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Executive Offices

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R. E. X. EUSARO

November 8, 1979

Dear Colleague:

As you know, since Spring a labor group and representatives of the asbestos industry have been working with Senator Gary Hart (D-CO) to develop a proposal which would provide adequate, uniform, equitable, and exclusive compensation for persons with asbestos-related diseases incurred as a result of occupational exposure. The attached is as complete and final a draft as could be prepared under the pressures of time and consideration of the complexities involved.

As indicated by telegram, there will be an industry meeting on Thursday, November 15 at 2:00 PM EST in Johns-Manville's Public Affairs Office in Washington, D.C. to discuss this proposal. We need to reach a consensus at this time, as Labor is also reviewing the proposal and the Senator wants it introduced the first week of December. Without industry and labor approval, there will be no bill.

Senator Hart's proposal is not a re-draft of the Fenwick bill, but is an entirely different approach which creates neither a new bureaucracy nor a fund. While it is also single-disease legislation, it provides for compensation through existing State Workers Compensation mechanisms and existing Federal Workers Compensation programs through establishment of minimum standards. It mandates a role for the federal government to contribute as a responsible party, and includes for consideration of determination of "responsible party" both the employer and anyone whose asbestos product or toxic substance contributed to the incurrence of the disease. It will be the sole remedy for compensation and will preclude third-party suits.

Briefy, what Senator Hart is proposing is:

Asbestos-related disease legislation to provide prompt, adequate, equitable, exclusive compensation through existing State workers compensation mechanisms and Federal workers compensation programs with the establishment of minimum standards.

(MORE)

Compensation will be provided for partial and total disability and as death benefits both to persons diseased as a result of occupational exposure and members of their households with asbestos-related disability or death. Members of households will be treated as employees of the employer who caused the occupational exposure to asbestos.

Compensation benefits consist of base compensation (paid by the last employer who caused occupational exposure to asbestos, when such employer can be located) and an additional amount (to be apportioned among responsible parties). The federal government's role as a responsible party is delineated.

The base payment for total disability shall be not less than 66 2/3% of the affected person's average weekly wage (computed on highest 3 of last 5 years), with maximum total payment not to exceed 80% of such person's average weekly wage. Provisions for dependents are 50% of the difference between the base and 80% for one dependent, and 100% of the difference for 2 or more dependents, not to exceed the maximum 80%.

Persons with suits pending may elect to drop their suits for compensation under this Act. Anyone who received monies as a result of an award or settlement is not eligible for compensation under this Act.

I do not have to recite the history of Congressional inaction on workers compensation legislation, particularly proposals with a single-disease approach. Yet I also do not have to tell you how keenly aware Members of Congress are of the asbestos issue today. With the support of both industry and labor to diffuse much of the political controversy, this proposal has political viability.

The fight will not be easy. Along with your approval, we are seeking a commitment of your time and resources to insure passage of the legislation. Such passage will extricate us from burdensome litigation and permit predictable costs with apportioned responsibility, which includes the federal government.

I look forward to seeing you on Thursday.

Sincerely,

Elisabeth Hanlin

Elisabeth Hanlin
Public Affairs Manager

attachment

cc: J. H. Lonnquist
J. S. Autry

AUTHORIZATION OF APPROPRIATIONS

Sec. 11. There are authorized to be appropriated $ to carry out the provisions of this Act, including the payment of compensation as a responsible party.

EFFECTIVE DATE

Sec. 12. The provisions of this Act shall become effective upon enactment of this legislation.

Sec. 13. Any claimant who, as of the effective date of this Act, has pending in any Federal Court or any court in any of the several states, an action at common law to recover damages on account of any asbestos-related disease, as defined in Section 2 of this Act, may elect, within 180 days from and after the effective date of this Act, and upon first dismissing with prejudice such action at common law, to proceed under the provisions of this Act. Any claimant not so electing, or who has pursued such claim to a successful final determination in an action at law or settlement, or who files and pursues to a final determination an action at common law to recover damages on account of any asbestos-related disease after December 1, 1979, shall not be entitled to benefits under this Act.

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