

115TH CONGRESS
1ST SESSION

S. 2198

To amend the Internal Revenue Code of 1986 to reinstate the financing for the Hazardous Substance Superfund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2017

Mr. BOOKER (for himself, Mr. MENENDEZ, and Mr. WHITEHOUSE) 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 reinstate the financing for the Hazardous Substance Superfund, and for other purposes.

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 “Superfund Polluter
5 Pays Restoration Act of 2017”.

1 **SEC. 2. EXTENSION AND MODIFICATION OF SUPERFUND**
 2 **EXCISE TAXES.**

3 (a) EXTENSION.—Subsection (e) of section 4611 of
 4 the Internal Revenue Code of 1986 is amended to read
 5 as follows:

6 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
 7 SUPERFUND FINANCING RATE.—The Hazardous Sub-
 8 stance Superfund financing rate under this section shall
 9 apply after December 31, 1986, and before January 1,
 10 1996, and after the date that is 60 days after the date
 11 of the enactment of the Superfund Polluter Pays Restora-
 12 tion Act of 2017.”.

13 (b) MODIFICATION OF HAZARDOUS SUBSTANCE
 14 SUPERFUND FINANCING RATE.—

15 (1) IN GENERAL.—Section 4611(c)(2)(A) of
 16 such Code is amended by striking “9.7 cents” and
 17 inserting “15.8 cents”.

18 (2) INFLATION ADJUSTMENT.—Section 4611(c)
 19 of such Code is amended by adding at the end the
 20 following new paragraph:

21 “(3) ADJUSTMENT FOR INFLATION.—

22 “(A) IN GENERAL.—In the case of any
 23 taxable year beginning after December 31,
 24 2018, the amount under paragraph (2)(A) shall
 25 be increased by an amount equal to—

26 “(i) such amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
 2 termined under section 1(f)(3) for the cal-
 3 endar year in which such taxable year be-
 4 gins by substituting ‘calendar year 2017’
 5 for ‘calendar year 1992’ in subparagraph
 6 (B) thereof.

7 “(B) ROUNDING.—If any increase deter-
 8 mined under this paragraph is not a multiple of
 9 0.1 cents, such increase shall be rounded to the
 10 next lowest multiple of 0.1 cents.”.

11 (c) MODIFICATION OF RATE OF TAX ON CERTAIN
 12 CHEMICALS.—Section 4661(b) of the Internal Revenue
 13 Code of 1986 is amended to read as follows:

14 “(b) AMOUNT OF TAX.—

15 “(1) IN GENERAL.—The amount of tax imposed
 16 by subsection (a) shall be determined in accordance
 17 with the following table:

“In the case of:	The tax is the following amount per ton:
Acetylene	\$11.00
Benzene	11.00
Butane	11.00
Butylene	11.00
Butadiene	11.00
Ethylene	11.00
Methane	7.77
Napthalene	11.00
Propylene	11.00
Toluene	11.00
Xylene	11.00
Ammonia	5.96
Antimony	10.05
Antimony trioxide	8.47
Arsenic	10.05

“In the case of:	The tax is the following amount per ton:
Arsenic trioxide	7.70
Barium sulfide	5.19
Bromine	10.05
Cadmium	10.05
Chlorine	6.10
Chromium	10.05
Chromite	3.43
Potassium dichromate	3.82
Sodium dichromate	4.22
Cobalt	10.05
Cupric sulfate	4.22
Cupric oxide	8.11
Cuprous oxide	8.96
Hydrochloric acid	0.65
Hydrogen fluoride	9.55
Lead oxide	9.35
Mercury	10.05
Nickel	10.05
Phosphorus	10.05
Stannous chloride	6.43
Stannic chloride	4.79
Zinc chloride	5.01
Zinc sulfate	4.29
Potassium hydroxide	0.50
Sodium hydroxide	0.63
Sulfuric acid	0.59
Nitric acid	0.54.

1 “(2) ADJUSTMENT FOR INFLATION.—

2 “(A) IN GENERAL.—In the case of any
3 taxable year beginning after December 31,
4 2018, each of the dollar amounts in the table
5 in paragraph (1) shall be increased by an
6 amount equal to—

7 “(i) such amount, multiplied by

8 “(ii) the cost-of-living adjustment de-
9 termined under section 1(f)(3) for the cal-
10 endar year in which such taxable year be-
11 gins by substituting ‘calendar year 2017’

1 for ‘calendar year 1992’ in subparagraph
 2 (B) thereof.

3 “(B) ROUNDING.—If any increase deter-
 4 mined under this paragraph is not a multiple of
 5 \$0.01, such increase shall be rounded to the
 6 next lowest multiple of \$0.01.”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to oil and petroleum products re-
 9 ceived or entered during calendar quarters beginning more
 10 than 60 days after the date of the enactment of this Act.

11 **SEC. 3. CLARIFICATION OF DEFINITION OF CRUDE OIL FOR**
 12 **EXCISE TAX PURPOSES.**

13 (a) DEFINITION OF CRUDE OIL.—Paragraph (1) of
 14 section 4612(a) of the Internal Revenue Code of 1986 is
 15 amended to read as follows:

16 “(1) CRUDE OIL.—The term ‘crude oil’ includes
 17 crude oil condensates, natural gasoline, any bitumen
 18 or bituminous mixture, any oil derived from a bitu-
 19 men or bituminous mixture (including oil derived
 20 from tar sands), and any oil derived from kerogen-
 21 bearing sources (including oil derived from oil
 22 shale).”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall apply to oil and petroleum products re-

1 ceived or entered during calendar quarters beginning more
 2 than 60 days after the date of the enactment of this Act.

3 **SEC. 4. USE OF HAZARDOUS SUBSTANCE SUPERFUND FOR**
 4 **CLEANUP.**

5 (a) AVAILABILITY OF AMOUNTS.—Section 111 of the
 6 Comprehensive Environmental Response, Compensation,
 7 and Liability Act of 1980 (42 U.S.C. 9611) is amended—

8 (1) in subsection (a) by striking “For the pur-
 9 poses specified” and all that follows through “for
 10 the following purposes:” and inserting the following:
 11 “The amount in the Hazardous Substance Super-
 12 fund established under section 9507 of the Internal
 13 Revenue Code of 1986 shall be available, without
 14 further appropriation, to be used for the purposes
 15 specified in this section. The President shall use
 16 such amount for the following purposes:”; and

17 (2) in subsection (c)—

18 (A) by striking “Subject to such amounts
 19 as are provided in appropriations Acts, the”
 20 each place it appears and inserting “The”; and

21 (B) in paragraph (12) by striking “to the
 22 extent that such costs” and all that follows
 23 through “and 1994”.

1 (b) AMENDMENT TO THE INTERNAL REVENUE
2 CODE.—Section 9507 of the Internal Revenue Code of
3 1986 is amended—

4 (1) in subsection (c)(1)—

5 (A) by striking “, as provided in appro-
6 priations Acts,”; and

7 (B) by striking “the Superfund Amend-
8 ments and Reauthorization Act of 1986” in
9 clause (i) thereof and inserting “the Superfund
10 Polluter Pays Restoration Act of 2017”; and

11 (2) in subsection (d)(3), by striking subpara-
12 graph (B) and redesignating subparagraph (C) as
13 subparagraph (B).

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