

to its payment obligations under sections 202 or 203 of that Act.”.

(h) CONFIRMATION OF PLAN.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

“(14) If the debtor is a participant (as that term is defined in section 3 of the Fairness in Asbestos Injury Resolution Act of 2003), the plan provides for the continuation after its effective date of payment of all payment obligations under title II of that Act.”.

**SEC. 403. EFFECT ON OTHER LAWS AND EXISTING CLAIMS.**

(a) EFFECT ON FEDERAL AND STATE LAW.—The provisions of this Act shall supersede any and all State and Federal laws insofar as they may relate to any asbestos claim filed under this Act.

(b) EXCLUSIVE REMEDY.—The remedies provided under this Act shall be the exclusive remedy for any asbestos claim under any Federal or State law.

(c) BAR ON ASBESTOS CLAIMS.—

(1) IN GENERAL.—No asbestos claim may be pursued in any State or Federal court, except for enforcement of claims for which a final judgment is entered before the date of enactment of this Act.

(2) PREEMPTION.—Any action asserting an asbestos claim in a court of any State, except actions for which final judgment are entered before the date of enactment of this Act, is preempted by this Act.

(3) DISMISSAL.—No judgment other than a judgment of dismissal may be entered in any such action, including an action pending on appeal, or on petition or motion for discretionary review, on or after the date of enactment of this Act. A court may dismiss any such action on its motion. If the district court denies the motion to dismiss, it shall stay further proceedings until final disposition of any appeal taken under this Act.

(4) REMOVAL.—

(A) IN GENERAL.—If an action under paragraph (2) is not dismissed, or if an order entered after the date of enactment of this Act purporting to enter judgment or deny review is not rescinded and replaced with an order of dismissal within 30 days after the filing of a motion by any party to the action advising the court of the provisions of this Act, any party may remove the case to the district court of the United States for the district in which such action is pending.

(B) TIME LIMITS.—For actions originally filed after the date of enactment of this Act, the notice of removal shall be filed within the time limits specified in section 1441(b) of title 28, United States Code.

(C) PROCEDURES.—The procedures for removal and proceedings after removal shall be in accordance with sections 1446 through 1450 of title 28, United States Code, except as may be necessary to accommodate removal of any actions pending (including on appeal) on the date of enactment of this Act.

(D) JURISDICTION.—The jurisdiction of the district court shall be limited to—

(i) determining whether removal was proper; and

(ii) ruling on a motion to dismiss based on this Act.

**HONORING OUR ARMED FORCES**

Mr. GREGG. Mr. President, I rise today to pay tribute to a special person, Private First Class Andrew Stevens of Stratham, NH.

Andrew joined the United States Army after graduating from Exeter High School in 2001. He completed basic training and advanced individual training at Fort Benning, GA, and served proudly as an infantryman in Charlie

Company of the 4th Battalion, 31st Infantry Regiment, 10th Mountain Division, Light, United States Army. His awards include the Basic Marksmanship Qualification Badge, Expert Infantry Badge, Army Achievement Medal, National Defense Service Medal, Army Service Ribbon, and the Army Meritorious Service Medal.

Tragically, on March 10, 2003, this young soldier, only 20 years old, gave the last full measure for our Nation when he and 10 comrades perished in the crash of their UH-60 Black Hawk helicopter during a training mission in the woods of Fort Drum, NY.

Patriots from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Iraq—and Andrew served in that fine tradition. Daniel Webster said, “God grants liberty only to those who love it, and are always ready to guard and defend it.” Andrew was one of those proud and dedicated volunteers who chose to serve our Nation and guard our precious liberty, and for that we will always owe our sincere gratitude.

The sudden death of a young person is especially difficult for family and friends. In November 1864, President Abraham Lincoln was informed by the War Department of a mother who had lost five sons in the Civil War. He wrote the mother:

I feel how weak and fruitless must be any word of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save.

