

amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; which was ordered to lie on the table; as follows:

On page 370, lines 9 through 11, strike “and the regulations banning asbestos promulgated under section 501 of this Act).”.

On page 368, line 23, strike all through page 370, line 24 and insert the following:

(e) CONTRIBUTIONS TO THE ASBESTOS TRUST FUND BY OSHA ASBESTOS VIOLATORS.—

(1) IN GENERAL.—The Administrator shall assess employers or other individuals determined to have violated asbestos statutes, standards, or regulations administered by the Department of Labor and State agencies that are counterparts, for contributions to the Asbestos Injury Claims Resolution Fund.

(2) IDENTIFICATION OF VIOLATORS.—Each year, the Administrator shall in consultation with the Assistant Secretary of Labor for Occupational Safety and Health, identify all employers that, during the previous year, were subject to final orders finding that they violated standards issued by the Occupational Safety and Health Administration for control of occupational exposure to asbestos (29 C.F.R. 1910.1001, 1915.1001, and 1926.1101) or the equivalent asbestos standards issued by any State under section 18 of the Occupational Safety and Health Act (29 U.S.C. 668).

(3) ASSESSMENT FOR CONTRIBUTION.—The Administrator shall assess each such identified employer or other individual under paragraph (2) for a contribution to the Fund for that year in an amount equal to—

(A) 2 times the amount of total penalties assessed for the first violation of occupational health statutes, standards, or regulations;

(B) 4 times the amount of total penalties for a second violation of such statutes, standards, or regulations; and

(C) 6 times the amount of total penalties for any violations thereafter.

On page 376, line 2, strike all through the matter before line 1 on page 385.

On page 385, line 1, strike all through page 392, line 5.

SA 2765. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; which was ordered to lie on the table; as follows:

On page 363, between lines 18 and 19, insert the following:

(4) MEDICAL CRITERIA FOR CLAIMS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the medical criteria under section 121(d) shall apply to any civil action described under paragraph (1).

(B) NONPREEMPTION OF CERTAIN STATE CRITERIA.—If any medical criterion under State law of the State in which a civil action described under paragraph (1) is filed has a greater requirement than any medical criterion of the medical criteria under section 121(d), the medical criterion of that State shall apply.

On page 363, line 19, strike “(4)” and insert “(5)”.

On page 364, line 15, strike “(5)” and insert “(6)”.

SA 2766. Mr. SESSIONS submitted an amendment intended to be proposed to

amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; which was ordered to lie on the table; as follows:

On page 365, insert between lines 118 and 19, the following:

(4) LIMITATIONS ON ATTORNEY’S FEES AND APPLICATION OF MEDICAL CRITERIA.—

(A) ATTORNEY’S FEES.—

(i) DEFINITION.—In this subparagraph, the term “reasonable fees and expenses of attorneys” means fees and expenses that are based on prevailing market rates for the kind and quality of the services furnished, except that—

(I) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States Government; and

(II) attorney’s fees shall not be awarded in excess of a reasonable fee, unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys, for the proceedings involved justifies a higher fee.

(ii) LIMITATION.—In any civil action described under paragraph (1)—

(I) the limitations on attorney’s fees under section 104(e) shall apply; or

(II) a court may award reasonable fees and expenses of attorneys.

(B) MEDICAL CRITERIA FOR CLAIMS.—

(i) IN GENERAL.—Except as provided under clause (ii), the medical criteria under section 121(d) shall apply to any civil action described under paragraph (1).

(ii) NONPREEMPTION OF CERTAIN STATE CRITERIA.—If any medical criterion under State law of the State in which a civil action described under paragraph (1) is filed has a greater requirement than any medical criterion of the medical criteria under section 121(d), the medical criterion of that State shall apply.

On page 363, line 19, strike “(4)” and insert “(5)”.

On page 364, line 15, strike “(5)” and insert “(6)”.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Friday, February 10, 2006, at 9:30 a.m. for a hearing titled, “Hurricane Katrina: The Roles of DHS and FEMA Leadership.”

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

NATIONAL FLOOD INSURANCE PROGRAM ENHANCED BORROWING AUTHORITY ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2275, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2275) to temporarily increase the borrowing authority of the Federal Emer-

gency Management Agency for carrying out the national flood insurance program.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2275) was read the third time and passed, as follows:

S. 2275

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 “National Flood Insurance Program Enhanced Borrowing Authority Act of 2006”.

SEC. 2. INCREASE IN BORROWING AUTHORITY.

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005 (Public Law 109–106; 119 Stat. 2288), is amended by striking “\$18,500,000,000” and inserting “\$21,200,000,000”.

SEC. 3. EMERGENCY SPENDING.

Amendments made pursuant to this Act are designated as emergency spending, as provided under section 402 of H. Con. Res. 95 (109th Congress).

