion. The amount remaining would be far too little to pay claims to cover all those who are entitled to compensation under the terms.

In addition, there is a strong constitutional argument that the existing bankruptcy trusts cannot be forced to turnover all their assets, which will place \$7.6 billion of the projected funding in jeopardy. Many companies are also likely to challenge their obligation to finance the asbestos trust. It is not at all clear how much will actually be available to pay eligible victims what the legislation promises they will receive.

CBO's analysis of S. 852 raises serious concerns about the adequacy of funding. The report states:

CBO expects that the value of valid claims likely to be submitted to the fund over the next 50 years could be between \$120 and \$150 billion, not including possible financing (debt services) costs and administrative expenses. The maximum actual revenues collected under the bill would be around \$140 billion, but could be significantly less. Consequently, the fund may have sufficient resources to pay all asbestos claims over the next 50 years, but depending on claim rates, borrowing, and other factors, its resources may be insufficient to pay all such claims.

There is likely to be a serious shortfall in the early years, when nearly 300,000 pending cases will be transferred to trust for payment. Studies show the trust will not have the resources to pay those claims in a timely manner. Payments to critically ill people may be delayed for years.

One way to reduce the enormous financial burden on the fund in the early years would be to leave many of those cases in the tort system, especially cases which were close to resolution. That would be fair to the parties in those cases and it would greatly im-

prove the financial viability of the fund. Unfortunately, that proposal has been repeatedly rejected by the sponsors of the bill. As a result, there will be a serious mismatch between the number of claims the trust fund will face when its doors open and the payments begin coming into the fund. That will force major borrowing in the first 5 years. The debt service resulting from that borrowing will financially cripple the trust.

In its report, CBO recognizes the seriousness of this debt-service problem, explaining:

Because expenses would exceed revenues in many of the early years of the fund's operations, the Administrator would need to borrow funds to make up the shortfall. The interest cost of this borrowing would add significantly to the long-term costs faced by the fund and contributes to the possibility that the fund might become insolvent.

This is only one of several major financing problems with S. 852 that experts have identified. There are also major questions about the projections of pending and future claims that further cloud the trust fund's financial viability.

For example, there has been a significant increase in the number of mesothelioma cases in recent years. The only known cause of mesothelioma is asbestos exposure. This new information suggests that the CBO cost estimate may understate the cost of the mesothelioma claims that the trust fund will incur by more than \$15 billion. This is by no means the only instance where there is strong evidence to suggest that the number of eligible claimants will substantially exceed CBO estimates.

If S. 852 is enacted, the United States Government will be making a commitment to compensate hundreds of thousands of seriously ill asbestos victims but will not have ensured that adequate dollars are available to honor its commitment. That will precipitate a genuine asbestos crisis, and this Congress will bear the responsibility for it.

The legislation before us would close the courthouse doors to asbestos victims on the day it passes, long before the trust fund will be able to pay their claims. Their cases will be stayed immediately. Seriously ill workers will be forced into a legal limbo for up to 2 years. Their need for compensation to cover medical expenses and basic family necessities will remain, but they will have nowhere to turn for relief.

Under the legislation, even exigent health claims currently pending in the courts will be automatically be stayed for 9 months as of the date of enactment. An exigent health claim is one in which the victim has been diagnosed "as being terminally ill from an asbestos-related illness and having a life expectancy of less than one year."

By definition, these cases all involve people who have less than a year to live due to mesothelioma or some other disease caused by asbestos exposure. Their cases would all be stayed

for 9 months. Nine months is an eternity for someone with less than a year to live. Many of them will die without receiving either their day in court or compensation from the trust fund.

The stay language is written so broadly that it would even stop all forward movement of a case in the court system. A trial about to begin would be halted. An appellate ruling about to be issued would be barred. Even the deposition of a dying witness could not be taken to preserve his testimony. The stay would deprive victims of their last chance at justice. I cannot believe that the authors of this bill intended such a harsh result, but that is what the legislation does.

The bill does contain language allowing an "offer of judgment" to be made during the period of the stay in the hope of producing a settlement. However, this provision is unlikely to resolve many cases because it requires the agreement of the defendants. There is no incentive for defendants to agree to a settlement when the case has been stayed. Those who have tried cases know that it is only the imminence of judicial action which produces a settlement in most cases. Delay is the defendant's best ally; and under this bill, the case is at least delayed for 9 months and may never be allowed to resume if the fund becomes operational. If, however, these exigent cases were not stayed, and judicial proceedings could continue, there would be far more likelihood of cases settling under the offer of judgment process.

I strongly believe that, at a minimum, all exigent cases should be exempted from the automatic stay in the legislation. Victims with less than a year to live certainly should be allowed to continue their cases in court uninterrupted until the trust fund became operational. Their ability to recover compensation in the court should not be halted until the trust fund is operational and they are able to receive compensation from that Fund. It is grossly unfair to leave these dying victims in a legal limbo. For them, the old adage is especially true—justice delayed is justice denied.

Under the legislation, defendants would receive a credit against what they must contribute to the trust fund for whatever payments they make to these dying victims; so they would not be "paying twice," as some have claimed.

Allowing the exigent cases to go forward in the courts without interruption is a matter of simple fairness. Staying the cases of victims who have less than a year to live is bureaucratic insensitivity at its worst. Most of these victims will not live to see the doors of the trust fund open.

We should not deprive them of their last chance—their only chance—to receive some measure of justice before asbestos-induced disease silences them. They should be allowed to receive compensation in their final months to ease their suffering. They should be allowed

to die knowing that their families are financially provided for. S. 852 in its current form takes that last chance away from them.

The way the legislation is written, victims will lose out at the back end of the process as well, should the trust fund run out of money after several years of operation.

If the trust fund does become insolvent, a very real possibility, workers will not have an automatic right to immediately return to the court system. The process outlined in the current bill could take years. Workers could end up trapped in the trust with reduced benefits and long delays in receiving their payments. There needs to be a clear, objective trigger—inability of the trust to pay a certain percentage of claims within a set period of time—that will automatically allow victims to pursue their claims in court if the trust runs out of money. The Judiciary Committee's 2003 legislation contained such a provision, but this bill does not. We cannot allow seriously injured workers with valid claims who are not paid in a timely manner by the trust to be denied their day in court. That would be a shameful injustice.

The asbestos trust is being presented as an alternative source of compensation for victims suffering from asbestos-induced disease. If that alternative runs out of money and can no longer compensate those victims in a full and timely manner, their right to seek compensation through the judicial system should be immediately restored with no strings attached. No principle is more basic. Yet, this bill violates that principle.

I am particularly upset by the way lung cancer victims are treated in this bill. Under the medical criteria adopted by the Judiciary Committee overwhelmingly 2 years ago, all lung cancer victims who had at least 15 years of weighted exposure to asbestos were eligible to receive compensation from the fund. However, that was changed in S. 852. Under this bill, lung cancer victims who have had very substantial exposure to asbestos over long periods of time are denied any compensation unless they can show asbestos scarring on their lungs. The committee heard expert medical testimony that prolonged asbestos exposure dramatically increases the probability that a person will get lung cancer even if they do not have scarring on their lungs. Deleting this category will deny compensation to more than forty thousand victims suffering with asbestos-related lung cancers. Under the legislation as now drafted, these victims are losing their right to go to court, but are receiving nothing from the fund. How can any of us support such an unconscionable provision?

Since we began considering asbestos legislation, no aspect has concerned me more than the treatment of lung cancer victims. My top priority has been to make sure that these severely ill workers receive just and fair com-

pensation, and I have not been alone. A number of other members have spoken out about the importance of adequately providing for lung cancer victims who have been exposed to substantial amounts of asbestos over long periods of time.

Now we find that these victims, many of whom will have their lives cut short because of asbestos-induced disease, will not receive one penny in compensation from the trust fund. They are losing their right to go to court, but are also being denied any right to compensation under the fund. They are, in essence, being told to suffer in a legally imposed silence with no recourse whatsoever.

One of the arguments we hear most frequently in favor of creating an asbestos trust fund is that in the current system, too much money goes to people who are not really sick and too little goes to those who are seriously ill. Well, lung cancer victims who have years of exposure to asbestos are the ones who are seriously ill. They are the ones this legislation is supposed to be helping. Yet, they are being completely excluded.

The committee heard extensive testimony from distinguished medical experts—Dr. Laura Welsh and Dr. Philip Landrigan—that prolonged exposure to asbestos can cause lung cancer even if the victim does not also have markers of nonmalignant asbestos disease. They cited numerous medical authorities supporting their position. They even described treating lung cancer victims whose disease was clearly caused by asbestos but who had neither pleural thickening or asbestosis.

In a situation where people are undeniably severely ill and undeniably had 15 or more years of weighted exposure to asbestos, it is wrong to completely exclude them from compensation under the trust fund. Some of the proponents of S. 852 have attempted to justify excluding them by claiming that smoking probably caused their lung cancers. But, the evidence refutes this contention.

First, even those lung cancer victims with 15 or more weighted years of exposure to asbestos who had never smoked were removed from eligibility for compensation under the trust fund. So, this is about more than just the relationship between asbestos and smoking.

Second, regarding the smoking issue, Dr. Landrigan testified that smokers who have substantial exposure to asbestos have 55 times the background risk of developing lung cancer, while smokers who were not exposed to asbestos have 10 times the background risk of developing lung cancer. Clearly, the asbestos exposure makes a huge difference.

There is a powerful synergistic effect between asbestos and tobacco in the causation of lung cancer. Both are substantial contributing factors to the disease. The smoker with substantial asbestos exposure should receive less compensation from the trust fund than

the nonsmoker with lung cancer. That principle appears throughout the bill. But smoking is not a reason to exclude the smoker from all compensation.

Asbestos and tobacco are analogous to joint tortfeasors. Each is partly responsible and each should pay a proportionate share of the compensation. Without prolonged exposure to asbestos, the smoker would have been far less likely to contract lung cancer. It is a gross injustice to completely exclude these severely ill workers.

This bill also tampers with the agreed-upon medical criteria carefully negotiated between representatives of business and labor by raising the standard of proof for each disease category. The language in S. 852 requires the workers to prove that asbestos was "a substantial contributing factor" to their disease, instead of just "a contributing factor."

This is a major increase in the burden workers must overcome to receive compensation. It is significantly higher than most states currently require in a court of law. Rather than having to show that asbestos exposure contributed to their illness, they will now have to address the relative impact of asbestos and other potential factors. This change is a serious step in the wrong direction, raising the bar even higher on injured workers.

Another major shortcoming of this legislation is its failure to compensate the residents of areas that have experienced large-scale asbestos contamination. S. 852 simply pretends that this problem does not exist. It fails to compensate the victims of all asbestos-induced diseases, other than mesothelioma, whose exposure was not directly tied to their work. There is very substantial scientific evidence showing that the men, women and children who lived in the vicinity of asbestos-contaminated sites, such as mining operations and processing plants, can and do contract asbestos-induced disease.

The reason that this legislation needs a special provision to compensate the residents of Libby, MT, is because it does not compensate victims of community contamination generally. The residents of Libby are certainly entitled to compensation, but so are the residents who lived near the many processing plants from Massachusetts to California that received the lethal ore from the Libby mine. The deadly dust from Libby, MT was spread across America. W.R. Grace shipped almost 10 billion pounds of Libby ore to its processing facilities between the 1960s and the mid 1990s. One of the places it was shipped was to the Town of Easthampton, MA, where the operations of an expanding plant spread the asbestos to the surrounding environment, into the air and onto the soil. I intend to discuss this problem in great detail as the debate moves forward.

I raise it now as a dramatic example of one of the major injustices caused by the arbitrary exclusion of a large number of asbestos victims from compensation under the trust fund.

The red spots on this chart show where these other communities were contaminated. The larger the spot, the more shipments. We can see these spots all over the country. Yet these communities are not compensated for it, although one community is; other communities are not.

The problem of (community contamination is not limited to the sites receiving ore from Libby. Community asbestos contamination can result from many different sources. For example, medical experts believe it may result from exposure to asbestos after the collapse of the World Trade Center. Because of the long latency period, we often do not learn about community asbestos contamination until long after it occurs. Certainly these victims of asbestos are entitled to fair treatment as well. They should not be arbitrarily excluded from compensation as if their suffering is somehow less worthy of recognition than the suffering of other asbestos victims. Yet, that is what S.852 does.

This is a bill that shifts more of the financial burden of asbestos-induced disease to injured workers by unfairly and arbitrarily limiting the liability of defendants. It does not establish a fair and reliable system that will compensate all those who are seriously ill due to asbestos. It lacks a dependable funding stream which can ensure that all who are entitled to compensation actually receive full and timely payment. These are very basic shortcomings.

We cannot allow what justice requires to be limited by what the wrongdoers are willing to pay. I intend to vote "no" and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to address the Senate until 3 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALEXANDER. Thank you, Mr. President. The Presiding Officer will be relieved because I am to preside at 3 p.m.

NUCLEAR POWER

Mr. ALEXANDER. Mr. President, today, President Bush made an announcement of something he calls the Global Nuclear Energy Partnership. It is part of the President's 2007 budget for the U.S. Department of Energy. In that budget, at a time when there is not much extra money, there is \$250 million to deal with the objectives of the Global Nuclear Energy Partnership.

Part of the initiative we have heard about before. It calls for advanced technology for nuclear reactors—reactors from which we can produce clean energy, reactors which are smaller than the reactors that we have today

that produce about 20 percent of all the electricity we use in the United States. But I want to call attention to a part of the President's proposal which we have not heard much about before—at least from him—that is the part about reprocessing and recycling the fuel that is used in nuclear reactors. That has been something we haven't been doing in the United States for a long time, except in limited cases, and it is something that requires a great deal of attention. My hope is that, while it is a small part of a large budget, the idea of reprocessing and recycling spent fuel from nuclear reactors would have a significant, measured, and careful bipartisan discussion on the floor of the Senate.

Even though it is a small part of the big budget, dealing with the issue of reprocessing spent fuel can make a big difference in the solution to a number of large problems.

For example, whether we are able to deal with global warming within a generation, the only technology we have, of which I am aware, which will produce large amounts of carbon-free energy which would permit the United States and the world to reasonably hope to deal with global warming in this generation is nuclear power.

Even though it is 20 percent of our electricity in the United States today, it produces 70 percent of the carbon-free electricity.

Solving the reprocessing and recycling problem which deals with the issue of energy independence—and it has been talked a lot about on both sides of the aisle—if we want to be independent of other countries, we have to have ways to produce large amounts of energy in a clean way. And other than conservation and efficiency, nuclear power, in my judgment, is the only way to do that today.

A third area has to do with clean air. We have other forms of energy production such as coal, a very important form, but coal still produces large amounts of sulfur and nitrogen pollution. It produces mercury. The idea of recapturing the carbon and the integrated gasification process of making that coal-produced electricity clean is something we still have a lot of work to do on.

Dealing with reprocessing will have a lot to do with solving the problems of proliferation concerns that we have about other countries getting hold of spent fuel and turning it into material that can produce nuclear weapons. We read about it every day in terms of Iran and North Korea. It has to do with a balance of payments in the United States.

Some country is going to produce these advanced nuclear technology powerplants. Russia, for example, might produce 30 or 40 of these. When it does, it will have the technology available to sell those powerplants to India, China, and other parts of the world where they need large amounts of energy which is clean. The United

States will be left behind if we are not a part of that process.

I have mentioned all of these issues as if they were American issues—global warming, energy independence, clean air, proliferation, balance of payments. These are worldwide issues. By one account, 30 percent of pollution in the Los Angeles basin comes from Asia. If India and China aren't able to deal with the global warming issue, with the clean air issues, and with the proliferation issue, every American will be affected.

Today, there are about 430 nuclear reactors in the world being used to produce electricity. About 100 are in the United States. We have a classified number—maybe it is about the same—of them which have been used in our nuclear Navy since the 1950s. It is not difficult to imagine a world with 1,000 nuclear reactors. There are 124 nuclear reactors on the drawing board today, or under construction. Until recently, none of those were in the United States. We haven't built one new nuclear powerplant from scratch since the 1970s. It is very odd because we have a large demand in this country for large amounts of low-cost, clean energy. We invented the technology. We have used it in our Navy since the 1950s without a single incident.

France is now about 80 percent reliant on electricity from nuclear powers. And Japan, which suffered under our use of nuclear weapons, has used nuclear power to produce electricity.

Things though are changing. While nuclear power has some problems, so does every other alternative for producing the large amounts of energy that we and the world need.

Coal, which I mentioned, produces pollutants, and no one has yet produced a way to deal with all of the carbon that is produced by coal to make it the strategy for future.

Many environmental groups—I am one of those persons who is hopeful about that—but the idea of recapturing such large amounts of carbon and putting it underground is something we haven't able to do yet.

Drilling for new oil produces lots of arguments in this body and close votes. Importing oil produces many resolutions and arguments in this body as well.

Wind energy is appealing to some, but you would have to cover up the whole State of Massachusetts to produce what one or two nuclear powerplants would be able to produce.

Today, solar energy is less than one-tenth of 1 percent of what we use in America.

So we need nuclear power. In order to have nuclear power, we are going to have to deal with the problem of where we put the spent fuel and what we do about proliferation.

I am glad that the President suggested in his budget today the Global Nuclear Energy Partnership. I am glad he put \$250 million in it to advance the idea of processing and recycling.

First, we should move ahead with the advanced technology and loan guarantees, the investment tax credits, the risk assurance that was enacted in the Energy bill in July.

Second, we should move ahead with research and discussion of reprocessing and recycling so that we can reduce by 90 percent the amount of waste that we would have to store at Yucca Mountain, or similar facilities, and reduce by more than that the heat in that spent fuel.

And finally, we should discuss an international protocol so that while other countries such as the United States, Russia, and others might invent the technology for small, new nuclear powerplants, there would be some sort of international protocol that would lease the spent fuel, supervise its processing, and supervise its permanent storage so that we and the world in this generation can deal with global warming, energy independence, clean air, and a variety of other issues that deal with our lives.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Democratic leader.

ASBESTOS

Mr. REID. Mr. President, if the American people want to know what is wrong with Washington, they should take a look at what is being debated in the Senate this week—asbestos legislation.

I have said on a number of occasions that Lord Acton, whom I studied when I was in college, is right—power tends to corrupt, and absolute power tends to corrupt absolutely. Look what we have on the Senate floor today—asbestos legislation, legislation that, of course, is not ready to be here, but it is being brought here because of tremendous pressure by the folks downtown.

What do I mean by folks downtown? Washington has been run by the lobbyists. The Jack Abramoff scandal is no surprise to people who have been watching this. The K Street Project and other such things came about as a result of too much concentration of power.

Why do I say that this is an example of why we need lobbying reform in Washington today? This legislation is on the floor for one reason: 15 companies that are pushing this legislation. Thousands of companies oppose it.

The 15 companies that support this legislation spent \$144.5 million on lobbying in 2 years.

Actually, I am wrong; 13 companies spent \$144.5 million in 2 years on lobbying.

Why is this legislation on the floor today? Why are we not doing something about education?

My friend from Tennessee talked about another very important issue—whether this country should move to nuclear power.

Wouldn't it be nice if we had a debate on the Senate floor about that? Or

about wind energy? Or about why we don't have tax credits for wind, for Sun, for geothermal, and for biomass that last more than 2 or 3 years?

Why are we not taking a look at nuclear energy? That would be good. We could have a debate on this floor about these topics and spend a couple days very profitably.

But we are not doing that. Instead we are talking about asbestos because 13 companies spent \$144.5 million in 2 years lobbying to get it here. For the 13 companies, I guess that was money well spent because they are going to save billions if this legislation passes.

It would be nice if we spent some time on the Senate floor talking about why this country is going into financial bankruptcy because of its spending these last 5 years.

Remember, during the last years of the Clinton administration we paid down the debt by \$5 trillion. Not this administration. We are going to be asked in a few days to increase the debt ceiling above \$8.2 trillion.

As I said, it would be nice if we had a debate on the Senate floor about education.

I know my friend, the Presiding Officer, has been working in conjunction with the distinguished Senator from New Mexico, the junior Senator from New Mexico, JEFF BINGAMAN, about why this country is falling behind scientifically in this country. It would be nice if we had a debate on that.

However, these folks who Senator ALEXANDER and Senator BINGAMAN are talking to about increased funding for research cannot afford to spend \$144.5 million in 2 years for lobbyists to get the goods. So we will spend time the Senate does not have on this piece of legislation that is flawed, flawed, flawed. Later I will explain what is wrong with it.

We will spend valuable time on the Senate floor because the lobbyists won. Chalk one up for the lobbyists. Do we need lobbying reform? Yes. For example, we do not even know all the companies involved in this so-called asbestos study group. ASG would have to disclose their membership under the lobby-reform legislation we have proposed. They would not be able to do it in secret, then pay their money under the plan.

I bet they are jumping with joy today—some of whom we do not know who they are—because they were able to buy their way into the Senate, paying for a bunch of lobbyists.

These 13 companies employed 168 lobbyists. It is pretty easy to figure out what is going on.

I am going to vote opposing the motion to proceed. Rarely do I do that. It is so important that I do it here. I don't know if we have enough votes to stop it from going forward, but for the good of the American people, I hope so. If we do not, there are a lot of other ways we can fight this very bad piece of legislation.

The Super Bowl was last night. The underdog, Pittsburgh Steelers, won.

However, turning from football to lobbying, the lobbyists are not underdogs when they are given \$144.5 million to bring a bill to the Senate. They are on the winning side. \$144.5 million was paid to lobbyists by 13 companies. That is why we are here today. That is why we need lobbying reform. With reform we would at least know all the companies involved in the so-called ASG, asbestos study group. Talk about a blight on legislative standards, bringing this bill to the Senate and leaving real problems to someone else another day.

This bill is anything but fair. But like a lot of things around here, we still call it the Fairness in Asbestos Injury Resolution Act. This is part of the Orwellian world we live in here, where the Clear Skies Initiative pollutes the skies, where the Healthy Forests Initiative ruins our forests, where the Leave No Child Behind Act leaves children behind, where the Budget Deficit Reduction Act increases the deficit. Now, we are going to be asked to deal with the Fairness in Asbestos Resolution Act, which is anything but fair.

It is unfair to victims of asbestos exposure. It is unfair to small businesses. It is unfair to thousands of businesses in this country. It is unfair to the American taxpayer. If this goes through, they likely will have to bail out the trust fund created under the bill. It is unfair to organized labor. It is unfair to the insurance industry. It is unfair to veterans.

As I said, I don't lightly oppose a motion to proceed. I recognize that generally it is the prerogative of the majority leader to set the agenda. In this case, however, opposing this motion is absolutely justified. This is a terrible piece of legislation to bring before the Senate with the state of the legislative calendar that we have. I wish the Government Operations Committee, led by Senators Lieberman and Collins, would get Congress some lobbying reform. That is what we need to do. That would be more important than this.

This bill is not ready for consideration. It is not even a close call. There are so many unanswered questions raised by the current bill, too many questions about solvency and adequacy of the trust fund, too many questions about the impact of this bill on the lives of countless Americans with asbestos-related illnesses. This alone should disqualify this legislation from being on the Senate floor.

The Senate could debate this bill for the next 60 legislative days, and we still could not fix the structural flaws of this trust fund. The only reasonable approach is to take it back to the Judiciary Committee and find a better approach.

This bill should also be referred to the Senate Committee on the Budget before the Senate debates it. Senator CONRAD and Senator GREGG have said it is not ready for the Senate floor. They have written a letter to me and to Senator FRIST asking for more time to review the massive fiscal impact of this program.

Asbestos companies, it is estimated—and it is not much of an estimate but pretty certain—will save over \$20 billion with this legislation. Fortune 500 companies will have dramatic reductions in their asbestos liability. The sad part about this is that companies who are responsible for exposing victims to asbestos could see the harmful effects coming. Way back in the 1960s, for example, Dow Chemical knew the hazards of asbestos. They had done research and they said “asbestos has long been known to be capable of causing asbestosis.” They did not mention mesothelioma.

Three decades before Dow Chemical recognized this, in 1938, a report by the U.S. Public Health Service, which DOW received, described how asbestos textile factory workers were exposed to asbestos fibers, which led to the development of diseases that killed them. In 1951, companies were reporting that exposure to asbestos would kill you. We know from reading—pick any book you want—the book titled “Libby, Montana,” W.R. Grace knew that what they were doing was killing their workers. They knew about it. It is documented.

