

strips victims of their legal right to obtain compensation in the court system and puts them in an administrative trust fund that is underfunded and doomed to fail. That is why all the leading asbestos victims organizations oppose this bill.

Here is a letter from the Asbestos Victims Group United, dated February 1, 2006, written to me and to Senator FRIST. I will read parts of it:

We represent a diverse group of national asbestos victims' groups. We are writing this letter as a matter of urgency to ask Members to vote against S. 852. This legislation is not primarily intended, nor is it good, for victims. In fact, in its current form, the legislation would make recovery of compensation dramatically worse for victims. It would deny whole classes of cancer-ridden victims, who, today, are able to recover compensation for their injuries, any ability to be compensated.

... We oppose this legislation. We do not want this proposed government policy forced upon us. We believe the program will fail to treat victims fairly, while benefiting the very companies that caused the problem. We have said it before and now we say it louder.

... We have said it before and now we say it louder: We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation. Please do not allow the families who already have lost so much to be victimized once again.

The first signatory on this letter is Susan Vento, the wife of a man I served in Congress with, who never worked around asbestos—or so he thought. But he did work around it as a young man during a summer job while in school, and he got this disease. He was a big, strong man who worked out in the gym every day, and he died within a year, a slow, agonizing death. So the first signatory on this letter is Susan Vento, Chairperson, Committee to Protect Mesothelioma Victims.

I ask unanimous consent that this letter be printed in the RECORD.

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

ASBESTOS VICTIMS GROUPS UNITED,  
February 1, 2006.

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

DEAR LEADERS FRIST AND REID: We represent a diverse group of national asbestos victims' groups. We are writing this letter as a matter of urgency to ask Members to vote against S. 852. This legislation is not primarily intended, nor is it good, for victims. In fact, in its current form, the legislation would make recovery of compensation dramatically worse for victims. It would deny whole classes of cancer-ridden victims, who, today, are able to recover compensation for their injuries, any ability to be compensated.

If we have not made our position clear in our previous letters, we would like to make it very clear here: We oppose this legislation. We do not want this proposed government policy forced upon us. We believe the program will fail to treat victims fairly, while benefiting the very companies that caused the problem. We may not have the power of these corporations, but we have a voice, and we intend to use our voice to its maximum volume to defeat this bill.

And, if it passes, we plan to use our voice to inform the American people in every state and every district of this tragic fate of justice and to urge every victim to demand their right of compensation from the federal government.

We have listed below the specific substantive reasons we oppose S. 852:

It removes the fundamental right to a trial by jury and replaces it with an untried and unsound entitlement program that, we believe, is set to fail on day one.

Victims will face long delays in receiving compensation while the fund is set up and the bill is challenged on constitutional grounds. Many victims, especially those with mesothelioma, will die during that time period.

\$140 billion is too low and has been, at best, deemed a questionable minimum by the CBO. For the victim, this means the fund could leave them empty-handed. (For the taxpayer, it could mean excessive Federal borrowing).

Thousands of victims will fail to qualify because of newer more restrictive legal and medical standards—this is not a “no-fault” system. Despite not being allowed into the system, victims will likely be locked out of the trial system.

The bill excludes thousands who worked at, or lived near, hundreds of addresses around the country where Libby vermiculite was shipped.

The bill is structured to make it nearly impossible for victims who were exposed to asbestos in their own homes, and who did not live with an asbestos worker, to prove their exposure and eligibility for compensation. Assurances that these people will be taken care of via the “medical exceptions panel” are false promises given thousands would fall into this category and the fund will not be able to handle that many cases.

Trust funds have a dismal history: most have failed, all have been bogged down at the start-up and all have underestimated the amount of claims by large margins, as was shown in the recent GAO Report: Federal Compensation Programs.

Future victims of asbestos exposure, notably those exposed during 9/11 and Hurricanes Rita and Katrina, will receive no compensation and have no access to the court system.

Many asbestos victims with lung cancer, particularly smokers, are excluded despite the medical consensus that people with heavy asbestos exposure are at a substantially increased risk of cancer.

There is no automatic sunset provision—if the fund is not paying claims, victims must be able to gain access back into the courts without relying on the administrator's discretion.

The bill does not account for those who may have been exposed to naturally occurring asbestos.

