

person won't collect \$200,000; he won't collect a dime. But the other one happens to have been exposed by a company that is still in existence and has money, or insurance, they can collect the full \$200,000.

That is happening today.

To make it crystal clear, I will ask you about an automobile accident. Have you ever heard of people who have been run into, have an automobile accident as a result of a drunk driver who is uninsured and somebody is injured, they say, I am going to sue them and I am going to get a \$1 million verdict. You know what the lawyer says? Does the defendant have any money? Well, no. Does he have any insurance? No. What does he have? He has a rental, that is the only car he had, it is a piece of junk, and it is not worth anything. The lawyer says: If you get a \$50 million verdict, you will not collect one dime. It is not worth the trouble to go to court over.

This happens in America. It is the way the law is.

But this trust fund says whether the company that exposed them and injured them is in existence or is not, they will be able to recover too out of a uniform trust fund. And companies that are bankrupt will be able to pay at a level that allows them to stay in business and continue to pay into the trust fund.

Seventy-seven companies are already bankrupt. They say: Well, we are going to make more companies pay. We are going to make more companies pay than are supposed to pay—somehow make them pay more than they are supposed to pay. But let me say this to my colleagues or anyone who may be listening. Now there are 8,400 companies being sued, being dragged in, and many of them have the most tenuous exposure.

I remember very vividly a man coming into my office. He bought a company that at one time sold asbestos and had not sold asbestos for many years before he bought it. He buys it and makes it a part of his company. The next thing he knows, all of them are beginning to go at that little company as a defendant which he bought, and he is liable for it. Money is being sucked out of his whole, big company and going into this fund.

These companies realize that. They may not be the main target today, but the clever and sophisticated and determined plaintiff lawyers have demonstrated a capacity to add on companies and make them liable more than they were before. Many companies are willingly prepared to pay into this fund so they won't be sued for the rest of their existence; so when they go to a stockholders' meeting and write a prospectus which shows what their liabilities are, they can say exactly what their asbestos liability is rather than being required to list 5,000 asbestos cases filed against them.

Somebody may say: How much is that going to cost? Well, we don't

know. Well, could it be \$1 million each? Well, we do not know. We don't think so. I may not want to invest in your company. I may not want to buy stock in your company. I have to have some more certainty about how much you are going to pay.

That is one of reasons we are trying to pass this trust fund, so the defendant companies can say to their stockholders and would-be investors and those who would contract with them what their future financial prospects are.

Isn't that a good public policy thing to try to do?

Veterans, if we don't pass this bill, you are not going to be able to recover. Most of them have nobody to sue. You can't sue the Federal Government for this. A lot of other people already have found that the people they are entitled to sue by law either have no money or no longer exist.

I will say this: I think the legislation is headed in the right direction. I believe that Senator COBURN is correct. We need to watch this criteria. If we get that wrong, it can take this bill down. A doctor knows that thousands of Americans every day who are not exposed to asbestos get colorectal cancer or get throat cancer or get prostate cancer.

If somehow anybody who had any exposure to asbestos is not going to be able to come into the fund and demand that the fund pay them for cancer which they may have been genetically predisposed to, whether or not they have been exposed to asbestos, we have done something that is dangerous and the fund may not be able to survive.

The Congressional Budget Office says this fund, as rewritten, will survive. But I believe it could be tightened up to make it better. I believe that the fund has a chance to be viable throughout its entire life and fulfill its promise because we have done a better job in recent years in dealing with exposure to asbestos.

There has been a sea of change in what has happened. In earlier days, the companies did not warn the people who would be using their product about how dangerous it was. Even after they knew it was dangerous, they didn't warn them. Now everybody is warned. For 30 years, maybe 35 years, there has been exceedingly great care utilized when asbestos is about. You see people with masks on and all of that.

I think it is logical to assume that we will continue to see a decline in the claims and also this bill will take out the unjustified claims. Claims of people who have not been given any disability or sickness, even though they have been exposed and they get sick, they will be paid. If they don't get sick, they won't be paid.

That will reduce a lot of the claims. It will come down to people with legitimate illness. If a person comes in with that most grievous disease, mesothelioma, which is generally a fatal disease, this would entitle them to claim

\$1.1 million dollars, be able to have half of it paid in 30 days and the other half in 6 months.

Today, they do not know what they will get, and most of the claimants are deceased before money is recovered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 2747, AS MODIFIED

Mr. FRIST. Mr. President, I ask unanimous consent that amendment No. 2747 be modified with the change at the desk.

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

The amendment (No. 2747), as modified, is as follows:

On the appropriate page, insert the following and number accordingly:

GUIDELINES.—In determining which defendant participants may receive inequity adjustments the Administrator shall give preference in the following order:

(A) Defendant participants that have significant insurance coverage applicable to asbestos claims, such that on the date of enactment, 80 percent or more of their available primary insurance limits for asbestos claims remains available.

(B) Defendant participants where, pursuant to the guidance set forth in section 404(a)(2)(E), 75% of its prior asbestos expenditures were caused by or arose from premise liability claims.

(C) Defendant participants who can demonstrate that their prior asbestos expenditures is inflated due to an unusually large, anomalous verdict and that such verdict has caused the defendant to be in a higher tier.

(D) Any other factor deemed reasonable by the Administrator to have caused a serious inequity.

In determining whether a company has significant insurance coverage applicable to asbestos claims, such that on the date of enactment, 80% or more of their available primary insurance limits for asbestos claims remains available, the Administrator shall inquire and duly consider:

(1) The defendant participant's expected future liability in the tort system and accordingly the adequacy of insurance available measured against future liability.

(2) Whether the insurance coverage is uncontested, or based on a final judgment or settlement.

