

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3136

To establish a trust fund for the purpose of making medical benefit payments to current and former residents of Libby, Montana.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2002

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish a trust fund for the purpose of making medical benefit payments to current and former residents of Libby, Montana.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Libby Health Care  
5 Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress finds that—

8               (1) the vermiculite ore mined and milled in  
9       Libby, Montana, was contaminated by high levels of  
10       asbestos, particularly tremolite asbestos;

1           (2) the vermiculite mining and milling processes  
2 released thousands of pounds of asbestos-contami-  
3 nated dust into the air around Libby, Montana,  
4 every day, exposing mine workers and Libby resi-  
5 dents to high levels of asbestos over a prolonged pe-  
6 riod of time;

7           (3) the Federal Government has known for over  
8 50 years that there are severe health risks associ-  
9 ated with prolonged exposure to asbestos, including  
10 higher incidences of asbestos related disease such as  
11 asbestosis, lung cancer, and mesothelioma;

12           (4) the United States was aware of accumu-  
13 lating asbestos pollution in Libby, Montana, as early  
14 as 1941, but failed to take any corrective action for  
15 decades, and once corrective action was taken, it was  
16 inadequate to protect workers and residents and as-  
17 bestos-contaminated vermiculite dust continued to be  
18 released into the air in and around Libby, Montana,  
19 until the early 1990s when the vermiculite mining  
20 and milling process was finally halted;

21           (5) the United States Environmental Protection  
22 Agency did not respond to massive asbestos contami-  
23 nation in Libby, Montana, until 1999, when the high  
24 rates of disease and death associated with exposure

1 to asbestos in Libby, Montana, made national head-  
2 lines;

3 (6) current and former residents of Libby,  
4 Montana, and former vermiculite mine workers from  
5 the Libby mine suffer from asbestos related diseases  
6 at a rate 40 to 60 times the national average, and  
7 they suffer from the rare and deadly asbestos-caused  
8 cancer, mesothelioma, at a rate 100 times the na-  
9 tional average;

10 (7) the State of Montana and the town of  
11 Libby, Montana, face an immediate and severe  
12 health care crisis because—

13 (A) many sick current and former resi-  
14 dents and workers who have been diagnosed  
15 with asbestos-related exposure or disease cannot  
16 access private health insurance;

17 (B) the costs to the community and State  
18 government related to providing health coverage  
19 for uninsured sick residents and former mine  
20 workers are creating significant pressures on  
21 the State's medicaid program and threaten the  
22 viability of other community businesses;

23 (C) asbestos-related disease can have a  
24 long latency period; and

1 (D) the only significant responsible party  
2 available to compensate sick residents and  
3 workers has filed for bankruptcy protection;  
4 and

5 (8) the United States should recognize that it  
6 has a responsibility to work in partnership with the  
7 State of Montana, the town of Libby, Montana, and  
8 appropriate health care organizations to address es-  
9 calating health care costs caused by decades of as-  
10 bestos pollution in Libby, Montana.

11 (b) PURPOSE.—The purpose of this Act is to provide  
12 a permanent source of funding for medical benefit pay-  
13 ments to current and former residents of Libby, Montana,  
14 who suffer from asbestos related disease or illness.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) ASBESTOS RELATED DISEASE OR ILL-  
18 NESS.—The term “asbestos related disease or ill-  
19 ness” means a malignant or non-malignant res-  
20 piratory disease or illness related to tremolite asbes-  
21 tos exposure.

22 (2) ELIGIBLE MEDICAL EXPENSE.—The term  
23 “eligible medical expense” means an expense related  
24 to services for the diagnosis or treatment of an as-  
25 bestos-related disease or illness, including expenses

1 incurred for hospitalization, prescription drugs, out-  
2 patient services, home oxygen, respiratory therapy,  
3 nursing visits, or diagnostic evaluations.

4 **SEC. 4. HEALTH CARE TRUST FUND.**

5 (a) ESTABLISHMENT.—There is established in the  
6 Treasury of the United States a trust fund, to be known  
7 as the “Montana Asbestos Related Disease Health Care  
8 Trust Fund” (in this Act referred to as the “Trust  
9 Fund”), which shall be administered by the Secretary of  
10 the Treasury.

11 (b) USE OF FUNDS.—Amounts in the Trust Fund  
12 shall be available only for disbursement for medical benefit  
13 payments as provided under section 5 of this Act.

