

Fairness for Asbestos Victims

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Contrary to the Oct. 20 editorial "Asbestos Meltdown," the substance and process of the asbestos legislation have been more than reasonable.

The highest reasonable estimate of prospective costs would net plaintiffs about \$92 billion after attorney fees and expenses. But under the Fairness in Asbestos Injury Resolution (FAIR) Act and the no-fault, non-adversarial system in the bill, claimants should take home more than \$100 billion. Further, with more than 60 companies forced into bankruptcy so far under the current litigation system, the victims who are unable to recover any money from these insolvent companies will no longer have to go without payment.

Also, labor has been involved in the negotiations on the bill since its inception, and many items in the bill were included at its request (including a nearly 20 percent increase in base funding, compensating "mixed" claims and removing certain award offsets).

Finally, The Post's concern about adequate safeguards for solvency is overwrought. The fund has many mechanisms to ensure that the pay-in and payout requirements are met, including flexible borrowing authority, reserve accounts and \$10 billion in contingent funding. Beyond these safeguards, claims would, as The Post noted, revert to the tort system if funding proved inadequate -- a provision Democrats insisted be part of the bill.

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U.S. Senator (R-Tenn.)

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U.S. Senator (R-Utah)

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The writers are, respectively, Senate majority leader and chairman of the Senate Judiciary Committee.

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The Post's editorial said that the courts are clogged with asbestos-related lawsuits filed by people who aren't sick. But according to the most recent data from the Manville Trust, a benchmark for trends in asbestos litigation, most asbestos claims have been filed by injured workers who have cancer, asbestosis or other severe asbestos-related illnesses.

The editorial also was wrong to claim that trial lawyers' clients are suing companies "that never made asbestos." These companies used or distributed products to others knowing their asbestos content was likely to injure their own employees or others who came in contact with asbestos -- mechanics, insulation installers, construction workers, office workers and homeowners. Other defendants purchased companies, often at a discount, knowing these companies had substantial asbestos liability.

It isn't fair to the hundreds of thousands of families whose lives are ruined by asbestos to say that their pain and suffering isn't real.

DAVID S. CASEY JR.

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I have a modest proposal regarding a compromise on funding of pending asbestos legislation that reflects the view of the asbestos victims.

The Senate legislation does not limit attorney fees, which in the asbestos business typically consume a third or more of the award. Because the Senate bill has been scored by the Congressional Budget Office at \$136 billion, this means that \$45 billion or more may go to plaintiffs' lawyers for relatively simple legal work in a streamlined administrative system operating according to objective medical criteria. If these fees could be contained at the 10 percent level, as they are in other government programs, approximately \$30 billion could be freed for compensation of injured workers.

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