

Calendar No. 682

105TH CONGRESS
2D SESSION

S. 555

[Report No. 105-360]

To amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 1997

Mr. ALLARD (for himself, Mr. COCHRAN, Mr. HOLLINGS, Mr. INHOFE, Mr. FAIRCLOTH, Mr. ROBERTS, Mr. CAMPBELL, Mr. WYDEN, and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

OCTOBER 1 (legislative day, SEPTEMBER 29), 1998

Reported by Mr. CHAFEE, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act.

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 “Leaking Underground
5 Storage Tank Trust Fund Amendments Act of 1997”.

6 **SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.**

7 (a) **TRUST FUND DISTRIBUTION.**—Section 9004 of
8 the Solid Waste Disposal Act (42 U.S.C. 6991e) is amend-
9 ed by adding at the end the following:

10 “(f) **TRUST FUND DISTRIBUTION TO STATES.**—

11 “(1) **IN GENERAL.**—

12 “(A) **AMOUNT AND PERMITTED USE OF**
13 **DISTRIBUTION.**—The Administrator shall dis-
14 tribute to States at least 85 percent of the
15 funds appropriated to the Environmental Pro-
16 tection Agency from the Leaking Underground
17 Storage Tank Trust Fund established by sec-
18 tion 9508 of the Internal Revenue Code of 1986
19 (referred to in this subsection as the ‘Trust
20 Fund’) for each fiscal year for use in paying the
21 reasonable costs, incurred under cooperative
22 agreements entered into with the Adminis-
23 trator, of—

24 “(i) actions taken by a State under section
25 9003(h)(7)(A);

1 “(ii) necessary administrative expenses di-
2 rectly related to corrective action and com-
3 pensation programs under subsection (e)(1);

4 “(iii) enforcement of a State or local pro-
5 gram approved under this section or enforce-
6 ment of this subtitle or similar State or local
7 provisions by a State or local government;

8 “(iv) State or local corrective actions pur-
9 suant to regulations promulgated under section
10 9003(e)(4); or

11 “(v) corrective action and compensation
12 programs under subsection (e)(1) for releases
13 from underground storage tanks regulated
14 under this subtitle if, as determined by the
15 State, the financial resources of an owner or
16 operator (excluding resources provided by pro-
17 grams under subsection (e)(1)) are not ade-
18 quate to pay for the cost of a corrective action
19 without significantly impairing the ability of the
20 owner or operator to continue in business.

21 “(B) NONPERMITTED USES.—Funds provided
22 by the Administrator under subparagraph (A) shall
23 not be used by a State to provide financial assist-
24 ance to an owner or operator to meet the require-
25 ments respecting underground storage tanks con-

1 tained in section 280.21 of title 40, Code of Federal
2 Regulations (as in effect on the date of enactment
3 of this subsection), or similar requirements in State
4 programs approved under this section or similar
5 State or local provisions.

6 **“(2) ALLOCATION.—**

7 **“(A) PROCESS.—** Subject to subparagraph
8 **(B),** in the case of a State with which the Ad-
9 ministrator has entered into a cooperative
10 agreement under section 9003(h)(7)(A), the
11 Administrator shall distribute funds from the
12 Trust Fund to the State using the allocation
13 process developed by the Administrator for such
14 cooperative agreements.

15 **“(B) REVISIONS TO PROCESS.—** The Ad-
16 ministrator may revise the allocation process
17 only after—

18 **“(i) consulting with State agencies re-**
19 **sponsible for overseeing corrective action**
20 **for releases from underground storage**
21 **tanks and with representatives of owners**
22 **and operators; and**

23 **“(ii) taking into consideration, at a**
24 **minimum—**

1 “(I) the total revenue received
2 from each State into the Trust Fund;

3 “(II) the number of confirmed
4 releases from leaking underground
5 storage tanks in each State;

6 “(III) the number of notified pe-
7 troleum storage tanks in each State;
8 and

9 “(IV) the percentage of the popu-
10 lation of each State using ground-
11 water for any beneficial purpose.

12 “(3) DISTRIBUTIONS TO STATE AGENCIES.—

13 “(A) IN GENERAL.—Distributions from the
14 Trust Fund under this subsection shall be made
15 directly to the State agency entering into a co-
16 operative agreement or enforcing the State pro-
17 gram.

18 “(B) ADMINISTRATIVE EXPENSES.—A
19 State agency that receives funds under this sub-
20 section shall limit the proportion of those funds
21 that are used to pay administrative expenses to
22 a percentage that the State may establish by
23 law.

