

the asbestos litigation or asbestos reform early on, and that time has now come.

#### CHICKAMAUGA LOCK IN TENNESSEE

Mr. FRIST. Mr. President, on another issue, I rise to briefly address an issue that is of critical importance to Tennessee, to the region around Tennessee, and to economic development.

Every year, millions of tons of cargo pass through Chickamauga Lock in my home State of Tennessee. This critical structure is the commercial gateway to more than 300 miles of navigable waterways that serve 16 States in the region. Workers, small business owners, and communities all across that region depend on the lock to work smoothly every day, around the clock.

But all of this is at risk. All of this is in danger. After 65 years, Chickamauga Lock needs to be replaced. It is being destroyed by a chemical reaction known as "concrete growth." The lock is crumbling and engineering experts tell us that it is only a matter of time before the lock fails, and we cannot let that happen.

That is why I want to draw attention to the President's request today, which came out in the budget, to fund continued construction of the new lock. It is the first White House budget proposal to contain construction funding since Congress authorized that new lock in 2003. I thank the President for his attention to this pressing issue.

I have held countless conversations with the administration on the importance of constructing the new lock, and I appreciate the President and the administration taking this bold action.

America's transportation system is the lifeblood of our economy. Without airports and railways and seaports and highways, our products would never have the opportunity to be moved, goods would never be exchanged in the global marketplace, and commerce would simply come to a halt.

One of the most overlooked elements of America's transportation network is our inland waterway system. Commerce literally flows over and through a vast network of more than 12,000 miles of inland and coastal waterways. Water transportation is often the most efficient, inexpensive, and environmentally friendly method of shipping cargo over long distances.

In 2003, with my support, Congress authorized the construction of a new lock that would meet the region's economic needs. I fought hard to provide the necessary Federal funding to begin work on this project and worked closely with the administration to ensure adequate funding is available to get the job done.

Today's budget request of \$27 million represents a major investment, and we are all working together as a team to make it a success.

I am tremendously proud of all the hard work that has taken place to re-

serve this vital economic corridor. Moving forward with this construction is important to our transportation infrastructure, and my colleagues and I have worked hard to make sure that new lock is built.

In fact, I particularly thank Congressman ZACH WAMP for his tremendous leadership in this endeavor.

While there is a lot more to be done in replacing that Chickamauga Lock, it is a major priority to me, and I will continue to work with my colleagues at the local, State, and Federal levels to make this project a success.

#### 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, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from West Virginia is recognized.

#### MINE DISASTERS

Mr. BYRD. Mr. President, it has been 36 days since 12 coal miners perished at the Sago Mine in Upshur County, WV. One died from the explosion that ripped through the underground mine. The other 11 succumbed to carbon monoxide poisoning.

It has been 18 days since two coal miners perished in an underground fire at the Aracoma Alma in Logan County, WV. It has been 5 days since two miners perished in separate mine accidents in Boone County, WV.

Sixteen coal miners dead, in four separate accidents, in only 36 days.

These deaths have shaken communities across the State of West Virginia and alarmed a nation. Three additional coal mine fatalities in the States of Utah and Kentucky in the last 28 days confirm that this series of accidents is national in scope and demands swift action.

Mr. President, after years of delay, the Coal Mine Safety and Health Administration at last acknowledges the need to reassess some technology and regulations but cannot give any definite timetable about when the action will be taken. I, for one, do not want to see more delay. This Federal Government, which is empowered by our Constitution to "promote the general welfare"—and that applies to our Nation's coalfields as well as anywhere else—must not wait.

The West Virginia congressional delegation has introduced legislation outlining a series of actions that can be taken immediately to make America's coal mines safer. We know, for example, that technology exists right now

to improve mine rescue communications. We know that additional emergency breathing devices can be stored in the mines. We can do these things today, right now. The Senate could pass the West Virginia delegation bill today to implement these requirements in the mines.