Is it any wonder that some are asking why we are here? When we consider the \$144.5 million and 2 years spent for lobbyists, we begin to understand why we are here. If these numbers do not add up, and they don't, wouldn't it be well advised to have the Committee on the Budget involved in crafting this legislation? There is a need for legislation that improves the way victims of asbestos exposure receive compensation, but this is not it.

Since this bill was initiated, there have been reforms at the State level that have been credible and important in advancing the cause of the victims. Our best hope of achieving whatever Federal reforms may be appropriate rests with further deliberation at the committee level, not in the Senate. I hope my colleagues seriously consider joining me in voting no on the motion to proceed. There are just too many problems with this bill.

Let me first focus on people whom this is supposed to be all about, the victims of asbestosis and mesothelioma, diseases that come about as a result of being exposed to asbestos. If you get mesothelioma, you die. Once that disease is diagnosed, no one has ever survived. You die. With asbestosis you might continue to live but likely will have a long, slow, advance toward death. Sometimes it kills quicker than others. People have lived for some time with asbestosis but never mesothelioma. The average life expectancy after discovery is less than a year and a half. Asbestos is one of the most lethal substances ever used in the workplace, and it was unleashed knowingly on communities all over our country. More than 27.5 million workers have been exposed to asbestos. They were exposed while they were working with the stuff. However, countless others

were exposed because this work was going on in their neighborhoods. Asbestos was used in schoolyards. And as we have come to learn, a worker coming home and having his wife wash his clothes exposed her and the family to asbestos-related diseases. And these spouses have died. Children who hugged their father, after coming home from work carrying his lunch bucket, have gotten these diseases and have died. Hundreds of thousands are gravely ill as we speak, hundreds of thousands of people.

The diseases caused by asbestos exposure are painful, debilitating, and, as I have indicated, mostly incurable. Every State in America has been touched by this scourge. In the relatively sparsely populated State of Nevada, Margie Urnberg, Carson City, wrote a letter. She lost her father, Ronald. Will Glienke's father died of mesothelioma. Kellie Appleton-Hultz lost her husband due to asbestos poisoning and is still coping with this as I speak.

This problem has affected me on a personal level. My three brothers and I had no place to live when high school started, so we lived with other families or acquaintances. My older brother, Don, lived in Henderson, NV, with the Hansen family, a wonderful family. They took in my brother so he could go to high school. One of the Hansens who played football with my brother, Don, was named Harold. My brother and Harold were both halfbacks on the football team. Harold went away to college and later became a mechanical engineer. He worked for the State of Nevada all of his life. He hung around the State employee workshop. He learned less than a year ago that he had mesothelioma. He is dead now. He never worked with asbestos, but in the workshop where he spent some of his time, they replaced brakes and brake linings containing asbestos. Harold Hansen is dead because of this.

I see in the Chamber the assistant Democratic leader, my friend, the distinguished senior Senator from Illinois. He and I served in the House of Representatives together. I can remember another man who was so helpful to me while I was in the House of Representatives. I had been a Member of the House for just a short period of time, and this man and I were walking down the aisle to vote. He said: You know, I love Nevada. I want to help you get a national park. We did not have a national park in Nevada at the time. He was the subcommittee chair of the then-called Interior Committee of National Parks. His name was Bruce Vento. Oh, what a great guy he was. I worked out at the same time he did in the House gym for many years.

He was probably 6 foot 1 or 2, but really a strong man. He had been in Congress for more than 20 years. He practiced law before that. He never worked with his hands except once, when he was a very young man, around 20 years old. He worked for a while at

summer jobs, like we all had. He obviously was exposed to asbestos. And just like that, he was diagnosed with mesothelioma. He died within 6 months.

Bruce Vento—and we have a national park in Nevada now; much of it due to Bruce Vento's advocacy; the Great Basin National Park, a wonderful national park; the only one we have in Nevada—dead because of mesothelioma.

Tomorrow I am going to introduce a resolution designating April 1 of this year as Asbestos Disease Awareness Day. The purpose of this resolution is to raise awareness that asbestos exposure is still prevalent, that asbestos-related diseases continue to kill many Americans each year, and that more needs to be done to protect Americans from this lethal substance.

A truly fair asbestos reform bill should meet the unmet needs of asbestos victims. This bill does not. Every major asbestos victims group opposes this legislation—every one. In an open letter to the Senate, dated February 1 of this year, the Committee to Protect Mesothelioma Victims, the Asbestos Disease Awareness Organization, the Asbestos Victims Organization, the White Lung Association, and the White Lung Asbestos Information Center wrote that they oppose this legislation. Specifically, they wrote:

We do not want this proposed government policy forced upon us. We believe the program will fail to treat victims fairly, while benefitting the very companies that caused the problem.

And that is what has happened here. But we have these companies that spent \$144.5 million for 2 years to get lobbyists down here to push this bill. I forget the number, about 170 or so lobbyists, as indicated in a report by Public Citizen. I will bet they are watching TV right now, in their Gucci shoes, having just piled out of their limousines, bragging about what they did: bringing the asbestos bill to the floor. They have a lot of other important things to do, but what are they doing? Because they are good at what they do, we have this bill on the Senate floor. Lobbying reform is what we really need.

An asbestos bill that faces such widespread opposition from the victims of asbestos disease is obviously the wrong approach to this national problem. The problem seems to be that the so-called FAIR Act—remember, that is what this is called in this Orwellian world we live in—places the needs of a few large companies with asbestos liability above the needs of those suffering from asbestos-related illnesses. This is the fundamental flaw of this legislation.

But to show what these lobbyists have done, we need only look at what they have done to fool the veterans. These big companies, of course, are paying veterans to come back to Washington. They have convinced a few of the veterans this legislation is good for them. Not true. But if you have this much money to spend, you can pass it around.

This asbestos study group is claiming that victims who are veterans are not recovering under the present system. Unfortunately, the facts do not support their claim. Many veterans will be completely shut out of all means of compensation if this trust fund proposed under this legislation becomes law.

These false claims about veterans seem to be another effort to ensure that corporations receive the more than \$20 billion bailout they seek on the backs of veterans. It does not matter because the lobbyists have done their job. They have this bill and they have a few veterans straggling in to talk about what a good thing this is for them.

If this asbestos bill wins, the corporations win and the veterans lose. Today, veterans can and do use the court system every day to get help with the health and financial consequences of the diseases they have.

Tragically, it is true that many veterans are victims of asbestos disease. Much of it came from Navy ships before the 1970s that contained high levels of asbestos. Thirty percent of the mesothelioma victims are veterans. World War II, as I have indicated, is where most of these veterans got exposed to asbestos—World War II. The average age of the World War II veteran is about 80. About 1,500 World War II veterans are dying every day.

This legislation will stop some of them from recovering the compensation they are owed. If they now have pending trial dates or pending settlements, those will be eviscerated if this legislation passes. They immediately have their causes of action stayed and would become part of the queue of over 600,000 claimants waiting for the proposed fund to become operational. Most of them will die before recovering the money owed to them.

Veterans receive no priority status or special protection under this bill. They will be tossed into an untested and underfunded bureaucracy with all other claimants even though every independent analyst says the fund is destined to fail. I repeat, every major asbestos victims organization opposes this bill because it is underfunded and unfair to all victims, including veterans.

Veterans are recovering under the current system but will have a much harder time recovering if this bill becomes law.

Though veterans cannot sue the Government for compensation for asbestos poisoning, they have successfully sued manufacturers of asbestos products, like other claimants have done. This right will be stripped from them under S. 852. Thousands and thousands of veterans have successfully sued asbestos companies. And, frankly, it has been shown that veterans who are dying of mesothelioma and these other serious cancers generally receive greater compensations through the courts than is provided under S. 852.

Under this fund, the awards will be one size fits all. In many cases, veterans' asbestos exposure as civilians is far greater than their exposure in the military. Lester M. Cable, who lives in Bridgeport, CT, is a typical case. He was exposed to asbestos as a boilerman in the Navy in 1950 and 1951, and also in civilian life doing home construction and repair projects working with asbestos-containing household appliances and heating systems.

He suffers from malignant mesothelioma and has a trial date set for this July as an accelerated living mesothelioma case in the Bridgeport Superior Court. If the proposed asbestos legislation is enacted, his case would be wiped out immediately, forcing him to start all over again under the proposed trust fund. He will not live that long.

It is no wonder that asbestos victims oppose a bill that deprives them of their legal rights in the traditional civil justice system and offers them instead a trust fund that is inadequate and will likely become insolvent. Numerous experts have concluded that the cost of the program will exceed the amount allotted for the trust fund. Mr. President, \$140 billion sounds like a lot of money, but, remember, 27.5 million American workers have been exposed to asbestos. This does not include, as I have indicated, people living in the neighborhoods, the spouses, children.

The Congressional Budget Office has estimated the program could generate at least \$10 billion more in claims than the trust fund is designed for. But even that figure understates the problem because the bill does not adequately take into account the trust fund's borrowing costs, further depleting the compensation available to victims. And that is what they are, victims. The Congressional Budget Office estimates that approximately \$8 billion would be required in the first decade, an amount that will saddle the fund with a huge debt over the life of the program.

Other experts, though, say the bill is on even less solid fiscal footing. For instance, the Bates White economic consulting firm has concluded that the program will cost at least \$300 billion, and with certain contingencies could cost as much as \$600 billion. The General Accounting Office has recently issued a report describing how at least four other Federal trust fund compensation systems that were smaller in scope than this had trouble funding the shortfalls.

But even if the \$140 billion were adequate—and it is not—there is no guarantee the fund would raise that amount of revenue. The actual amount of revenue available to victims depends on the number of companies that actually contribute. Yet there is no definitive information available to Senators on the number or identity of the participating companies. We have talked about that before. Supporters of this legislation have asserted that there will be between 8,000 and 10,000 such companies, but the Congressional

Budget Office could identify only 1,700 participants. As a result, less than \$140 billion will be available for this fund. If revenues from the private sector are insufficient to fully fund the program, the only options for maintaining solvency of the fund will be to reduce compensation to injured victims or supplement the privately raised funds with tax dollars.

There is a long list of companies that have contacted Senators saying: Please, don't do this. But let me just give an example of a few. These are companies that are really old, some of them more than 100 years old. For example, there is a company called Okonite. They are the only company that makes wire in the country anymore. They have a few manufacturing plants around the country. The chief executive officer said: We'll go bankrupt. If you pass that legislation, there won't be an American company making wire anymore.

Hopeman Brothers, they are ship joiners. They work on big ships. They do finishing work on big ships. They said: We'll drop out. We'll go bankrupt.

Foster Wheeler is an engineering and construction firm: If you sign this into law, we go out of business. They have asbestos claims. They can handle them. One of the companies said: We budget every year what we are going to spend on asbestos claims. We can handle that. But we cannot handle this legislation. We'll go bankrupt.

There is a good argument that the Federal Government should contribute to the fund, since a large number of U.S. servicemen were exposed to asbestos. But that has not happened here. This bill does not tap Federal tax dollars in an honest, straightforward way. But that is what is going to happen if the trust fund is not sufficient. It establishes a private trust fund that will almost certainly become insolvent. As a practical matter, the Federal Government will be left holding the bag when things go wrong. A Federal bailout of a program of this magnitude would have enormous adverse consequences to the Federal budget. But with President Bush holding the records for the highest deficits in the history of the country, maybe we should not be concerned about this.

The structural problems with the trust fund relate to one of the bill's most fundamental flaws: its lack of transparency. From the outset, members of the Judiciary Committee and others asked for full disclosure of the names of companies that will be required to pay into the fund. According to press reports, the major lobbying firms that helped draft the bill possess documents listing the contributing companies and how much each would be required to pay. But this information remains unavailable to Senators and, of course, to the general public.

The Senate is entitled to such relevant information before debate begins, but we are not going to get it. There is no reason to waste the time of

the full Senate debating a bill with so many loose ends and so many unanswered questions and, I am frank to admit, a lot of answered questions. The budgetary concerns are reason enough to defeat the motion to proceed.

I have been contacted by five courageous members of the majority who are going to vote against the motion to proceed because they know this is a budget buster. And maybe others will come along. I have only been contacted by five. First, let me say this: Even if the trust funds were adequately funded, the system set up here is flawed for a number of reasons in compensating the poor, unfortunate individuals who get these diseases. Let me talk about a few of them.

The startup provisions provide that as soon as the bill is enacted, the ability of asbestos victims to obtain compensation in the court system is cut off. It also requires that bankruptcy trusts established to pay victims' claims be shut down, even before the fund is operational. The bill attempts to provide a mechanism through which terminally ill claimants will obtain payments in this interim period, but all other claimants, no matter how serious their illness or disability, would be left without a remedy for an indefinite period of time.

Second, the bill is unfair to victims with pending or settled court cases. I talked a little bit about that. Rather than permit asbestos claims to continue in court while the fund is being established, the bill imposes an immediate 2-year stay on nearly all asbestos cases. This is unfair. Exigent cases are no exception to a stay. They will be automatically stayed for 9 months from the date of enactment. The bill's language is so broad that a trial about to begin would be stopped, and an appellate ruling about to be handed down would be barred.

Third, the sunset process under the legislation leaves too much uncertainty for victims. If the fund fails to operate as promised, instead of allowing victims to return to court, S. 852 allows the administrator of the fund to recommend any number of measures to salvage the program. This means that victims may receive even less compensation or become subject to more stringent medical criteria to have their claims successfully approved.

Fourth, the bill requires some victims to prove that asbestos was a substantial contributing factor to their disease—a higher burden than victims must meet in court, where it is sufficient to show that asbestos exposure was a contributing factor, no matter how substantial a factor. The whole concept of a no-fault trust fund is that it is nonadversarial, but this higher burden of proof creates the potential for endless litigation and a high number of rejected claims.

Finally, I have serious concerns about the manner in which the FAIR Act treats lung cancer and silica diseases victims. Under this bill, an entire

category of lung cancer victims who were exposed to asbestos for 15 years or more cannot bring a claim. This bill would deny these victims their right to recover damages in court for their exposure and deny them benefits under the fund as well. This is an unacceptable affront to the rights of an entire class of asbestos victims.

As for the suffering from silica disease, this act limits recovery by individuals who have both asbestos disease and silica-related diseases. I know something about silicosis. My dad had it. He worked in the mines. I thought all kids' dads coughed the way my dad did, but they didn't. My dad was exposed to what we called at the time quartz silica. It is well known in Nevada, at the Tonopah mining camp, they would only hire, as they referred to it at the time, "foreigners" because they knew if they hired people who were nonforeigners in Tonopah, they would die. It was the worst of any place in the country. It was bad all over Nevada, so I know something about silica.

This legislation prevents someone who has both silica and asbestos exposure from going forward with their claim. The only recourse for victims of both diseases will be to seek compensation for their asbestos disease from the asbestos fund, but victims of silica-related disease, including those who have asbestos disease, should also have a right to seek redress in the courts. They should be able to do it because of their silica disease, silicosis. This is a particular problem in Nevada where many miners have contracted both silicosis and asbestosis.

In this and so many other ways, this bill does not meet the needs of my constituents or of the American people in general. I predict the bill's sponsors will attempt to answer my concerns and those of other Senators, as I have heard, by telling us there is going to be a managers' amendment to cure all of the problems of the bill. There will be so many problems with this bill that this managers' amendment will effectively be a substitute bill. I am reminded of the old English proverb—I don't know if it is an old English proverb—don't buy a pig in a poke. The sponsors of the bill should make the text of that managers' amendment available before we vote on the motion to proceed. The Senate should not vote to proceed on this asbestos bill and find itself debating a different asbestos bill.

Let's move the process along, some have said. We will fix the problems in conference with the House. Boy, we have heard that a lot of times. Some of us have been around here long enough to know that doesn't work. That gambit should be rejected. If the Senate decides to debate this bill, it should be one where we confront the tough questions now and get them right before the bill leaves the Senate.

I am convinced, unfortunately, that we are not ready to face these tough questions at this time. The committee-reported bill is too deeply flawed. We

don't have sufficient information to address these flaws through the amendment process. We owe asbestos victims and their families a better bill and a better process. The only proper course at this time is to defeat the motion to proceed.

I would say this: Again, the winners today are the 13 companies that paid \$144.5 million to take the much needed time of the Senate to debate these issues. But we are going to be wasting time on this very flawed piece of legislation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2005—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S. 852 is now pending.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I take strong offense to the statements made by the Senator from Nevada. His accusation that lobbyists are buying their way into the Senate is an outrageous violation of rule XIX, which provides that no Senator in debate shall directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

To say that this bill, which Senator LEAHY and I have led for the better part of the last 3 years, is the result of lobbyists "buying their way into the Senate" is slanderous. That is a violation of rule XIX. It may be that the Senator from Nevada is used to slander, is used to libel, because that is what he did recently to 33 Senators. Regrettably, nobody has challenged him under rule XIX.

Rule XIX relates to what is done on the floor of the Senate, but in this day and age of debates outside the Senate, of debates on television and radio and in the newspaper, 33 Senators were victimized by the Senator from Nevada, who then scribbled out a form apology letter which was meaningless in the context of what was done. And to talk about lobbyists buying their way onto the Senate floor is an outrageous distortion of what has happened on this bill.

The fact is, over the course of the last 2½ years, there have been 36 meetings held in my office, attended by people who have an interest in this legislation or their representatives. The AFL-CIO was there. Trial lawyers were there. Representatives of the manufacturers and representatives of the insurers and anybody else who wanted to come in were welcome. I didn't see the Senator from Nevada there once.

He has talked about the bill in a rambling, disconnected way, which proves

only one thing, and that is that he doesn't know anything, really, about the bill. He talks about how the Congressional Budget Office has issued a report saying that it would cost between \$120 and \$135 billion. Under certain contingencies, it might go to \$150 billion—unlikely. The figure really established was \$132 billion.

He talked about the Bates White report which includes people without any exposure. He wasn't in attendance at the hearing we had during which the CBO came in and filed a supplemental report on the adequacy of the \$140 billion. That figure is not a concoction of ARLEN SPECTER; that figure was negotiated by Senator DASCHLE and by Senator FRIST because they concluded that figure was the accurate figure to take care of these claims.

When the Senator from Nevada talks about all of the other subjects which could be taken up, he suddenly became interested in LIHEAP, importuning Senators from cold States that LIHEAP should be taken up instead of the asbestos bill. And when he talks about wind power and the debt and every subject virtually under the sun—no real interest in LIHEAP until it is a diversion from the asbestos bill. I have been around here a while, a little longer than the Senator from Nevada, and I never saw so many red herrings at one time. It could fill an entire aquarium.

What he is seeking to do is to obstruct. He has had a lot of practice at that. If he is successful in obstructing this bill from going forward, it will be a great travesty for the American people, for asbestos victims who are now not able to collect because their companies are bankrupt.

Not a word on what the Senator from Nevada had to say about 77 companies which have gone into bankruptcy. He talks about people with mesothelioma, fakes showing some concern while they and their dependents are going penniless because there is nobody to pay their claims. He says one size fits all. The great problem is, the Senator from Nevada doesn't know anything about the bill.

There has been a very carefully structured schedule of payments. When he says the veterans are against it, he is wrong. When he says labor is against it, we have a long list of labor unions. Senator LEAHY and I sat down with the leaders of the AFL-CIO and are working out the few remaining objections they have to the bill. When he talks about the managers' package, that is acceptance of amendments. We went through exhaustive and extensive hearings.

In regards to the 36 meetings which have been held in my office, we brought in a distinguished senior Federal judge, Edward R. Becker, who had been the chief judge of the Third Circuit, who accepted my request to mediate. Our meetings started in his chambers in August of 2003, right after the bill was reported out of the Judiciary Com-

mittee during the 108th Congress. And we have had, as I said, 36 meetings. I don't think Judge Becker can tell you how many meetings he has held individually because he can't count that high. I certainly can't tell you how many meetings I have had. But I have talked to individual Senators repeatedly, probably some 60 or 70 in this body, and when they hear what the bill is about, they are interested.

The one Senator whom I talked to who had absolutely no interest in the bill was the Senator from Nevada. All he wants to do is to block the bill. When he says this bill is not ready, this bill has been subjected to more analysis and more investigation and more consideration than any legislation I have seen in my 25 years here, and I think it is fair to say more analysis and more consideration than any piece of legislation that has been considered in the history of the U.S. Senate. Let me put it a different way: I challenge the Senator from Nevada or anybody else to cite a piece of legislation which has had more analysis and more consideration.

This bill is more than ready to come to the floor. The difficulty was that when we reported it out last May 26, the business of the Senate was stacked sky high.

And try as he might, the distinguished majority leader, Senator FRIST, could not find time to bring it up. He put it on the agenda as the first legislative consideration of the 109th Congress in the second session. That is why we are here.

The arguments—the rambling statements made by the Senator from Nevada—I should not call them arguments. They don't rise to the level of being arguments. He talks about transparency. We know the individual companies in these various groups. We had to subpoena them to get them, but we have subpoenaed them. We do have the records.

When he talks about the lobbyists writing the bill, what an outrageous statement to make in the context of what Judge Becker and I and Senator LEAHY and others have done on this bill. To accuse us of being the pawns of the lobbyists is beyond slander, beyond insult. It is beyond outrage that those words should come from the mouth of the leader of the Democrats in this body.

When he talks about silicosis, the rights to sue for silicosis are maintained. It is a very rare situation where someone has both silicosis and an asbestos-related problem. But when you go to court and you make a claim under our tort system, you have to prove, in any case, whether you claim it is silica, or whatever the cause is, that there is not some other cause that is the causative factor of the ailment in question. We had a hearing on silicosis. I am sorry to hear about the family of the Senator from Nevada who suffered from silicosis. We had a very involved hearing on the matter. Do you

know who wasn't there? The Senator from Nevada—just as he was AWOL every other time when serious issues were under consideration.

Mr. President, I would like to stay here longer this afternoon. I will put the full text of a statement in the RECORD, which is an extensive analysis of this bill. Our phenomenal staff has been at work on this matter for months, led by two very fine lawyers, Seema Singh and Harold Kim, and by many on the Judiciary Committee. This statement I recommend to my colleagues to read if they want to understand the bill.

I would not spend too much time reading the CONGRESSIONAL RECORD on what the Senator from Nevada has had to say because there is no substance to anything he has had to say. When the charges are made here about the lobbyists buying their way into the Senate, Senator LEAHY is on the floor and he is the cosponsor of the bill. Senator KOHL and Senator FEINSTEIN voted the bill out of committee. I had heard this ridiculous talk about this being a product of K Street. Well, this Senator is not a product of K Street; neither is Senator LEAHY, neither is Senator FEINSTEIN. As far as Senator KOHL is concerned, he could buy and sell K Street himself without any sweat. So to talk about us being in the pocket of the lobbyists, I have not been treated like that since I came to the Senate. In fact, I have never been treated like that. I resent it. I call it a violation of rule XIX.

I hope the Senator from Nevada will abandon these tactics. There is enough objection and controversy and dissent in this body that we don't need personal attacks. I have to excuse myself, Mr. President, because—

Mr. REID. Mr. President—

Mr. SPECTER. Mr. President, I have the floor.

Mr. REID. I thought you were finished.

Mr. SPECTER. Again you thought wrong. You are in the habit of thinking wrong. I am in mid-sentence, but I am not surprised to be interrupted.

We have other business we are taking care of. I have to soon excuse myself to go to the Judiciary Committee hearing, where we are taking up the question of electronic surveillance, where we have been in session listening to the Attorney General since 9:30 this morning.

When the Judiciary Committee had taken up this bill, we took it up under very difficult circumstances. We started last year with the immediate job of confirming the Attorney General. The Senate went into session on the 109th Congress on a Tuesday, and we had the Attorney General in on Thursday and confirmed him in short order. Then we moved through the bankruptcy bill and the class action bill. Then we tackled the very tough problem of the filibusters, which had delayed the confirmation of circuit judges. We worked through that problem.

Then in the midst of all that, we had a series of hearings on a wide variety of issues: Miller, the New York Times reporter who was kept, and the business about identity theft. We worked through hearings on the tough immigration problem. Then we took up the issue of the confirmation of Chief Justice Roberts, where the staff of the committee worked through the month of August; then we took up the question of the confirmation of Justice Alito. We worked through the months of December and January. While people were globe trotting around the world, we were at work on those matters. And through it all, we have produced a bill that is solid. It is a bill which is designed to compensate thousands of victims of asbestos.

One thing the Senator from Nevada was right about: Mesothelioma is a killer. But the thing he is wrong about is that his position will allow these people to be killed without compensation, because their companies have gone bankrupt, some 77 of them. We have moved to this trust fund after decades and decades of work. I first saw this issue when Senator Gary Hart brought Johns Manville into my office in the early 1980s, 1982 or 1983, and this asbestos problem has defied solution, just defied solution—until Senator HATCH came up with the concept of this trust fund. Then the trust fund was increased in size from about \$90 billion to \$140 billion.