24 “(4) COST RECOVERY PROHIBITION.—Funds
25 provided to States from the Trust Fund to owners

1 or operators for programs under section 9004(e)(1)
2 for releases from underground storage tanks are not
3 subject to cost recovery by the Administrator under
4 section 9003(h)(6).”.

5 (b) CONFORMING AMENDMENT.—Section 9508(e)(1)
6 of the Internal Revenue Code of 1986 is amended by in-
7 serting before the period at the end the following: “and
8 to carry out section 9004(f) of that Act”.

9 (c) TECHNICAL AMENDMENTS.—

10 (1) Section 9001(3)(A) of the Solid Waste Dis-
11 posal Act (42 U.S.C. 6991(3)(A)) is amended by
12 striking “substances” and inserting “substances”.

13 (2) Section 9003(f)(1) of the Solid Waste Dis-
14 posal Act (42 U.S.C. 6991b(f)(1)) is amended by
15 striking “subsection (e) and (d)” and inserting “sub-
16 sections (e) and (d)”.

17 (3) Section 9004(a) of the Solid Waste Disposal
18 Act (42 U.S.C. 6991e(a)) is amended by striking “in
19 9001(2)(A)” and inserting “in section 9001(2)(A)”.

20 (4) Section 9005 of the Solid Waste Disposal
21 Act (42 U.S.C. 6991d) is amended—

22 (A) in subsection (a), by striking “study
23 taking” and inserting “study, taking”;

24 (B) in subsection (b)(1), by striking
25 “relevent” and inserting “relevant”, and

1 (C) in subsection (b)(4), by striking
2 “Environmental” and inserting “Environ-
3 mental”.

4 SECTION 1. SHORT TITLE.

5 *This Act may be cited as the “Leaking Underground*
6 *Storage Tank Trust Fund Amendments Act of 1998”.*

7 SEC. 2. LEAKING UNDERGROUND STORAGE TANKS.

8 (a) *TRUST FUND DISTRIBUTION.*—Section 9004 of the
9 *Solid Waste Disposal Act* (42 U.S.C. 6991c) is amended
10 by adding at the end the following:

11 “(f) TRUST FUND DISTRIBUTION.—

12 “(1) *IN GENERAL.*—

13 “(A) AMOUNT AND PERMITTED USE OF DIS-
14 TRIBUTION.—*The Administrator shall distribute*
15 *to States at least 80 percent of the funds appro-*
16 *priated to the Environmental Protection Agency*
17 *from the Leaking Underground Storage Tank*
18 *Trust Fund established by section 9508 of the In-*
19 *ternal Revenue Code of 1986 (referred to in this*
20 *subsection as the ‘Trust Fund’) for each fiscal*
21 *year for use in paying the reasonable costs, in-*
22 *curred under cooperative agreements with States,*
23 *of—*

1 “(ii) necessary administrative expenses
2 directly related to corrective action and
3 compensation programs under subsection
4 (c)(1);

5 “(iii) enforcement by a State or local
6 government of a State program approved
7 under this section or of State or local re-
8 quirements regulating underground storage
9 tanks that are similar or identical to this
10 subtitle;

11 “(iv) State or local corrective actions
12 pursuant to regulations promulgated under
13 section 9003(c)(4); or

14 “(v) corrective action and compensa-
15 tion programs under subsection (c)(1) for
16 releases from underground storage tanks
17 regulated under this subtitle if, as deter-
18 mined by the State in accordance with
19 guidelines developed between the Environmental
20 Protection Agency and the States,
21 the financial resources of an owner or oper-
22 ator (including resources provided by pro-
23 grams under subsection (c)(1)) are not ade-
24 quate to pay for the cost of a corrective ac-
25 tion without significantly impairing the

1 *ability of the owner or operator to continue*
2 *in business.*

3 “(B) NONPERMITTED USES.—*Funds pro-*
4 *vided by the Administrator under subparagraph*
5 *(A) shall not be used by a State to provide fi-*
6 *nancial assistance to an owner or operator to*
7 *meet the requirements respecting underground*
8 *storage tanks contained in section part 280 of*
9 *title 40, Code of Federal Regulations (as in effect*
10 *on the date of enactment of this subsection), ex-*
11 *cept as provided in subparagraph (A)(v), or*
12 *similar requirements in State programs ap-*
13 *proved under this section or similar State or*
14 *local provisions.*

15 “(C) TANKS WITHIN TRIBAL JURISDIC-
16 *TION.—The Administrator, in coordination with*
17 *Indian tribes, shall—*

