



November 7, 2003

Honorable J. Dennis Hastert
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

I am pleased to provide you with the additional information you requested regarding CBO's cost estimate for S. 1125, the Fairness in Asbestos Injury Resolution Act of 2003.

If you wish further details on this estimate, we would be happy to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

Douglas Holtz-Eakin

Enclosures

cc: Honorable Orrin G. Hatch
Chairman
Senate Committee on the Judiciary

Honorable Patrick J. Leahy
Ranking Democratic Member

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Honorable F. James Sensenbrenner Jr.
Chairman
House Committee on the Judiciary

Honorable John Conyers Jr.
Ranking Member

**Additional Information Regarding
CBO's Cost Estimate for S. 1125,
the Fairness in Asbestos Injury Resolution Act of 2003**

1. Please provide CBO's claims forecasts for pending and future malignant and non-malignant claims, by the act's disease levels and by year, that underlie the summary results in Table 2 on page 7.

CBO's estimate for pending and future claims by disease levels per year can be found in the attached Table 1.

2. Please provide CBO's award value estimates (and their derivations) for pending and future malignant and nonmalignant claims, by the act's disease levels and by year, that underlie the summary results in Table 2 on page 7. To what extent do the claim values for pending claims reflect offsets for collateral source compensation?

Section 131 specifies the award values under the bill for disease categories II through X. For level I, medical monitoring, we estimate that the net cost to the government would average \$1,000 per individual. The award values CBO used for the estimate are summarized below.

Level	Condition or Disease	Estimated Average Award Value
I	Asbestosis/Pleural, Disease A	\$1,000
II	Mixed Disease With Impairment	\$20,000
III	Asbestosis/Pleural, Disease B	\$75,000
IV	Severe Asbestosis	\$300,000
V	Disabling Asbestosis	\$750,000
VI	Other Cancer	\$150,000
VII	Lung Cancer One	
	Smokers	\$50,000
	Ex-smokers	\$150,000
	Nonsmokers	\$412,500
VIII	Lung Cancer with Pleural Disease	
	Smokers	\$175,000
	Ex-smokers	\$500,000
	Nonsmokers	\$800,000
IX	Lung Cancer with Asbestosis	
	Smokers	\$350,000
	Ex-smokers	\$700,000
	Nonsmokers	\$900,000
X	Mesothelioma	\$1,000,000

Some award values are specified in S. 1125 as a range. For example, the award value for a level IX (lung cancer with asbestosis) nonsmoking claimant would be between \$800,000 and \$1 million. CBO expects that the average of awards for such claimants would be near the middle of the range.

Section 131 of S. 1125 also would authorize the administrator of the fund to increase award values each year by the change in the Consumer Price Index (CPI). For this cost estimate, CBO increased the award values each year by our estimate of the annual change in the CPI—2.5 percent a year.

CBO's estimate for pending claims is based on research conducted by Navigant Consulting, which reflects the availability of collateral source compensation. CBO estimates that the equivalent of about 300,000 pending claims—full claims without any prior award—would qualify for compensation under the bill. That figure represents more than 300,000 individuals making partial claims and receiving some compensation from other sources. For example, two claimants that have each received 50 percent of what they would be eligible to receive under the bill are considered as one pending claim in our estimate.

3. CBO explains that the claims projections in the cost estimate rely on a comparison of the medical criteria in S. 1125 with that of the Manville Trust and other compensation trusts. To what extent does the CBO cost estimate take into account the diagnostic criteria required under S. 1125? How does the cost estimate adjust the estimate to reflect these criteria?

To the extent possible and based on available data, CBO's estimate reflects the diagnostic criteria required under S. 1125. Because the Manville Trust is the oldest and largest private trust fund for asbestos claims and compensates claimants based on medical criteria similar to those specified in S. 1125, CBO studied the history of claims paid by that trust and its estimate of how claims received under its 1995 trust distribution process would have been compensated under its revised 2002 distribution process, which has medical criteria that are similar to those in S. 1125.

CBO's estimate of claims that would be compensated by the Asbestos Trust under S. 1125 does not rely exclusively on data from the Manville Trust. CBO also reviewed a number of projections of asbestos injury claims that were prepared for different purposes by several private groups and individuals, including those presented to the Senate Committee on the Judiciary during its consideration of S. 1125 by the Asbestos Study Group, Navigant Consulting, and Legal Analysis Systems. Those estimates were prepared with an understanding of the medical criteria in S. 1125 as approved by the Senate Judiciary Committee. For our estimate, we also considered the inaccuracy of projections of future asbestos injury claims that have been made in the past and the significant discretion that the Special Asbestos Masters would have to determine eligibility and awards under the bill.

4. To what extent does the CBO cost estimate take into account the exposure criteria required under S. 1125? Does the cost estimate adjust the projections of eligible claims to reflect these criteria?

CBO's estimate of the cost of claims is based on projections for S. 1125 prepared by a number of experts, who considered the exposure criteria specified in the bill. The impact of those criteria is difficult to predict, however, because the ultimate costs of the bill would depend on exactly how those criteria were interpreted and implemented. All awards for disease level VII as well as appeals of the compensation offered for other disease levels would be decided by the Medical Advisory Committee. Without any prior experience regarding the operations of the Medical Advisory Committee, we cannot be certain how the exposure criteria would be enforced under the legislation, how often the committee would grant exceptions, and on what basis exceptions might be granted.

5. CBO also states that payments by insurers into the Fund would be roughly equal to their liabilities under the existing tort system. How did CBO reach this conclusion? To what extent did CBO evaluate the adequacy of insurance carriers' current asbestos reserves?