I didn't hear the Senator from Nevada object when the former Democratic leader, Senator Daschle, agreed with Senator FRIST that \$140 billion was the accurate figure. I didn't hear him object at all. The only time I hear him object is when there is some chance—and it is an uphill fight; I am prepared to concede that, but I am used to them. I am used to uphill fights. I might even say I enjoy them. But this is the first time this issue has come to the floor of the Senate. It has been languishing for decades, and I talked to no one who denies the basic fact that there is a problem that ought to be addressed. I think even the Senator from Nevada, with his vitriol and slander, implicitly concedes it is a major problem that ought to be addressed.

Now, a motion to proceed takes up the issue as to whether you ought to consider the bill. If the Senator from Nevada has valid amendments, I would like to see them. If he has a better bill, I would like to see that. I would vote for anybody's bill that is better than this one because we have to address the issue. When he talks about the Budget Committee, there are some technical problems here because the money goes through the Department of Labor, so it is a Federal expenditure, but it is not Government money; it is money contributed by the insurers and the manufacturers. There is no impact on the budget.

This bill is ironclad to eliminate any possibility of Federal funding. But if you want to use obstructionist tactics

and filibuster—the Senator from Nevada is good at that—if you want to use 60 votes to try to kill it on a motion to proceed, so be it. I know what the rules are here. But there is no reason not to proceed, and there is every reason to proceed. If you want to use the 60-vote technicality to sustain a budget point of order, you can do that, too. But there is no adverse impact on the Federal budget.

I regret I cannot stay and engage in this colloquy. I do have to get back to the Judiciary Committee.

I ask unanimous consent that the text of my full statement be printed in the RECORD.

Mr. President, again, this is S. 852, the Fairness in Asbestos Injury Resolution Act of 2005, FAIR Act, the successor to S. 1125 and S. 2290, the FAIR Acts of 2003 and 2004. My colleagues, Senator FRIST, Senator HATCH and Senator LEAHY, deserve enormous credit for the drafting of these acts and for the development of this legislation. There is a will in the Senate to enact legislation to end the ongoing rash of bankruptcies; to prevent the diversion of resources from those who are truly sick; to preserve jobs and pensions; and to solve the worst litigation crisis in the history of the American judicial system. The Senate plainly wants a more rational asbestos claims system, and I believe that this legislation offers a realistic prospect of accomplishing that result.

This legislation provides substantial assurances of acceptable compensation to asbestos victims and substantial assurances to manufacturers and insurers to resolve, with finality, asbestos claims. Over the past three decades, a solution to the asbestos crisis has eluded Congress and the courts. Some 77 companies have gone bankrupt, thousands of individuals who have been exposed to asbestos have deadly diseases—mesothelioma and other such ailments—and are not being compensated or because of the unfairness of the current system, see little of the awards they do win. A May 10, 2005, report released by the RAND Institute for Civil Justice estimates that nonmalignants make up about 90 percent of the litigation and most are unimpaired. According to RAND, the number of claims continues to rise, with over 730,000 claims filed already and some 200,000 pending. The number of asbestos defendants also has risen sharply, from about 300 in the 1980s, to more than 8,400 today and most are users of the product, not its manufacturers. These companies represent 85 percent of the U.S. economy and nearly every U.S. industry; including automakers, ship builders, textile mills, retailers, insurers, electric utilities and virtually any company involved in manufacturing or construction in the last 30 years.

Asbestos leaves many victims in its wake. First and foremost, the sick and their families have suffered and do not receive fair compensation in the tort

system. Asbestos victims filing claims receive an average of 42 cents for every \$1 spent on asbestos litigation. Today, 31 cents of every \$1 have gone to defense costs, and 27 cents have gone to plaintiffs' attorneys and other related costs.

The flawed asbestos litigation system not only hurts the sick and their chances of receiving fair compensation but also claims other victims. These include employees, retirees and shareholders of affected companies whose jobs, savings and retirement plans are jeopardized by the tide of asbestos cases. With asbestos litigation affecting so many companies, this also impacts the overall economy, including jobs, pensions, stock prices, tax revenues and insurance costs. According to a 2002 study by Nobel laureate Joseph Stiglitz, asbestos bankruptcies have cost nearly 60,000 workers their jobs and \$200 million in lost wages. Employees' retirement funds have shrunk by 25 percent.

In July 2003, the Judiciary Committee voted out S. 1125, a bill with numerous problems, largely along party lines, 10 yeas, 8 nays, 1 pass, in an effort to move the legislation. S. 1125 created the basic structure of the legislation, and made huge strides in working out the medical criteria. However, the bill foundered on other issues. In August, at my request, Judge Edward R. Becker, a Federal judge for 34 years, convened in his chambers in Philadelphia the so-called stakeholders; namely, manufacturers, labor, AFL-CIO, insurers and trial lawyers—to determine if some common ground could be found. Until the preceding May, Judge Becker had been the Chief Judge of the Third Circuit Court of Appeals and wrote the opinion in the asbestos class action suit that was affirmed by the U.S. Supreme Court.

From September 2003 through January 2005, there were some 36 stakeholder meetings held in my conference room, with Judge Becker as a pro-bono mediator, usually attended by 25 to 40 representatives with sometimes over 75 people present. I have also met 61 times since January 2005 with various officials from the administration, members of the Senate Judiciary Committee and their staffs, the Senate leadership and other Senators all in an effort to move this bill forward. Judge Becker and I have sought an equitable bill which took into account, to the maximum extent possible, the concerns of the stakeholders and to get their input on drafting of the bill. After analysis and deliberation, we found we could accommodate many of the competing interests.

This process commenced with the blessing of then-Chairman HATCH and Ranking Member LEAHY of the Judiciary Committee. This extended process allowed the stakeholders an extraordinary "hearing" process and really amounted to the longest "mark-up" in Senate history although not in the customary framework. We have had the

cooperation of many Senators. Senators HATCH and LEAHY have had representatives at all the meetings. The majority leader, Senator HATCH, and Senator LEAHY have addressed this "working group" at our meetings. Senator HATCH's and Senator LEAHY's representatives have been active participants at every meeting, as well as the members of the staffs of Senators BAUCUS, BIDEN, BROWNBACK, BURNS, CARPER, CHAFEE, CHAMBLISS, COBURN, CORNYN, CRAIG, DEWINE, DODD, DURBIN, FEINGOLD, FEINSTEIN, GRAHAM, GRASSLEY, HAGEL, KENNEDY, KOHL, KYL, LANDRIEU, LEVIN, LINCOLN, MURRAY, BEN NELSON, PRYOR, SCHUMER, SESSIONS, SNOWE, STABENOW, and VOINOVICH.

In 1997, the Supreme Court commented for the first time on the growing asbestos problem by stating, in the context of holding that asbestos litigation was not susceptible to class action treatment:

The most objectionable aspects of this asbestos litigation can be briefly summarized: dockets in both federal and state courts continue to grow; long delays are routine; trials are too long; the same issues are litigated over and over; transaction costs exceed the victims' recovery by nearly two to one; exhaustion of assets threatens and distorts the process; and future claimants may lose altogether. . . .

In the ensuing years with asbestos litigation increasingly choking the courts, the Supreme Court has repeatedly called upon Congress to act through national legislation:

In one case, the Court observed "the elephantine mass of asbestos cases . . . defies customary judicial administration and calls for national legislation."

A concurrence in the same decision found that the asbestos crisis "cries out for a legislative solution."

As recently as 2003, the Supreme Court reminded us that it had "recognized the danger that no compensation will be available for those with severe injuries caused by asbestos. . . . It is only a matter of time before inability to pay for real illness comes to pass."

Even though he dissented from the majority holding in that 2003 case, Justice Breyer observed: "Members of this Court have indicated that Congress should enact legislation to help resolve the asbestos problem. Congress has not responded."

The FAIR Act of 2005 is a response to the Supreme Court's many calls for national legislation to fix a broken asbestos litigation system. It is the product of these extensive negotiations among the key stakeholders. Throughout this process, the stakeholders reached important compromises that are now embodied in S. 852. The Judiciary Committee also spent a month marking up the bill last May during which time the committee accepted 75 amendments from both Republican and Democratic members. After extensive deliberation, the committee reported the bill favorably on May 26, 2005 on a strong bipartisan vote of 13-5.

The concept of a trust fund is an outstanding idea. Senator HATCH deserves

great credit for moving the legislation in the direction of a trust fund with a schedule of payments analogous to workers' compensation so the cases would not have to go through the litigation process. Under this proposal, the Federal Government would establish a national trust fund privately financed by asbestos defendant companies and insurers. No taxpayer money would be involved. Asbestos victims would simply submit their claims to the fund. Claimants would be fairly compensated if they meet medical criteria for asbestos induced illnesses and show past asbestos exposure. The trust fund would guarantee compensation for impaired victims.

Through a series of meetings with Judge Becker, we have wrestled with and have been able to solve a number of very complex issues. The size of the trust fund was always a principal issue of dispute, starting at \$108 billion. The manufacturers/insurers raised their offer to \$140 billion. In October 2004, Majority Leader FRIST and then-Democratic Leader Daschle agreed to \$140 billion. When Senator FRIST and Senator Daschle, in an adversarial context, agreed to the adequacy of the \$140 billion figure, it is difficult to exceed it even though the AFL-CIO did not contemporaneously agree.

It is not possible to say definitely what figure would be adequate because it depends on the uncertainty of how many claims will be filed. There is support for the adequacy of the \$140 billion figure from reputable projections, including the Congressional Budget Office cost estimate.

Since this bill was discharged from this committee in May, new reports analyzing the bill have been published—such as the CBO report and the Bates White report. In late August 2005, the non-partisan Congressional Budget Office issued its analysis of the bill. In its report, the CBO predicted that asbestos claims and award values could fall anywhere between \$120 to \$150 billion, and as a middle of the road assessment, concluded that the fund would likely payout \$132 billion over the life of the fund. It was reassuring to see CBO project \$132 billion as adequate to pay the claims in a contest where there are so many variables that do not lend themselves to precise projections or predictions. Even in the range of that uncertainty, the CBO has estimated that claims could be as low as \$120 billion and no higher than \$150 billion so that our legislation with \$140 billion is reasonable and realistically calculated to cover the claims, especially in the context with the provisions for review of medical criteria and award values to reduce expenditures or increase contributions in the trust fund.

In September 2005, the analysis by the Bates White firm concluded the proposed fund would face claims of between \$301 billion and \$561 billion, projecting that claimants with lung and other cancers, would inundate the fund. A hearing on this issue was held

by the Judiciary Committee on November 17, 2005. During the hearing we heard testimony on both sides of the issue. The Bates White study proved to be fatally flawed for reasons detailed at that hearing. Thus, in December 2005, CBO confirmed its original cost estimate, reaffirming that \$140 billion would be sufficient to cover claims filed for compensation under the trust fund.

The real safety valve, if the fund is unable to pay claims, is for the injured to have the ability to go back to court if the system is not operational and able to pay exigent health claims within 9 months after enactment, and all other valid claims within 24 months of enactment. Upon reversion to the tort system, the bill provides that claimants may file suits either in Federal Court or State Court in the State in which the plaintiff resides or State courts where the asbestos exposure took place. Forum shopping has been eliminated.

The claimants object to any hiatus between access to the courts and an operating system; but the reality is that court delays are customarily longer than the delay structured in this system. The defendants and insurers object saying it is too short a time frame, but they have the power to expedite the process by promptly paying their assessments. Leaders of the Manville Trust and the RAND Institute study provide a solid factual basis that the volume of claims can be efficiently administered by the fund administrator using a technique developed by the Manville Trust and other similar claims facilities that have processed asbestos claims for many years. The Manville Trust has processed as many as 150,000 claims per year. The number of exigent claims anticipated in the first 9 months of the fund is vastly smaller and even the total number of claims anticipated in the first 24 months is significantly less than which the Manville Trust has handled in a comparable period. Additionally, the bill provides the administrator with the option to contract out the exigent claims to a claims facility for expedited processing under the standards of the fund on a voluntary basis. The short time frame will prod the system to become operative at an early date. The bill sends the claims back to the fund as soon as it is certified operational with a credit for any payment of the scheduled amount.

Similarly, the defendants seek a commitment that the legislation will bar return to the courts for at least 7½ years. It is hard to see how the substantial fund would be expended in a lesser period. Here again, the legislation gives the defendant substantial assurances that the system will last at least 7½ years. If it collapses, the claimants should not bear the burden, but should reclaim their constitutional right to a jury trial. However, sunset

cannot take place before there is an extensive and rigorous "program review." This would give the administrator an opportunity to refashion the program to compensate for any major shortcomings.

The claimants sought \$60 billion in startup contributions within 5 years and the defendants countered with a maximum of \$40 billion. The fund's borrowing power should enable it to borrow at least the balance of \$20 billion because of the defendants continuing substantial financial commitments. Here again, the bill meets the standard of substantial assurances that \$60 billion will be in hand within the first 5 years.

A key issue for the claimant has been that of workers' compensation subrogation. This issue is important because the value of an award to the claimant depends on whether the claimant may have to pay a substantial amount of it to others. While the precise picture is different from State to State, in general, workers' compensation laws give employers, and their insurance carriers, subrogation rights against third-party tortfeasors and a lien on the injured employee's recovery from a third-party tortfeasor. This is a big issue because workers' compensation covers the employees' medical costs.

We closely examined and considered including a proposal that would have called for a so-called workers' compensation "holiday." Such a proposal would have provided for a "holiday" from worker's compensation payments during the period of receipt of payments from trust fund except to the extent that the compensation would exceed them, with a waiver of past and future subrogation. However, as each State has different workers' compensation laws, we concluded that such a proposal could go beyond the practice in a number of States, leaving some claimants with a significantly reduced award.

Furthermore, claimants assert, with a substantial basis that the award values in the bill were designed with the understanding that there would be no liens or rights of subrogation against the claimants based on workers' compensation awards and health insurance payments.

Therefore, after substantial analysis, we have determined that to be fair to victims, claimants should be allowed to retain both their fund awards and workers' compensation payments. It is important that the bill must extinguish any liens or rights of subrogation that other parties might assert against the claimants based on workers' compensation awards and health insurance payments.

Another key issue for the claimants has been the legislation's treatment of asbestos disease claims under the Federal Employers' Liability Act, FELA, the workers' compensation system for rail workers. Earlier versions of the bill would have preempted FELA

claims for asbestos-related diseases, limiting victim's recovery to compensation under a national asbestos trust fund. Rail labor asserts that such an approach is unfair to rail workers, since for all other workers, the bill maintains workers' compensation rights. Alternative approaches to dealing with the FELA issue have been proposed, including providing for a supplemental payment, in addition to awards under the bill, to provide compensation to rail workers for work-related asbestos diseases. The AFL-CIO's affiliates which represent workers in the rail industry have been engaged in discussions with industry on this issue, and a fair resolution has been reached. The bill provides for a principled compromise that would allow for a special adjustment for railroad workers so that the compensation award would be structured in a manner that would allow for corollary benefits—similar benefits for workers under FELA and workers compensation. It also clarifies that this legislation intends to deal solely with asbestos claims and does not in any manner impact FELA.

In these marathon discussions, plus four committee hearings on the issue in 2005, we understand the deep concerns expressed by the stakeholder representatives on more concessions for their clients. On the state of the 20-year record, this choice is not between this bill and one which would give their clients more concessions. The choice is between this bill and the continuation of the present chaotic system which leaves uncompensated thousands of victims suffering from deadly diseases and litigation driving more companies into bankruptcy.

We considered at length the manufacturers/insurers objections to medical screening, but concluded such a provision was necessary as an offset to the reduced role of claimant's attorney. With the previous potential of a substantial contingent fee, claimants' attorneys identified those damaged by exposure to asbestos. Absent that motivation, with the attorneys' fees capped at 5 percent, it is reasonable to have routine examinations for people who would not be expected to go for such checkups on their own; so as a matter of basic fairness, such screening is provided. By establishing a program with rigorous standards, as we have done in this bill, unmeritorious claims can be avoided with the fair determination of those entitled to compensation under the statutory standard.

The legislation has closely examined the issues of so-called "leakage" in the fund and has provided that all asbestos claims pending on the date of enactment, except for non-consolidated cases actually on trial, and except cases subject to a verdict or final order or final judgment, will be brought into the asbestos trust fund. Furthermore, only written settlement agreements, executed prior to date of enactment, between a defendant and a specifically identifiable plaintiff will be preserved

outside of the fund; the settlement agreement must contain an express obligation by the settling defendant to make a future monetary payment to the individual plaintiff, but gives the plaintiff 30 days to fulfill all conditions of the settlement agreement.

We have also included in the legislation language designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the act must be brought in the United States District Court for the District of Columbia. The bill also authorizes direct appeal to the Supreme Court on an expedited basis. An action under this section is to be filed within 60 days after the date of enactment or 60 days after the final action of the administrator or the commission giving rise to the action, whichever is later. The District Court and Supreme Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

Claimants also expressed the need for assurances on the manufacturers payment into the fund. Therefore, S. 852 requires enhanced "transparency" of the payments by the defendants and insurers into the fund. The proposal provides that 20 days after the end of such 60-day period, the administrator shall publish in the Federal Register a list of such submissions, including the name of such persons or ultimate parents and the likely tier to which such persons or affiliated groups may be assigned. After publication of such list, any person may submit to the administrator information on the identity of any other person that may have obligations under the fund. In addition, there are enhanced notice and disclosure requirements included in the legislation. It also provides that within 60 days after the date of enactment, any person who, acting in good faith, has knowledge that such person or such person's affiliated group would result in placement in the top tiers, shall submit to the administrator either the name of such person or such person's ultimate parent; and the likely tier to which such person or affiliated group may be assigned under this act.

As I have mentioned previously, this legislation deals with a number of very complex issues, one of them being that of "mixed-dust." We held a hearing in the Judiciary Committee on this issue on February 2, 2005. The manufacturers fear that many asbestos claims will be "repackaged" as silica claims in the tort system. Evidence adduced at the hearing reflects that this has been happening in a number of jurisdictions. If a claim is due to asbestos exposure at all, the program should be the exclusive means of compensation. The stakeholders agree that this is an asbestos bill, designed to dispose of all asbestos claims but that workers with

genuine silica exposure disease ought to be able to pursue their claims in the tort system. The problem is that with those claims where the point of demarcation is unclear. Silica/asbestos defendants are worried that they will find themselves in court with the burden of proving that the plaintiffs injury is due to asbestos rather than silica. S. 852 makes clear that pure silica claims are not preempted, but claims involving asbestos disease are preempted. A claimant must provide rigorous medical evidence establishing by a preponderance of evidence that their functional impairment was caused by exposure to silica, and asbestos exposure was not a significant contributing factor. Although this does impose the burden on the claimant, this is no different than the burden the plaintiff or any party advancing a position has in producing medical evidence in any case that the physician will state that a disease was caused by some condition or exposure or that it was not caused by some condition or exposure. In addition, the testimony given at the February hearing on the issue established that asbestos and silica are easily distinguishable on x ray and that asbestos and silica rarely are found in the same patient.

Another very complicated issue I have addressed in my legislation, at the request of the claimants, is that of providing for award adjustments for exceptional mesothelioma cases based on age and the number of dependents of the claimant. For example, a mesothelioma victim who is 40 years old with two children will be able to get an upwards adjustment in his award amount as compared to a 80 years mesothelioma victim with no dependents. The impact of such adjustments to the fund will remain revenue-neutral.

There has been a strong concern that this bill should not become a "smokers" bill rather than an asbestos bill—that thousands of smokers will claim to be in the level VII compensation tier in order to get money even if asbestos had nothing to do with their disease. After long discussions with the various sides, it has been decided to remove level VII cases from the fund, cases which had the potential to bring down the entire fund.

There has also been a concern with the legitimacy of the level VI compensation tier. We requested that the Institute of Medicine, IOM, commence a study to assess the medical evidence so as to determine whether colorectal, laryngeal, esophageal, pharyngeal or stomach cancer can be caused by asbestos exposure. The IOM will conclude its study of level VI causation by April 2006. With a 270-day stay on exigent cases and 2-year stay of all other cases, this has the practical impact of the IOM study results being conclusive on inclusion or exclusion of level VI prior to any claim being filed.

Therefore, the bill retains the level VI tier pending the IOM study conclusions but continues to provide exten-

sive safeguards to the fund against those individuals with these diseases making claims against the Asbestos Trust Fund. Any level VI claim must be based on findings by a board-certified pathologist accompanied by evidence of a bilateral asbestos-related nonmalignant disease; evidence of 15 or more weighted years of substantial occupations exposure to asbestos; and supporting medical documentation establishing asbestos exposure as a contributing factor in causing the cancer in question. The claim must also be referred to a physicians panel for a determination that it is more probable than not that asbestos exposure was a substantial contributing factor in causing the other cancer in question. Further, the bill mandates that the physicians panel review the claimants smoking history as opposed to "claimant may request."

The FAIR Act is a complicated bill, but one that is both integrated and comprehensive and reflective of a remarkable will to enact legislation. If this bill is rejected, I do not see the agenda of this Senate Judiciary Committee revisiting the issue. I cannot conceive of a more strenuous effort being directed to this subject that has been done over the past 2½ years. This is the last best chance.

I remain confident that during debate on the Senate floor, we can forge and enact a bill that is fair to the claimants and to business and that will put an end once and for all to this nightmare chapter in American legal, economic and social history. If we can summon the legislative will in a bipartisan spirit, it can be done. Anything less would preserve the injustices of a system that even the highest Court of this country has called upon the Congress to fix.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, I want to make sure the record reflects that I have the highest regard for PAT LEAHY and ARLEN SPECTER. If I in any way embarrassed them or hurt their feelings, I am sorry I did that. Certainly, it was nothing I said that indicated they did anything that was unbecoming regarding this legislation. That is how I feel. But that doesn't take away from the fact that I think it is outrageous that these 13 companies spent \$144.5 million lobbying this legislation. I will not get away from that.

We need lobby reform in this country. We need to start on that right now. I want to make sure the record reflects this also. The week before last, my communications center put out a piece of mail I didn't see. It went out—and that is not much of an excuse, but it is true. The minute I learned about it, I wrote a letter. It was as close as anything I could do from my heart. What I did in not reading that letter before it went out from my office is wrong. I take full blame for that. But anything in that letter—I mean, to show you, Mr. President, there was a

derogatory statement about my friend from Nevada, Senator ENSIGN. As everyone knows here, I would never say anything negative about him. We may disagree on legislation, but I would never say anything in a negative way about him. He was one of the 33 mentioned in that letter. So I apologized to him and to all 32 others. I meant that. It was wrong what I did, but I have said that.

I am sorry my friend from Pennsylvania raised that. I did the best I could in resolving that as an issue, putting that to each of those Senators, saying I am sorry. I received phone calls from a number of Senators and I have had personal meetings with them. They accepted my apology.

Also, we should not do things on a personal basis here, and I didn't do that. I complained bitterly about this legislation. I cannot stand this legislation, and contrary to what my friend from Pennsylvania says, I pretty well understand it. Maybe I don't understand it as well as he does, but I understand it. Everything I said about this legislation in my remarks is meant by me. I meant every word I said.

For the Senator to disparage me because I didn't attend the Judiciary Committee hearing, I am not a member of the committee. If I spent my time, or the Presiding Officer did, going to committees we don't belong on, it would make for a very difficult scene around here.

I disagree with my friend, the Senator from Vermont, Senator LEAHY, on this legislation. I think it is misguided legislation. But he did it and I have talked to him personally about how I think it is bad. He told me where he thinks it is good. We disagree. I asked the assistant Democratic leader, Senator DURBIN, to be the floor manager on this because he and I and the vast majority of the Democrats oppose this legislation.

I am sorry the Senator from Pennsylvania thought my remarks were rambling and disconnected. I guess it is up to the people who watch this—not my friend from Pennsylvania—to determine whether it is rambling and disconnected. If the Senator thinks I was in some way disparaging him, I certainly didn't mean it. I am disparaging this legislation. I think it is bad legislation, and I think the people it hurts more than anybody else are the victims.

The distinguished Senator from Pennsylvania said I have no interest in this legislation. Why would I be here if I have no interest in the legislation? I have an interest. It is different than his. He says I fake concern about this. I am sorry he feels that way. I am concerned about this legislation.

For the reasons I have enumerated in my opening statement, I think this is a bad piece of legislation that is not good for the American people.