I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

Family, friends, and fellow soldiers will no longer be able to enjoy the company of Private First Class Andrew Stevens. Strangers will never have the opportunity to know his friendship. Yet memories of this young patriot will last forever with those who were fortunate enough to have had the opportunity to know him. May God bless Andrew Stevens.

Mr. President, I also rise today to pay tribute to a special person, SFC William J. Tracy, who grew up in Weare, and Webster, NH.

William joined the U.S. Marine Corps after graduating from Merrimack Valley High School in Penacook in 1993. He served as a field artillery fire controlman for 4 years and completed his enlistment as a corporal in April 1999.

Subsequently, he enlisted in the U.S. Army and attended the Utility Helicopter Maintainers Course at Fort Eustis, VA. There he earned his wings, and proudly became an air crewmember. Immediately afterwards, he was assigned to the 5th Battalion, 158th Aviation Regiment in Giebelstadt, Germany. In 3 years there, he deployed six times and logged over 500 hours flying.

In October 2002, William extended overseas and moved to his sister unit, B Company, of the 5th Battalion, 158th Aviation Regiment, in Aviano, Italy. In January 2003, he departed for Kuwait as part of the 11th Aviation Task Force.

In his U.S. Army career, he received the Army Achievement Medal, National Defense Service Ribbon, and the Good Conduct Medal. He was qualified as expert on the M9 semiautomatic pistol and on the helicopter-mounted M60 machine gun.

Tragically, on February 25, 2003, this young soldier, 1 day short of his 28th birthday, gave the last full measure for our Nation when he, and three crewmembers, perished in the crash of their UH-60 Black Hawk helicopter in the Kuwaiti desert. Their helicopter crashed 30 miles northwest of Kuwait City during night exercises.

Patriots from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Iraq—and William served in that fine tradition. Daniel Webster said: “God grants liberty only to those who love it, and are always ready to guard and defend it.” William was one of those proud and dedicated volunteers who chose to serve our Nation and guard our precious liberty, and for that we will always owe our sincere gratitude.

The sudden death of a young person is especially difficult for family and friends. In November 1864, President Abraham Lincoln was informed by the War Department of a mother who had lost five sons in the Civil War. He wrote the mother:

I feel how weak and fruitless must be any word of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save.

I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

Family, friends, and fellow soldiers will no longer be able to enjoy the company of SFC William Tracy. Strangers will never have the opportunity to know his friendship. Yet memories of this young patriot will last forever with those who were fortunate enough to have had the opportunity to know him. May God bless William Tracy.

**ON PASSAGE OF THE “HOMETOWN HEROES SURVIVORS BENEFITS ACT OF 2003”**

Mr. LEAHY. Mr. President, I rise today to express my happiness over the Senate passage of the “Hometown Heroes Survivors Benefits Act of 2003 in the early morning hours of last Friday. I thank Senators GRAHAM of South Carolina, COLLINS, JEFFORDS, SARBANES, SCHUMER, DURBIN, LANDRIEU, NELSON of Florida, CLINTON, SNOWE, KOHL, SMITH, STABENOW, KENNEDY, and

DAYTON for joining me as cosponsors of this multi-partisan legislation that will improve the Department of Justice's Public Safety Officers' Benefits, PSOB, Program by allowing families of public safety officers who suffer fatal heart attacks or strokes to qualify for federal survivor benefits. I also thank Senator Minority Leader TOM DASCHLE for his hard work to pass our bill through the Senate last Friday at 2:30 AM. Without his perseverance, passage of this bill would not have happened.

I also thank each of our Nation's brave firefighters, emergency medical rescuers and law enforcement officers for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our state and local public safety partners.

I commend Congressmen ETHERIDGE, WELDON, HOYER and OXLEY for their leadership and fortitude during the last Congress on an identical bill in the House. I look forward to working with them, as well as House Judiciary Chairman, SENSENBRENNER and Ranking Member CONYERS, to pass our Senate bill through the House and send it to the President's desk for passage into law as soon as possible.