Before allowing this legislation to move to the floor, please consider these questions:

Will the proposed funding be sufficient to compensate all victims?

How many victims will be left out from being compensated for asbestos injuries?

How much will the fund be forced to borrow from the federal government?

How many companies will contribute and how much will each be assessed?

Can the bill, if enacted, withstand the numerous legal and constitutional challenges already threatened by a wide range of parties?

We have said it before and now we say it louder: We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation. Please do not allow the families who already

have lost so much to be victimized once again.

Sincerely,

Susan Vento, Chairperson, Committee to Protect Mesothelioma Victims, Washington, DC.

Linda Reinstein, Co-Founder and Executive Director, Asbestos Disease Awareness Organization, Redondo Beach, CA.

Michael Bowker, Founder and Executive Director, Asbestos Victims Organization; Author, Fatal Deception: The Untold Story of Asbestos: Why It Is Still Legal and Why It Is Still Killing Us, Placerville, CA.

Jim Fite, National Secretary, White Lung Association, Baltimore, MD.

Barbara Zeluck, Secretary, White Lung Asbestos Information Center, New York, NY.

Mr. REID. Mr. President, I had placed in the RECORD yesterday one of the petitions. We have 150,000 signatures on that—150,000 signatures here in the Capitol in boxes. We debate this bill. There is a lot of technical talk about startups, sunsets, and payment tiers. But let's not lose sight of what this debate is about. It is about whether the Senate will keep faith with the victims of a disease which they had no opportunity to avoid.

The problem in America today, as it relates to what is going on on the Senate floor, is not a crisis created by the legal system; it is a crisis created by the people who expose these people to asbestos. If there were ever a cry for fairness and equity and justice, it is this. We cannot let corporate America do what they are trying to do to these innocent men and women.

#### 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 for up to 1 hour, with the first half of time under the control of the majority leader or his designee, and the second half of the time controlled by the Democratic leader or his designee.

The Senator from Georgia is recognized.

#### NSA TERRORIST SURVEILLANCE PROGRAM

Mr. CHAMBLISS. Mr. President, several weeks ago, after a highly classified program was leaked to the media, the President described certain activities of the National Security Agency that he authorized in the weeks following our Nation coming under direct attack on our own soil by Osama bin Laden's al-Qaida terrorists.

As described by the President, the Vice President, the Attorney General, and experts from the Department of Justice and the intelligence community, the terrorist surveillance program at NSA targets very specific

international communications of suspected and known al-Qaida operatives in a foreign country who are communicating with associates around the world and, occasionally, in a limited way, with individuals inside the United States. The purpose of the program is to collect foreign intelligence in an effort to identify and prevent another devastating attack on our homeland.

As we have learned, the terrorist surveillance program is designed with the goal of preventing terrorist attacks in the United States and protecting the lives of Americans. Given the imperative to reliably and immediately detect and disrupt the plots of international terrorists who are intent on killing Americans, the President is acting well within his constitutional authorities.

The Foreign Intelligence Surveillance Act has been, and continues to be, a valuable tool in protecting our national security interests in many cases. However, the world changed on September 11, 2001, demonstrating the importance that the President have the power and authority to protect the American people from future attacks of terrorism. Both the Constitution and the Congress grant the President that authority. FISA lacks the speed and agility necessary to fight the war on terror, and its bureaucratic requirements prevent the "hot pursuit" of international communications necessary to prevent attacks.

As vitally important as it is to protect American lives, it is also important that Americans' rights are protected. That is exactly why the administration has put in place a system of responsible measures to ensure our civil liberties are also protected. In doing so, congressional leaders from both parties have been kept informed about the program from the start. Furthermore, this program is reauthorized approximately every 45 days to ensure it is still necessary, and that it is being used properly, and the activities conducted within this program are thoroughly reviewed by lawyers within the National Security Agency and the Department of Justice to ensure the program is only collecting the international communications of suspected terrorists here in the United States and elsewhere.

Their oversight includes assuring an aggressive program is in place to assist the highly trained intelligence professionals at NSA verify that all activities are consistent with minimization procedures that weed out the identities of ordinary Americans and preserve civil liberties.

I note that FISA, which has been the alternative that the critics of this program have looked to as the real program that should be used, requires a reauthorization every 90 days. Here the President and the administration have taken an additional precaution to protect the privacy rights of Americans by reauthorizing this program approximately every 45 days.