The bankrupt companies—of course, I am concerned these companies went bankrupt. For example, U.S. Gypsum is

out of bankruptcy. It has made a settlement. It has settled with all the claimants for under \$1 billion. But it is interesting. They have said, coming out of bankruptcy and their settlement, if this legislation passes, they will have to contribute \$3 billion to this fund. I would rather U.S. Gypsum contributed money to any trust fund than all these many companies I talked about, three of whom have been in business for many years and have said they are going to go into bankruptcy.

I believe, as far as saying some unions favor this legislation, there are a few—very few, such as the United Auto Workers. I have a letter, which I ask unanimous consent be printed in the RECORD, from the AFL-CIO. They oppose this legislation.

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

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, February 2, 2006.

DEAR SENATOR: I am writing to outline the AFL-CIO's concerns about the Fairness in Asbestos Injury Resolution Act of 2005 (S. 852), legislation that will have a direct impact on millions of workers exposed to asbestos.

On May 24, 2005 we wrote to Senators to express our view that S. 852 contained important deficiencies that would deny fair and timely compensation to tens of thousands of asbestos victims. With the bill headed to the floor, perhaps as early as next week, I am writing to restate these objections with the hope that they will be addressed before the Senate completes action on the bill. Though several AFL-CIO affiliates have recently expressed support for the bill, a majority continue to feel that unless these issues are satisfactorily resolved, the asbestos trust fund will fall short of its promise to fairly compensate the victims of this devastating disease.

First, we remain deeply dismayed about the bill's start-up provisions, where the interests of defendants who are responsible for the disease crisis have become paramount and the needs of victims have become a secondary consideration. Addressing the so-called "leakage" to the tort system has become more important than ensuring just compensation for those who are sick.

As currently amended, S. 852 places the burdens and risks of the fund's start-up squarely on the shoulders of those who are sick. If S. 852 becomes law, by any realistic estimate it will take more than a year—and very possibly several years—to put in place the procedures, and retain and train the personnel necessary to properly administer not only the new claims procedure, but also the complex mechanism established under the bill for assessing and collecting contributions from defendants and insurers. As recent experience has amply demonstrated, the infrastructure necessary to properly operate a major new program of this magnitude simply cannot be created overnight. Under S. 852, however, the ability of asbestos victims to obtain compensation through the current system is cut off immediately upon enactment. Not only are provisions eliminating access to the courts for asbestos victims effective as soon as the bill becomes law, the bill also provides for immediate shutdown of the so-called "524(g)" bankruptcy trusts established by companies like Halliburton and Johns Manville to pay asbestos claims—trusts that are currently providing com-

pensation to tens of thousands of asbestos victims per year, using funds specifically set aside in bankruptcy proceedings expressly for the purpose of paying asbestos claims.

The bill attempts to provide a mechanism through which terminally ill claimants will be able to obtain payments during the period before the new fund is fully operational, but all other claimants, no matter how serious their illness or disability, can be left without a remedy for an indefinite period of time. If the fund is still not operational after 24 months, the bill ostensibly gives those claimants the right to pursue their claims in court. But that right is in fact illusory, since if and when the fund does become operational the right to proceed in court will again be extinguished, making it impractical for claimants to pursue that option. And because the bankruptcy trusts are eliminated as of enactment, that remedy will remain unavailable. Thus, the practical effect of the bill will be to leave non-exigent claimants with nowhere to go to obtain compensation for their illness until such time as the fund is able to process their claims, no matter how long that takes. Using CBO estimates, by 2008 the number of sick claimants in this situation could number more than 110,000.

In our view, it is unfair to leave victims with serious illnesses without any remedy in this manner. The uncertainty associated with the start-up of the fund should be borne by those responsible for the asbestos disease crisis—the defendant companies—not asbestos disease victims. At a minimum, the bill should permit the asbestos bankruptcy trusts to remain in place to pay all impaired claimants who qualify under those trusts, until the national trust fund is fully operational.

Second, S. 852 unfairly restricts the legal rights of victims with silica disease. It establishes medical criteria for lawsuits by individuals who have both asbestos-related disease and silica-related disease, which will bar many of them from seeking compensation for their silica-related injury. The only recourse for victims of both diseases will be to seek compensation for their asbestos disease from the asbestos fund—which in most cases will be limited to \$25,000 for Level II "mixed disease." This legislation should not be a tort reform bill for silica disease. All victims with silica-related disease, including those who also have asbestos disease, should have the right to seek redress in the courts for their silica injury, with any damages limited to the injury attributable to their silica exposure.

Third, the sunset provisions of the bill are also problematic and unclear. While the bill provides for a return to the tort system in the event the trust fund has insufficient funds, as drafted the bill does not provide for an orderly process for anticipating and working to correct identified problems before reaching the point where the fund would be forced to shut down. In addition, in the event of reversion, some claimants would be barred from returning to court due to problems with provisions on post-sunset statute of limitations and language limiting the legal venue where claims may be brought. A provision added at mark-up that relieves insurers of their guaranteed funding obligation creates another major problem. This provision undermines the funding formula, borrowing authority, and sunset determination and may leave the fund with a shortfall it cannot make up.

Fourth, the bill completely cancels legal and otherwise binding settlements unless (a) they are signed by the individual plaintiff and the "settling defendant" before the enactment date and

(b) within 30 days after enactment, all parties complete all required performance, ex-

cept making payments. Because nothing requires the "settling defendant" to sign the agreement or to complete performance, this permits defendants to void their commitments. These settlements are legal commitments by defendants to provide compensation, in exchange for which plaintiffs have given up their legal rights. There is no justification for enabling defendants to abrogate those agreements, cancel payments to victims, many of whom have been waiting for years, and require the claimants to go back to square one and start a whole new process in the fund.

Fifth, we remain deeply concerned about the bill's overly broad definition of an asbestos claim. S. 852 is intended to provide an alternative remedy for personal injury claims related to asbestos, and preempts these claims from being pursued in the tort system. But rather than limit the bill's application to such claims, the bill defines asbestos claim very broadly, to include virtually any civil action that is directly or indirectly related to the health effects of exposure to asbestos, and then includes a list of the specific types of claims that are excluded. This overly broad definition of asbestos claim will have the unintended effect of preempting many civil actions related to asbestos that have nothing to do with personal injury claims. The definition of asbestos claim should be clear and limited to personal injury claims, which is the only type of claim for which the Fund will be providing compensation.

Sixth, while we support limits on attorneys fees, we believe that the hard 5 percent cap for all claims may not be sufficient for claimants with complex cases to obtain adequate legal representation, and that a different type of cap/fee limitation is needed for the Level I claims that do not have a monetary award. The AFL-CIO believes that the fee limitation should be applied to claims involving monetary awards and that the Administrator should be given the discretion to increase the attorneys' fee limit if experience shows that it is impeding the ability of claimants to secure compensation under the Act.

In addition to these long-standing issues, in the past several months new important information about potential claims and costs has become available from the Manville Trust and others that suggests that future mesothelioma cases, as well as the number of pending claims, maybe significantly higher than previously estimated. The Congressional Budget Office should conduct a full review of this new information so the Senate can have the most up-to-date cost analysis as it considers this legislation.

Throughout the legislative process, our goal has been to arrive at a bill that provides fair and timely compensation to victims through an efficient and workable process. We acknowledge that important improvements to S. 852 have been made, but more needs to be done before the bill can fulfill its promise to provide fair and timely compensation to the victims of asbestos disease.

Sincerely,

JOHN J. SWEENEY,
President.

Mr. REID. Mr. President, the final point I would like to say, through the Chair to the senior Senator from Pennsylvania, is I didn't mention LIHEAP in my statement. I didn't mention it at all, although it is something we need to take up, but for reasons I was discussing with Senator FRIST, I decided not to do that.

The other issues I meant to bring up but I didn't mention LIHEAP. That

didn't come from my mouth. LIHEAP is something we are obligated to do and do it as soon as we can. There has been a commitment made by the majority leader and me to a Senator from the majority that we would do something about that. But I didn't mention LIHEAP.

I know the Senator spent a lot of time on this. One of his friends, a classmate—I don't know what the relationship is, but it goes back many decades—Judge Becker, they spent a lot of time on this. I know this legislation means a lot to the Senator from Pennsylvania.

But just because this legislation means a lot to him doesn't mean I have to support it.

As much as I think of the Senator from Pennsylvania, which is a lot—I have had admiration for him and told him on many occasions. I am one of the few people who read his book, and I enjoyed reading his book. If I hurt the Senator's feelings—maybe that is the wrong word—I apologize.

Certainly, the Senator from Vermont and I know each other very well. I would never, ever intentionally do anything to embarrass or hurt his feelings. I say, through the Chair to my friend from Vermont, I don't like this legislation. It is bad, and I am going to do everything I can to stop this bill from going through. If I can't do it, then I am a big guy, and I understand a lot of times you don't win around here. But that doesn't take away my obligation of doing the very best I can to talk about this legislation. I am going to continue doing that. I don't like this legislation for the reasons set forth.

A final thing I would like to say is that I have given these estimates as to what is wrong with the bill from a dollar perspective. There are parts that I have read. I think I am right, and I think time will prove, without question, that \$140 billion is wrong, no matter if Senator FRIST or Senator Daschle, or whoever, agreed to this amount. Where the number came from, I don't know, but it certainly is not enough. Looking back a couple years ago when Senator Daschle was involved in this issue, maybe he at that time thought it was the right amount. I have disagreed, and I disagree now.

Again, so the record is clear, I don't mean to violate rule XIX, but I am going to continue pushing for reform. When legislation such as this requires 13 companies to spend \$144.5 million on lobbying activities, that is too much.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, very briefly, my feelings are not hurt. My feelings are an irrelevancy. If they were relevant, they still have not been hurt. My concern is for the feelings of the people who have been victimized by asbestos and have no one from which to collect.

I don't make any point about having done a lot of work on this bill. I don't do piecemeal around here. I do work on

a lot of bills. I do not personalize it at all. My thrust is strictly on the merits, on a way to fairly compensate victims, on a way to stop more companies from going into bankruptcy, on a way to stop the hemorrhaging of job losses, and a way to stimulate the economy. I make the submission of this bill strictly on the merits.

I compliment Senator LEAHY on what he has done on this bill, as well as his staff, in coming together and structuring the bill, again, in meeting after meeting and in discussion after discussion. What we asked our colleagues to do is to take a look at the merits. Don't be concerned about the work that we put into it, don't be concerned about our feelings; be concerned about the problem and about our suggested solution and about our openness to make changes. If anybody has amendments, we will consider them. If somebody has a better bill, we will consider that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, both the distinguished senior Senator from Pennsylvania and I have been tied up much of today in a matter involving wiretapping of Americans and other issues. We will be going back to that. I know the Senator from Pennsylvania is returning to the committee.

I am going to ask unanimous consent that the Senator from Illinois be able to have the floor for up to 30 minutes following me.

Before I make that request, if I may have the attention of the Senator from Pennsylvania or the Senator from Tennessee, I am going to make the request that the Senator from Illinois, Mr. DURBIN—we are all at the same hearing—that the Senator from Illinois, Mr. DURBIN, who has a position different to that of mine and the Senator from Pennsylvania, that he be recognized for up to 30 minutes once I complete my comments, unless, of course, either of the leaders object.

The PRESIDING OFFICER (Mr. BURR). Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I have a statement to make following the remarks of Senator LEAHY.

Mr. LEAHY. Mr. President, I ask unanimous consent then that after the distinguished Republican leader, the distinguished Senator from Illinois be recognized.

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

Mr. LEAHY. Mr. President, there has been some question about—and I think I am fortunate—comments suggesting motivation of veterans who support this legislation. A lot of veterans support this legislation. A lot of veterans have been badly damaged by exposure to asbestos, and they have no way of seeking compensation except in this legislation.

A lot of labor unions feel the same way. These are not the so-called K Street lobbyists, these are not special interests; these are people who care about those they represent, the veterans they represent, the workers they represent.

I ask unanimous consent that these letters of recommendations be printed in the RECORD, and I will name them:

A letter from the Military Order of the Purple Heart, another signed by the Air Force Sergeant Association, American Ex-Prisoners of War, Blinded American Veterans Foundation, Blinded Veterans Association, Fleet Reserve Association, Jewish War Veterans of the USA, Marine Corps League—my son is a former marine—Military Officers Association of America, National Association of Black Veterans, Non-commissioned Officers Association, National Association of Uniformed Services, National Association of State Directors of Veterans Affairs, Paralyzed Veterans of America, Pearl Harbor Survivors Association, Retired Enlisted Association, Veterans of the Vietnam War, Inc., Veterans of Foreign Wars of the United States, Women in Military Service for America, Memorial Foundation, Inc., the U.S. Submarine Veterans, Inc., Lockwood Internet Base, U.S. Submarine Veterans of World War II, U.S. Submarine Veterans Base Rhode Island, U.S. Submarine Veterans World War II Thames River Chapter, U.S. Submarine Veterans World War II Central Connecticut Chapter, the UAW, the Heat & Frost Insulators & Asbestos Workers International, the International Union of Painters and Allied Trades, the Governors of Alaska, Arkansas, Michigan, Mississippi, Missouri, Montana, Ohio, Utah, and Vermont, and the National Federation of Independent Business, NFIB. Those are among some of those.

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

INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES,
Washington, DC, August 17, 2005.

Re: S. 852, the "Fairness in Asbestos Injury Resolution Act of 2005 (FAIR Act)"

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC

DEAR SENATORS SPECTER AND LEAHY: I write you today in regard to S. 852, the "Fairness in Asbestos Injury Resolution Act of 2005 (FAIR Act)". On behalf of 140,000 families represented by the International Union of Painters and Allied Trades, IUPAT, I would like to express our strong support for S. 852 in its current form and your continued efforts toward a bipartisan bill that will ensure true, just and fair compensation to current and future victims of asbestos exposure.

We appreciate all efforts to incorporate a number of key provisions and safeguards that have been advocated on behalf of workers who have been harmed by exposure to asbestos and who have been adversely affected by a current asbestos compensation system that is slow, costly, unfair and arbitrary. However, the IUPAT remains concerned

about potentially hostile amendments that may be offered on the Senate or House floor that would effectively undermine key provisions of the bill dealing with funding, medical criteria, awards, and other issues. We will continue to urge you, along with other Senate and House members, to reject any such amendments. Should any amendments be adopted that would undercut the progress made on this complex issue the IUPAT will have no other choice but to withdraw our support for the bill.

We feel the trust fund model is the best solution for addressing the asbestos compensation crisis workers and business currently face. After years of numerous stakeholder meetings, we are confident that our members' and all affected workers' interests are best protected by key provisions in your legislation as presently drafted. Of particular interest to us are provisions contained within your legislation that ensures fair compensation to asbestos victims with mesothelioma, lung cancer, or those victims who have impairment from asbestosis or asbestos exposure that includes objective medical evidence or markers of asbestos exposure that includes CT scan review; no delay for victims' access to the tort system in state or federal court if the trust fund becomes insolvent; protection for victims from insurance subrogation; a ban of asbestos in the United States; a medical screening program for high risk workers; and enforcement provisions to prevent needless exposure to asbestos by uninformed and unsuspecting workers.

It is our hope that the International Union of Painters and Allied Trades' support for S. 852, along with other labor organizations, businesses, employer associations, and victims' groups, will allow this bipartisan bill to receive strong backing in the Senate on final passage and will therefore assure that the Senate passed bill with the aforementioned key provisions is accepted and passed by the House of Representatives.

Thank you for your continued efforts in dealing with this important issue.

Sincerely and fraternally,

JAMES A. WILLIAMS,
General President.

OCTOBER 7, 2005.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.
Hon. HARRY REID,

Minority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST AND MINORITY LEADER REID: On July 18, the National Governors' Association approved a revised policy on Asbestos Litigation Reform. This policy calls for legislative action to address this continuing problem affecting states in a variety of ways.

America faces a crisis from asbestos litigation that continues to take its toll on the sick, their families, and our economy. Today there are hundreds of thousands of asbestos claims in the courts with tens of thousands of new claims filed each year. This is a unique legal situation that requires congressional action to alleviate this logjam of cases.

In addition to those who have become sick from asbestos exposure, the impact of the claims also hurts employees, retirees, shareholders, and customers of defendant companies, whose jobs and savings are jeopardized or lost. Our national economy also is hurt in the areas of jobs, pensions, stock prices, tax revenues, and insurance costs. We believe that this is truly a national crisis. Without a solution, more companies will be forced into bankruptcy, delaying and reducing resources available to pay those who are now sick or may become sick in the future.

We believe that it is time for Congress to respond to the Supreme Court's repeated

calls for a legislation solution to this crisis. Congressional enactment of legislation is imperative to ensure that those ill from exposure to asbestos-containing products and their facilities are fairly compensated and that defendant companies are financially secure so that they can pay present and future claims.

We understand S. 852, the "Fairness in Asbestos Injury Resolution Act of 2005," was voted out of the Judiciary Committee with a bipartisan 13-5 majority and is ready for action on the Senate floor. We urge you to schedule debate on this critical legislation as soon as possible.

Sincerely,

Governor Frank H. Murkowski, Alaska;
Governor Mike Huckabee, Arkansas;
Governor Jennifer M. Granholm,
Michigan; Governor Haley Barbour,
Mississippi; Governor Matt Blunt, Missouri;
Governor Brian Schweitzer,
Montana; Governor Bob Taft, Ohio;
Governor Jon Huntsman Jr., Utah;
Governor Jim Douglas, Vermont.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, DC, February 6, 2006

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of the 600,000 members of the National Federation of Independent Business, I am writing to express our support for S. 852, "The Fairness in Asbestos Injury Resolution (FAIR) Act of 2005." The FAIR Act will help protect innocent small-business owners from the asbestos litigation crisis that now threatens their business.

Asbestos lawsuits against small businesses are on the rise. After years of suing large corporations for multi-million dollar damage awards, "traditional" asbestos manufacturers and defendants are mostly bankrupt. As a result, asbestos litigation now targets companies far removed from any potential wrongdoing, including small businesses. This relatively untapped pool of defendants is an attractive target for trial lawyers since small-business owners and their insurers can be forced to pay millions of dollars in damages. Horrifying for a small-business owner is the prospect that they can be hauled into court without having any relationship to asbestos or the plaintiff. Many small businesses are forced to settle because they don't have the money or time to be away from their businesses. Not only do they face the stigma of having to settle, and the loss of time and money, but they will likely also experience higher insurance rates.

By creating an alternative compensation system to resolve asbestos claims, S. 852 will fix a badly broken system that is not working and, in the process, compensate victims faster. In addition to lawsuit relief, the legislation relieves small businesses with either low or no asbestos liability from having to pay into the compensation fund. No business that meets the Small Business Administration description of a small business can be required to pay a penny into the fund. Nor will any small business that has carried less than \$1 million in asbestos expenditures before December 31, 2002 have to pay into the fund.

This legislation will help prevent small businesses from having to spend the time and money to defend themselves in asbestos lawsuits. It takes a significant step towards fixing part of our litigation crisis that hurts business, big and small, and ultimately keeps the victim from receiving compensation.

Thank you for your support of small business.

Sincerely,

DAN DANNER,
Executive Vice President,
Public Policy and Political.

MILITARY ORDER OF THE
PURPLE HEART,
Springfield, VA, December 13, 2005.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of The Military Order of the Purple Heart (MOPH), I ask you to join our organization and roughly a dozen other national veteran service organizations and support passage of S. 852, the Fairness in Asbestos Injury Resolution (FAIR) Act.

Years after serving in the military, many veterans are now discovering they suffer from terrible diseases related to the asbestos they were exposed to during their time in the U.S. military. The government used asbestos materials in a number of facilities and crafts, affecting the health of the men and women serving before and after the Second World War.

The FAIR Act offers sick veterans a way to receive the compensation they deserve. Right now, it is difficult for veterans to turn to the courts for help with their asbestos-related medical costs. Veterans are barred by law from suing their employer (the federal government) for compensation. But by taking asbestos claims out of the court system, the FAIR Act will ensure veterans will have a speedy and just avenue for receiving compensation.

Senator Bill Frist, with bipartisan support; recently asserted that he will make the FAIR Act a top priority for the Senate in January. He clearly understands that the FAIR Act is the only viable solution for sick veterans. Passage of this bill would provide immediate and ample aid to veterans as well as other victims of asbestos exposure.

Please vote yes on the FAIR Act and help relieve the suffering and financial burden of our veterans.

Respectfully,

JAMES D. RANGLES,
National Commander.

JANUARY 31, 2006.

Hon. HARRY REID,
Democratic Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: Veterans across the country who are afflicted with asbestos-related diseases would at last get compensation and relief under the Fairness in Asbestos Injury Resolution (FAIR) Act. But according to a number recent media reports, you have labelled the FAIR Act as a bill that caters to special interests and have informed Majority Leader Frist in writing that you will oppose this critical legislation. In all frankness, your words and actions are extremely disappointing to veterans across this nation—surely you do not consider sick veterans to be a "special interest"?

The FAIR Act will provide proper compensation to sick men and women who volunteered to fight for our country—compensation they simply can't get under the current system. The military used asbestos throughout its facilities, bases, and ships during and after World War II, and countless veterans were exposed to this deadly material. But because the U.S. government has asserted sovereign immunity, these sick veterans are unable to seek compensation from the government through the courts.

The FAIR Act's victims' trust fund would open a door for veterans that has been closed for years.

We are disappointed that you are trying to keep that door closed and stop veterans from receiving the compensation they deserve. Sick veterans—and indeed, all victims—deserve better than political gamesmanship on this critical issue. We urge you not to stand in the way of full Senate consideration of this vital legislation.

The FAIR Act is more than overdue. The Senate has been debating these reforms for years. Sick victims, including sick veterans, shouldn't be forced to wait for help any longer.

Sincerely,

Air Force Sergeant Association.
American Ex-Prisoners of War
Blinded American Veterans Foundation.
Blinded Veterans Association.
Fleet Reserve Association.
Jewish War Veterans of the USA.
Marine Corps League.
Military Officers Association of America.
Military Order of the Purple Heart.
National Association of Black Veterans.
Non Commissioned Officers Association.
National Association of Uniformed Services.
National Association of State Directors of Veterans Affairs
Paralyzed Veterans of America.
Pearl Harbor Survivors Association.
The Retired Enlisted Association.
Veterans of the Vietnam War, Inc.
Veterans of Foreign Wars of the US.
Women in Military Service for America.
Memorial Foundation, Inc.
U.S. Submarine Veterans, Inc.
U.S. Submarine Veteran, Inc Lockwood Internet Base.
U.S. Submarine Veterans of World War II.
U.S. Submarine Veterans Base Rhode Island.
U.S. Submarine Veterans World War II Thames River Chapter.
U.S. Submarine Veterans World War II Central Connecticut Chapter.

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS
OF AMERICA—UAW.

Washington, DC, February 3, 2006.

DEAR SENATOR: Next week the Senate is scheduled to take up the Fairness in Asbestos Injury Resolution (FAIR) Act of 2005 (S. 852), sponsored by Senators Specter and Leahy. The UAW strongly supports this legislation. We urge you to support this critically important legislation, and to support cloture both on the motion to proceed and on the bill itself.

The UAW supports S. 852 because we are firmly convinced it would be far superior to the current tort system in compensating the victims of asbestos-related diseases. Under the existing tort system, many victims receive little or no compensation because those responsible for the asbestos exposure are bankrupt, immune from liability or can't be identified. Even when victims do receive some award, the litigation takes far too long, and the amounts are highly unpredictable. Far too much money is wasted on attorney fees and other litigation costs, or dispersed to individuals who are not impaired.

The Specter-Leahy bill would solve these problems by establishing a \$140 billion federal trust fund to compensate the victims of asbestos-related diseases through a streamlined, no-fault administrative system. This system will provide much speedier compensation to victims according to a predictable schedule of payments for specified disease levels that focuses compensation on those who have the most serious impairments. It will also guarantee that victims can receive adequate compensation, regardless of whether those responsible for the as-

bestos exposure are bankrupt or otherwise immune from liability.

The UAW strongly supports the provision in the Specter-Leahy bill that does not permit any subrogation against worker compensation or health care payments received by asbestos victims. We believe this provision is essential to ensure that victims receive adequate compensation, and do not have their awards largely offset by other payments. We strongly urge you to oppose any amendment that would undermine victims' compensation by allowing subrogation.

The UAW also urges you to reject any other amendments that would reduce or restrict eligibility for compensation for the victims of asbestos-related diseases. This includes any amendments that would strike medical monitoring or eliminate Level VI awards.

