



FACT: The Asbestos Trust Fund will be financed with new taxes.

tax \taks\ n : a charge usu. of money imposed by authority on persons or property for public purposes

-- Webster's Dictionary

SENATOR SPECTER IS ATTACKING DICK ARMEY FOR CALLING THE TRUST FUND PLAN A "NEW TAX." SEN. SPECTER IS WRONG.

"ArmeY hasn't had one fact straight yet about this bill."

-- Sen. Arlen Specter, 4/20

POINT: The Asbestos Trust Fund creates a new federal government program. The Asbestos Trust Fund would be a \$140 billion creation of Congress, to be called the new "Office of Asbestos Disease Compensation" in the Department of Labor.

POINT: The Asbestos Trust Fund will be administered by Federal employees. S. 852 creates the position of "Administrator of the Office of Asbestos Disease Compensation." This post would be a 5 year Presidential appointment with the advice and consent of the Senate.

POINT: The Asbestos Trust Fund is funded by new levies on business. S. 852 says that the program's Administrator is responsible for "determining, levying, and collecting assessments on participants." An "assessment" is another word for tax.

POINT: Payments to the Asbestos Trust Fund are compulsory. In Section 223, S. 852 includes "enforcement of payment obligations" that include the ability to place "a lien in favor of the United States for the amount of the delinquent payment (including interest) upon all property and rights to property, whether real or personal, belonging to such participant." This is not a voluntary program.

POINT: The list of companies and their expected required payments to the Asbestos Trust Fund remain a secret. Payment allocations were developed behind closed doors with the participation of a handful of large corporations. Even Sen. Dianne Feinstein, a cosponsor of S. 852, recently said that, "I could not see myself voting for a bill where I did not know what companies are giving what, so we could make an evaluation, that there is a fair distribution of revenues across the communities involved." *--Reuters, April 20, 2005*

POINT: Consent by the taxpayer is irrelevant to the definition of a tax. Even if some businesses give "consent" to the Asbestos Trust Fund financing behind closed doors prior to bill introduction, the result is still a compulsory tax resulting in revenues to a government-administered program. Further, many of the businesses that will be subject to the tax are not even aware of the existence of S. 852!

POINT: The Asbestos Trust Fund is possibly an unconstitutional "takings" that creates taxpayer liability. Former U.S. Solicitor General, Ted Olson, and University of Chicago Law Professor, David Strauss, concluded in separate analyses, the FAIR Act has profound constitutional deficiencies. The Asbestos Trust Fund abrogates existing insurance contracts without just compensation. Contracts are a form of private property, and the Asbestos Trust Fund faces the possibility of rejection by the courts and a potential liability for U.S. taxpayers to pay substantial sums in damages.

THERE IS A BETTER WAY: MEDICAL CRITERIA LEGISLATION

Let's fix the underlying legal problem, not create a new tax-and-spend program. Instead of the Trust Fund, Congress should follow the lead of states like Ohio that have already enacted practical asbestos relief legislation based on strict medical criteria, ensuring real victims receive prompt and just compensation.

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