

**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

courts: the Ninth and the Fifth. Congress compromised in 1978 by expanding the number of judges in both circuits. However, in 1981 the sheer size forced Congress to split the Fifth Circuit in two, forming the Eleventh Circuit and the Fifth Circuit in its current configuration. Interestingly, a 2003 report shows that the Ninth Circuit is, today, almost the same size as the Fifth and Eleventh if they were recombined.

Legislation was introduced in 1989 to split the Ninth into two circuits, creating a new Twelfth Circuit Court of Appeals. A 1990 report advised against the split without first attempting management changes to ease the caseload burden. Again in 1995, the Senate attempted to split the Ninth, and again in 1997.

In 1997 the Commission on Structural Alternatives for the Federal Courts of Appeals, commonly referred to as the White Commission, was formed to determine, among other things, whether there was a need to split the Ninth Circuit Court of Appeals. After hearing testimony, taking written statements, and gathering statistical data, the Commission published its final report in December 1998.

The White Commission report based its decision to oppose a split on the fear that population growth would put other circuits in a position similar to the Ninth, and that continuing to split circuits would eventually lead to an unwieldy kaleidoscope of law. The Commission instead proposed a restructuring within the circuit.

Today, we can see the result of the repeated failure to address Federal circuit court growth. In 1997 there were nearly 52,000 appeals filed in Federal circuit courts. In 2003, there were approximately 60,500. Of that 8,500 increase, 4,000 are in the Ninth Circuit but contrary to the White Commission's fear, the remaining 4,500 case increase is spread over the other 10 circuit courts. With this key Commission conclusion challenged, it is neither prudent nor fair to force Idahoans and other citizens of the West to wait an average of 4.5 months longer than citizens of other districts for their cases to be decided.

Although the 4.5 month wait is a critically important number, there are additional numbers that this Senate should take into consideration when evaluating this issue. For example, the Ninth Circuit has 50 authorized judges, while the average for all other circuits is 20. There are more than 57 million people living within the Ninth Circuit, while the other Circuits average a population of just over 21 million. And probably the most telling statistic: the Ninth Circuit has nearly triple the average number of appeals filed by all other circuits. No wonder it takes the Ninth 4.5 months longer to resolve an appeal.

It is worth noting that over the years, the Ninth Circuit has adopted a variety of management reforms aimed

at coping with the circuit's unwieldy size. However, I submit that we have long since reached the point beyond which this crisis can be "managed" away. It is a gross disservice to the talented jurists and staff of the Ninth Circuit, and an injustice to the citizens of the States it represents, for this Congress to stand idly by while caseloads and waiting periods only increase, and increase, and increase.

Two versions of corrective legislation are being introduced by Senators MURKOWSKI and ENSIGN, and it is my intention to cosponsor both of these proposals. I pledge to do everything within my power to help enact a workable plan for splitting the Ninth Circuit, and I urge all of our colleagues in the strongest possible terms to support us in this effort.

#### ADDITIONAL STATEMENTS

##### HONORING BURLEY TOBACCO GROWERS COOPERATIVE

• Mr. BUNNING. Mr. President, I proudly rise today to recognize the Burley Tobacco Growers Cooperative for their extremely generous contribution of \$10 million to Phase II payments for Kentucky tobacco farmers. The people of Kentucky are extremely appreciative of this generous gift.

As you may know, Phase II is the second set of payments from the Master Settlement Agreement. This settlement was made between the major tobacco companies and the elected officials of the tobacco growing States. Phase II money requires \$5.15 billion to be contributed by the four companies over a 12 year period. The Phase II money was meant to alleviate some of the financial stress to farmers as quotas were cut.

The Phase II compensations due for 2004, however, were not paid because the tobacco companies requested a refund due to the passage of the tobacco buyout. For Kentucky farmers, this would have been devastating. Fortunately for Kentucky, the Burley Tobacco Growers Cooperative has donated \$10 million to be combined with the \$114 million raised by the Commonwealth to equal \$124 million for payments. This means that 164,000 Kentucky farmers will have Phase II payment checks in their hands by the end of June.

Mr. President, I find the charitable spirit that was so kindly displayed by the Burley Tobacco Growers Cooperative to be exceptional in every way. Kentucky is the only State that has stepped forward to produce Phase II payments, and this is due, in large part, to the generosity of Burley Tobacco Growers Cooperative. I would like to thank President Henry West and all those involved in the cooperative, including the members, for making such a positive impact on Kentucky's tobacco growers. This extraordinary association has helped ensure

that the true spirit of the Phase II agreement is upheld.●

##### MAJOR GENERAL JANET E.A. HICKS

• Mr. CHAMBLISS. Mr. President, I rise today to recognize and commend an outstanding patriot and American, Major General Janet Hicks, the Commanding General of the United States Army Signal Center at Fort Gordon, GA, the first female Chief of the Signal Corps in the history of the Army and the first female Commanding General of the U.S. Army Signal Center at Fort Gordon, GA. General Hicks will be retiring from the Army on July 15, 2005, after a 30 year distinguished military career.

Originally from Iowa, General Hicks was commissioned into the Army's Signal Corps on March 17, 1975, after receiving her bachelor of arts degree in French language and literature from Simpson College in Central Iowa. Her first assignments took her to Korea, then to Hawaii with the 25th "Tropical Lightning" Infantry Division, where she served as a platoon leader, division radio signal officer and company commander. Following her attendance at the Advanced Signal Officers Course at Fort Gordon, she joined the faculty and staff there where she taught basic and advanced officer courses. General Hicks was then reassigned to Alaska with the Information Systems Command and the 6th Infantry Division in key leadership positions before joining the staff of the U.S. Central Command at McDill Air Force Base in Tampa, FL.

Recognizing her outstanding leadership qualities, General Hicks was designated for Battalion Command and assigned to command the 125th Signal Battalion, 25th Infantry Division at Schofield Barracks, HI, in June 1992. Following her command there, she was selected to attend the Army's War College before being posted as the Chief of the Army's Signal Branch at Personnel Command in Alexandria, VA. In June 1997 she was promoted to Colonel and assumed command of the 516th Signal Brigade in Hawaii, with concurrent duties as the Deputy Chief of Staff for Information Management, US Army Pacific. In June 2000, she was promoted to Brigadier General and became the Director of Command, Control, Communications and Computer Systems, the J-6 for the United States Pacific Command, covering the joint communications for all of the Pacific Theatre. Major General Hicks assumed command of the United States Army Signal Center and School and Fort Gordon on August 7, 2002.

Throughout her career General Hicks has been decorated with many military and civilian awards and citations. But, completing her military career as the Army's Chief of Signal is truly an awesome responsibility and honor. Since assuming command General Hicks has