The UAW supports the provisions in S. 852 that require broad sections of the business and insurance industries to make contributions to finance the \$140 billion federal trust fund. We believe this broad-based, predictable financing mechanism is vastly preferable to the current tort system, which has already driven many companies into bankruptcy, and is threatening the economic health of other companies that used products containing asbestos, including the major auto manufacturers. Continuation of the existing tort system will inevitably lead to more bankruptcies, resulting in more lost jobs and wage and benefit cut backs for workers and retirees. However, to ensure that the financing mechanism in S. 852 remains equitable and workable, the UAW believes it is essential that the Senate reject any amendments that would severely narrow or cap the financing base and jeopardize the guarantee that \$140 billion will be made available to compensate asbestos victims.

The UAW recognizes that a number of specific concerns have been raised by other labor organizations about various provisions in S. 852. We are continuing to work for improvements in the legislation, and are hopeful that Senators Specter and Leahy will largely address these concerns in a manager's amendment.

However, the UAW does not agree with those who have taken exception to the 5 percent cap on attorney fees for monetary claimants. This cap ensures that asbestos victims will be adequately compensated, and not see their awards severely reduced by exorbitant attorney fees. This cap will not impede the ability of claimants to get adequate legal representation. Because S. 852 establishes a non-adversarial, no-fault administrative system, the difficulties and costs involved in bringing asbestos claims will be greatly reduced. Indeed, much of the work can be done by paralegals. We also believe that labor unions and other groups can help provide free or lower cost representation for asbestos victims by hiring staff attorneys and other professionals to process the claims under the no-fault administrative system. Through such mechanisms, asbestos victims can receive competent representation with little or no attorney fees being deducted from their awards.

Finally, the UAW recognizes that questions have been raised about the projections for asbestos claims and the solvency of the trust fund. We would note that most stakeholders agreed to \$140 billion in financing early last year. Although all of the projections are subject to some element of uncertainty, the UAW believes that the \$140 billion in financing is sufficient to enable the trust fund to compensate asbestos victims for a lengthy period of time. It is also important to remember that S. 852 provides for reversion of asbestos claims to the tort system in the event the federal trust fund should

ever have insufficient funds to pay all claims. While we hope these reversion provisions will never be triggered, they do provide assurance that victims will always have some recourse for seeking compensation.

It is easy for critics to point out shortcomings in S. 852. The UAW submits, however, that it is abundantly clear the asbestos compensation system established by the Specter-Leahy bill would be far preferable to the existing tort system. It would do a much better job of providing prompt, equitable compensation to asbestos victims. And it would finance this compensation through a rationale system that does not lead to bankruptcies that threaten the jobs, wages and benefits of thousands of workers.

For all of these reasons, the UAW strongly supports the FAIR Act, S. 852. We urge you to vote for this legislation, and to support efforts to invoke cloture on the motion to proceed and on the bill itself.

Thank you for considering our views on this vital issue.

Sincerely,

ALAN REUTHER,
Legislative Director.

INTERNATIONAL ASSOCIATION OF
HEAT & FROST INSULATORS & ASBESTOS WORKERS,

Lanham, MD, February 6, 2006.

DEAR SENATOR, We strongly support the courageous and bi-partisan work of Senator Arlen Specter (R.) and Senator Patrick Leahy (D.), co-sponsors of the Fairness in Asbestos Injury Resolution (FAIR) Act of 2005 (S. 852) which comes to the Senate Floor this week.

We support the Bill as presently drafted. We ask that you support the Bill as well.

Our U.S. Supreme Court has held that federal legislation is necessary to solve the asbestos compensation crisis—and we agree. Currently, only 42 cents of every dollar spent in this broken system goes to victims, their widows and kids.

I recently wrote our membership across the country to advise them of our support for this Bill, and to urge them to contact you in support of S. 852. I advised our membership that this Bill is not perfect. But nothing ever is when problems of this magnitude are addressed.

We believe S. 852 offers the best hope of providing fair and equitable compensation on a national basis for those who have suffered, or will suffer from the devastating effects of asbestos exposure in decades to come.

We urge you to reject amendments of special interest groups on either side of the issue that would change the core provisions of the Bill.

Such amendments can only be hostile to the interests of fundamental fairness and equity. We have promised our membership that we would fight vigorously to oppose any change that would make this Bill unfair or inequitable.

Very truly yours,

JAMES A. GROGAN,
General President.

INTERNATIONAL ASSOCIATION OF
HEAT & FROST INSULATORS & ASBESTOS WORKERS,

Lanham, MD, January 31, 2006.

DEAR BROTHERS AND SISTERS: The Fairness in Asbestos Injury Resolution Act of 2005 (Asbestos Bill S. 852) is scheduled to be brought to the floor of the United States Senate in early February of this year.

Bi-Partisan Co-Sponsors of S. 852: Senator Arlen Specter (R.) and Senator Patrick Leahy (D.): Nobody has worked harder than Senate Judiciary Chairman Arlen Specter (R.) of Pennsylvania and Ranking Minority

Member Senator Patrick Leahy (D.) of Vermont in trying to get a fair and equitable and bi-partisan Bill that helps those who have suffered the devastating effects of exposure to asbestos. These two courageous Senators have worked tirelessly during the last three years—to craft changes to the Bill after listening to reasonable suggestions from Labor, Business and Insurance negotiators.

Special interest groups on both sides of the issue have tried to derail their good work. But Senators Specter and Leahy have stood tall in search of an equitable legislative solution.

This office has actively participated in the negotiating process of this Bill over the last three years: Your International has been actively involved in extended and complicated negotiations to bring about this legislative solution. Our U.S. Supreme Court has held that legislation is necessary to solve the asbestos compensation crisis—and we agree.

Let us begin by stating that this Bill is not perfect. Nothing ever is. For the last 10-20 years the current asbestos compensation system has produced inequitable and unfair results. Tens of billions of dollars have gone to people who are not sick. This is wrong. The current system is broken, notwithstanding what special interest groups may claim. We believe this Bill offers the best hope of providing equitable compensation while expediting the compensation and review process on a national basis, regardless of where you live, or who your attorney might be.

Over 300,000 pending or current asbestos claims cry out for a fair legislative solution from Congress: Currently it is estimated that there are more than 300,000 pending asbestos-related claims. In a recent study by RAND, it was determined that only \$0.42 (42 cents) of every dollar spent on litigation is awarded to the actual victims, their widows and kids. A majority of the funds is paid to transaction costs, including lawyers' fees for corporations and claimants.

\$140,000,000,000 (\$140 Billion) trust fund for victims of asbestos induced mesothelioma, lung cancer and asbestosis under a no-fault system with set awards based on severity of disease: This Bill would establish a \$140 billion Trust Fund to compensate victims who are truly sick from asbestos exposure under a no-fault compensation system administered by the Department of Labor. Objective medical criteria that will rule in asbestos induced disease, and will rule out disease not caused by asbestos exposure has been negotiated and approved by us and medical experts we have retained. This legislation will offer the following expedited settlements:

Mesothelioma: \$1,100,000 per case; Lung Cancer with Asbestosis, \$600,000–975,000 per case, Lung Cancer with Asbestos Pleural Markers, \$300,000–725,000 per case, Disabling Asbestosis (not cancerous), \$850,000 per case, Asbestosis with Some Impairment, \$100,000–400,000 per case.

Attorneys' fees have been limited to 5 percent under the legislation. It is to be expected that lawyers who have received tens of millions of dollars in asbestos fees might voice some objection to the Bill. Insurance companies who will have to pay hundreds of millions of dollars into the Trust are likewise objecting to this courageous attempt by Senators Specter and Leahy to solve the asbestos compensation crisis.

The Pipefitters, Painters and United Auto Workers have joined with us: The leadership of the Plumbers and Pipefitters (the UA), the Painters (IUPAT) and the United Auto Workers (UAW), have joined with us in supporting this Asbestos Bill, S. 852. We believe the leadership of other trade unions will come to join us in the weeks ahead in support of this Bill.

Funding: We are aware of those who, in good faith, question whether \$140,000,000,000 (\$140 Billion) will be sufficient to fund the Trust to compensate all American victims of asbestos induced cancer and asbestosis. We share their good faith concern.

But there have been too many bankruptcies as a result of the current asbestos litigation crisis. If funding mandated under the Bill proves insufficient, the Bill provides that individuals may return to the court system and pursue a lawsuit in their State or Federal Court before a jury of their peers. This was a hard fought and fair compromise.

Let me close by saying that this International Union remains deeply committed to supporting a meaningful, comprehensive solution to our national asbestos litigation crisis. Be assured if we become aware of changes or amendments to this Bill that will be to the detriment of workers and their families, we will fight them, and will not hesitate to change our position if needed.

We urge you to contact your Senators to gain their full support for this legislation. Attached is a complete listing of Senators and their contact information for your convenience.

Faternally yours,

JAMES A. GROGAN,
General President.

TERRY LYNCH,
Political Director.

JAMES P. MCCOURT,
General Secretary-Treasurer.

Mr. LEAHY. Mr. President, I am pleased to join Senator SPECTER, who is chairman of the Judiciary Committee, Senator FEINSTEIN, and others in urging my colleagues to move to this bipartisan bill.

Speaking of asbestos-related diseases, it is time for us to solve this dire situation. Victims have been waiting long enough for a comprehensive national solution. We have looked at this. The Senator from Nevada spoke of those who have suffered from silicosis. If we are going to talk about families, my grandfather, Patrick J. Leahy, a stonecutter in Barre, VT, died of silicosis of the lungs long before I was born. I never got to know my grandfather. My other grandfather, Pietro Zambon, immigrated to this country from Italy. He died of the same disease. We are not neglectful in that. We are well aware of it. We have designed this bill in such a way that those victims are not shut out.

This legislation is a product of years of difficult, conscientious negotiation. Built on what was done last Congress under former Chairman ORRIN HATCH, we have crafted a fair and efficient plan that is going to ensure adequate compensation of thousands of victims of exposure, but it also gives due consideration to the businesses that should and will provide that compensation.

Asbestos has wreaked havoc on the lives of many, but it has also overwhelmed our Nation's court systems as it tries to compensate them.

We can talk about who gives and who doesn't. The fact of the matter is, the victims are the ones we should be most concerned about, and many of the victims—thousands of the victims in this country will get nothing unless this bill passes.

Senator SPECTER rightly calls this one of the most complex issues we have ever tackled. Look around the Chamber of the Senate. Of those who are here, I have been here the longest. Actually, only six Members of the current Senate have been here longer than I. I have not seen in that 31 years anything more complex.

Does that mean this is the bill I would have written? No. And it is not the bill Senator SPECTER would have written. It is a bill, though, that had to bring enough people together to pass. It should not surprise anyone to hear the interested groups, including labor, some of the businesses contributing to the trust fund, and their insurers, and the trial bar are each less than pleased with one part or the other. But that is the essence of legislative compromise, something I have learned in three decades.

We have kept the ultimate goal of fair compensation to the victims as the lodestar of our efforts. We have all had to make compromises on a variety of subsidiary issues to get this far, but we have achieved a significant and needed step toward a more efficient and more equitable method to compensate these victims. Right now, the fact is that only 42 cents out of every dollar spent on the burgeoning dockets of litigation in this area actually goes to the victims. That is a national disgrace. We can and must do better for all involved in this crisis. America can do better.

These victims need our help, and they need it now. This is, after all, one of the most lethal substances ever to be widely used in the workplace. Between 1940, when I was born, and 1980, more than 27.5 million workers were exposed to asbestos, and nearly 19 million of them had high levels of exposure over long periods of time. We know of some people who suffer from this illness because they washed the clothes of their loved ones who worked in these areas. They have been ravaged.

The economic harm caused by this, and the resulting bankruptcies, are a different kind of tragedy for everybody—for the workers and retirees, for shareholders, but also for the families who built these companies. In my home State of Vermont, the Rutland Fire and Clay Company is among the more than 70 companies that have declared bankruptcy due to asbestos liabilities. Do you think those victims are going to recover anything without this legislation?

The late Chief Justice Rehnquist declared the elephantine mass of cases cries out for a legislative solution. In additional opinions written by Justice Ginsburg, the Supreme Court has repeatedly called on Congress to act because "a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims."

I agree. Our committee chairman agrees. The Judiciary Committee members on both sides of the aisle agree, and we hope others in the Senate will agree.

I am worried when I hear veterans being criticized for supporting this. They are brave. They are concerned that they have been badly injured, and they know this legislation will help them. Why shouldn't they support it? These brave veterans know they are not going to get any help otherwise.

Does business support it? The 600,000 members of the National Federation of Independent Businesses do, as well as hundreds of larger companies which are going to have to contribute.

Senator SPECTER has spoken of this, but think what we do in our bill. It is a distinct improvement over previous bills. We provide higher compensation awards for victims, with \$1.1 million awards for victims of mesothelioma, \$300,000 to \$1.1 million to lung cancer victims, \$200,000 for victims of other cancers caused by asbestos, \$100,000 to \$85,000 for asbestosis, and \$25,000 for what we call mixed-disease cases, as well as medical monitoring and all the things he spoke of.

I am going to speak further on this as we go on. I suspect there will be more talk on it. But I hope Senators will allow this bill to go forward, will allow us to have a vote on it. As the Senator from Pennsylvania noted, we have other major things going on. I have been involved in that all day. I must admit, though, to the distinguished majority leader, if the Chair will permit me to note, I may have other things going on. We have other things going on in our family at this moment. I hope we are about to enlarge our family at this moment.

With that, I hope neither of our leaders will mind, but the senior Senator from Vermont is going to go home and hopefully sometime in the next few hours be together with the latest member of the Jackson and Leahy family.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, to my distinguished colleague, I know things will go well as a new member of the family is about to enter. It is a very special time in all of our lives when that happens.

I did want to come to the floor to give some perspective to what we have really seen play out over the last hour and a half with regard to addressing an issue that is important to the American people in ways they probably do not fully realize. It is the importance of taking up and addressing with full debate and amendment on the floor of this body the issue of reforming an asbestos system which is out of control. We have victims of cancer, victims of mesothelioma, victims of asbestosis, who are not being fairly compensated, who are struggling for that last breath before justice and fairness is carried out. That is because of a system which is broken, a system which has called out for fixing, not just in this Congress or the last Congress or the Congress before that but really over the last 15 years.

There has been some question on the floor today of why leadership has elected to bring this bill to the floor as the first major piece of legislation that really was not unfinished business before our last recess, and the reason is for these victims.

Yes, this bill is a jobs issue. It was stated earlier that over 150,000 people have lost their jobs because of this broken system; that over 77 companies have gone bankrupt, which means, yes, loss of those jobs but also loss of pensions for all the other employees of those companies. But I have to say that in part because I have had that opportunity to take care of mesothelioma patients as a physician and to operate on mesothelioma patients. It is a tough operation because you know you cannot cure mesothelioma, you can only treat it and make someone's life better. The sad thing is, although those victims deserve to be compensated and compensated in a timely way—nobody argues that—justice is not being realized today.

It is worth stepping back. We had a wonderful exchange, I believe, through the Democratic leader—who is opposed to allowing that bill to come to the floor to be fully debated and amended to address this significant, critical problem facing people today and one which will face them in the future—and the chairman of the Judiciary Committee, joined by the ranking member, the Democratic ranking member, who believe strongly there is time to address this bill and address it now. If we do not address it now—and it is important for our colleagues to understand—it will not be addressed in this Congress. This is a fairly short period running up to the elections, and we have a lot of work to do. It is either now or never.

I say there is a long history to this. It was 15 years ago that Chief Justice Rehnquist at the time first called attention to the asbestos litigation crisis. It is a crisis, as I will spell out in a few moments. Today, 15 years later, we are on the cusp. After working a bill through committee, passing it out of committee in a bipartisan way—strongly supported by the Republican chairman of that committee and the Democratic ranking member—it is now time to consider it on the floor of the U.S. Senate. We are on the cusp of a fair and a just and a bipartisan solution.

Because of partisan election year politics, it may be, from what we heard from the Democratic leader, that an effort under the Democratic leadership is underway—we are hearing that this bill may be blocked. Remember, what we are debating now is just bringing that bill to the floor, this motion to proceed. What that does is put off relief. It puts off to sometime in the future, if we do not even allow that bill to come to the floor, it puts off relief for thousands and thousands of those victims who deserve just treatment and fair treatment and treatment for

their cancer and treatment for their mesothelioma and treatment for their asbestosis. And we are not going to do it.

We are going to bring it to the floor, we are going to debate it, open it to amendment, and fix what people do not like in the bill. But to think we have Democrats today who want to object to even bringing it to the floor—to me, that is wrong. It is something we cannot let happen.

The asbestos crisis is real. Nearly \$74 billion has been lost on the inefficient and disastrous asbestos litigation system, with the trial lawyers, of that \$74 billion, pocketing almost \$30 billion. That is \$74 billion that should be going to the victims in a timely way, but about 42 cents out of every dollar doesn't get to the victim, it gets to the trial lawyers. It gets to the system itself. And that is what is fixed in this bill.

The costs have already bankrupted 77 companies, destroyed 150,000 American jobs, and caused workers to lose over \$200 million in wages. Victims with real injuries are left with no recourse, spending years awaiting a trial without getting the justice they deserve.

As I said, it was 15 years ago that Chief Justice Rehnquist first drew attention to the problem. In 1991, he warned that courts are "ill-equipped" to effectively address the asbestos situation which has reached—and again I quote, using his words—"critical dimensions and is getting worse."

The Chief Justice at the time—again, this is 1991—went on to say, and I use his words:

We have . . . a crisis for many Americans. However, the worst is yet to come. . . . it [is] inevitable that, unless Congress acts to formulate a national solution, with the present rate of dissipation of the funds of defendant producers . . . all resources for payment of these claims will be exhausted in a few years. That will leave many thousands of severely damaged Americans with no recourse at all.

Those are the former Chief Justice's words.

After that initial report, in three separate opinions the Supreme Court called on Congress to address the asbestos litigation crisis. Justice Ginsburg specifically called on Congress to create a national trust fund. Her words:

The argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure.

In 1998, Congressman HYDE was the first Member in Congress to introduce a bill with that recommendation.

Many trust fund bills were subsequently introduced in both Chambers, but it was not until Senator ORRIN HATCH decided to work on the issue that the Senate really began to debate in earnest the merits of a trust fund bill. In 2003, then-Chairman HATCH held six hearings on the proposal in the Judiciary Committee, and in July of that year, 2003, Chairman HATCH passed his trust fund bill out of Judiciary.

The next year, in 2004, I brought that bill to the floor, fought for a vote. Unfortunately, because of partisan and I guess it was election year politics at the time, the bill was filibustered by the Democrats. It was blocked by the Democrats.

After that failed cloture vote, 11 sitting Democrats wrote me and expressed their desire to keep working on the bill, to keep working on an asbestos trust fund to provide necessary relief to victims and businesses. As has been mentioned earlier, I worked closely with Senator Daschle's office to try to construct a compromise at the leadership level. But, again because of partisan, election year politics, negotiations stalled.

Over the course of the following year, Chairman SPECTER took it upon himself to keep that momentum going. We heard a lot of that outlined a few moments ago on the floor of the Senate. He held 36 separate meetings with stakeholders on the topic—the business community, the unions, the trial lawyers, the insurance companies; meeting after meeting. He held a total of six hearings on the matter.

In May of 2005, the Judiciary Committee voted out, in a bipartisan way—the vote was 13 to 5—the bipartisan FAIR Act, the bill we are considering today.

They were finally able to hammer out—it was bipartisan, drawing upon both sides of the aisle—a fair solution to the crisis.

In that July letter of 2004 which was written to me by the 11 Democrats, they summed it up best:

With each passing day, more and more victims face serious illness and even death, and more and more workers and companies face the threat of bankruptcy.

While creating a national asbestos trust fund is unquestionably an extraordinarily complex undertaking, too much progress has been made to let this issue go unaddressed in this Congress.

That was July of 2004. They were right then, and they are right now. That is why several months ago I told both sides of the aisle that the leadership was going to bring this bill to the floor at this point in time. It is time for us to act. If we don't seize this opportunity, it is simply not going to happen. The asbestos litigation crisis is crippling our economy and it is endangering our fellow citizens who suffer from asbestosis, mesothelioma, and cancer.

It comes back to the victims themselves, with real injuries today, who are offered almost no recourse, spending years awaiting a trial without getting the justice they deserve. It has been 15 years since Chief Justice Rehnquist sounded the alarms. Congress has invested 7 years working through the trust fund solution. Resolution of the asbestos crisis is simply overdue. A vote against cloture to proceed to address asbestos reform is a vote against solving this problem.

As mentioned earlier today, there will be the opportunity to vote at 6

o'clock tomorrow night on this issue. The timing of that is determined by schedules of people. We should have everyone back for that vote. That vote is not going to be on passage of the bill; it is not going to be on amendments to the bill; it is simply going to be a clear-cut vote among our colleagues as to whether we consider it important to look at fairness and justice for the victims who today are suffering. It is a motion to proceed.

Months ago, we said we were going to address it. The time has come, and if we don't act now, this issue will have to be put on the back burner. Thousands of victims will continue to be left without the medical treatment they need and the justice they deserve.

CLOTURE MOTION

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

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

The assistant 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 Calendar No. 131, S. 852: A bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

Bill Frist, Arlen Specter, Jeff Sessions, Pat Roberts, Lamar Alexander, Lisa Murkowski, Johnny Isakson, Richard M. Burr, Wayne Allard, Mitch McConnell, Mike DeWine, George V. Voinovich, Jim Talent, David Vitter, Bob Bennett, Mel Martinez, Ted Stevens.

Mr. FRIST. Mr. President, under the order entered on Thursday, this vote will occur at 6 p.m. on Tuesday. We will continue with debate on the motion to proceed today and through tomorrow. I hope cloture will be invoked and we will then be able to begin debate on this important underlying legislation.

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

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

Mr. DURBIN. Mr. President, pending before the Senate is a bill, S. 852, the Fairness in Asbestos Injury Resolution Act of 2005. This bill has been a long time in coming. I was first elected to the U.S. House of Representatives over 20 years ago. In the first year that I served, I was approached, in 1983, 23 years ago, by a representative of Johns Manville, one of the largest asbestos manufacturers in America. This person said he wanted to talk to me about the

asbestos issue 23 years ago. He knew then that his company was in trouble, maybe headed for bankruptcy, and he wanted to know if there was another way to approach it.

He could not have imagined the reach of asbestos poisoning and contamination in America. I don't know the number of potential victims of asbestos poisoning and contamination. I am sure it reaches into the hundreds of thousands, maybe into the millions. But there is one thing I do know for sure: not a single victim of asbestos that I have ever heard of or met voluntarily exposed themselves to this dangerous and toxic mineral.

We know some people who were almost innocent in their lifestyle, with very little, if any, exposure to asbestos, turned out to be some of its most painful victims. People with mesothelioma contracted because a wife did her husband's work clothes with the laundry each week, shaking out his dirty work clothes, and asbestos fiber flew into the air, invisible to her eyes. She breathed it in, and a timebomb started ticking. That kind of situation was repeated over and over again—for the millions of men and women who were workers in the shipbuilding industry during World War II and since; for others who worked in occupations that you never thought would lead to asbestos exposure; people who bought plants and plant fertilizers, not realizing that the vermiculite included in the plants bought at the grocery store was tainted with asbestos and endangered them; people who worked on putting brake linings into cars; putting insulation in homes; putting shingles on houses; people putting flooring tiles on the floor, never realizing that as they were cutting these products and working with them, they were exposing themselves to something very deadly.

It turns out the people who made these products knew a long time ago that asbestos was dangerous. Maybe as far back as 85 years ago, they had the first evidence that people working around asbestos were getting sick and dying. What did they do? They covered it up because it was bad news. It hurt the bottom line. That coverup went on for decades.

Now we know a lot more about asbestos. Some of the companies that made the most money with asbestos products have gone out of business because they have been sued by their customers and their workers. The argument has been made that the ordinary court system of America can't handle this; there will be too many claimants. So the proposal in this bill is to set up a trust fund, a \$140 billion trust fund. Where did that figure come from? Senator SPECTER of Pennsylvania said earlier that it was a figure that was brought up by former Senator Daschle of South Dakota several years ago, and Senator FRIST. I don't know where it came from. I don't know the circumstances under which it was suggested. But today it has become absolutely a doctrine of faith that \$140

billion is all we are going to need to pay off all the victims of asbestos.

When we asked during the course of the committee consideration, let's figure out how many people are sick, how much we are going to pay them, and what it is really going to cost, we got the runaround. We couldn't get the information that led to this calculation of \$140 billion for the trust fund. So the starting point of this legislation is fatally flawed.

