CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 13, 1998

H.R. 872
Biomaterials Access Assurance Act of 1998

As ordered reported by the House Committee on the Judiciary on April 1, 1998

CBO estimates that enacting this bill would have no significant impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

Under H.R. 872, suppliers of biomaterials (raw materials used to make medical implants and devices) would not be liable in federal or state courts for harm to a claimant caused by a medical implant or device unless the generic raw material used in the medical implant or device violated contract specifications or the biomaterials supplier could be classified as either a manufacturer or seller of the medical implant or device. In addition, implementing H.R. 872 would create expedited court procedures for determining whether a supplier of biomaterials is protected from liability.

While some product liability cases are tried in federal court, the majority of such cases are handled in state courts. Based on information from the Administrative Office of the United States Courts, CBO estimates that enacting this bill would have no significant impact on the number of cases that would be referred to federal courts. Thus, we estimate that enacting H.R. 872 would have no significant impact on the federal budget.

The bill contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) because it would preempt state tort laws and would establish new court procedures for determining whether a supplier of biomaterials is protected from liability. States could initially incur some costs in adjusting to the new procedures. Based on information from the National Center for State Courts about the number of product liability cases heard in state courts, CBO estimates that those costs would be well below the threshold established in the law ($50 million in 1996, adjusted annually for inflation). In the longer run, states could realize net savings if this bill were to discourage potential plaintiffs from filing suits against suppliers of biomaterials. This bill would impose no new private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Susanne S. Mehlman (for federal costs), and Pepper Santalucia (for the state and local impact). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.