MEASURES READ THE FIRST TIME—S. 2271 AND S. 2273

Mr. FRIST. I understand there are two bills at the desk. I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge non-disclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

A bill (S. 2273) to make available funds included in the Deficit Reduction Act of 2005 for Low-income Home Energy Assistance Act of 1981 program for fiscal year 2006, and for other purposes.

Mr. FRIST. I now ask for a second reading, and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be read for the second time on the next legislative day.

EXECUTIVE SESSION

NOMINATION OF THOMAS O. BARNETT TO BE AN ASSISTANT ATTORNEY GENERAL

Mr. FRIST. I ask unanimous consent the Senate immediately proceed to executive session to consider the following nomination on today’s Executive Calendar: No. 437, Thomas O.

Barnett. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

Thomas O. Barnett, of Virginia, to be an Assistant Attorney General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

ORDERS FOR MONDAY, FEBRUARY 13, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon on Monday, February 13; I further ask following the prayer and 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 Chair then lay before the Senate the House message to accompany H.R. 4297, the tax relief bill. I further ask that the Senate then insist upon its amendment and agree to the request of the House for a conference.

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

PROGRAM

Mr. FRIST. Mr. President, on Monday, the Senate will consider H.R. 4297, the Tax Relief Act of 2005 for the third time. Unfortunately, there will be multiple motions to instruct the conferees from the other side of the aisle before we send this bill to conference. Those motions will be offered on Monday. Senators can therefore expect multiple votes on Monday. There are 10 hours available by statute for consideration of these motions. Therefore, these votes will occur later on Monday. I anticipate those votes to begin sometime after 8 p.m.

We will then resume consideration of the asbestos bill next week. Pending is the motion to waive the point of order. We have Senators who would like additional debate. We will be talking to Senators on both sides of the aisle to determine the best time to schedule

that vote following their statements. Needless to say, there is much work to be done before our next recess, the Presidents Day recess, at the end of next week. Therefore, I expect we will be voting Monday, Tuesday, Wednesday, Thursday, and Friday in order to complete our work.

In addition to the asbestos bill and the Tax Relief Act, we need to address the PATRIOT Act before adjourning. It is going to be a long, arduous week. I thank Members for their patience in advance as we move these vital priorities along.

ADJOURNMENT UNTIL MONDAY,
FEBRUARY 13, 2006

Mr. FRIST. 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 2:09 p.m., adjourned until Monday, February 13, 2006, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate February 10, 2006:

DEPARTMENT OF DEFENSE

DORRANCE SMITH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE VICTORIA CLARKE, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

GORDON ENGLAND, OF TEXAS, TO BE DEPUTY SECRETARY OF DEFENSE, VICE PAUL D. WOLFOVITZ, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

AMTRAK

ENRIQUE J. SOSA, OF FLORIDA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FLOYD HALL, OF NEW JERSEY, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF TRANSPORTATION

ANDREW B. STEINBERG, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE KARAN K. BHATIA.

INTER-AMERICAN FOUNDATION

ROGER W. WALLACE, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008 (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NADINE HOGAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008 (REAPPOINTMENT), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF STATE

ELLEN R. SAUERBREY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION), VICE ARTHUR E. DEWEY, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

C. BOYDEN GRAY, OF THE DISTRICT OF COLUMBIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, VICE ROCKWELL A. SCHNABEL, RESIGNED,

TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2009 (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

RONALD E. MEISBURG, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE NATIONAL LABOR RELATIONS BOARD FOR A TERM OF FOUR YEARS, VICE ARTHUR F. ROSENFELD, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

PETER N. KIRSANOW, OF OHIO, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008, VICE RONALD E. MEISBURG, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARTHUR F. ROSENFELD, OF VIRGINIA, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR, VICE PETER J. HURTGEN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

STEPHEN GOLDSMITH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2010 (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF HOMELAND SECURITY

JULIE L. MYERS, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF HOMELAND SECURITY, VICE MICHAEL J. GARCIA, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

TRACY A. HENKE, OF MISSOURI, TO BE EXECUTIVE DIRECTOR OF THE OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY, VICE C. SUZANNE MENCER, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

BENJAMIN A. POWELL, OF FLORIDA, TO BE GENERAL COUNSEL OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (NEW POSITION), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

FEDERAL ELECTION COMMISSION

STEVEN T. WALTHER, OF NEVADA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2009, VICE SCOTT E. THOMAS, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

HANS VON SPARKOVSKY, OF GEORGIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011, VICE BRADLEY A. SMITH, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

ROBERT D. LENHARD, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011, VICE DANNY LEE MCDONALD, TERM EXPIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be lieutenant

STEPHEN S. MEADOR

CONFIRMATION

Executive Nomination Confirmed by the Senate Friday, February 10, 2006:

DEPARTMENT OF JUSTICE

THOMAS O. BARNETT, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.