

116TH CONGRESS
1ST SESSION

S. 865

To amend the Oil Pollution Act of 1990 to establish an oil spill response and prevention grant program and provide for advances from the Oil Spill Liability Trust Fund, to amend the Internal Revenue Code of 1986 to extend and modify the application of the Oil Spill Liability Trust Fund financing rate, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2019

Mr. SULLIVAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Oil Pollution Act of 1990 to establish an oil spill response and prevention grant program and provide for advances from the Oil Spill Liability Trust Fund, to amend the Internal Revenue Code of 1986 to extend and modify the application of the Oil Spill Liability Trust Fund financing rate, 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 “Spill Response and
5 Prevention Surety Act”.

1 **SEC. 2. OIL SPILL RESPONSE AND PREVENTION.**

2 (a) OIL SPILL RESPONSE AND PREVENTION GRANT
3 PROGRAM.—

4 (1) IN GENERAL.—Subtitle A of title IV of the
5 Oil Pollution Act of 1990 (Public Law 101–380; 104
6 Stat. 509) is amended by adding at the end the fol-
7 lowing:

8 **“SEC. 4119. OIL SPILL RESPONSE AND PREVENTION GRANT**
9 **PROGRAMS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) COMMITTEE.—The term ‘Committee’
12 means the Interagency Coordinating Committee on
13 Oil Pollution Research established by section
14 7001(a)(1).

15 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
16 tity’ means an institution of higher education that—

17 “(A) is located in an eligible State in which
18 oil spills present a real and constant threat;

19 “(B) has a broad base of competence in
20 fields relating to—

21 “(i) ocean, coastal, river, or Great
22 Lakes resources; or

23 “(ii) the modeling of, efficacy of re-
24 sponses to, and fates and effects of oil
25 spills;

26 “(C) is located in an area in which—

1 “(i) academic, engineering, and infra-
2 structure resources exist to adequately ad-
3 dress ongoing and future threats of oil
4 spills;

5 “(ii) Federal, State, industry, and
6 academic resources are being directed to
7 address threats of oil spills;

8 “(iii) planned future developments
9 would intensify or exacerbate threats of oil
10 spills; and

11 “(iv) research and development efforts
12 would have the greatest impact on oil spill
13 response and prevention;

14 “(D) if proposing to conduct research on
15 oil spill response and prevention in an ice-im-
16 pacted environment, has significant demon-
17 strable experience in the conduct of research in
18 ice-impacted environments; and

19 “(E) if proposing to conduct research in
20 partnership with, or to subcontract work to, a
21 foreign or private entity, is partnering with, or
22 subcontracting to, a foreign or private entity
23 that is uniquely equipped to support the re-
24 search being proposed.

1 “(3) ELIGIBLE STATE.—The term ‘eligible
2 State’ means a State—

3 “(A)(i) in which a marine oil terminal or
4 transportation facility is located; or

5 “(ii) that the Secretary determines has a
6 substantial risk of oil spills through any other
7 means of transportation; and

8 “(B) with respect to which the Secretary
9 has approved a proposal for the conduct of oil
10 spill response or prevention activities or pro-
11 grams.

12 “(4) SECRETARY.—The term ‘Secretary’ means
13 the Secretary of Homeland Security.

14 “(b) ESTABLISHMENT OF PROGRAMS.—To enable a
15 better understanding of oil spills and oil spill response,
16 and to prevent oil spills, there are established—

17 “(1) a program under which the Secretary shall
18 biennially award grants to eligible entities for the
19 conduct of oil spill response research and technology
20 development activities and programs and oil spill
21 prevention activities and programs that the Sec-
22 retary determines to be of substantial merit, includ-
23 ing the conduct of research on oil spill response and
24 prevention in ice-impacted environments; and

1 “(2) a program under which the Secretary shall
2 annually award grants to eligible States for the con-
3 duct of oil spill prevention activities and programs in
4 the eligible States, including—

5 “(A) equipment and technology upgrades;

6 “(B) upgrades to, and promotion of opti-
7 mal use of, spill prevention and response train-
8 ing facilities;

9 “(C) support of strategic plans to address
10 aging bulk oil storage and transportation infra-
11 structure;

12 “(D) risk assessments and studies; and

13 “(E) abandoned and derelict vessel identi-
14 fication, remediation, and removal.

15 “(c) APPLICATIONS.—To be eligible to receive a grant
16 under the program established by paragraph (1) or (2)
17 of subsection (b), an eligible entity or eligible State, as
18 applicable, shall submit to the Secretary an application at
19 such time, in such manner, and containing such informa-
20 tion as the Secretary determines to be appropriate.