I have asked the Republican and Democratic leadership to schedule immediate action on this matter. The Democratic leadership has pledged to do everything it can, and the Republican leadership has been very positive in its response. A bipartisan and growing coalition of Senators from mining and nonmining States has asked to be added as cosponsors to our legislation. They recognize its importance and the need for its immediate passage.

I have spoken with the chairman and with the ranking member of the Senate Health, Education, Labor, and Pensions Committee, and they fully understand the urgency driving this legislation. They not only organized a committee trip to Sago Mine in January, but they also committed to reviewing the West Virginia delegation bill within hours of its introduction. These Senators are on our side.

I am confident they will do all they can do to ensure quick action. I am happy to work with all Members of the Senate to expedite passage of this bill. With quick work, I see no reason why this Senate cannot move expeditiously. We should and, in fact, we must. Every day we delay increases the risk for coal miners in the field.

While four deadly accidents in the past 36 days occurred in West Virginia, any State in the Union with coal mines could be next. Today it is my State of West Virginia and the States of Kentucky and Utah that mourn the tragic loss of life in our coal mines. Tomorrow it could be Pennsylvania, Alabama, Indiana, Virginia, Ohio, or Illinois. Who knows.

I was at the memorial service for the miners who died in the Sago mine disaster. I saw their families. I saw their grief. I saw their pain. I have no desire to see more. The longer we wait to approve this legislation, the more likely it is that additional miners will die. If more miners die, more mines could be closed and for longer periods of time in order to ensure safety. Mine closures not only will put families out of work but will also disrupt coal and energy production, with the economic effects rippling across the national economy.

We must never forget that a coal miner has the legal right to walk out of an unsafe coal mine. A miner cannot be forced to work if he or she feels their life is threatened. Today when coal provides such an important part of this Nation's energy supply and our Nation is dangerously dependent upon foreign oil, we must keep our coal mines open and operating, but first we must make them safe.

For the sake of America's coal miners, for the sake of their families and their communities, and for the sake of

the energy security of our Nation, I urge that this much-needed legislation be approved as soon as possible. There is a moral imperative to act, and we must not delay.

Mr. President, I ask unanimous consent that Senators SPECTER, KERRY, and CLINTON be added as cosponsors of S. 2231, the Federal Mine Safety and Health Act of 2006.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senate, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I commend my friend and colleague from West Virginia for once again giving focus to this issue of national proportion and importance. I know he recognizes that those extraordinary mine tragedies at Sago struck the heart and soul of all Americans. I had the opportunity to visit with the families from that community. I want him to know that as a member of the HELP Committee, which has some jurisdiction over the measure he introduced, we are going to work closely with him to ensure, to the greatest extent possible, safety for miners.

We have seen an example of what has been done in Canada with the 36 or 37 miners who were locked in the bowels of a mine for several days and they walked out because they had oxygen available. We have seen other miners who have been saved in other parts of the world, such as Australia, because they had communications which permitted them to be warned about the dangers of mines.

He raises an issue that is of central importance, not just to the people of West Virginia but to all who care about those families who make such a difference not only to their communities but to our country and to our energy needs. I thank him and look forward to working with him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts, Mr. KENNEDY. He is always sensitive to the problems that occur in West Virginia. He is always mindful of the coal miners and their problems, their sorrows.

I thank him for being such a steadfast partner with the two West Virginia Senators and such a steadfast friend throughout the years to our fellow West Virginians. I thank the Senator.

Mr. KENNEDY. Mr. President, at the present time, the Judiciary Committee is meeting with the Attorney General. I am necessarily absent from that meeting so I can make comments on the asbestos legislation which is now pending. I will return.

As I understand it, Senators SPECTER and LEAHY and others involved will have a chance to speak. I ask unanimous consent to speak in morning business for 25 minutes, if there is no objection.

