

**Medical Screening:** Some Committee members were concerned about a medical screening program within the Fund. Although earlier versions of the asbestos bill excluded such a program, we concluded that one was necessary as an offset to the reduced role of a claimant's attorney. It is reasonable to have routine examinations for a discrete population of high-risk workers as a matter of basic fairness. By establishing a program with rigorous standards (such as a provision offered by Senator Coburn requiring service providers to be paid at Medicare rates), as has been done in this bill, unmeritorious claims can be avoided with the fair determination of those entitled to compensation under the statutory standard. This program is vastly different from any screening in the current tort system.

**Pending Claims and Settlements:** Prior to bill introduction, and as a result of the numerous stakeholder meetings, agreement was reached on how the bill affects pending claims and settlements in the tort system. The bill preserves: (1) cases with a verdict or final order or final judgment entered by a trial court; (2) any civil claim that, on the date of enactment, is in trial before a jury or judge at the presentation of evidence phase; and (3) written settlement agreements, executed prior to date of enactment, between a defendant and a specific named plaintiff, so long as the agreement expressly obligates the defendant to make a future monetary payment to the plaintiff and plaintiff fulfills all conditions of the settlement agreement within 90 days.

**CT Scans:** Unlike prior iterations of the asbestos bill, S. 852 permits greater use of CT scans. During markup, the Committee accepted an amendment that commissions a study by the Institute of Medicine to evaluate whether CT scans are well accepted and reasonably reliable to diagnose certain lung cancer claims. In addition, after extensive discussions between Senators Leahy and Coburn, the Committee accepted an amendment that calls on the American College of Radiologists to establish guidelines for comparing claimants' CT scans.

**Transparency:** Several members raised concern over the specific sources of defendant funding. After numerous briefing sessions from claims analysts and financial projection experts, the Committee accepted an amendment which provides that within 60 days after the date of enactment the contributors to the Fund must submit to the Administrator information sufficient to determine their contribution levels. The Administrator must publish this funding allocation information in the Federal Register within 60 days of receipt and before the Fund can be deemed operational.

**Asbestos Ban:** Despite the known danger involved with asbestos, a number of products and processes still use asbestos today. As Congress considers creating an alternative compensation program to address past exposures to asbestos, it is only sensible that we also prevent future asbestos-related illnesses from occurring by banning asbestos use. Therefore, this bipartisan bill contains a ban on the commercial manufacture, use and distribution of asbestos and asbestos-containing products, originally authored by Senator Murray. This provision was unanimously modified in Committee last month by the adoption of Senator Kyl's amendment to provide narrow exceptions to the ban for national security purposes.

S. 852 has benefited from a thorough process during this Congress. This legislation is complicated, but it is both integrated and comprehensive and reflects a remarkable and widespread will to enact legislation to finally resolve the asbestos crisis. On the state of a 20 year record, the choice we are pre-

sented with is not between this bipartisan bill and one that takes a dramatically different approach. The choice is between this bipartisan bill and the continuation of the present chaotic system which leaves thousands of victims suffering from deadly diseases without compensation and scores of companies threatened with bankruptcy.

Sincerely,

ARLEN SPECTER.  
PATRICK LEAHY.

#### STRAW PURCHASES AND THE ILLEGAL GUN MARKET

Mr. LEVIN. Mr. President, a report published last week in the Buffalo News further exposes how reckless gun dealers and the use of "straw purchasers" contribute to gun violence in our country. It is important that we recognize their role in adding to our Nation's gun violence problem and work to enact commonsense legislation to keep dangerous firearms out of the hands of violent criminals.

Under current law, when an individual buys a handgun from a licensed dealer, there are Federal requirements for a background check to insure that the purchaser is not an individual who is prohibited by law from purchasing or possessing a firearm. "Straw purchasers" serve as middlemen by purchasing firearms with the intent of transferring or selling them to other individuals who may be prohibited by law from purchasing firearms themselves or who may wish to hide the total number of firearms in their possession from Federal authorities. These "straw purchasers" help to supply the illegal gun market by allowing the true purchaser to obtain firearms, oftentimes in large quantities, without having to pass a background check. This practice is a felony under Federal law.

As the Buffalo News report points out, individuals using "straw purchasers" are often aided by gun dealers who turn a blind eye to the practice. One of the gun show dealers mentioned in the report has been linked to more than 600 guns recovered by New York City police, a semi-automatic rifle used in the 1999 shootings at Columbine High School, and is now prohibited from selling guns in the State of California as a result of a lawsuit brought by several communities there. In addition, reportedly nearly 200 handguns that were illegally resold in Buffalo, NY, were originally sold by the same dealer. Investigations revealed that the handguns were obtained over a 6-month period by a man and several accomplices who made "straw purchases" on his behalf. Since records of multiple gun sales must be filed with the Government, the "straw purchases" were apparently made to avoid alerting Federal authorities to the illegal reselling of the guns in Buffalo. According to the Buffalo News, the "straw purchasers" in this case said that their role was limited to signing and paying for the handguns that the true buyer selected.

Occurrences like those detailed by the Buffalo News are apparently not

uncommon and continue to help fuel the illegal gun market in our country. Reckless dealers and "straw purchasers" indirectly threaten the security of our communities by facilitating the transfer of dangerous firearms to potential criminals who may use them in violent crimes. Unfortunately, instead of strengthening our gun safety laws as they apply to reckless dealers and "straw purchasers," some of my colleagues are seeking to provide irresponsible gun manufacturers and dealers with immunity from liability, even when their actions contribute to the growth of the illegal gun market. I urge my colleagues to support efforts to help stop guns from falling into the hands of violent criminals.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each day I have come to the floor to highlight a separate hate crime that has occurred in our country.

In Chicago, a bisexual Latina student was threatened by a white male at a local university because of her sexual orientation. Sometime after the incident, the victim was walking outside of her dorm when the same male student followed her into an alley and assaulted her. She was punched and kicked repeatedly in the stomach.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### SUPPORT SPLITTING THE NINTH CIRCUIT COURT OF APPEALS

Mr. CRAIG. Mr. President, I rise today to support legislation splitting the Ninth Circuit Court of Appeals. It is high time Congress took this action. For far too long, the Ninth Circuit has been bogged down by an immense caseload, slowing the wheels of justice. Now we have the opportunity to correct a problem that has been in sore need of a solution for decades. The people of the State of Idaho have long requested this action, but it is not only good for Idaho; it is good for the States of the West represented in the Ninth Circuit, and for the Nation as a whole.

Calls for a split in the Ninth Circuit began as early as the 1930s. Support dwindled when the court expanded into Seattle and Portland to alleviate travel concerns and caseload burdens. In 1973, the Hruska Commission expressed concerns with the size of two circuit