CBO's cost estimate for S. 1125 noted that "it is impossible to say with any confidence whether the amounts that would be paid out by defendant firms and insurers under this legislation would be higher or lower than what they would expend in its absence through the tort system." On that basis, we concluded that the best assumption we could make was that the bill would have no significant effect on corporate taxable income. (See page 14 of the CBO cost estimate.)

CBO considered the level of reserves reported by insurance carriers when estimating how much their firms could pay to the fund. We estimate that, under S. 1125, direct insurers would pay \$22 billion over the first three years after enactment, a sum that exceeds the direct insurers' current asbestos reserves by \$3 billion. We expect that insurers could obtain the additional funds from other sources. CBO did not have information concerning the reserves and financial condition of reinsurers with asbestos liability.

TABLE 1. CBO ESTIMATE OF THE NUMBER OF CLAIMS UNDER S. 1125

Year of Claim	Disease Level																
	X	IX-s	IX-x	IX-n	VIII-s	VIII-x	VIII-n	VII-s	VII-x	VII-n	VI	V	IV	III	II	I	
Pending	7,040	1,892	504	126	2,878	767	192	5,405	1,441	360	6,068	3,760	7,202	39,263	4,363	218,353	
2005	2,215	997	266	66	997	266	66	1,329	354	89	738	812	812	8,123	2,031	69,451	
2006	2,193	987	263	66	987	263	66	1,316	351	88	731	796	796	7,957	1,989	68,031	
2007	2,054	924	247	62	924	247	62	1,233	329	82	685	738	738	7,377	1,844	63,075	
2008	2,009	904	241	60	904	241	60	1,205	321	80	670	714	714	7,138	1,784	61,028	
2009	1,968	886	236	59	886	236	59	1,181	315	79	656	692	692	6,918	1,729	59,147	
2010	1,923	865	231	58	865	231	58	1,154	308	77	641	669	669	6,686	1,672	57,168	
2011	1,874	843	225	56	843	225	56	1,124	300	75	625	644	644	6,444	1,611	55,094	
2012	1,822	820	219	55	820	219	55	1,093	291	73	607	620	620	6,197	1,549	52,983	
2013	1,729	778	207	52	778	207	52	1,037	277	69	576	582	582	5,815	1,454	49,721	
2014	1,647	741	198	49	741	198	49	988	264	66	549	548	548	5,478	1,370	46,839	
2015	1,563	703	188	47	703	188	47	938	250	63	521	514	514	5,138	1,285	43,934	
2016	1,479	666	177	44	666	177	44	887	237	59	493	481	481	4,807	1,202	41,102	
2017	1,394	627	167	42	627	167	42	836	223	56	465	448	448	4,478	1,119	38,285	
2018	1,307	588	157	39	588	157	39	784	209	52	436	415	415	4,147	1,037	35,460	
2019	1,223	550	147	37	550	147	37	734	196	49	408	384	384	3,837	959	32,804	
2020	1,142	514	137	34	514	137	34	685	183	46	381	354	354	3,538	884	30,246	
2021	1,060	477	127	32	477	127	32	636	170	42	353	324	324	3,243	811	27,730	
2022	985	443	118	30	443	118	30	591	158	39	328	298	298	2,978	744	25,460	
2023	911	410	109	27	410	109	27	547	146	36	304	272	272	2,720	680	23,254	
2024	838	377	101	25	377	101	25	503	134	34	279	247	247	2,471	618	21,124	
2025	768	345	92	23	345	92	23	461	123	31	256	223	223	2,233	558	19,095	
2026	705	317	85	21	317	85	21	423	113	28	235	202	202	2,023	506	17,300	
2027	639	287	77	19	287	77	19	383	102	26	213	181	181	1,809	452	15,469	
2028	580	261	70	17	261	70	17	348	93	23	193	162	162	1,621	405	13,856	
2029	516	232	62	15	232	62	15	310	83	21	172	142	142	1,424	356	12,176	
2030	463	209	56	14	209	56	14	278	74	19	154	126	126	1,260	315	10,776	
2031	413	186	50	12	186	50	12	248	66	17	138	111	111	1,108	277	9,477	
2032	366	165	44	11	165	44	11	220	59	15	122	97	97	968	242	8,273	
2033	332	149	40	10	149	40	10	199	53	13	111	87	87	865	216	7,397	
2034	290	131	35	9	131	35	9	174	46	12	97	75	75	746	186	6,375	
2035	254	114	30	8	114	30	8	152	41	10	85	64	64	642	161	5,490	
2036	220	99	26	7	99	26	7	132	35	9	73	55	55	548	137	4,689	
2037	197	89	24	6	89	24	6	118	31	8	66	48	48	483	121	4,128	
2038	168	76	20	5	76	20	5	101	27	7	56	41	41	407	102	3,479	
2039	144	65	17	4	65	17	4	86	23	6	48	34	34	342	85	2,922	
2040	122	55	15	4	55	15	4	73	19	5	41	29	29	285	71	2,437	
2041	97	44	12	3	44	12	3	58	16	4	32	22	22	224	56	1,916	
2042	80	36	10	2	36	10	2	48	13	3	27	18	18	182	45	1,554	
2043	67	30	8	2	30	8	2	40	11	3	22	15	15	148	37	1,267	
2044	58	26	7	2	26	7	2	35	9	2	19	13	13	127	32	1,085	
2045	48	22	6	1	22	6	1	29	8	2	16	10	10	103	26	880	
2046	39	18	5	1	18	5	1	23	6	2	13	8	8	83	21	708	
2047	32	14	4	1	14	4	1	19	5	1	11	7	7	66	17	565	
2048	28	13	3	1	13	3	1	17	4	1	9	6	6	57	14	486	
2049	22	10	3	1	10	3	1	13	4	1	7	4	4	44	11	378	

NOTE: s = smoker; x = ex-smoker; n = nonsmoker