Then comes the second point. Who is going to pay the money into the trust fund? Nominally it will be existing trust funds from asbestos-type companies, other companies across America with some exposure because they have been involved in the use of asbestos, and their insurance companies. So the idea was they would pay into the trust fund and then escape all liability in court.

But we have asked, who are these companies? What are their names? How much will they pay in? Once again, there has been a refusal to provide this most basic information. A \$140 billion trust fund, a figure no one can basically explain, coming from thousands of businesses across America which no one can name, does that give you peace of mind? If you are someone who thinks maybe in the distant future someone in your family may need to turn to this trust fund to be paid, is that a good starting point? I don't think it is.

Then comes the question about victims. I will concede there have been numerous hearings on this bill. We have brought in people from all walks of life but very few victims. That is what troubles me. I have met with some of them. I have met with men and women who are literally dying from exposure to asbestos. It is a sad and painful death. Some say it is one of the most painful ways to die, mesothelioma, asbestosis.

I know in my family, my father died of lung cancer. I stood next to his bedside. I was a high school student at the time. I watched this poor man suffocate because of his addiction to tobacco. I can only imagine that asbestos deaths are similar, a painful experience for the victim and a tragic experience for the families.

Look at the amount of money that is being provided. Some of it sounds absolutely grandiose. One million for a mesothelioma victim. Mesothelioma victims, no one even questions, are victims of asbestos exposure. And their diagnosis is almost always—maybe always—a fatal one. So they were people who would recover in court once this diagnosis is made.

The amount of \$1 million for a mesothelioma victim may sound like a large amount of money until you take a look at the medical bills and take a look at the lost wages and consider that some of these mesothelioma victims are fathers of children, two and three children, and their entire life's worth from this asbestos tragedy is translated into \$1 million.

And over the course of debating this bill, medical treatment of mesothelioma has changed. There was a time when it was flatout a death sentence. There was no place to turn. Then people started trying radical surgeries and treatments to buy a few more months of life. Well, they do; they live a little longer. But, sadly, it costs a ton of money and a million dollars is gone.

What do you think about a victim, a mesothelioma victim—let's not quibble about whether it is asbestos or a serious victim—what do you think about a mesothelioma victim who has been working 2 years, first realizing they had exposure, wondering if they were sick and discovering they had mesothelioma, now they are pushing forward in court, and they have spent time, and they are ready, the trial is about to begin, and this law passes?

Except in the most extreme cases where we carve out an exception, for most of them it means they start over. For asbestosis, in particular, they start over. It means that all the work that was put in by the family, the doctors, the lawyers, to get them ready for their day in court to make their appeal for just compensation is wasted.

I know that lawyers are not a favored class when it comes to this legislation. In fact, if you can imagine, this trust fund says to the victims: if you want legal representation, go right ahead, but you cannot pay more than 5 percent of whatever you recover to the lawyer.

I made a living as a lawyer, and I can tell you there were many times I cut my fee because I felt sorry for my clients, and I think a lot of lawyers do the same thing. But 5 percent is a virtual guarantee that few victims under the trust fund will ever have an attorney at their side or somebody who will tell them what their real rights would be. That is unfortunate. Workers' compensation, which has been on the books for decades across America, provides a reduced standard, a predictable percentage for a lawyers fee. It doesn't go for the moon, and it should not. These are hurt workers, injured workers. They could have done the same thing here, but they did not.

So you look at this from the perspective of workers, you find there are two or three unions supporting this bill. If I am not mistaken, it is the Sheet Metal Union, the Asbestos Union, and the United Auto Workers Union that are the three main unions supporting the bill. You might understand the asbestos and the sheet metal workers. Why the United Auto Workers? It has a lot to do with the fact that many work for automobile companies that are struggling to survive. I bet you a nickel—though they have never told me as much—that when they sit down with the GMs and the Fords of the world, these corporate executives say: take your pick, we can either pay these victims of asbestos or we can pay your pensions.

I hope it has not come to that. I hope that what it comes to is an under-

standing that we can do the right thing; we can provide an avenue for compensation for victims of asbestos exposure and do it in a sensible way. The States of Texas and Illinois have already moved in this direction. In Illinois, we have what is called the plural registry. It means that if you have been exposed to asbestos, you can sign up—you don't have to file a lawsuit, unless you are sick, but you can sign up and protect your right to bring a lawsuit some day if you become sick. Maybe, God willing, that will never happen. But if, God forbid, it does, you have protected your right to file a lawsuit. I think that is sensible. In Texas, they have established medical criteria for what brings you to court. Once in court, how can you recover? They worked it out within the State of Texas between the trial bar, the attorneys who represent victims, and the legislators and the businesses and insurance companies. They reached an agreement that doesn't create a trust fund, that doesn't say to a person we are slamming the courthouse door but an agreement that gives them their day in court under circumstances and laws that have been agreed to by business and labor and the lawyers and the victims.

Why isn't this bill modeled after that? That seems more sensible. Rather than putting our future in a trust fund with an amount we cannot even rationalize, that assesses companies that we cannot even name, closing off the possibility of going through a court suit to protect your right in court, I think there is a much more sensible way to approach this. I hope that when it is all said and done, all of my colleagues in the Senate will have the same experience I have had—sit down with these families, the families of victims, and understand that is what this is all about. We spent so little time talking about the victims during the course of preparing this bill. I hope, during the course of this debate we will think about it long and hard.

Earlier this afternoon, my colleague, Senator REID of Nevada, spoke on the floor about one of our mutual friends, Bruce Vento of Minnesota. He was a Congressman from St. Paul. He worked in the shipbuilding industry when he was a young man. He went on to have a good public life, being elected to Congress and rising to a position of leadership. I used to see him down at the House gym. He was very conscious of his health. He worked out regularly. He was in good health and was proud of it. Then lightning struck. Those fibers that he ingested in his lungs decades ago created the mesothelioma which spread quickly through his body and took his life. I met with his wife. We talked about Bruce and what his last days were like.

That is a reminder to me that what we are talking about in this bill is not just about formulas and companies, and contributions, and trust funds, we are talking about real people and real

lives. I sincerely hope that at the end of the day, after my colleagues have taken a close look, they will say this bill should not pass, that it is not fair, it is unfair to so many people. It is more important for us to step back now and decide what is reasonable. Follow many State examples, such as Texas and Illinois, that have found ways to deal with this issue in a humane, sensible way, to bring it under control. I think we can do that.

I don't take anything away from Senator SPECTER or Senator LEAHY, the ranking member, who support it. They put in many hours in preparation. But I have to tell them at the end of the day, despite all their best efforts, there are fatal flaws in this bill which I hope will lead to its defeat.

I will vote against the motion to proceed. I hope my colleagues will look at it long and hard because this is not just a matter of passing another bill. This is a bill that would touch the lives of many innocent people, many innocent families, and many victims who will be denied their day in court, their chance for just compensation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRESIDENT RONALD REAGAN'S 95TH BIRTHDAY

Mr. ALLEN. Mr. President, I rise late in the afternoon, early evening, in remembrance of a great patriotic leader, a person who I think was America's greatest leader of the 20th century and one of history's alltime adherence advocates and leaders for freedom, individual freedom, liberty, and the advancement of security for free and just societies. The gentleman I am talking about would have been 95 years old today, and that is Ronald Wilson Reagan.

I would hope, actually, on future birthdays, the date of the birth of Ronald Wilson Reagan, some Senator will stand in this Chamber and remind Americans and remember Ronald Reagan, his words, his ideas, and his inspiration.

Ronald Reagan was one who motivated me to get involved in organized politics, and there are literally tens of thousands of others. There are certain people, though, if one looks through history, whose words are ones you can use; they are just enduring principles. I think of Thomas Jefferson, John Locke, George Washington, James Madison, Benjamin Franklin, Mark Twain—all those great quotes from Mark Twain—even Will Rogers. But in our day, the person for inspiration, to help us decide how to meet the challenges of our day, was Ronald Reagan.

President Reagan did leave the White House 17 years ago. For some young people, this seems like a long time ago.

President Reagan's words and deeds are still so applicable today.

He left our world 2 years ago, but we are still living in the wake of the Reagan era. It was Ronald Reagan, let's remember, along with Margaret Thatcher and Pope John Paul II, who fundamentally changed all the dynamics of the Cold War, to bury communism and advance human liberty. While many in those days accepted the perpetual menace of communism and the perpetual servitude of millions of men and women locked behind the Iron Curtain, Ronald Reagan did not. His philosophy toward the Cold War was radically different from the elite sages of the establishment. As Governor of California and then also as President, he offered very clear and refreshing ideas. He was asked one time:

Mr. Reagan, what is your strategy on the Cold War?

He declared:

About the Cold War, my view is that we win and they lose.

He came into office as President. In his inaugural address in 1981, he called for an era of national renewal, and this was something very important after the years of malaise that we had in the late 1970s. That is exactly what his 8-year Presidency turned out to be—an era of national renewal for security, for opportunity, and for foundational values. The Reagan revolution reversed the high unemployment, high inflation, economic policies of the 1970s and unleashed the greatest economic boom in American history.

His policies proved that low taxes are good for the taxpayers, and they are also good for the economy, with more investment and more jobs and, for those who care about it, generating more revenue for the Government. After his tax cuts started to impact the economy in 1983, the wheels of American commerce started to move again. We saw an explosion of job creation, innovation, and investment.

In foreign affairs, President Reagan scrapped the policy of coexistence. He made the advancement of freedom, not containment, into the foundational principle of America's foreign policy. He rebuilt America's military strength. He started and initiated the Strategic Defense Initiative which put unprecedented strains on the Soviet economy and their ability to finance their military.

He refused to be cowed into silence when talking about our enemy or the evils of communism. He called the Soviet Union an evil empire. Oh, they criticized him, but, indeed, that was an accurate description. He was a vocal, tireless champion for freedom. He went to Brandenburg Gate in 1987 and boldly said, "Mr. Gorbachev, tear down this wall." He was criticized, but 2 years later, the Berlin Wall was gone, and 2 years after, the Soviet Union itself was gone, discarded into the "ash heap of

history," as Ronald Reagan prophesied during the depths of the Cold War.

Today, because of Ronald Reagan, there are literally hundreds of millions of people who were once locked behind the Iron Curtain living in countries we now know as free countries—Lithuania, Latvia, Estonia, former East Germany, Poland, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, and added countries such as Ukraine and Georgia, which are now tasting that sweet nectar of liberty as opposed to being behind the Iron Curtain. It is because Ronald Reagan provided us with a perseverance—he persevered, our allies persevered, particularly in Western Europe, and freedom has prevailed.

Five years after he left office in 1994, we were all crushed to learn about Ronald Reagan being diagnosed with Alzheimer's disease. He concluded his farewell address and letter to the American people by writing:

Now I begin the journey that will lead me into the sunset of my life. I know that for America there will always be a bright new dawn ahead.

As always, Ronald Reagan was right. Despite new and numerous challenges, this blessed country, America, has stood strong for freedom, extending the blessings of liberty and prosperity to a whole new generation of Americans and sharing those blessings with even more people who live here in this world.

When Ronald Reagan passed away on June 5, 2004, I know you, Mr. President—and I see Senator HATCH from Utah here—and all of America grieved and mourned. He was my political hero. But I also felt grateful, grateful for our country, for America, that we and, indeed, the world were blessed to have had Ronald Reagan's common-sense leadership and unwavering commitment to the ideals of freedom throughout the world.

Today, on what would have been his 95th birthday, I reflect on everything Ronald Reagan accomplished during his extraordinary life. If you want to measure a person's greatness and what he or she did in their life, you kind of determine it by the number of people who were positively impacted by their efforts, their deeds, and their life—in Ronald Reagan's case, as I said, the hundreds of millions of people in Central and Eastern Europe who were liberated from the tyranny of communism, but we also have Americans, now over 300 million strong, who have been enriched by the peace and prosperity that resulted from Ronald Reagan's courageous commitment to foundational ideals.

There are many such as myself—and really too many to count—who were inspired by meeting Ronald Reagan in person, who were touched by his great character and integrity, his unfailing optimism and patriotism, his genuine good will and sense of humor, and his words that applied the philosophy of our Founders, whether it is George

Washington in his peace-through-strength approach or James Madison in understanding our representative democracy or the spirit of this country as written by Thomas Jefferson in our Declaration of Independence.

Everyone remembers meeting Ronald Reagan. I met him first when I was in high school. We moved out to California when my father became head coach of the L.A. Rams. Ronald Reagan that year was elected Governor and used to come to practices. One thing I really remember about Ronald Reagan is that he didn't just talk about ideals and principles; as Governor and as President, he put them into action. He realized we are all put here on Earth to do something, and we cheat ourselves or others if we do not advocate and advance those ideas.

President Reagan gave my father in the 1980s a plaque which bore his famous quote: "If not us, who? If not now, when?" My father kept that plaque on his desk. When my father passed away, my mother gave it to me, saying I should have it. I had it on my mantel as Governor of Virginia in the capitol designed by Thomas Jefferson. I keep that plaque, "If not us, who? If not now, when?" on my mantel in the U.S. Senate.

Ronald Reagan was a man of action. He was one who produced many great quotes over the years. In fact, a whole industry has sprung up around them. I share with my colleagues and American people my very favorites:

No weapon in the arsenals of the world is so formidable as the will and moral courage of free men and women. It is a weapon our adversaries in today's world do not have.

Here is another great quote which is the essence of my philosophy:

Every dollar the government does not take from us, every decision the government does not make for us will make our economy stronger, our lives more abundant, and our future more free.

He also understood our country:

In America, our origins matter less than our destination, and that is what democracy is all about.

Today, we face challenges. We have a war on terror. I believe our mission in this present war on terror can find us constructive examples from President Reagan's administration. We are making progress in Iraq and Afghanistan. In the coming years, there will be both breakthroughs and setbacks in both countries as we lead this generational struggle against the forces of Islamic terrorism and fascism. But let's remember Ronald Reagan. The Cold War lasted for nearly 50 years, and he persevered. Let's keep and remember Ronald Reagan's legacy of strong leadership as a guiding example to ourselves as we adapt and protect America in this war on terror.

In the area of our economy, we want to make sure the United States is the world capital of innovation, a land of opportunity for all, and is more competitive. If we do so, we need to keep Ronald Reagan in mind as we choose our country's economic policies.

I mentioned earlier Ronald Reagan's tax cuts in the 1980s and the positive impact that had for jobs, investment, and economic progress in our country. When I came to the Senate in 2001, this country was actually in the midst of an economic slowdown. Over the next 3 years, we passed three rounds of tax cuts, and as a result we have an economic growth in this country which is very good, with rising income, more jobs, more investment, and record home ownership. We have even had record tax revenue for the Government because more people are working, investing, and creating more jobs.

However, Americans are going to be hit with tax increases in the next 2 years if we do not prevent tax increases, which would put a damper on our economy, create less investment, make our country less competitive and, in fact, have fewer jobs for the men and women of our country.

President Reagan showed us how tax relief can revitalize and recharge the American economy. Let's not hurt American jobs and American people and competitiveness by raising taxes. We should take action this year to prevent tax increases, and the Federal Government actually ought to be looking to reduce taxes to make our country more competitive for investment, jobs, and opportunity.

People are concerned, as I am, about fiscal accountability. Again, let's look to Ronald Reagan for guidance. I point out that in President Reagan's farewell address to the American people as President, he said that he was "still sounding off about those things I didn't get accomplished while I was President. First, I'm out there stumping to help future Presidents—Republican or Democrat—get those tools they need to bring the budget under control. And those tools are a line-item veto and a constitutional amendment to balance the budget."

Today, the bloated cost of Government has become indefensible. We need to bring fiscal accountability to Washington. The Federal Government needs to spend smarter and learn to do more with less. And that starts, in my view, with reviving a pair of ideas Ronald Reagan shared in his farewell address: the line-item veto and the balanced budget amendment.

When I was Governor, I had the power of the line-item veto. Forty-six Governors have that power. Let me tell you, it is useful. It is a way of knocking out wasteful, undesirable expenditures and policies. You don't have to use it too much after you use it a few times, and the message is understood.

I want the President to have the same power I had as Governor, and so, together with Senator JIM TALENT of Missouri, we have introduced a constitutional amendment to provide the President the line-item veto so that the President and the Congress can be held accountable for nonessential Government spending.

I will also be proposing a constitutional amendment that will require the

President and the Congress to balance the budget every year. That is important because if deficits continue, we will end up with higher interest rates. Higher interest rates result in fewer and fewer Americans, especially young people, able to afford their own home. Owning one's own home is the American dream. It is also a question of fairness and opportunity. So to prevent interest rates from rising, we do need the institutional mechanism to get this deficit under control and we need to wrestle it down with a change of the Constitution.

Taken together, I believe lower taxes on the taxpayers, coupled with both the line-item veto and a balanced budget amendment, will restore fiscal accountability and common sense to Washington, and be a fitting capstone to the Reagan legacy.

Ronald Reagan is no longer with us in body, but he is surely with us in spirit. On his 95th birthday, my thoughts are with him and his family, particularly his wonderful bride and wife Nancy, who exhibited such grace and dignity as First Lady and later in caring for her husband during his very long goodbye.

My thoughts are also on America, this land Ronald Reagan loved so much and led so well, a land that has been continually blessed by God with great patriots such as President Reagan, who possessed strong character, integrity, and commitment to enduring values and principles.

I am going to close with this observation by President Reagan, which I believe is still true.

We have every right to dream heroic dreams. Those who say we're in a time where there are no heroes, they just don't know where to look.

There are heroes all across this country. There are heroes serving this country on ships. They are serving us in Iraq.

Mr. President, President Reagan: Happy birthday. Your dream lives on. It warms the hearts and it cheers the spirit of freedom-loving people throughout the world.

I yield the floor.

Mr. HATCH. Mr. President, I compliment my distinguished friend, the Senator from Virginia, for the remarks he just finished with regard to President Reagan and Mrs. Reagan. It is very fitting and appropriate the distinguished Senator speak here today because he reminds me a lot of Ronald Reagan—in the philosophy he has, the guts he has, the ability to move people in so many other ways. I have to say, I believe I was one of the few, maybe the only person Ronald Reagan ever preprimary endorsed. It was a great thrill for me.

In 1980, I went to multiple States as one of his two major surrogates who spoke for him all over the country. I will never forget the Reagan campaign team did not want him to go to the first—what they call cattle show—in New Hampshire. So they asked me to

go in his place and appear with the other seven or eight Presidential candidates. My date for that evening was none other than Nancy Reagan. She was so beautiful—she was such a beautiful person. It was such an honor to be able to speak for the President, for the then Governor Reagan. He meant so much to me and I am grateful that the distinguished Senator from Virginia has spoken for all of us on this subject. I hope and pray Mrs. Reagan has everything that will make life worthwhile, even though Ronald Reagan is now gone.

We love both of them. We revere the memories we have of both of them. Of course, we look forward to continuing to meet with Mrs. Reagan as time goes on.

HEALTH SAVINGS ACCOUNTS

Mr. HATCH. Mr. President, last week the President of the United States came to us with an ambitious domestic policy agenda for the next year. There were many noble goals outlined in that speech. But in my opinion, one of the most important and most necessary is his proposal to expand health savings accounts, or HSAs.

There is not a single person in this institution who fails to recognize the ever-growing problem of health care expenses for ordinary Americans. For at least a decade now, this debate has been front and center in American politics. The American people are fed up and are telling us they want solutions to this crisis.

In the last 30 years we have seen true revolutions in the way consumers do business in this country. Informed American consumers are increasingly involved in a direct way in making decisions on issues that affect their lives and that of their families. As an individual:

It is easier to invest today.

And it is easier to bank today.

There is more choice in education. And there are more opportunities in the workplace.

But almost uniquely in the American economy, our health care system is becoming more expensive and more difficult for individuals to make personal choices regarding their care. Because of the current structure of insurance plans, most consumers do not have the information they need with regard to the cost or the quality of health care that they receive. Information is readily available to make a value-driven decision on purchasing a television or a cell phone, but when it comes to health care, the consumer has little basis on which to make a rational quality and cost-based decision. What separates our increasingly complex and expensive health care system from other sectors of our economy that have become more user-friendly in the last 30 years is a lack of adequate information and a lack of direct consumer decision making.

I think that health savings accounts provide an incredible opportunity for

real progress toward health care reform.

Health savings accounts were established in the Medicare Modernization Act of 2003. These accounts allow Americans to save tax-free dollars to pay for their everyday health care expenses on their own terms. At the same time, these accounts are coupled with high-deductible comprehensive insurance policies to cover larger medical bills and also provide specific coverage for preventive care.

This makes sense. HSAs allow individuals to save tax free for everyday medical expenses, while preserving insurance for major health care needs. With HSAs, individuals have unprecedented choice in their health care and are still protected from the high costs of serious illness. The result is predictable. Insurance becomes less expensive if it is used only for major medical expenses, and consumers make value-based choices in their routine medical care.

And, as we all know, the high cost of health insurance is the real problem that we face in providing health care coverage to all Americans. The current low-deductible plans so common in the workplace are increasingly costly for businesses and result in lower wages for workers and reduced employment. More and more small businesses are opting not to offer a health care insurance benefit at all. For the unemployed and/or the uninsured, health insurance premiums are far too expensive.

Health savings accounts are proving themselves to be one important part of the solution to our health care crisis. Americans certainly think so. Since January 2004, over 3 million Americans have enrolled in HSAs.

As innovative and popular as HSAs are proving to be, however, they are far from perfect. By improving and expanding them, health savings accounts could be even more effective in helping us reach our objectives.

I believe we need to create more incentives for employers to offer these plans and for individuals to enroll in them. Incentives can be designed to assure adequate coverage and enrollment of those with chronic illnesses.

The President has made it clear that we need to make these plans fairer and available to a larger number of Americans. Individuals that purchase HSAs on their own should have the same tax advantages as those with employer-sponsored insurance. To achieve this, premiums for HSA-compatible insurance policies should be deductible from income taxes and an income tax credit provided to offset payroll taxes paid on premiums for HSA policies. All taxes on out of pocket spending through HSAs should be eliminated. HSA insurance policies should be portable between employers and across State lines. To allow for better individual healthcare decisions, information on price and quality of healthcare must be transparent and readily available. Acceleration of the implementation of an

integrated health information technology system will be critical to these efforts. The President's budget outlines several proposals designed to improve HSAs and to make them more attractive to employers and employees. The employer community also has developed a set of proposals designed to improve HSAs. The Senate should give serious consideration to all good ideas to make health savings accounts work better.

These are important goals.

Health savings accounts are a good thing for our citizens, and they are a good thing for the economy.

HSAs will make health insurance less expensive in the long run, which is the best thing we can do to tackle the problem of the uninsured in this country.

They will make the health care sector of our economy more user-friendly and more efficient.

They will give workers more choice and more flexibility in their choice of plans and in deciding where they want to work.

In short, they would help to bring our health care system into the new economy.

In 1980, most people in this country had rabbit ears on their televisions and a choice of three channels.

Today, we have the internet. We have cell phones. We have ATMs on every block.

Yet, in some ways, our system of employer-provided health care is a dinosaur. It dates back to a policy decision made to assist employers during World War II and it is not aging well. There are too many Americans without employer-provided health insurance, and those with it are routinely frustrated with the level of customer service.

The Bush administration estimates that under current law, the number of Americans with HSAs will grow to 14 million by 2010. By improving the program, however, we could see this number go as high as 21 million.

As a member of the Finance Committee, I am deeply interested in working with my colleagues to help improve HSAs in the coming months and years. The President's proposal represents a unique opportunity to make health care in this country more equitable, more affordable, and more cost-effective.

I urge my colleagues on both sides of the aisle to join me in these efforts.

I believe we would all be better off if we would do so.

HONORING OUR ARMED FORCES

FIRST LIEUTENANT GARRISON AVERY

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Army 1LT Garrison Avery, from Nebraska. Lieutenant Avery died of wounds he suffered when an improvised explosive device detonated near his military vehicle while on patrol in Baghdad, Iraq on February 1. He was 23 years old.

Lieutenant Avery grew up in Lincoln and graduated from Lincoln High School in 2000. He received his parents permission to enlist in the Army at age 17 and graduated from the U.S. Military Academy in 2004. During his junior year at the academy, Lieutenant Avery established an organization called, "Light by Morning," to aid Iraqi orphans. After graduating from West Point, he successfully completed the U.S. Army Ranger School and the Sapper Leaders Course and was assigned to the 1st Battalion, 502nd Infantry Regiment, 101st Airborne Division in Fort Campbell, KY. He was deployed to Iraq in October 2005. Lieutenant Avery will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Lieutenant Avery are currently serving in Iraq.