On September 11, 2001, terrorists operating covertly inside the United

States, and in contact with al-Qaida members overseas, perpetrated the worst attack on domestic soil in American history. Osama bin Laden recently reiterated publicly al-Qaida's intention to attack us again with operatives hiding within our borders.

Congress identified al-Qaida as an enemy of this country by passing the authorization for the use of force, authorizing the President to use all necessary and appropriate force to protect our homeland.

When the enemy is behind your lines, you must use every lawful tool at your disposal to find and stop them. That is why the President has authorized the terrorist surveillance program.

As the 9/11 Commission pointed out, and as also the joint House-Senate Intelligence Committee investigation, as well as the report from the Subcommittee on Terrorism and Homeland Security in the House, which was filed in July of 2002, reported, two of the terrorist hijackers who flew a jet into the Pentagon, Nawaf al Hamzi and Khalid al Mihdhar, were communicating with members of al-Qaida overseas while they were inside the United States preparing for the deadly attack of September 11.

Regrettably, we did not know this until it was too late. GEN Mike Hayden, the former Director of the National Security Agency and the Deputy Director of National Intelligence, indicated that had this program been in place before 9/11, these terrorists could have been detected and identified.

Unfortunately, as a result of the public disclosure of this highly classified program, our enemies have learned information they should not have. Our national security has been damaged and Americans have been put at greater risk.

In our recent Intelligence Committee open hearing, CIA Director Porter Goss commented that as a consequence of leaks in general, damage has been very severe to our capabilities to carry out our mission. General Hayden observed that our intelligence capabilities are not immune to leaks in the public domain.

It is clear that this is an important program necessary to address the previous flaws in our early warning system that allowed at least two of the 9/11 murderers to live among us while they plotted our destruction. This vital program makes it more likely that terrorists will be identified and located in time to prevent another disaster. In fact, that may have already happened.

It is a program that is conducted within the President's constitutional authority and is subject to review and oversight.

It is also clear that continued leaks over this program are degrading our ability to continue to protect the lives of Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Kentucky is recognized.

## DEFENSE OF NSA TERRORIST SURVEILLANCE PROGRAM

Mr. McCONNELL. Mr. President, today America is at war. We were awakened to this war on September 11, 2001, even though our enemies had been waging it against us for a number of years. The enemy, of course, is al-Qaida, a treacherous terrorist group whose goal is simply to kill as many Americans as possible and to strike such fear into civilized nations that freedom itself is forced into retreat.

To combat this deadly threat, the President has rightly—rightly—asserted his constitutional authority to use every tool at his disposal to fight the war on terror. One of those tools is the NSA's terrorist surveillance program.

Yet despite the grave terrorist threat, I fear too many have forgotten that we are, indeed, a nation at war, and so have forgotten the vital need for the terrorist surveillance program. Perhaps it is because we have not seen another attack on American soil since September 11, despite, I might add, the terrorists' best efforts.

But there can be no doubt that al-Qaida terrorists are still plotting brutal attacks against this country and other freedom-loving countries. For proof of this, look no further than a recent audiotape made by Osama bin Laden himself. In a tape aired on Al-Jazeera television last month, bin Laden said this:

The mujahadeen, with God's grace, have managed repeatedly to penetrate all security measures adopted by the unjust allied countries. The proof of that is the explosions you have seen in the capitals of the European nations who are in this aggressive coalition.

He went on:

Similar operations happening in America. . . . are under preparation, and you will see them in your homes the minute they are through.

A not-so-veiled threat for another attack here at home. It couldn't be any clearer than that: "Similar operations," so Osama bin Laden said, "are under preparation, and you will see them in your homes the minute they are through."

At this very moment, al-Qaida operatives in America, right here at home—madmen such as Mohamed Atta—may be plotting attacks. What kinds of attacks could they be hatching? Here is one example.

In 2003, authorities apprehended a man named Iyman Faris for assisting al-Qaida in plotting and planning a terrorist attack. Faris is an American citizen. He lived in Ohio before being taken into Federal custody.

In 2002, Faris traveled to Pakistan where he met with known members of al-Qaida. The terrorists told him they were planning attacks in New York and here in Washington, and asked if he would help.