Our legislation has received the endorsement of the Fraternal Order of Police, National Association of Police Organizations, International Brotherhood of Police Officers, Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, National Fire Protection Association, National Volunteer Fire Council, North American Fire Training Directors, International Fire Buff Associates, National Association of Emergency Medical Technicians, American Ambulance Association, the American Federation of State, County and Municipal Employees, along with over 50 additional national organizations. I thank all of these organizations for their unwavering support for this legislation.

Public safety officers are our most brave and dedicated public servants. I applaud the efforts of all members of fire, law enforcement, and EMS providers nationwide who are the first to respond to more than 1.6 million emergency calls annually—whether those calls involve a crime, fire, medical emergency, spill of hazardous materials, natural disaster, act of terrorism, or transportation accident—without reservation. Those men and women act with an unwavering commitment to the safety and protection of their fellow citizens, and forever willing to selflessly sacrifice their own lives to pro-

vide safe and reliable emergency services to their communities.

Sadly, that kind of dedication can result in tragedy, which was reaped in abundance at the World Trade Center and the Pentagon on September 11, when scores of firefighters, police officers and medics raced into the jaws of danger with no other goal than to save lives. Every year, hundreds of public safety officers nationwide lose their lives and thousands more are injured while performing duties that subject them to great physical risks. And while we know that PSOB benefits can never be a substitute for the loss of a loved one, the families of all our fallen heroes deserve to collect these funds.

The PSOB Program was established in 1976 to authorize a one-time financial payment to the eligible survivors of Federal, State, and local public safety officers for all line of duty deaths. In 2001, Congress improved the PSOB Program by streamlining the process for families of public safety officers killed or injured in connection with prevention, investigation, rescue or recovery efforts related to a terrorist attack. We also retroactively increased the total benefits available by \$100,000 as part of the USA PATRIOT Act. The Program now provides approximately \$262,000 in benefits to the families of first responders killed in the line of duty.

Unfortunately, the issue of covering heart attack and stroke victims in the PSOB Program was not addressed at that time.

When establishing the PSOB Program, Congress placed only three limitations on the payment of benefits. No award could be paid, first, if the death was caused by the intentional misconduct of the officer or by such officer's intention to bring about his own death; second, if voluntary intoxication of the officer was the proximate cause of such officer's death; or, third, to any person otherwise entitled to a benefit if such person's action was a substantial contributing factor to the death of the officer.

In years following, however, the Justice Department began to interpret the Program's guidelines to exclude from benefits the survivors of public safety officer who die of a heart attack or stroke while acting in the line of duty, arguing that the attack must be accompanied by a traumatic injury, such as a wound or other condition of the body caused by external force, including injuries by bullets, smoke inhalation, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria. Barred are those who suffer from occupational injuries, such as stress and strain.

Service-connected heart, lung, and hypertension conditions are silent killers of public safety officers nationwide. The numerous hidden health dangers dealt with by police officers, fire fighters and emergency medical personnel

are widely recognized, but officers face these dangers in order to carry out their sworn duty to serve and protect their fellow citizens.

Our multi-partisan bill would effectively erase any distinction between traumatic and occupational injuries. The Hometown Heroes bill will fix the loophole in the PSOB Program to ensure that the survivors of public safety officers who die of heart attacks or strokes in the line of duty or within 24 hours of a triggering effect while on duty—regardless of whether a traumatic injury is present at the time of the heart attack or stroke—are eligible to receive financial assistance. I was serving my first term in the Senate when the Program was established, and I firmly believe that this is what Congress meant for the survivors of our nation's first responders to receive through the Public Safety Officers Benefits Program.

Heart attacks and strokes are a reality of the high-pressure jobs of police officers, firefighters and medics. These are killers that first responders contend with in their jobs, just like speeding bullets and burning buildings. They put their lives on the line for us, and we owe their families our gratitude, our respect and our help. No amount of money can fill the void that is left by these losses, but ending this disparity can help these families keep food on the table and shelter over their heads. It helps them make the transition into their new lives.