14 (c) CORPUS.—The Trust Fund shall consist of—

15 (1) such amounts as may be appropriated to  
16 the Trust Fund as provided in subsection (e);

17 (2) such amounts as may be transferred to the  
18 Trust Fund from payments to the United States as  
19 provided in subsection (f); and

20 (3) contributions from individuals, businesses,  
21 or non-profit organizations as provided in subsection  
22 (g).

23 (d) INVESTMENT.—Amounts in the Trust Fund shall  
24 be invested in accordance with section 9702 of title 31,  
25 United States Code, and any interest on, and proceeds

1 from, any such investment shall be credited to and become  
2 a part of the Trust Fund.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There are authorized to be  
5 appropriated to the Trust Fund \$20,000,000 for fis-  
6 cal year 2003.

7 (2) AVAILABILITY.—Any amounts appropriated  
8 pursuant to paragraph (1) shall remain available  
9 until expended.

10 (f) CERCLA FUNDS.—Notwithstanding any other  
11 provision of law, any payment received by the United  
12 States for recovery of costs associated with the United  
13 State's actions to address asbestos contamination in  
14 Libby, Montana, as authorized by the Comprehensive En-  
15 vironmental Response, Compensation, and Liability Act of  
16 1980 (42 U.S.C. 9601 et seq.), shall first be used to repay  
17 the Treasury for any funds appropriated to the Trust  
18 Fund, and any remaining funds over and above the  
19 amount necessary to repay the Treasury shall be deposited  
20 in the Trust Fund.

21 (g) CONTRIBUTIONS.—

22 (1) IN GENERAL.—Any individual, business, or  
23 non-profit organization may contribute funds to the  
24 Trust Fund and any such funds shall be credited to  
25 and become a part of the Trust Fund.

1           (2) TAX DEDUCTIONS.—Any funds contributed  
2           to the Trust Fund under paragraph (1) shall be con-  
3           sidered a tax-deductible contribution in accordance  
4           with section 170 of the Internal Revenue Code of  
5           1986.

6 **SEC. 5. DETERMINATION AND PAYMENT OF CLAIMS.**

7           (a) APPLICATION.—

8           (1) IN GENERAL.—An individual who wishes to  
9           receive a medical benefit payment under this Act  
10          shall file an application with the Attorney General.

11          (2) DOCUMENTATION.—An application shall  
12          contain such documentation as the Attorney General  
13          determines is necessary to support a claim for a  
14          medical benefit payment.

15          (3) FILING PROCEDURES.—The Attorney Gen-  
16          eral, in consultation with the chief executive officer  
17          of the State of Montana and the Clinic Director of  
18          the Center for Asbestos Related Disease in Libby,  
19          Montana, shall establish procedures whereby individ-  
20          uals may file applications for medical benefit pay-  
21          ments under this Act.

22          (b) ELIGIBILITY.—An individual is eligible for med-  
23          ical benefit payments under this Act if the individual—

24                (1) has an asbestos-related disease or illness;

25                (2) has an eligible medical expense; and

1 (3) either—

2 (A) was a worker at the vermiculite mining  
3 and milling facility in Libby, Montana; or

4 (B) lived, worked, or played in Libby,  
5 Montana, for at least 6 consecutive months be-  
6 fore December 31, 1990.

7 (c) PAYMENTS.—

8 (1) IN GENERAL.—The Attorney General shall  
9 pay, from amounts available in the Trust Fund, any  
10 claim for a medical benefit payment made under this  
11 Act if the Attorney General determines that the indi-  
12 vidual filing the application is eligible for the pay-  
13 ment under subsection (b).

14 (2) LIMITATION.—No individual shall receive  
15 more than \$100,000 in aggregate payments from  
16 the Trust Fund.

17 (3) ACTION ON CLAIMS.—Not later than 6  
18 months after the date a application is filed under  
19 this Act, the Attorney General shall make a deter-  
20 mination on the claim.

21 (d) NO LIMITATION ON OTHER FEDERAL BENE-  
22 FITS.—Nothing in this Act shall be construed as pre-  
23 cluding any individual who receives medical benefits pay-  
24 ments under this Act from also receiving other benefits,  
25 including benefits which the individual may be eligible to

1 receive under title II, XVI, XVIII, XIX, or XXI of the  
2 Social Security Act.

3 (e) REGULATORY AUTHORITY.—The Attorney Gen-  
4 eral may issue such regulations as are necessary to carry  
5 out this Act.

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