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

#### SENATOR SALAZAR'S MOTHER

Mr. REID. Mr. President, this afternoon, I rise to extend the thoughts and prayers of the entire Senate to Senator KEN SALAZAR who left the Capitol last night to be with his mother, Emma.

Mrs. Salazar is suffering from very delicate health. She was taken early this morning from her home in Alamosa, CO, to Denver for hospitalization.

The entire Salazar family is together in Denver as we speak comforting her and each other during this very difficult time.

I want them to know that the thoughts of everyone in this Chamber are with them.

Those of us who have come to know KEN SALAZAR know what a gentleman he is and how family oriented he is.

I spoke to him last night as he was getting ready to leave, and he is very concerned about his mom.

We wish KEN and his family the very best. I hope all Members of the Senate family would keep this good man and his family in their prayers.

#### TRIBUTE TO ELLEN KNOWLTON

Mr. REID. Mr. President, I rise today to honor a woman who has worked hard to ensure the safety of southern Nevadans, and indeed all Americans, for more than 24 years. Mrs. Ellen Knowlton recently retired from her position as Special Agent in Charge of the FBI's Las Vegas field office. As Special Agent Knowlton brings an end to her long and distinguished career, I join her family and friends in offering our gratitude for her honorable and dedicated service in our community.

Ellen joined the FBI in 1982, and went on to serve in Bureau offices in California, Oklahoma, Louisiana, and Washington, DC. In Washington, she was deputy assistant director of the Bureau's National Security Division Counterintelligence Operations. While in this capacity, Ellen supervised the September 11 terrorist hijacking investigation, for which our Nation is indebted.

In March 2002, Ellen became Special Agent in Charge of the FBI's Las Vegas operations, bringing with her a wealth of knowledge and experience from which Nevada continues to benefit. She refers to this appointment as the "pin-nacle" of her career. However, I feel it is Nevadans who are truly fortunate for that appointment. Her work in Las Vegas has left a lasting impact on the State and our communities, particularly the relationships Ellen forged with local law enforcement. Her work has set a gold standard of cooperation and goodwill.

Special Agent Knowlton's colleagues within the law enforcement community often express their admiration for her. This speaks not only to her merits as a professional but to her character as an individual as well. Ellen has chosen a life of service and deserves all the praise and accolades she receives.

I am grateful for Ellen's untiring efforts on behalf of our country and leadership in our community. I wish her and her family the best as they embark on this new phase of their lives.

#### PANDEMIC INFLUENZA PREPAREDNESS

Mr. COCHRAN. Mr. President, I appreciate the efforts of the Labor, Health and Human Services subcommittee to ensure that the Senate and the public are educated on the important issues surrounding pandemic flu preparedness. The input of this panel in November was important to this committee as we worked to provide pandemic flu funding in the December Defense Appropriations bill.

The Senate Appropriations Committee has taken a significant first step in addressing this issue. We will continue to work with the Secretary of HHS and the White House to provide the funding necessary to prepare our country for an influenza pandemic. We realize these efforts require Federal and local governments, as well as private industry, working together. I am pleased that these interests are all represented here today.

#### 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 Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On June 8, 2005, in Brooklyn, NY, Dwan Prince a gay man, was savagely beaten by three men who screamed anti-gay slurs during the assault. The attack took place outside Prince's apartment building in the Brownsville section of Brooklyn. Prince was immediately rushed to the hospital after the attack where he remained for close to a week.

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.

#### EDUCATION FOR GLOBAL LEADERSHIP

Mr. LUGAR. Mr. President, in this era defined by rapid globalization and the fight against terrorism, an increased focus on international studies and foreign language instruction in our schools is critical to maintaining our country's global leadership position. In order to foster the continued expansion of economic development and democratic institutions across the globe, we need citizens and workers who are knowledgeable of other cultures and languages.

This need has become painfully evident in recent years as our Armed Forces, intelligence agencies, and diplomatic services have struggled to find personnel fluent in languages such as Arabic and Farsi and knowledgeable of the traditions and customs of the Middle East. At the same time, growing economic opportunities in Asia have put a premium on knowledge of languages such as Chinese, Hindi, Japanese, and Korean.

Fortunately, we are seeing welcomed movement in confronting this challenge. Recently, President Bush launched the National Security Language Initiative to increase the number of Americans learning critical foreign languages. And today, the Committee for Economic Development, CED, a nonpartisan organization of business leaders and university presidents, has released a new policy statement, Education for Global Leadership: The Importance of International Studies and Foreign Language Education for U.S. Economic and National Security. This report provides recommendations for the public and private sectors for strengthening and expanding international studies and foreign language instruction across all levels of learning.

I welcome these developments and encourage my colleagues to review the CED's recommendations and join in this critical effort to enhance our economic and national security.

#### PATRIOT ACT DEAL

Mr. FEINGOLD. Mr. President, I understand that some of my friends and colleagues in this body have come to an agreement with the White House on reauthorizing the PATRIOT Act.

While I respect these Senators greatly, I am gravely disappointed in this so-called deal. The White House agreed to only a few minor changes to the PATRIOT Act conference report that could not get through the Senate back in December. These changes do not address the major problems with the PATRIOT Act that a bipartisan coalition has been trying to fix for the past several years. We have come too far and fought too hard to agree to reauthorize the PATRIOT Act without fixing those problems. A few insignificant changes just doesn't cut it. I cannot support this deal, and I will do everything I can to stop it.

I understand the pressure that my colleagues have been under on this issue, and I appreciate all the hard work that they have done on the PATRIOT Act. It has been very gratifying to work on a bipartisan basis on this issue. It is unfortunate that the White House is so obviously trying to make this into a partisan issue, because it sees some political advantage to doing so. Whether the White House likes it or not, this will continue to be an issue where both Democrats and Republicans have concerns, and we will continue to work together for changes to the law. I am sure of that.