

February 14, 2006

Honorable Kent Conrad
Ranking Member
Committee on the Budget
United States Senate
Washington, DC 20510

Dear Senator:

I am pleased to provide you with the information you requested about the Congressional Budget Office's review of Senate Amendment No. 2746 to S. 852, the Fairness in Asbestos Injury Resolution (FAIR) Act of 2005, which was transmitted to the Congress on February 13, 2006.

Uncertainty

As CBO has noted in previous assessments of asbestos legislation, there is an enormous amount of uncertainty about the potential costs under the proposed amendment. Operating the Asbestos Injury Claims Resolution Fund would be an entirely new governmental task, and CBO and other analysts have little basis for judging how the fund's administrator would implement the legislation. No one can be certain, because of the limited data that are available, as to how many claimants there would be and how much would have to be paid to them. The revenues under the amendment would be, at most, \$140 billion, but could be significantly less.

CBO's analysis indicates that the proposed trust fund under Senate Amendment 2746 might not have adequate resources to pay all valid claims. There is a significant likelihood that the fund's revenues would fall short of the amount needed to pay valid claims, debt service, and administrative costs. There is also some likelihood that the fund's revenues would be sufficient to meet those needs.

Furthermore, CBO cannot estimate any costs or savings that might result from several features or consequences of the legislation. A number of those features could add to the cost of the legislation. In particular, CBO has not been able to estimate: the amount of potential claims by individuals with older, so-called dormant, asbestos claims pending in the court system, who might seek additional compensation from the fund; the magnitude of possible

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claims by family members of workers who were exposed to asbestos; the costs of any exceptional medical claims that could be made under the bill; the potential costs for residents of other areas of the country who might be deemed eligible to receive the same special treatment given to the residents of Libby, Montana, under the legislation; and the impact on costs of allowing CT scans to serve as documentation of pleural abnormalities. On the other hand, CBO cannot predict whether medical studies required by the legislation would preclude individuals with certain diseases from obtaining compensation from the fund. Thus, the final outcome for the fund cannot be predicted with great certainty.

Deficit Neutrality

CBO concluded, in its February 13 letters to Senators Gregg and Specter, that the proposed amendment would be “deficit-neutral over the life of the fund.” That conclusion is based on the fact that the sunset provisions of the legislation would limit spending for claims compensation, debt service, and administrative costs to an amount no greater than the budgetary resources that would be available to the fund from assessments on liable firms, assets of existing bankruptcy trust funds, and any interest earnings. Thus, if valid claims and other costs of the fund were to exceed its resources, the administrator would not have the authority to spend amounts in excess of those resources.

I hope this information is helpful to you. If you wish further details on this analysis, we would be happy 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 Judd Gregg
Chairman
Committee on the Budget

Honorable Arlen Specter
Chairman
Committee on the Judiciary

Honorable Patrick J. Leahy
Ranking Democratic Member