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

#### FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2006

Mr. KENNEDY. Mr. President, the real crisis which confronts us is not an asbestos litigation crisis, it is an asbestos-induced disease crisis. Asbestos is the most lethal substance ever widely used in the workplace. Between 1940 and 1980, there were 27 million workers in this country who were exposed to asbestos on the job, and nearly 19 million of them had high levels of exposure over long periods of time. That exposure changed many of their lives. Each year, more than 10,000 of them died from lung cancer and other diseases caused by asbestos. Each year hundreds of thousands of them suffer from lung conditions which make breathing so difficult that they cannot function at all. Even more have become unemployable due to their medical condition, and because of the long latency period of these diseases, all of them live with fear of premature death due to asbestos-induced disease. These are the real victims. They deserve to be the first and foremost focus of our concern.

As this chart indicates, asbestos mortality will likely peak around 2015, reflecting the heavy exposures in the 1970s. We are going to see this is not an issue that is going to diminish, in terms of the impact on the workers, workers' lives, their families, and their communities, but is actually going to increase in terms of those who are going to be adversely impacted and affected.

All too often the tragedy these workers and their families are enduring becomes lost in a complex debate about the economic impact of asbestos litigation. We cannot allow that to happen. The litigation did not create these costs; exposure to asbestos created them. They are the costs of medical care, the lost wages of incapacitated workers, and the cost of providing for the families of workers who died years before their time. Those costs are real. No legislative proposal can make them disappear. All legislation can do is shift those costs from one party to another. Any proposal which would shift more of the financial burden on to the backs of injured workers is unacceptable to me and should be unacceptable to every one of us.

I have consistently said throughout the long debate on asbestos legislation that I would support a properly designed and adequately funded trust fund bill. That legislation would have to fairly compensate all the victims of asbestos-induced disease in a timely way. It would put more money into the pockets of these injured workers than the current system of reducing transaction costs. This is not such a bill.

Senators SPECTER and LEAHY have devoted an enormous amount of time and effort to this asbestos trust fund legislation. They deserve great credit

for their work. But the bill before us contains fundamental flaws which make it both unfair and unworkable. It does not provide a reliable guarantee of just compensation to the enormous number of workers who are suffering from asbestos-induced disease.

The argument that there are serious inadequacies in the way asbestos cases are adjudicated today does not mean any legislation is better than the current system. Our first obligation is to do no harm. We should not be supporting legislation that excludes many seriously ill victims from receiving compensation and that fails to provide a guarantee of adequate funding to make sure injured workers will actually receive what the bill promises them. This bill will do harm.

The problem is that powerful corporate interests responsible for the asbestos epidemic have fought throughout this process to escape full accountability for the harm they have inflicted and, as a result, the focus has shifted from what these companies should pay victims to what they are willing to pay victims. That is preventing the Senate from enacting trust fund legislation that will truly help the workers who have been seriously injured by this industrial plague.

The Senate should not be proceeding to this asbestos bill at this time. Despite all the work Senators SPECTER and LEAHY and other supporters have done, S. 852 is simply not ready for floor consideration. There are too many unanswered questions, and the numbers do not add up.

This legislation does not provide sufficient funding to keep the promises of compensation it makes to those asbestos victims it purports to cover. Even if the entire \$140 billion the sponsors anticipate raising is paid to the fund, it will not be sufficient to fully compensate the projected number of eligible victims, and it is extremely unlikely the full amount will ever be paid.

The formula in the bill is based on highly questionable estimates of the number of companies that would be required to contribute and how much each one would pay, contained in a secret list known only to the asbestos study group, the key lobbyists for the bill. None of the relevant information has ever been made public. There is reason to believe far fewer companies would be contributing than the ASG projects. There will also be serious court challenges brought against the new law that are certain to at least significantly delay statutorily mandated payments and could result in the loss of substantial anticipated revenue.

Because of these problems, seriously ill victims are likely to wait for years in legal limbo, unable to proceed in court and unable to obtain compensation from the trust fund if this bill passes.

The legislation also fails to permit victims to quickly return to the court system should the trust fund become