21 “(d) COORDINATION.—

22 “(1) ELIGIBLE ENTITY GRANT PROGRAM.—

23 “(A) IN GENERAL.—In coordinating,
24 prioritizing, and awarding grants under the
25 program established by subsection (b)(1), to en-

1 sure alignment with the principal objectives es-
2 tablished in the Oil Pollution Research and
3 Technology Plan of the Committee under sec-
4 tion 7001(b), the Secretary shall coordinate
5 with, and solicit recommendations from, the
6 Committee.

7 “(B) RECOMMENDATIONS.—The rec-
8 ommendations provided by the Committee
9 under subparagraph (A) shall incorporate feed-
10 back from—

11 “(i) oil and gas industry representa-
12 tives with expertise in relevant oil spill re-
13 sponse research; and

14 “(ii) members of academia with the
15 expertise described in clause (i).

16 “(2) ELIGIBLE STATE GRANT PROGRAM.—In
17 evaluating applications under the grant program es-
18 tablished by subsection (b)(2), the Secretary may so-
19 licit recommendations from—

20 “(A) other relevant Federal departments
21 and agencies; and

22 “(B) the Committee, with respect to any
23 research activity or program relating to oil spill
24 prevention proposed in such an application.

25 “(e) FUNDING.—

1 “(1) IN GENERAL.—Of the amount of interest
2 produced by investments in the Fund—

3 “(A) \$10,000,000, as indexed for United
4 States dollar inflation from the date of enact-
5 ment of this section (as measured by the Con-
6 sumer Price Index), shall be available bienni-
7 ally, without further appropriation, to carry out
8 the grant program established by subsection
9 (b)(1); and

10 “(B) \$25,000,000, as indexed for United
11 States dollar inflation from the date of enact-
12 ment of this section (as measured by the Con-
13 sumer Price Index), shall be available annually,
14 without further appropriation, to carry out the
15 grant program established by subsection (b)(2).

16 “(2) ADMINISTRATIVE EXPENSES.—Of the
17 amounts made available under subparagraphs (A)
18 and (B) of paragraph (1) that are not otherwise ap-
19 propriated, the Secretary may use not more than 2
20 percent for the administrative expenses of the Sec-
21 retary in carrying out the grant programs estab-
22 lished by paragraphs (1) and (2), respectively, of
23 subsection (b) for each fiscal year.”.

24 (2) CLERICAL AMENDMENT.—The table of con-
25 tents of the Oil Pollution Act of 1990 (33 U.S.C.

1 prec. 2701) is amended by inserting after the item
 2 relating to section 4118 the following:

“Sec. 4119. Oil spill response and prevention grant programs.”.

3 (3) EXPENDITURE AUTHORITY.—Section
 4 9509(c)(1) of the Internal Revenue Code of 1986 is
 5 amended—

6 (A) in the matter preceding subparagraph
 7 (A), by striking “section 6002(b)” and inserting
 8 “section 4119 or 6002(b)”;

9 (B) in subparagraph (E), by striking
 10 “and” at the end;

11 (C) in subparagraph (F), by striking the
 12 period at the end and inserting “, and”; and

13 (D) by adding at the end the following:

14 “(G) for carrying out the grant programs
 15 under section 4119 of the Oil Pollution Act of
 16 1990.”.

17 (b) ADVANCES OF AMOUNTS FROM OIL SPILL LI-
 18 ABILITY TRUST FUND.—Section 6002(b) of the Oil Pollu-
 19 tion Act of 1990 (33 U.S.C. 2752(b)) is amended—

20 (1) in the fourth sentence, by striking “Sums”
 21 and inserting the following:

22 “(4) AVAILABILITY OF AMOUNTS.—The
 23 amounts”;

24 (2) in the third sentence—

25 (A) by striking “by the Coast Guard”; and

1 (B) by striking “Amounts advanced” and
2 inserting the following:

3 “(3) REPAYMENT OF ADVANCED AMOUNTS.—
4 Any amounts advanced under paragraph (2)”;

5 (3) by striking the second sentence and insert-
6 ing the following:

7 “(2) ADVANCE OF FUNDS.—To the extent that
8 the amount under paragraph (1) is not adequate,
9 the Coast Guard—

10 “(A) may obtain from the Fund one or
11 more advances of such sums as may be nec-
12 essary, up to a maximum of \$100,000,000, with
13 the total amount of all advances not to exceed
14 the amounts available under section 9509(e)(2)
15 of the Internal Revenue Code of 1986; and

