

107TH CONGRESS  
1ST SESSION

# S. 1048

To amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 14, 2001

Mr. DEWINE (for himself, Mr. LEAHY, Mr. VOINOVICH, Mr. BREAUX, Mr. CONRAD, Mr. LUGAR, Mr. SANTORUM, Ms. LANDRIEU, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims.

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. EXEMPTION FOR ASBESTOS-RELATED SETTLE-**  
4 **MENT FUNDS.**

5 (a) EXEMPTION FOR ASBESTOS-RELATED SETTLE-  
6 MENT FUNDS.—Subsection (b) of section 468B of the In-  
7 ternal Revenue Code of 1986 (relating to special rules for  
8 designated settlement funds) is amended by adding at the  
9 end the following new paragraph:

1           “(6) EXEMPTION FROM TAX FOR ASBESTOS-RE-  
2           LATED SETTLEMENT FUNDS.—Notwithstanding  
3           paragraph (1), no tax shall be imposed under this  
4           section or any other provision of this subtitle on any  
5           settlement fund to which this section or the regula-  
6           tions thereunder applies that is established for the  
7           principal purpose of resolving and satisfying present  
8           and future claims relating to asbestos.”.

9           (b) CONFORMING AMENDMENTS.—

10           (1) Paragraph (1) of section 468B(b) of such  
11           Code is amended by striking “There” and inserting  
12           “Except as provided in paragraph (6), there”.

13           (2) Subsection (g) of section 468B of such Code  
14           is amended by inserting “(other than subsection  
15           (b)(6))” after “Nothing in any provision of law”.

16           (c) EFFECTIVE DATE.—The amendments made by  
17           this section shall apply to taxable years ending on or after  
18           December 31, 2000.

19           **SEC. 2. MODIFY TREATMENT OF ASBESTOS-RELATED NET**  
20           **OPERATING LOSSES.**

21           (a) ASBESTOS-RELATED NET OPERATING LOSSES.—  
22           Subsection (f) of section 172 of the Internal Revenue Code  
23           of 1986 (relating to net operating loss deduction) is  
24           amended by redesignating paragraphs (4), (5), and (6) as

1 paragraphs (5), (6), and (7), respectively, and by inserting  
2 after paragraph (3) the following new paragraph:

3 “(4) SPECIAL RULES FOR ASBESTOS LIABILITY  
4 LOSSES.—

5 “(A) IN GENERAL.—At the election of the  
6 taxpayer, the portion of any specified liability  
7 loss that is attributable to asbestos may, for  
8 purposes of subsection (b)(1)(C), be carried  
9 back to the taxable year in which the taxpayer,  
10 including any predecessor corporation, was first  
11 involved in the production or distribution of  
12 products containing asbestos and each subse-  
13 quent taxable year. In determining its specified  
14 liability losses attributable to asbestos, the tax-  
15 payer may elect to take into account payments  
16 of related parties attributable to asbestos-re-  
17 lated products produced or distributed by the  
18 taxpayer.

19 “(B) COORDINATION WITH CREDITS.—If a  
20 deduction is allowable for any taxable year by  
21 reason of a carryback described in subpara-  
22 graph (A)—

23 “(i) the credits allowable under part  
24 IV (other than subpart C) of subchapter A

1 shall be determined without regard to such  
2 deduction, and

3 “(ii) the amount of taxable income  
4 taken into account with respect to the  
5 carryback under subsection (b)(2) for such  
6 taxable year shall be reduced by an  
7 amount equal to—

8 “(I) the increase in the amount  
9 of such credits allowable for such tax-  
10 able year solely by reason of clause  
11 (i), divided by

12 “(II) the maximum rate of tax  
13 under section 1 or 11 (whichever is  
14 applicable) for such taxable year.

15 “(C) CARRYFORWARDS TAKEN INTO AC-  
16 COUNT BEFORE ASBESTOS-RELATED DEDUC-  
17 TIONS.—For purposes of this section—

18 “(i) in determining whether a net op-  
19 erating loss carryforward may be carried  
20 under subsection (b)(2) to a taxable year,  
21 taxable income for such year shall be de-  
22 termined without regard to the deductions  
23 referred to in paragraph (1)(A) with re-  
24 spect to asbestos, and

1           “(ii) if there is a net operating loss  
2           for such year after taking into account  
3           such carryforwards and deductions, the  
4           portion of such loss attributable to such  
5           deductions shall be treated as a specified  
6           liability loss that is attributable to asbes-  
7           tos.

8           “(D) LIMITATION.—The amount of reduc-  
9           tion in income tax liability arising from the  
10          election described in subparagraph (A) that ex-  
11          ceeds the amount of reduction in income tax li-  
12          ability that would have resulted if the taxpayer  
13          utilized the 10-year carryback period under sub-  
14          section (b)(1)(C) shall be devoted by the tax-  
15          payer solely to asbestos claimant compensation  
16          and related costs, through a settlement fund or  
17          otherwise.

18          “(E) COORDINATION WITH OTHER  
19          CARRYBACK LIMITATIONS.—The amount of as-  
20          bestos-related specified liability loss that may be  
21          absorbed in a prior taxable year (and the  
22          amount of refund attributable to such loss ab-  
23          sorption) shall be determined without regard to  
24          any limitation under section 381, 382, or 1502  
25          or the regulations thereunder.

1           “(F) PREDECESSOR CORPORATION.—For  
2 purposes of this paragraph, a predecessor cor-  
3 poration shall include a corporation that trans-  
4 ferred or distributed assets to the taxpayer in  
5 a transaction to which section 381(a) applies or  
6 that distributed the stock of the taxpayer in a  
7 transaction to which section 355 applies.”.

8           (b) CONFORMING AMENDMENT.—Paragraph (7) of  
9 section 172(f) of such Code, as redesignated by this sec-  
10 tion, is amended by striking “10-year”.

11           (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years ending on or after  
13 December 31, 2000.

○