



Statement by Senator Dianne Feinstein on Judiciary Committee Passage of
Legislation Creating \$140 billion Asbestos Trust Fund
May 26, 2005

Washington, DC – The U.S. Senate Judiciary Committee today approved legislation cosponsored by Senator Dianne Feinstein (D-Calif.) to create a \$140 billion asbestos trust fund to compensate people who have been victimized by exposure to the cancer causing material. The following is a statement by Senator Feinstein:

“In working on this bill, I have taken a particular interest in those who are very sick, whose illness is caused by asbestos and who are diagnosed with less than a year to live. Throughout this process, I have worked to ensure that they get expedited consideration and their grievances are settled and paid as quickly as possible.

This has not always been easy, but thanks to the patience and tenacity of Senator Specter and Leahy, the Chairman and Ranking Member, we have come together to produce a bipartisan bill. The bill is not perfect, amendments will be made on the floor. But after two years, the movement of this bill to the floor, is very significant, and important step forward.

More than 70 American companies have been bankrupted by asbestos to date. This bill is an effort to establish a no-fault trust to minimize the very large (sometimes as high as 50 %) transaction cost of the tort system and provide fair and timely compensation for victims.

If the bill becomes law, an individual with an asbestos-related disease will be able to apply to the fund, and, without fault, receive a payment based on the seriousness of the illness.

A great difficulty in the development of the bill has to do with distinguishing lung cancer caused from smoking with lung cancer caused by exposure to asbestos. I believe we did the best we could on this issue.

Under this legislation, the federal government will establish a national trust fund that would be privately funded by asbestos defendant companies and insurers, with no liability to the U.S. Government. The trust fund, administered by the Department of Labor, would be available to claimants who meet specific medical criteria for mesothelioma or other asbestos-related diseases.

If the fund is unable to pay all claims, victims will have the option to return to the tort system to seek compensation. If there is a reversion to the tort system, suits may be filed in Federal Court, the state court in which the plaintiff resides or in the state court where the asbestos exposure occurred.

The bill will also provide \$40 million to help determine the extent and location of naturally occurring asbestos in local communities, establish remediation plans, and set important guidelines for construction to minimize exposure.

Finally, the definition of asbestos in the bill was modified to cover the kind of asbestos found in California. I added explicit language to ensure victims exposed to naturally occurring asbestos may apply to the trust fund and provided for medical screening for victims of naturally occurring asbestos. This will ensure that if California residents get sick from exposure to amphibole asbestos, they would be covered under the bill.

During the lengthy negotiations, I was also able to secure approval for:

- Increasing award values for victims;
- Providing options so that victims who have a terminal diagnosis will have their claims resolved as quickly as possible – this involves a procedure that, immediately upon enactment, would allow mesothelioma victims and terminally ill individuals with a life expectancy of one year or less to receive a settlement for 100% of what they would get under the Trust Fund;
- Ensuring that cases with a verdict, final judgment or final order issued by a trial court, cases in trial, or cases that have an enforceable settlement remain outside the trust.
- Including additional venue options to victims if the trust fund runs out of money so that they can go to federal or state court where they live or where they were exposed to asbestos; and
- Preventing subrogation of awards, ensuring that victims' awards can't be reduced; and includes a longer statute of limitations.”

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