The gap hits families hard when tragedy strikes. Earlier this year, two Vermont firefighters suffered heart attacks while responding to emergencies. According to the Federal Emergency Management Agency, 31 firefighters died of heart attacks relating to their jobs in 2002, and based on statistics from the Officer Down Memorial Page, 8 police officers suffered heart attacks while carrying out their duties. Due to the current loophole in the PSOB Program, though, the families of these individuals will not receive federal survivor benefits without the Hometown Heroes Survivors Benefit Act. For example, in January 1978, special Deputy Sheriff Bernard Demag of the Chittenden County Sheriff's Office in Vermont suffered a fatal heart attack within two hours of his chase and apprehension of an escaped juvenile whom he had been transporting. Mr. Demag's family spent nearly two decades fighting in court for workers' compensation death benefits all to no avail. Clearly, we should be treating surviving family members of officers who die in the line of duty with more decency and respect.

Public safety is dangerous, exhausting, and stressful work. A first responder's chances of suffering a heart attack or stroke greatly increase when he or she puts on heavy equipment and rushes into a burning building to fight a fire and save lives. The families of these brave public servants deserve to participate in the PSOB Program if

their loved ones die of a heart attack or other cardiac related ailments while selflessly protecting us from harm.

First responders across the country now face a new series of challenges as they respond to millions of emergency calls this year. They do this with an unwavering commitment to the safety of their fellow citizens, and are forever willing to selflessly sacrifice their own lives to protect the lives and property of their fellow citizens. I see no reason to hold up this important legislation—last Congress the House passed Congressman ETHERIDGE's identical language, and only a single, anonymous Republican hold in the Senate prevented its final passage. I am proud that the Senate has chosen to do the right thing and shown its support and appreciation for these extraordinarily brave and heroic public safety officers by passing the Hometown Heroes Survivors Benefit Act. I urge the leaders of the House to follow our lead and pass this legislation.

#### CLARIFICATION OF SECTION 307 OF H.R. 1298

Mr. GREGG. Mr. President, as chairman of the Health, Education, Labor and Pensions Committee, I want to clarify for the record the intent of Section 307 of H.R. 1298, which we debated and passed a few nights ago. Section 307 amends the Public Health Service Act to provide the Director of the Centers for Disease Control and Prevention the authority to ensure that health programs using injection equipment also work to ensure the safety of injections.

This section specifies only that when injections are involved in medical treatment programs of the U.S. Government, CDC should work hard to ensure that injection safety is maximized, including the use of single-use needles and training of health care workers in injection safety.

Since Federal law prohibits Federal funds from being used to provide needles to illegal drug users, I want to make clear that nothing in this section ought to be interpreted to suggest a change in that policy. Since the activities in this section fall under the jurisdiction of the HELP Committee, we will be monitoring the program with great interest.

#### THE ENFORCEMENT GAP

Mr. LEVIN. Mr. President, earlier this week, the Americans for Gun Safety Foundation released a report entitled the Enforcement Gap: Federal Gun Laws Ignored, analyzing the Justice Department's commitment to enforcing and prosecuting gun laws. The report examines prosecution data acquired under the Freedom of Information Act from the Justice Department for fiscal years 2000 through 2002. The AGS study reveals a significant gap between the number of Federal gun crimes committed and the number of Federal prosecutions initiated.

The report found that 20 of the 22 major Federal gun laws are rarely prosecuted. The two statutes consistently enforced by Federal prosecutors are laws against the use of a firearm in the commission of a Federal crime and a felon in possession of a firearm. The other 20 laws address other illegal firearm activity, including gun trafficking, firearm theft, lying on a criminal background check form, removing firearm serial numbers, and selling guns to minors.

