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Another Look at Proposed Asbestos Trust Fund Raises Serious Questions Whether the Plan Will Work

New Congressional Budget Office Report is the Latest in a Series To Question Whether Victim Compensation Can be Delivered

Yet another review of the proposed national asbestos trust fund questions whether the plan will have enough money to pay compensation to hundreds of thousands of victims who have suffered from exposure to the toxic mineral.

In a new report, the Congressional Budget Office says there is “a significant likelihood” the proposed \$140 billion fund will not have sufficient funds to pay valid claims and to cover administrative and borrowing costs. CBO’s analysis follows a string of earlier reports that cast doubt on whether the proposed trust fund can live up to its promise to pay damages to victims, thousands of whom come down with a rare form of cancer and many thousands of whom more suffer crippling breathing difficulties.

The CBO report is available at www.cbo.gov. Legislation to create the government-run but privately financed fund, S. 852, is sponsored by Sens. Arlen Specter (R-Penn.) and Patrick Leahy (D-Vt.). The fund would bar asbestos victims from going to court to seek compensation for their injuries. Instead, they would be forced to file claims with the trust fund, which would be funded by payments from companies that have sold or worked with asbestos, as well as insurance companies that have underwritten asbestos risk. As Public Citizen reported earlier, the trust fund scheme is a massive corporate bailout, because the amounts contributed to the fund by such well-known firms as USG Corp., Owens Corning and W.R. Grace & Co. would total about \$20 billion less than the liability the companies would otherwise be expected to bear for exposing workers to asbestos.

So, even though victims would be forced out of the courts and into reliance on the fund, it is unlikely the fund will have enough money to pay them, according to the CBO report and others:

- Bates White, LLC, a financial consulting firm, concluded that “even under conservative assumptions,” the fund would need \$300 billion to satisfy claims -- more than double the \$140 billion proposed.
- George Mason University mathematical science professor Rebecca Goldin concurred with Bates White, noting that the number of additional asbestos injury claims filed with the private Manville Trust is expected to range between 750,000 and 2.7 million for a single company alone.

- In an earlier report, the CBO forecast a \$6 billion shortfall in the fund's first 10 years that would need to be covered by government borrowing.
- Financial analyst Mark Petersen told the Senate Judiciary Committee that a burden of heavy borrowing would sink the fund, leaving outstanding debt of \$35 billion and providing only \$103 billion of the promised \$140 billion to victims.
- In a recent report examining the financial history of four major government occupational and vaccine injury programs, the Government Accountability Office found they had cost more than expected and required significant taxpayer subsidies to continue functioning. (The programs are the Black Lung Program, set up for disabled coal miners in 1969; the Radiation Exposure Compensation Program, established in 1990 for uranium miners and populations exposed to nuclear testing; the Energy Employees Occupational Illness Program, created in 2000 for nuclear weapons industry-related injuries; and the National Vaccine Injury Compensation Program, begun in 1986 to compensate injuries and death caused by certain vaccines.

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