Lieutenant Avery is survived by his wife, Kayla; parents, Susan and Gary Avery; brothers, Clinton and Johnathan; and sister, Elizabeth. Our thoughts and prayers are with them at this difficult time. America is proud of Lieutenant Avery's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring 1LT Garrison Avery.

DEFICIT REDUCTION ACT OF 2005

Mr. GRASSLEY. Mr. President, I am pleased that the House of Representatives has passed S. 1932, the Deficit Reduction Act of 2005, DRA. This is a relatively modest deficit-reduction bill that represents just one-fourth of 1 percent of what Congress would otherwise spend during the next 5 years.

It has been 8 years since Congress last passed legislation to reduce mandatory spending. The kinds of Medicaid changes made in the conference report are a fraction of what Governors across the country—Republican and Democrat—asked Congress for to help State governments keep their Medicaid programs afloat for the millions of people who rely on Medicaid. Beneficiaries and taxpayers both deserve to get the highest value for every dollar that is spent on Medicaid, Medicare, and other safety-net programs.

It is especially rewarding to have included in this overall package a bill I first authored in 1999. The Family Opportunity Act, which I have pushed for year after year with Senator KENNEDY, was inspired by an Iowa family struggling to access health care services for a disabled child. Melissa Arnold, the mother, didn't give up, and today's legislative victory is a tribute to her kind of determination. The measure will let States create options for families that have children with multiple medical needs to buy into Medicaid while continuing to work. It is a pro-work initiative because it lets parents work without losing their children's health coverage. It is pro-family because it encourages parents to work and build a better life for their children, rather

than being forced to impoverish themselves to access health care. And it is pro-taxpayer because it means more parents continue to earn money, pay taxes and pay their own way for Medicaid coverage for their children.

In addition to this expansion of the Medicaid program, the comprehensive legislation includes \$400 million in child-support payments that will go directly to welfare families, along with grants to promote healthy marriages and responsible fatherhood, \$100 million to improve the handling of court cases involving foster care, a \$200 million increase for a Safe and Stable Families program to help keep troubled families together and support adoption, and \$1 billion to help parents pay for child care when they leave welfare and join the workforce.

On Medicaid, some partisan critics and their allies will probably continue to distort the bill's intent and effect. I am repeating this—the provisions on benefit flexibility and cost sharing are clear and unambiguous. The Congressional Budget Office and the Centers for Medicare and Medicaid Services agree. The conferees agreed to language that clearly provides early periodic screening, diagnosis and treatment as a guaranteed benefit to all children on Medicaid. The conferees also agreed to language that clearly exempts individuals with incomes of less than 100 percent of the Federal Poverty Limit from any increased cost-sharing. I fought hard for these provisions and I will take appropriate actions to prevent any misreading of them to occur down the road.

FAMILY OPPORTUNITY ACT AND WELFARE REFORM

Mr. GRASSLEY. Mr. President, on Wednesday, February 1, 2006, the House of Representatives passed the Deficit Reduction Act of 2005, DRA, clearing the way for the President to sign this bill into law. This legislation was the product of a great deal of work on the part of Members and our dedicated staff and the experts who work in the congressional support agencies.

I would like to highlight two provisions in the DRA: the Family Opportunity Act and the reauthorization of the Temporary Assistance for Needy Families and pay special tribute to the Members and staff who worked so hard on them over many years.

Mr. President, I am particularly pleased that after years and years, the Family Opportunity Act is about to become law. This legislation has been something of a crusade of mine. This legislation extends Medicaid eligibility to families with a severely disabled child that are faced with either staying poor in order to continue to qualify for Medicaid or, worse, relinquishing a child to the State so that the child can receive the services that the child needs.

The introduction of the Family Opportunity Act was motivated by the

circumstances of individual families, the Melissa Arnold Family and the Dylan Lee Family. I offer my heartfelt thanks to these families for sharing their struggles with me and for being the inspiration for this legislation.

I pay special tribute to my partner in this endeavor, Senator EDWARD KENNEDY, who is a tireless champion on behalf of children and those with disabilities. During the many years we worked side by side on this bill, Senator KENNEDY was most ably assisted by Connie Garner, of his staff.

On my own staff, I would like to single out the efforts of Hope Cooper who worked for many years on the Family Opportunity Act and whose knowledge and compassion were invaluable assets in developing the bill.

I also appreciate the work done by policy leads, Leah Kegler, Becky Shipp; health policy director, Mark Hayes; deputy staff director, Ted Totman, and staff director for the Finance Committee, Kolan Davis.

I am grateful for the work done by Jeanne De Sa and Eric Rollins at the Congressional Budget Office and Ruth Ernst at the Office of Legislative Counsel, especially for their patience in analyzing and drafting the many different versions of the legislation.

Mr. President, the reauthorization of the Temporary Assistance for Needy Families, TANF, has been a long and very difficult process, spanning three Congresses. Everyone who has worked on this reauthorization has been guided by a fundamental principle: helping those in deep and persistent poverty achieve the economic self sufficiency needed to overcome that poverty. We may disagree on some of the best ways to overcome poverty, but everyone who devoted their labor to this program did so out of the best of intentions.

I particularly thank my friend and partner on the Senate Finance Committee, Senator MAX BAUCUS, for his work on this program over the past 5 years. We didn't always agree, but we kept working together until we finally got to a compromise that satisfied us both. I hope at some point we can revisit some of the common themes we developed together in the PRIDE bill.

I thank Senator BAUCUS's staff who worked on this issue over the past 5 years, Doug Steiger, Kate Kahan, and Liz Fowler. They are passionate, knowledgeable, and care deeply about low-income programs and the individuals who rely upon them.

Other Members and their staff who contributed to the policy and the process include, the initial "Tripartisan" members: Senator John Breaux and his staff, Sara Triagle and Michelle Easton; Senator ORRIN HATCH and his staff, Becky Shipp; Senator JAY ROCKEFELLER and his staff, Barbara Pryor; Senator OLYMPIA SNOWE and her staff, Carolyn Holmes; Senator JAMES JEFFORDS and his staff, Justin King; Senator BLANCHE LINCOLN and her staff, Elizabeth MacDonald and Mike Anzick.

Other critical Members and staff include: Majority Leader BILL FRIST and

his staff, Eric Ueland and Libby Jarvis; Minority Leader TOM DASCHLE, and his staff, Joan Huffer; Senator RICK SANTORUM and his staff, Randy Brandt; Senator CHRISTOPHER DODD and his staff, Grace Reef; and Megan Hauck, who contributed as a advisor to Senator DON NICKLES, as well as working at the Department of Health and Human Services Office of Legislation and the White House.

Throughout much of the process, Members and staff were indebted to the expertise of the Director of the Office of Family Assistance at the Administration of Children and Families, Andrew Bush and the Assistant Secretary for Human Service Policy in the Office of the Assistant Secretary for Planning and Evaluation, Don Winstead.

The Congress simply could not do our work, were it not for the incredibly talented and hardworking individuals serving in the congressional support agencies. We owe a substantial debt of gratitude for the work done by Gene Falk, Melinda Gish, and Carmen Solomon Fears at the Congressional Research Service; Shelia Dacey at the Congressional Budget Office; and Ruth Ernst at the Office of the Legislative Council.

As ranking member and then chairman of the Senate Finance Committee, I was well served by policy leads, Hope Cooper and Becky Shipp; health policy director, Mark Hayes; deputy staff director, Ted Totman; and staff director for the Finance Committee, Kolan Davis.

ADDITIONAL STATEMENTS

TRIBUTE TO WENDY WASSERSTEIN

• Mrs. CLINTON. Mr. President, on Monday, January 30, our country lost, all too prematurely, Wendy Wasserstein, a daughter of New York and one of our Nation's great playwrights and essayists.

Wendy Wasserstein grew up in Brooklyn and Manhattan and was educated at Mount Holyoke College, the City College of New York, and Yale University School of Drama. She is best known for her 1989 Pulitzer Prize and Tony Award-winning play, "The Heidi Chronicles" and Tony-nominated play, "The Sisters Rosensweig". She wrote most recently, "Third", a play that opened in October at Lincoln Center for the Performing Arts. Her first novel, "Elements of Style", will be coming out in April.

Throughout Wendy Wasserstein's career, she wrote with wit and an acute sensitivity to the challenges facing women negotiating the social changes of the last 40 years. She had the courage to dig deeply into her own experiences to write thoughtfully and compassionately about women, New York, and her Jewish roots.

Wendy Wasserstein is best known for her work in the theater and literary

world, but she cared deeply about progressive politics, advocacy for the arts, and worked to create richer opportunities for women in the theater. Having grown up attending theater and ballet performances on a weekly basis with her family, she also believed that all children should have the opportunity to be exposed to the arts. She gave back to the city that shaped her as an artist by making the theater accessible to New York's inner-city students through a program she instigated which is now called Open Doors. Through this program, she mentored students at the Young Women's Leadership School, a college prep public school in Harlem. She wrote of the program, "*** if a city is fortunate enough to house an entire theater district, shouldn't access to the stage life within it be what makes coming of age in New York different from any other American city?"

On a personal level, she was described by her friend, New York Times editorial page editor Gail Collins, as: "*** a charter member of the company of nice women, a river of accommodating humanity that flows through Manhattan just as it flows through Des Moines and Oneonta, N.Y., organizing library fund-raisers, running day care centers, ordering prescriptions for elderly parents, buying all the birthday presents and giving career counseling to the nephew of a very remote acquaintance who is trying to decide between making it big on Broadway and dentistry."

We can only imagine what future gifts to the theater, journalism, literature and her community Wendy Wasserstein might have made. I am grateful for having known her, and I extend my condolences to her young daughter Lucy Jane and to the entire Wasserstein family. We have lost someone who loved New York with a big, big heart, and New York and our Nation loved her back. •

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.)

BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2007—PM 36

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on the Budget; and Appropriations.

America's economy is growing at a healthy pace, and more Americans are working than ever. In the face of a series of challenges, including most recently devastating natural disasters, Americans have stood firm, and America's economy has demonstrated its strength and resilience time and again.

My Administration has focused the Nation's resources on our highest priority: protecting our citizens and our homeland. Working with Congress, we have given our men and women on the frontlines in the War on Terror the funding they need to defeat the enemy and detect, disrupt, and dismantle terrorist plots and operations. We continue to help emerging democracies in Afghanistan and Iraq stand on their own. As the Afghan and Iraqi peoples assume greater responsibility for their own security and for defeating the terrorists, our troops will come home with the honor they have earned.

My Administration has responded to major economic challenges by following this vital principle: The American economy grows when people are allowed to keep more of what they earn, to save and spend as they see fit. The results are clear.

Since May 2003, when I signed into law major tax relief, America has added more than four and a half million new jobs. Productivity is high, disposable income is up, household wealth is at record levels, consumer confidence has climbed, small businesses are expanding, and more Americans own their homes than at any time in our Nation's history.

Our economy is the envy of the industrialized world. To build and maintain our competitive edge, my Administration has a broad agenda to promote America's long-term economic strength. We are opening new markets to American-made goods and services through trade agreements. We are proposing reforms to prevent needless litigation and burdensome regulations. Through major reforms of our public schools, we are preparing our children to compete and succeed in the global economy. And my Budget includes an American Competitiveness Initiative that targets funding to advance technology, better prepare American children in math and science, develop and train a high-tech workforce, and further strengthen the environment for private-sector innovation and entrepreneurship.

In our efforts to keep our economy strong and competitive, we will resist calls to raise taxes on America's workers, families, and businesses. Unless we act to make tax relief permanent, income tax rates eventually will rise, the marriage penalty will climb, the child

tax credit will be cut, savers and investors will be hit with higher taxes, and the death tax will come back to life.

With a growing economy, tax receipts are on the rise, helping to bring down the deficit in 2005. To stay on track to meet my goal of cutting the deficit in half by 2009, we must maintain our pro-growth policies and insist on spending restraint.

Last year, I proposed to hold overall discretionary spending growth below the rate of inflation—and Congress delivered on that goal. Last year, I proposed that we focus our resources on defense and homeland security and cut elsewhere—and Congress delivered on that goal. And also last year, my Budget proposed major cuts in or eliminations of 154 programs that were not getting results and not fulfilling essential priorities. Thanks to the work of Congress, we delivered savings to the taxpayer of \$6.5 billion on 89 of my Administration's recommendations.

The 2007 Budget builds on these efforts. Again, I am proposing to hold overall discretionary spending below the rate of inflation and to cut spending in non-security discretionary programs below 2006 levels. My Administration has identified 141 programs that should be terminated or significantly reduced in size. To help bring greater accountability and transparency to the budget process, my Budget proposes reforms so that firm spending limits are put in place, and public funds are used for the best purposes with the broadest benefits.

The 2007 Budget also continues our efforts to improve performance and make sure the taxpayers get the most for their money. My Administration expects to be held accountable for significantly improving the way the Government works. In every program, and in every agency, we are measuring success not by good intentions or by dollars spent, but rather by results achieved.

In the long term, the biggest challenge to our Nation's fiscal health comes from unsustainable growth in entitlement spending. Entitlement programs such as Social Security and Medicare are growing faster than our ability to pay for them, faster than the economy, faster than the rate of inflation, and faster than the population. As more baby boomers retire and collect their benefits, our deficits are projected to grow. There will be fewer people paying into the system, and more retirees collecting benefits. These unfunded liabilities will put an increasing burden on our children and our grandchildren. We do not need to cut these programs, but we do need to slow their growth. We can solve this problem and still meet our Nation's commitment to the elderly, disabled, and poor.

Acting on my recommendations, both houses of Congress have taken an important first step, passing legislation that would produce \$40 billion in savings from mandatory programs and entitlement reforms—the first such sav-

ings in nearly a decade. My Budget builds on this progress by proposing \$65 billion more in savings in entitlement programs.

My Budget also includes proposals to address the longer-term challenge arising from unsustainable growth in Medicare, while ensuring modern health care for our seniors. In addition, I will continue to call on Congress to enact comprehensive reform of Social Security for future generations, so that we return the system to firm financial footing, protect the benefits of today's retirees and near-retirees, provide the opportunity for today's young workers to build a secure nest egg they can call their own, and assure our children and grandchildren a retirement benefit that is as good as is available today.

As this Budget shows, we have set clear priorities that meet the most pressing needs of the American people while addressing the long-term challenges that lie ahead. The 2007 Budget will ensure that future generations of Americans have the opportunity to live in a Nation that is more prosperous and more secure. With this Budget, we are protecting our highest ideals and building a brighter future for all.

GEORGE W. BUSH.

THE WHITE HOUSE, February 6, 2006.

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on February 3, 2006, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 4519. An act to amend the Public Health Service Act to extend funding for the operation of State high risk health insurance pools.

H.R. 4659. An act to amend the USA PATRIOT Act to extend the sunset of certain provisions of such Act.

Under authority of the order of the Senate of January 4, 2005, the enrolled bills were signed by the President pro tempore (Mr. STEVENS) during the adjournment of the Senate, on February 3, 2006.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-254. A resolution adopted by the Senate of the State of Michigan relative to providing the states with authority to regulate the flow and importation of solid waste from outside the country; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION No. 43

Whereas, For the past seven years, the amount of solid waste coming into Michigan for disposal has increased from 5.6 million cubic yards to over 15 million cubic yards

each year. Carefully planned landfill space, intended to be used for solid waste generated in Michigan, is being quickly filled by waste from other states and Canada. Michigan has enacted several laws to control the solid waste stream coming into the state in an attempt to protect our environment, water, and public health; and

Whereas, The United States Supreme Court limited the state's ability to further restrict out-of-state waste when it ruled in *Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources* that the states do not have authority to regulate or ban the importation of solid waste. The court further ruled that Congress can provide states with such authority by enacting appropriate legislation; and

Whereas, United States Representative Mike Rogers has introduced legislation, H.R. 593, to allow Michigan and other states to control the flow of solid waste coming from other countries into their states. Specifically, H.R. 593 would allow Michigan to enact legislation banning or restricting the disposal of Canadian waste in Michigan landfills. Although supported by members of Congress on both sides of the aisle, bills on this topic introduced in prior congressional sessions did not pass the House of Representatives; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to enact H.R. 593 to provide the states with authority to regulate the flow and importation of solid waste from outside the country; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-255. A concurrent resolution adopted by the Senate of the State of Michigan relative to implementing the Action Plan to Restore and Protect the Great Lakes; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION No. 34

Whereas, Over 40 percent of the Great Lakes are under Michigan's jurisdiction and the Great Lakes contain 95 percent of North America's fresh surface water; and

Whereas, The Great Lakes affect all aspects of life in Michigan and are inextricably linked to Michigan's history, culture, and economy. The Great Lakes have for thousands of years supported native communities' culture and way of life; and

Whereas, The Great Lakes fuel Michigan's tourism and recreation industry. Recreational fishing alone adds \$1.4 billion annually to the state's economy; and

Whereas, The state of Michigan has historically been a leader in protecting the Great Lakes, including efforts to regulate ballast water discharges that could harbor invasive species and to eliminate the disposal of dangerous contaminants in the Great Lakes; and

Whereas, Despite Michigan's efforts, the Great Lakes are ailing from a multitude of stressors, including aquatic invasive species, toxic contamination of river and lake sediments, partially or inadequately treated sewage discharges, pollution from nonpoint sources, and coastal habitat loss. Combined, these stressors will have long-lasting effects on the Great Lakes, Michigan's economy, and our way of life; and

Whereas, There has been an unprecedented collaborative effort on the part of 1,500 people representing federal, state, and local governments, Native American tribes, non-governmental entities, and private citizens

to develop an Action Plan to Restore and Protect the Great Lakes; and

Whereas, Implementation of the Action Plan can restore the ecology of the Great Lakes and avert impending environmental threats to the region; and

Whereas, A recent report by the federal Great Lakes Interagency Task Force has, at the eleventh hour, attempted to change the rules that the Regional Collaboration operated under by recommending that the strategy be constrained by current budget projections; and

Whereas, The action plan previously developed through the Regional Collaboration includes recommendations that call on the states and federal government to take substantial new steps jointly in the restoration and protection of the Great Lakes; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That we urge the Great Lakes Regional Collaboration and the United States Congress to take prompt action to finalize, endorse, implement, and invest in the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved. That we urge the United States Congress to adopt legislation to implement and fully invest in the Action Plan; and be it further

Resolved. That we intend for the state of Michigan to continue its proud tradition of Great Lakes stewardship and fulfill its commitment to restoring the Great Lakes by taking substantial steps and, whenever practical, match federal funding to implement the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved. That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the Great Lakes Commission, the Great Lakes Legislative Caucus, the International Joint Commission, the Great Lakes Fishery Commission, the Michigan Office of the Great Lakes, the Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources.

POM-256. A resolution adopted by the House of Representatives of the State of Michigan relative to implementing the Action Plan to Restore and Protect the Great Lakes; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 143

Whereas, Over 40 percent of the Great Lakes are under Michigan's jurisdiction and the Great Lakes contain 95 percent of North America's fresh surface water; and

Whereas, The Great Lakes affect all aspects of life in Michigan and are inextricably linked to Michigan's history, culture, and economy. The Great Lakes have for thousands of years supported native communities' culture and way of life; and

Whereas, The Great Lakes fuel Michigan's tourism and recreation industry. Recreational fishing alone adds \$1.4 billion annually to the state's economy; and

Whereas, The state of Michigan has historically been a leader in protecting the Great Lakes, including efforts to regulate ballast water discharges that could harbor invasive species and to eliminate the disposal of dangerous contaminants in the Great Lakes;

Whereas, Despite Michigan's efforts, the Great Lakes are ailing from a multitude of stressors, including aquatic invasive species, toxic contamination of river and lake sediments, partially or inadequately treated sewage discharges, pollution from nonpoint

sources, and coastal habitat loss. Combined, these stressors will have long-lasting effects on the Great Lakes, Michigan's economy, and our way of life; and

Whereas, There has been an unprecedented collaborative effort on the part of 1,500 people representing federal, state, and local governments, Native American tribes, non-governmental entities, and private citizens to develop an Action Plan to Restore and Protect the Great Lakes; and

Whereas, Implementation of the Action Plan can restore the ecology of the Great Lakes and avert impending environmental threats to the region; and

Whereas, A recent report by the federal Great Lakes Interagency Task Force has, at the eleventh hour, attempted to change the rules that the Regional Collaboration operated under by recommending that the strategy be constrained by current budget projections; and

Whereas, The action plan previously developed through the Regional Collaboration includes recommendations that call on the states and federal government to take substantial new steps jointly in the restoration and protection of the Great Lakes: Now, therefore, be it

Resolved by the House of Representatives. That we urge the Great Lakes Regional Collaboration and the United States Congress to take prompt action to finalize, endorse, implement, and invest in the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved. That we urge the United States Congress to adopt legislation to implement and fully invest in the Action Plan; and be it further

Resolved. That we intend for the state of Michigan to continue its proud tradition of Great Lakes stewardship and fulfill its commitment to restoring the Great Lakes by taking substantial steps and, whenever practical, match federal funding to implement the Action Plan to Restore and Protect the Great Lakes; and be it further

Resolved. That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the Great Lakes Commission, the Great Lakes Legislative Caucus, the International Joint Commission, the Great Lakes Fishery Commission, the Michigan Office of the Great Lakes, the Michigan Department of Environmental Quality, and the Michigan Department of Natural Resources.

POM-257. A concurrent resolution adopted by the House of Representatives of the General Assembly of the State of Ohio relative to reforming the Medicaid program to ensure the program's solvency for future generations; to the Committee on Finance.

CONCURRENT RESOLUTION NO. 13

Whereas, The Ohio Medicaid program plays a vital role in preserving the health and safety of disabled and working low-income Ohioans, providing essential health care services for nearly one in every six Ohioans, including one of every three Ohio births, and funds 70 per cent of all nursing home care provided in Ohio; and

Whereas, Ohio's Medicaid program is growing at a rate of almost twice that of state revenues despite efforts to contain escalating program costs: since 2001, the program's case load has increased 34 per cent; and

Whereas, Currently, Ohio Medicaid program expenditures represent 38 per cent of expenditures from the state's General Revenue Fund; and

Whereas, Remarkably, 72 per cent of Ohio's Medicaid spending is directed toward the provision of long-term care for elderly and disabled Ohioans—who comprise only 25 per cent of the program's caseload of over 1.7 million Ohioans; and

Whereas, To increase the efficiency of the Medicaid program, Ohio has instituted care management programs for certain populations, including those with chronic disease, and has implemented long-term care reform measures; and

Whereas, The Ohio Medicaid program provides invaluable assistance to the mentally retarded and developmentally disabled (MR/DD) community. In an effort to maintain this support, the program is seeking to develop strategies that allow the state to continue to use local funds to finance MR/DD services; and

Whereas, The overall strength of Ohio's Medicaid program is predicated on the existing financial partnership between the state and federal government; however, should caps on reimbursement rates or cuts in federal funding be imposed, the partnership may be negatively impacted; and

Whereas, The federal government and state Medicaid programs must increase collaboration to manage health care benefits and their costs; in Ohio, services for "dual eligible" Medicaid recipients—those who are eligible to receive benefits from both Medicaid and Medicare—constitute approximately 44 per cent of Ohio's total Medicaid costs, while the dually eligible population comprises a mere 10 per cent of Ohio's Medicaid recipients; and

Whereas, The federal government could provide the Ohio Medicaid program with access to its Medicare payment information, which would help Ohio increase the effectiveness of its Enhanced Care Management project and provide more effective care to Ohio's aged, blind, and disabled Medicaid recipients; and

Whereas, Medicaid recipients have benefited greatly from Ohio's commitment to expand significantly its capacity to provide Medicaid services by providing care through home and community-based services waiver programs; and

Whereas, Despite Medicaid recipients' preference for home and community-based care and the cost-effectiveness of home and community-based services, federal regulations require the provision of services in an institutional setting, while home and community-based services may be provided only under restricted waiver programs; and

Whereas, If the federal government eliminated the institutional bias in long-term care system design and allowed states to detach Medicaid waivers from the nursing home level of care, all Medicaid recipients nationwide would benefit from the ability to choose their care setting; and

Whereas, Private financing for both institutional and community-based long-term care services should be encouraged to mitigate the Ohio Medicaid program's existing role as a purchaser of long-term care services; and

Whereas, If reinstated by the United States Congress, the Long Term Care Insurance Partnership would also greatly reduce the American public's reliance on publicly funded long-term care services and support; and

Whereas, With regard to nursing home care, Ohio is pursuing regulatory reform initiatives and recently applied to the Centers for Medicare and Medicaid Services (CMS) for consideration of a nursing facility survey pilot program to allow the Ohio Department of Health to focus on facilities that provide substandard care, thereby improving facility residents' health and the overall quality of care delivered in Ohio; and

Whereas, Partnership with CMS in the Medicare/Medicaid data matching project empowered Ohio to more aggressively pursue fraud and abuse among providers that charge both programs for services; and

Whereas, The Ohio Medicaid program would benefit greatly from federal Medicaid policies that honor any approved state Medicaid plan amendments (rather than requiring the interpretation of policy on a case-by-case basis); and

Whereas, Federal regulations governing findings for recovery adversely impact the Ohio Medicaid program; the regulations require the state to reimburse the federal government for the service in question within 60 days—regardless of whether the program has recovered the costs itself posing the potential for significant cash flow disruptions within the program; and

Whereas, The State of Ohio believes that under the Medicare Modernization Act, the United States Secretary of Health and Human Services has sufficient flexibility to work with states to implement the changes made by the Act and that there exists the need to exercise that authority to mitigate the fiscal impact of Medicare Part D in Ohio, as the implementation of Medicare Part D under the Act will likely have a negative fiscal impact on Ohio's Medicaid program, requiring the program to increase spending for its pharmacy program; and

Whereas, The Ohio Medicaid program has enacted measures to more efficiently manage pharmacy benefit costs, but if the program were authorized to determine which drugs are included in the program formulary in a manner similar to that provided under Medicare Part D, the program could manage costs even more effectively; and

Whereas, Ohio encourages continued federal support and investment in new technologies that improve the state's ability to manage the Medicaid program and control program costs; and

Whereas, In an ongoing effort to encourage behavior changes in Medicaid recipients and to prompt recipients to manage their own benefits, the Ohio Medicaid program seeks authority, on behalf of all state Medicaid programs, to charge Medicaid recipients enforceable copayments for services: Now therefore, be it

Resolved, That we, the members of the 126th General Assembly of the State of Ohio, acting on behalf of the citizens of Ohio, strongly urge the Congress of the United States and the United States Secretary of Health and Human Services to respond to the specific concerns delineated in this resolution by reforming the Medicaid program to increase Ohio's authority to design Medicaid coverage and services and ensure the program's solvency for future generations; and be it further

Resolved, That the Clerk of the House of Representatives transmit duly authenticated copies of this resolution to the President of the United States, to the Speaker and the Clerk of the United States House of Representatives, to the President Pro Tempore and the Secretary of the United States Senate, to the members of the Ohio Congressional delegation, to the United States Secretary of Health and Human Services, and to the news media of Ohio.