The statistics in the AGS report are startling. According to AGS, in the fiscal year ending September 30, 2002, Federal prosecutors filed 197 cases for gun trafficking, despite 100,000 guns showing signs of trafficking. Only 27 cases were filed against corrupt gun dealers, even though AGS reports that gun dealers are the leading source of firearms recovered in gun trafficking operations. Prosecutors in 22 States filed no cases against individuals committing the 20 least prosecuted crimes. Across the country, only seven cases for illegally selling a gun to a minor were filed, even though more than 30,000 gun crimes were committed by youths age 17 or under. Only 202 cases were filed for possessing or selling a stolen firearm, despite nearly 140,000 reported gun thefts that year in which the make, model, and serial number of a stolen gun was reported to police. And a mere 98 cases for possessing or selling a firearm with an obliterated serial number were prosecuted, despite thousands of these guns being recovered in just a few cities in one year.

I believe vigorous law enforcement is a critical step toward reducing gun violence. I urge the Justice Department to step up its efforts to prosecute not only people who commit gun crimes but those corrupt dealers who put guns in criminal hands.

#### ARMED FORCES DAY

Mr. BURNS. Mr. President, I rise today to honor our military personnel on the occasion of Armed Forces Day.

As a veteran of the Marine Corps, I believe one of the most important things a person can do is serve this great country through the military. Our nation must honor those who take up the call to defend our freedoms and never take for granted those freedoms that all of us enjoy. These freedoms are only because of our veterans and military personnel.

Our active military forces have seen a lot of action as of late. The Guard and Reserve components have seen an increase in their operations as well. The performance of our military men and women has been outstanding. In my home State of Montana, as many as 750 men and women, Active Duty, Reservists and National Guard Personnel are supporting our ongoing operations, both in the United States and overseas. I am especially proud of these folks that have stepped up to the plate and have gone above and beyond the call to duty during these trying times.

Our military has performed honorably in the latest missions with which they have been tasked—the Global War on Terrorism, Operation Enduring Freedom and Operation Iraqi Freedom. We have seen Americans coming together to support these men and women and their families at home.

The men and women who wear our country's uniform are the keepers of the flame that has been passed down through generations. They are the bearers of our national memory. Each and every veteran and military member understands that the cost of freedom is steep. They were willing to accept that cost, so that we may live in peace. Arlington National Cemetery and veterans' cemeteries across this great land are full of those who understand that "freedom is not free." My thoughts and prayers go out to their loved ones for their loss.

I will continue to do my best to ensure that the United States military has the tools, skills and support needed to maintain its position as the finest fighting force in the world. I will also work to ensure that our veterans receive the benefits that they so richly deserve. It is because of their sacrifices each and every one of us are able to be here today.

God Bless our Military Personnel and God Bless America.

#### PROPOSED SENATE RULES CHANGE

Mr. LEAHY. Mr. President, Republican partisans are acting as if Senate Democrats were treating President Bush's judicial nominees the way Republicans treated President Clinton's. That is not the case. We have worked hard to repair much of the damage of Republican mistreatment of President Clinton's nominees. When we led the Senate we moved forward at twice the rate that Republicans had and during our leadership 100 of President Bush's judicial nominees were confirmed. This year we have proceeded to consider and confirm another 25 lifetime judicial appointments. I would understand the partisanship if Democrats had held up consideration of 125 judicial nominees and the Senate had only confirmed two, but just the opposite is true.

I understand the frustration that Senator FRIST feels regarding the continuing impasse over the nominations of Mr. Estrada and Judge Owen. I am sorry that the White House has chosen confrontation over cooperation with the Senate on these matters. It is too bad that this White House will not work with us, as Senator BENNETT and others have indicated was reasonable, in order to provide access to the materials we requested from Mr. Estrada and the Justice Department one year ago today. With respect to the renomination of Judge Owen, I have said that unprecedented renomination of a judicial nominee rejected after a hearing and a fair debate and vote before the Judiciary Committee was ill advised. It remains so.