



February 13, 2006

Honorable Judd Gregg
Chairman
Committee on the Budget
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

At your request, the Congressional Budget Office (CBO) has reviewed Senate Amendment No. 2746 to S. 852, the Fairness in Asbestos Injury Resolution (FAIR) Act of 2005, a substitute amendment that was printed in the Congressional Record on February 9, 2006. This review addresses the amendment's year-by-year budgetary impact over the first 10 years, its aggregate impact in succeeding 10-year periods, and its cumulative budgetary impact over the life of the proposed Asbestos Injury Claims Resolution Fund (Asbestos Fund). It also addresses the potential costs of intergovernmental and private-sector mandates in the legislation.

Budgetary Impact

Assuming that the bill as amended is enacted before the end of 2006, and based on the assumptions underlying our August 2005 cost estimate for S. 852, CBO estimates that payments to eligible claimants, start-up costs, investment transactions, and administrative expenses of the Asbestos Fund would total about \$64 billion over the 2006-2015 period (excluding debt-service costs). Those sums would appear in the federal budget as direct spending (see the table below). Over the same 10-year period, we estimate that the fund would collect about \$58 billion from firms and insurance companies with past asbestos liability and from certain private asbestos trust funds. CBO expects that those sums would be treated in the budget as federal revenues. In addition, the Joint Committee on Taxation (JCT) estimates that enactment of the legislation would lead to a reduction of about \$1.1 billion in receipts from corporate income taxes over the 2007-2015 period; this would affect the budget totals but would not affect the balances of the Asbestos Fund. Thus, CBO estimates federal revenues would increase by about \$57 billion over the next 10 years under the bill.

ESTIMATED BUDGETARY IMPACT OF S. 852, IF AMENDED BY AMENDMENT NO. 2746

	By Fiscal Year, in Billions of Dollars									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	*	8.7	23.1	11.1	5.3	4.0	5.1	5.0	4.9	4.7
Estimated Outlays	*	8.7	6.7	8.2	9.3	9.4	6.6	5.2	5.1	5.0
CHANGES IN REVENUES										
Asbestos Fund Revenues	0	8.7	7.0	8.2	9.3	9.1	4.0	4.0	4.0	4.0
Corporate Income Taxes	0	<u>-0.1</u>	<u>-0.2</u>	<u>-0.2</u>	<u>-0.2</u>	<u>-0.1</u>	<u>-0.1</u>	<u>-0.1</u>	*	*
Total Revenues	0	8.6	6.8	8.0	9.1	9.0	3.9	3.9	4.0	4.0
CHANGES IN THE DEFICIT										
Estimated Net Increase or Decrease (-) in the Budget Deficit	*	0.1	-0.1	0.2	0.2	0.4	2.7	1.3	1.2	1.0

NOTE: * = Between \$50 million and -\$50 million.

CBO's estimate of spending from the Asbestos Fund over the 2006-2015 period differs from that in CBO's August 2005 cost estimate for S. 852 because we now assume a later enactment date for the legislation. In addition, certain provisions in section 402 regarding when assets would be transferred from private asbestos bankruptcy trust funds to the proposed federal Asbestos Fund would slightly reduce both spending and revenues, relative to the amounts shown in the earlier cost estimate. CBO estimates that other provisions of the amendment would not significantly affect spending or receipts over the 10-year period, relative to the amounts shown in CBO's earlier estimate.

The revenue effects shown in the table also incorporate a change in CBO's cost estimate unrelated to the amendment. That change involves effects of the legislation on the amounts that insurers and defendant firms would deduct to arrive at taxable corporate income. In CBO's earlier estimate, it was judged that the amounts deducted as payments made over the life of the trust fund were approximately the same as would be deducted to cover claims under the current tort compensation system, producing no net effects on corporate income tax collections over the life of the fund.

This assessment has not changed. But while total deductions over the life of the trust fund would not change, their distribution over those years could. Larger deductions up front, as a result of S. 852, could produce less revenue from corporate income taxes in the earlier years, which would be offset by a revenue gain in later years. Lacking any basis for estimating this timing effect, CBO elected not to incorporate it into its cost estimate. Recently, the Joint Committee on Taxation produced an estimate of this timing effect. In its estimation, receipts from corporate income taxes would be reduced by about \$1.1 billion over the 2007-2015 period. CBO has elected to incorporate JCT's estimate of this effect in its projections. That adjustment does not affect spending or receipts of the proposed Asbestos Fund.

CBO also estimates that, so long as the fund's administrator does not borrow amounts beyond the means of the fund to repay (as the bill would require), the government's general funds would not be used to pay asbestos claims. Furthermore, section 406 of the bill states that the legislation would not obligate the federal government to pay any part of an award under the bill if amounts in the asbestos fund are inadequate. Thus, CBO concludes that the legislation would be deficit-neutral over the life of the fund.

Substantial payments from the fund would continue well after 2015. Consequently, pursuant to section 407 of H. Con. Res. 95 (the Concurrent Resolution on the Budget, Fiscal Year 2006), CBO estimates that enacting the bill as amended would cause an increase in net direct spending greater than \$5 billion in at least one of the 10-year periods from 2016 to 2055.

Mandates

The proposed amendment contains the same intergovernmental and private-sector mandates as the reported bill. It would preempt state laws relating to asbestos claims and prevent state courts from ruling on those cases. It also would require state governments to comply with requests for information from the Asbestos Insurers Commission. CBO estimates that any cost associated with those intergovernmental mandates would be insignificant and well below the threshold—\$64 million in 2006, adjusted annually for inflation—established in the Unfunded Mandates Reform Act (UMRA).

Honorable Judd Gregg

Page 4

The proposed amendment would also impose mandates on certain individuals filing claims for compensation for injuries caused by exposure to asbestos; certain companies with prior expenditures related to asbestos personal injury claims; certain insurance companies; trusts established to provide compensation for asbestos claims; health insurers; and persons involved in manufacturing, processing, or selling certain products containing asbestos. Based on information from academic, industry, government, and other sources, CBO concludes that the aggregate direct cost to the private sector of complying with all of the mandates in the bill would well exceed the annual threshold established by UMRA (\$128 million in 2006, adjusted annually for inflation).

If you wish further details on this estimate, we would be pleased to provide them. The CBO staff contact is Mike Waters, who may be reached at 226-2860.

Sincerely,

Donald B. Marron
Acting Director

cc: Honorable Kent Conrad
Ranking Member

Identical letter sent to the Honorable Arlen Specter.