16 “(B) not later than 30 days after the date
17 on which each advance is obtained under sub-
18 paragraph (A), and annually thereafter until all
19 advances are repaid, shall submit to the Com-
20 mittees on Commerce, Science, and Transpor-
21 tation and Finance of the Senate and the Com-
22 mittees on Transportation and Infrastructure
23 and Ways and Means of the House of Rep-
24 resentatives a report that describes—

1 “(i) the amount advanced under that
2 subparagraph; and

3 “(ii) the facts and circumstances ne-
4 cessitating, supporting, and justifying the
5 advance.”; and

6 (4) in the first sentence—

7 (A) by striking “, as amended by this Act”
8 and inserting “(33 U.S.C. 1321(c))”; and

9 (B) by striking “Subsection (a) shall not
10 apply to sections” and inserting the following:

11 “(1) IN GENERAL.—Subsection (a) shall not
12 apply to section”.

13 (c) APPLICABILITY OF OIL SPILL LIABILITY TRUST
14 FUND FINANCING RATE.—

15 (1) PERMANENT EXTENSION AND PERIODIC
16 SUSPENSION.—Subsection (f) of section 4611 of the
17 Internal Revenue Code of 1986 is amended to read
18 as follows:

19 “(f) APPLICATION OF OIL SPILL LIABILITY TRUST
20 FUND FINANCING RATE.—

21 “(1) IN GENERAL.—The Oil Spill Liability
22 Trust Fund financing rate under subsection (c) shall
23 not apply during any period—

24 “(A) beginning on the day after the last
25 day of any calendar quarter for which the Sec-

1 retary estimates that, as of the close of that
2 quarter, the unobligated balance in the Oil Spill
3 Liability Trust Fund is more than
4 \$7,000,000,000, and

5 “(B) ending 30 days after the last day of
6 any subsequent calendar quarter for which the
7 Secretary estimates that, as of the close of that
8 quarter, such unobligated balance is \$5,000,000
9 or less.

10 “(2) INFLATION ADJUSTMENT.—In the case of
11 any calendar year beginning after December 31,
12 2019, the \$7,000,000,000 amount in paragraph
13 (1)(A) and the \$5,000,000,000 amount in paragraph
14 (1)(B) shall each be increased by an amount equal
15 to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year, by substituting ‘2018’ for ‘2016’ in sub-
20 paragraph (A)(ii) thereof.

21 Any increase determined under the preceding sen-
22 tence shall be rounded to the nearest multiple of
23 \$100,000,000.”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to crude oil received

1 or petroleum products entered after the date that is
2 7 days after the date of the enactment of this Act.

3 (d) MODIFICATION OF LIMITATION ON OIL SPILL LI-
4 ABILITY TRUST FUND EXPENDITURES.—

5 (1) IN GENERAL.—Subparagraph (A) of section
6 9509(e)(2) of the Internal Revenue Code of 1986 is
7 amended—

8 (A) by striking “\$1,000,000,000” in clause
9 (i) and inserting “\$2,000,000,000”;

10 (B) by striking “\$500,000,000” in clause
11 (ii) and inserting “\$1,000,000,000”; and

12 (C) by striking “1,000,000,000 PER INCI-
13 DENT, ETC” in the heading and inserting “PER
14 INCIDENT LIMITATIONS”.

15 (2) INFLATION ADJUSTMENT.—Section
16 9509(e)(2) of such Code is amended by adding at
17 the end the following new subparagraph:

18 “(C) INFLATION ADJUSTMENTS.—In the
19 case of any calendar year beginning after De-
20 cember 31, 2019, the \$2,000,000,000 amount
21 in subparagraph (A)(i) and the \$1,000,000,000
22 amount in subparagraph (A)(ii) shall each be
23 increased by an amount equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year, by substituting ‘2018’ for
4 ‘2016’ in subparagraph (A)(ii) thereof.

5 Any increase determined under the preceding
6 sentence shall be rounded to the nearest mul-
7 tiple of \$100,000,000.”.

8 (e) CLARIFICATION OF DEFINITION OF CRUDE OIL
9 FOR EXCISE TAX PURPOSES.—

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

13 “(1) CRUDE OIL.—The term ‘crude oil’ includes
14 crude oil condensates, natural gasoline, any bitumen
15 or bituminous mixture, any oil derived from a bitu-
16 men or bituminous mixture.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection shall apply to oil and petroleum
19 products received or entered during calendar quar-
20 ters beginning more than 60 days after the date of
21 the enactment of this Act.

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