POM-258. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to changing the coastal line by which the state receives tax and mineral revenue from three miles to twelve miles to be consistent with the states of Texas and Mississippi as it relates to the receipt of federal tax and mineral revenue; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION No. 41

Whereas, the state of Louisiana receives a portion of taxes collected by the United

States government on oil extracted in the Gulf of Mexico within three miles from the coast of Louisiana; and

Whereas, the states of Texas and Mississippi receive a portion of taxes collected by the U.S. government on oil extracted in the Gulf of Mexico within twelve miles from their respective coast lines; and

Whereas, fairness and equity dictate that Louisiana should be treated in the same manner as Texas and Mississippi as it relates to the receipt of federal tax and mineral revenue: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby request the Congress of the United States to change the coastal line by which the state receives tax and mineral revenue from three miles to twelve miles to be consistent with Texas and Mississippi as it relates to the receipt of federal mineral revenue; be it further

Resolved, That a copy of this Resolution be transmitted to the Congress of the United States.

POM-259. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to supporting policies that protect and encourage the cultural autonomy of the people of Macedonia; to the Committee on Foreign Relations.

HOUSE RESOLUTION No. 165

Whereas, In 1991, 95 percent of the voters of Macedonia voted for independence from Yugoslavia; and

Whereas, In 1993, the Republic of Macedonia became a member of the United Nations; and

Whereas, In 1994, the United States of America recognized the Republic of Macedonia as a sovereign state, and the Republic of Macedonia was recently cited and honored by President Bush and the United States Department of State for its support in the war with Iraq; and

Whereas, There is a large contingency of Macedonians living throughout the United States; and

Whereas, Macedonians began to immigrate to Michigan in the late 1800s and continue to relocate and flourish here with a strong community ethic; and

Whereas, There are more than 60,000 Macedonians now living throughout Michigan; and

Whereas, The first, second, third, and fourth generation Macedonians living in Michigan are a positive force contributing to the economic, cultural, and educational basis of this state; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the President and the Congress of the United States to support policies that protect and encourage the cultural autonomy of the people of Macedonia, including the rights of Macedonians living throughout the Balkans to speak their language, to attend schools and churches offered in their language, to practice their customs, to be able to call themselves Macedonians, and to be granted all the civil and human rights required by international law; and be it further

Resolved, That copies of this resolution be presented to the Office of the President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation.

POM-260. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to amending the provision of law requiring applicants for hunting and fishing licenses to provide their Social Security numbers or other identifying numbers by exempting applicants age 16 and under; to the Committee on the Judiciary.

HOUSE RESOLUTION No. 529

Whereas, Statutory requirements that applications for recreational licenses must include individuals' Social Security numbers or other identifying numbers were enacted by the Congress of the United States in 1997 as part of the Balanced Budget Act of 1997 (Public Law 105-33, 111 Stat. 251); and

Whereas, the Commonwealth of Pennsylvania implemented this Federal mandate through the act of December 16, 1997 (P.L. 549, No. 58), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for alimony, for information to consumer reporting agency, for cooperation of government and nongovernment agencies and for general administration of support matters; providing for duties of Title IV-D attorney; further providing for order of support, for mandatory inclusion of child medical support, for commencement of support actions or proceedings, for expedited procedure, for paternity, for attachment of income, for costs and fees, for continuing jurisdiction over support orders, for duty to report and for denial or suspension of licenses; providing for Title IV-D program and related matters; further providing for acknowledgment and claim of paternity, for responsibilities of law enforcement agencies, for court-ordered relief, for continuing exclusive jurisdiction, for recognition of child support orders, for duties of initiating tribunal, for duties and powers of responding tribunal, for inappropriate tribunal, for duties of support enforcement agency, for supervisory duty, for duties of the Department of Public Welfare and for income-withholding order of another state; providing for compliance with multiple income-withholding orders, for immunity from civil liability, for penalties for noncompliance and for contest by obligor; further providing for notice of registration of order, for procedure to contest validity or enforcement of registered order and for modification of child support order of another state; providing for jurisdiction to modify child support order of another state and for notice to issuing tribunal of modification; further providing for supervisory duty and for definitions; making repeals; and making editorial changes"; and

Whereas, Criminal identity theft and threats to the personal and financial privacy and security of Pennsylvanians are on the rise; and

Whereas, Procedures for the collection of Social Security numbers now in use by licensing agents of the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission necessitate the collection and storage of vital information in a manner which may jeopardize confidentiality of those numbers; and

Whereas, Criticism of the procedures used to gather and safeguard Social Security numbers of applicants has grown steadily, in some cases resulting in applicants simply forgoing the purchase of a license rather than submitting vital personal data to the archaic system now in use by both commissions; and

Whereas, The Commonwealth of Pennsylvania strongly supports all effective mechanisms to encourage payment of child support obligations; and

Whereas, Requiring applicants for hunting and fishing licenses who are age 16 and under to provide their Social Security numbers or other identifying numbers does not enhance effective enforcement of child support obligations inasmuch as these applicants are highly unlikely to be in arrears on child support payments; and

Whereas, It is unlikely that the Congress of the United States intended to require applicants for hunting and fishing licenses age 16 and under to be included in this requirement; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and the Congress of the United States to amend the provision of law requiring applicants for hunting and fishing licenses to provide Social Security numbers or other identifying numbers by exempting applicants age 16 and under; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each House of Congress and to each member of Congress from Pennsylvania.

POM-261. A resolution adopted by the Board of Commissioners of Ferry County, State of Washington, relative to supporting county custom, culture, and heritage in decision making on federal lands in Ferry County, State of Washington; to the Committee on Environment and Public Works.

POM-262. A resolution adopted by the City Commission of the City of Lauderdale Lakes of the State of Florida relative to encouraging Congress to pass the Debris Removal Act of 2005; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself, Mr. CONRAD, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. MCCAIN, Mr. JOHNSON, and Mr. SMITH):

S. 2245. A bill to establish an Indian youth telemental health demonstration project; to the Committee on Indian Affairs.

By Mr. SCHUMER:

S. 2246. A bill to establish within the United States Marshals Service a short term State witness protection program to provide assistance to State and local district attorneys to protect their witnesses in homicide and major violent crime cases and to provide Federal grants for such protection; to the Committee on the Judiciary.

By Mr. REID (for Mr. OBAMA):

S. 2247. A bill to promote greater use of information technology in the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code, to increase efficiency and reduce costs; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 424

At the request of Mr. BOND, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 537

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 627

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 840

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 840, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 852

At the request of Mr. SPECTER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 852, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1436

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1436, a bill to award grants to eligible entities to enable the entities to reduce the rate of underage alcohol use and binge drinking among students at institutions of higher education.

S. 1723

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1723, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes.

S. 1841

At the request of Mr. NELSON of Florida, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1841, a bill to amend title XVIII of the Social

Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1923

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1923, a bill to address small business investment companies licensed to issue participating debentures, and for other purposes.

S. 2115

At the request of Ms. STABENOW, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 2115, a bill to amend the Public Health Service Act to improve provisions relating to Parkinson's disease research.

S. 2134

At the request of Mr. SMITH, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2134, a bill to strengthen existing programs to assist manufacturing innovation and education, to expand outreach programs for small and medium-sized manufacturers, and for other purposes.

S. 2199

At the request of Mr. BINGAMAN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2199, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to promote research and development, innovation, and continuing education.

S. 2231

At the request of Mr. BYRD, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2231, a bill to direct the Secretary of Labor to prescribe additional coal mine safety standards, to require additional penalties for habitual violators, and for other purposes.

S.J. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. RES. 313

At the request of Ms. CANTWELL, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

At the request of Mr. HAGEL, his name was added as a cosponsor of S. Res. 313, *supra*.

S. RES. 365

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 365, a resolution to provide a 60 vote point of order against out-of-scope material in conference reports and open the process of earmarks in the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. CONRAD, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. MCCAIN, Mr. JOHNSON, and Mr. SMITH):

S. 2245. A bill to establish an Indian youth telemental health demonstration project; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, I rise today to introduce legislation which would deal in a small but, I hope, meaningful way, with the crisis of youth suicide in Indian Country. On the reservations of the Northern Great Plains, the rate of Indian youth suicide is 10 times higher than it is anywhere else in the country. This needless loss of young boys and girls whose whole lives lay ahead of them is a very serious problem.

I am pleased that last year, the Senate Indian Affairs Committee held two hearings on the tragic issue of teen suicide and the urgent need for prevention, intervention and treatment services. We heard the testimony of youth and family members, representatives of the Indian Health Service and other agencies of the Department of Health and Human Services, and Indian professionals who work with young people. We continue to sift through their recommendations to find possible solutions that could be proposed in legislation.

I believe it is urgent that solutions be put forward now to deal with this troubling problem. Following the Committee's second hearing on Indian youth suicide last summer, several more Indian young people attempted suicide on the Standing Rock Reservation in North and South Dakota. Thankfully, their lives were spared and their attempts not completed. But time is running out for addressing this tragic issue.

When the Indian Affairs Committee marked up legislation to amend and reauthorize the Indian Health Care Improvement Act last October, I offered, with Senators CONRAD and SMITH, an amendment which had three components, all of which were presented as ideas at the Committee's hearing in Washington, DC, on June 15, 2005, on Indian youth suicide. I am very pleased that my amendment was unanimously adopted.

The legislation which I introduce today parallels one part of that amendment to the Indian health reauthorization bill, and would authorize the Indian Youth Telemental Health Demonstration Project. The Secretary of

Health and Human Services would award grants under this 4-year demonstration project to five Indian Tribes and Tribal Organizations that have telehealth capabilities. Grantees would provide services through telemental health for such purposes as counseling of Indian youth for suicide prevention, intervention and treatment; providing medical advice and other assistance to frontline tribal health providers; training for tribal community members, elected officials, tribal educators and health workers and others who work with Indian youth; developing culturally-sensitive materials on suicide prevention and intervention; and data collection and reporting.

My proposal has been revised since it was adopted as an amendment to the Indian health reauthorization bill in response to Administration concerns about expanding new health care programs or services to Native Americans living in urban areas. I will leave the Federal Government's obligation to provide health care to urban Indians—most of whom are in urban areas because they or their parents or relatives were relocated from their reservations or Alaska Native communities under federal policy—to be discussed another day.

Many Indian reservations and Native villages in Alaska are in remote locations and quite isolated, and experience much more limited access to mental health services than in our nation's cities. The testimony received by the Indian Affairs Committee showed that it is particularly in these communities that there is a crisis among the youth. Accordingly, the bill I propose today is intended to provide services for counseling, medical advice and training and educational materials under this new demonstration project to Indian youth living on reservations and in Native villages.

I thank my colleagues who have joined me in this initiative and who have added thoughtful insights for ways to address this crisis that deprives many tribal communities of one of the richest resources, our youth. I look forward to continuing our efforts and developing a more comprehensive legislative proposal on this sensitive and very important issue. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill as introduced be printed in the RECORD.

S. 2245

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Youth Telemental Health Demonstration Project Act of 2006".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) suicide for Indians and Alaska Natives is 2 ½ times higher than the national average and the highest for all ethnic groups in the United States, at a rate of more than 16 per 100,000 males of all age groups, and 27.9 per 100,000 for males aged 15 through 24, according to data for 2002;

(2) according to national data for 2002, suicide was the second-leading cause of death for Indians and Alaska Natives aged 15 through 34 and the fourth-leading cause of death for Indians and Alaska Natives aged 10 through 14;

(3) the suicide rates of Indian and Alaska Native males aged 15 through 24 are nearly 4 times greater than suicide rates of Indian and Alaska Native females of that age group;

(4)(A) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at the time of death; and

(B) more than ½ of the people who commit suicide in Indian Country have never been seen by a mental health provider;

(5) death rates for Indians and Alaska Natives are statistically underestimated;

(6) suicide clustering in Indian Country affects entire tribal communities; and

(7) since 2003, the Indian Health Service has carried out a National Suicide Prevention Initiative to work with Service, tribal, and urban Indian health programs.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

(4) the development of culturally-relevant educational materials on suicide; and

(5) data collection and reporting.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means the Indian youth telemental health demonstration project authorized under section 4(a).

(2) DEPARTMENT.—The term "Department" means the Department of Health and Human Services.

(3) INDIAN.—The term "Indian" means any individual who is a member of an Indian tribe or is eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) SERVICE.—The term "Service" means the Indian Health Service.

(7) TELEMENTAL HEALTH.—The term "telemental health" means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

(8) TRADITIONAL HEALTH CARE PRACTICES.—The term "traditional health care practices" means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to Western healing sciences) that—

(A) embody the influences or forces of innate Tribal discovery, history, description, explanation and knowledge of the states of wellness and illness; and

(B) call upon those influences or forces in the promotion, restoration, preservation, and maintenance of health, well-being, and life's harmony.

(9) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary is authorized to carry out a demonstration project to award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants described in paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services relating to psychiatry to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(b) USE OF FUNDS.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(1) To provide telemental health services to Indian youth, including the provision of—

(A) psychotherapy;

(B) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(C) alcohol and substance abuse treatment.

(2) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(3) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(4) To develop and distribute culturally-appropriate community educational materials on—

(A) suicide prevention;

(B) suicide education;

(C) suicide screening;

(D) suicide intervention; and

(E) ways to mobilize communities with respect to the identification of risk factors for suicide.

(5) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(c) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(2) a description of the manner in which the project funded under the grant would—

(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(3) evidence of support for the project from the local community to be served by the project;

(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(d) TRADITIONAL HEALTH CARE PRACTICES.—The Secretary, acting through the Service, shall ensure that the demonstration project involves the use and promotion of the traditional health care practices of the Indian tribes of the youth to be served.

(e) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

(f) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided;

(2) includes any other information that the Secretary may require.

(g) REPORT TO CONGRESS.—Not later than 270 days after the date of termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(1) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(3) evaluates whether the demonstration project should be—

(A) expanded to provide more than 5 grants; and

(B) designated a permanent program; and

(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,500,000 for each of fiscal years 2007 through 2010.

By Mr. REID (for Mr. OBAMA):

S. 2247. A bill to promote greater use of information technology in the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code, to increase efficiency and reduce costs; to the Committee on Homeland Security and Governmental Affairs.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

Mr. OBAMA. Mr. President, the American people are facing two, major health care crises—lack of health insurance and the soaring costs of medical care. Nearly 46 million Americans are uninsured, and the number one reason is because they can't afford it. Even those with health insurance are struggling to pay their medical bills. Family incomes can't keep up with rising health costs—health premiums alone have increased 73 percent over the past 5 years, while wages have only risen 15 percent. Unfortunately, we can't fix either of these crises without addressing the other. As health care costs rise, more employers will drop coverage for their employees. As the number of uninsured rise, the cost of their care is subsidized by those individuals that have insurance. It's a vicious cycle, and the longer we wait to act, the more difficult it will be to successfully intervene.

There are many drivers of health care costs, but perhaps the easiest one to tackle is the wasteful, administrative costs associated with health care. Health care is one of the least efficient industries in America. Processing a single transaction in health care can cost as much as \$25, whereas banks and brokerages spend less than a penny per transaction. Indeed, administrative costs account for 31 percent of total health care spending, or roughly \$465 billion each and every year.

Today, I am introducing a bill that would help to reduce health care administrative costs in the Nation's largest employer-sponsored health insurance program, the Federal Employees Health Benefit Program. FEHBP serves over 8 million Federal Government employees, retirees, and their families, who can choose from over 200 health plan options. The FEHBP Efficiency Act of 2006 would require all health plans participating in FEHBP to develop systems for hospitals and doctors to submit their bills electronically within 4 years.

Ken Thorpe, a health economist at Emory University, has reported that if all FEHBP participating health plans switched to electronic systems for submission of bills, the program could save up to 2 percent of the \$31 billion in

total premiums, or over \$600 million every year. That is a tremendous amount of savings—money that could be used to expand FEHBP benefits, increase the number of eligible employees, or lower premiums for FEHBP beneficiaries. Using its tremendous purchasing power, the Federal Government could help spur the health care industry to move to a completely paperless system for processing transactions in all government health programs as well as the private sector.

I urge my colleagues to join me in this effort to increase efficiency and reduce costs. Every American should have access to affordable health care, and this bill is one step towards making that a reality.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been rescheduled before the Committee on Energy and Natural Resources.

The hearing originally scheduled for Thursday, February 9, 2006 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building will now be held on Tuesday, February 14, 2006 at 10 a.m. in the same room.

The purpose of the hearing is to discuss the Energy Information Administration's 2006 Annual Energy Outlook on trends and issues affecting the United States' energy market.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Lisa Epifani 202-224-5269 or Shan-non Ewan at 202-224-7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, February 14, 2006 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony regarding S. 2197, to improve the global competitiveness of the United States in science and energy technology, to strengthen basic research programs at the Department of Energy, and to provide support for mathematics and science education at all levels through the resources available through the Department of Energy, including at the National Laboratories.

Because of the limited time available for the hearing, witnesses may testify

by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kathryn Clay (202) 224-6224 or Steve Waskiewicz at (202) 228-6195.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, February 6, 2006, at 2 p.m. for a hearing titled, "Hurricane Katrina: Managing Law Enforcement and Communications in a Catastrophe."

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

COMMITTEE ON THE JUDICIARY

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Executive Nominations" on Monday, February 6, 2006 at 9:30 a.m. in Hart Senate Office Building Room 226. The hearing is expected to continue throughout the afternoon.

Witness list

Panel I: The Honorable Alberto Gonzales, Attorney General, U.S. Department of Justice, Washington, DC.

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

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Jesse Wald, a fellow on my staff, be granted the privilege of the floor for the remainder of debate on S. 852, the Fairness in Asbestos Injury Resolution Act of 2005.

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

ORDERS FOR TUESDAY, FEBRUARY 7, 2006

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, February 7. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee, and that the Senate then resume consideration of the motion to proceed to S. 852, the asbestos bill.

I further ask that the Senate stand in recess from 12:30 until 2:15 p.m. to accommodate the weekly party luncheon.

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

PROGRAM

Mr. HATCH. Mr. President, tomorrow the Senate will continue to debate the motion to proceed to S. 852, the asbestos bill. A few minutes ago we filed cloture on the motion to proceed, and that vote will occur at 6 p.m. tomorrow. There will be no rollcall votes until 6 p.m. tomorrow to accommodate those Senators traveling to Georgia for the funeral service of Coretta Scott King.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:14 p.m., adjourned until Tuesday, February 7, 2006, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate February 6, 2006:

DEPARTMENT OF DEFENSE

BENEDICT S. COHEN, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY, VICE STEVEN JOHN MORELLO, SR., RESIGNED.

SECURITIES INVESTOR PROTECTION CORPORATION

ARMANDO J. BUCALO, JR., OF FLORIDA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2008. (REAPPOINTMENT)

TODD S. FARHA, OF FLORIDA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2006, VICE WILLIAM ROBERT TIMKEN, JR., RESIGNED.

TODD S. FARHA, OF FLORIDA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2009. (REAPPOINTMENT)

FEDERAL COMMUNICATIONS COMMISSION

ROBERT M. MCDOWELL, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 2004, VICE KATHLEEN Q. ABERNATHY, RESIGNED.

DEPARTMENT OF JUSTICE

MAURICIO J. TAMARGO, OF FLORIDA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2009. (REAPPOINTMENT)

IN THE AIR FORCE

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

BRIG. GEN. GLENN F. SPEARS

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DENNIS G. LUCAS

To be judge advocate general of the United States

MAJ. GEN. JACK L. RIVES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE POSITION AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8037:

To be major general and to be the deputy judge advocate general of the United States Air Force

BRIG. GEN. CHARLES J. DUNLAP, JR.

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. STEVEN J. LEPPER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10 U.S.C., SECTION 12203:

To be brigadier general

COL. TRACY L. MORK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 624:

To be brigadier general

COLONEL RONALD L. BAILEY
COLONEL MICHAEL M. BROGAN
COLONEL JON M. DAVIS
COLONEL TIMOTHY C. HANIFEN
COLONEL JAMES A. KESSLER
COLONEL JAMES B. LASTER
COLONEL ANGELA SALINAS
COLONEL PETER J. TALLERI
COLONEL JOHN A. TOOLAN, JR.
COLONEL ROBERT S. WALSH

IN THE NAVY

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

REAR ADM. (LH) DAVID J. DORSETT

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

REAR ADM. (LH) ELIZABETH A. HIGHT

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

REAR ADM. (LH) MARK D. HARNTCHEK

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) RICHARD E. CELLON
REAR ADM. (LH) WAYNE G. SHEAR, JR.

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) JOHN M. BIRD
REAR ADM. (LH) JOHN T. BLAKE
REAR ADM. (LH) FRANK M. DRENNAN
REAR ADM. (LH) MARK E. FERGUSON III
REAR ADM. (LH) JOHN W. GOODWIN
REAR ADM. (LH) RICHARD W. HUNT
REAR ADM. (LH) ARTHUR J. JOHNSON, JR.
REAR ADM. (LH) MARK W. KENNY
REAR ADM. (LH) JOSEPH F. KILKENNY

REAR ADM. (LH) WILLIAM E. LANDAY III
REAR ADM. (LH) DOUGLAS L. MCCLAIN
REAR ADM. (LH) WILLIAM H. MCRAVEN
REAR ADM. (LH) KEVIN M. QUINN
REAR ADM. (LH) RAYMOND A. SPICER
REAR ADM. (LH) PETER J. WILLIAMS

THE FOLLOWING NAMED OFFICER FOR PROMOTION 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. SEAN F. CREAN

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ANDREW H. N. KIM

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RENDELL G. CHILTON
RICHARD L. COUFAL
GEORGE J. DESIMONE
MICHAEL L. ERNST
JOHN R. FLANAGAN
JOHN J. HALLORAN, JR.
LEE F. KNIGHT
DOUGLAS W. LANE
LLOYD D. OAKS
DAVID J. OSINSKI