18 “(i) expeditiously develop and imple-
19 *ment a strategy to—*

20 “(I) take necessary corrective ac-
21 *tion in response to releases from leak-*
22 *ing underground storage tanks located*
23 *wholly within the exterior boundaries*
24 *of an Indian reservation or other area*
25 *within the jurisdiction of an Indian*

1 *tribe, giving priority to releases that*
2 *present the greatest threat to human*
3 *health or the environment; and*

4 “*(II) implement and enforce re-*
5 *quirements regulating underground*
6 *storage tanks located wholly within the*
7 *exterior boundaries of an Indian res-*
8 *ervation or other areas within the ju-*
9 *risdiction of an Indian tribe; and*

10 “*(ii) not later than 2 years after the*
11 *date of enactment of this subsection, and*
12 *every 2 years thereafter, submit to Congress*
13 *a report summarizing the status of imple-*
14 *mentation of the leaking underground stor-*
15 *age tank program located wholly within the*
16 *exterior boundaries of an Indian reservation*
17 *or other area within the jurisdiction of an*
18 *Indian tribe.*

19 “*(2) ALLOCATION.—*

20 “*(A) PROCESS.—Subject to subparagraph*
21 *(B), in the case of a State with which the Ad-*
22 *ministrator has entered into a cooperative agree-*
23 *ment under section 9003(h)(7)(A), the Adminis-*
24 *trator shall distribute funds from the Trust Fund*
25 *to the State using the allocation process devel-*

1 *oped by the Administrator for such cooperative*
2 *agreements.*

3 “*(B) REVISIONS TO PROCESS.*—*The Admin-*
4 *istrator may revise the allocation process only*
5 *after—*

6 “*(i) consulting with State agencies re-*
7 *sponsible for overseeing corrective action for*
8 *releases from underground storage tanks*
9 *and with representatives of owners and op-*
10 *erators; and*

11 “*(ii) taking into consideration, at a*
12 *minimum—*

13 “*(I) the total revenue received*
14 *from each State into the Trust Fund;*

15 “*(II) the number of confirmed re-*
16 *leases from leaking underground stor-*
17 *age tanks in each State;*

18 “*(III) the number of notified pe-*
19 *troleum storage tanks in each State;*

20 “*(IV) the percentage of the popu-*
21 *lation of each State using groundwater*
22 *for any beneficial purpose;*

23 “*(V) the evaluation of the pro-*
24 *gram performance of each State;*

1 “(VI) the evaluation of the financial
2 needs of each State; and

3 “(VII) the evaluation of the ability of each State to use the funds in
4 any year.

5 “(3) *DISTRIBUTIONS TO STATE AGENCIES.*—

6 “(A) *IN GENERAL.*—Distributions from the
7 Trust Fund under this subsection shall be made
8 directly to the State agency entering into a cooperative
9 agreement or enforcing the State program.

10 “(B) *ADMINISTRATIVE EXPENSES.*—A State
11 agency that receives funds under this subsection
12 shall limit the proportion of those funds that are
13 used to pay administrative expenses to a percentage
14 that the State may establish by law.

15 “(4) *COST RECOVERY PROHIBITION.*—Funds provided to States from the Trust Fund to owners or operators for programs under section 9004(c)(1) for releases from underground storage tanks are not subject to cost recovery by the Administrator under section 9003(h)(6).

16 “(5) *PERMITTED USES.*—In addition to uses authorized by other provisions of this subtitle, the Administrator may use funds appropriated to the Envi-

1 *ronmental Protection Agency from the Trust Fund for*
2 *enforcement of any regulation promulgated by the Ad-*
3 *ministrator under this subtitle.”.*

4 *(b) TECHNICAL AMENDMENTS.—*

5 *(1) Section 9001(3)(A) of the Solid Waste Dis-*
6 *posal Act (42 U.S.C. 6991(3)(A)) is amended by*
7 *striking “sustances” and inserting “substances”.*

8 *(2) Section 9003(f)(1) of the Solid Waste Dis-*
9 *posal Act (42 U.S.C. 6991b(f)(1)) is amended by*
10 *striking “subsection (c) and (d)” and inserting “sub-*
11 *sections (c) and (d)”.*

12 *(3) Section 9004(a) of the Solid Waste Disposal*
13 *Act (42 U.S.C. 6991c(a)) is amended by striking “in*
14 *9001(2)(A)” and inserting “in section 9001(2)(A)”.*

15 *(4) Section 9005 of the Solid Waste Disposal Act*
16 *(42 U.S.C. 6991d) is amended—*

17 *(A) in subsection (a), by striking “study*
18 *taking” and inserting “study, taking”;*

19 *(B) in subsection (b)(1), by striking*
20 *“relevent” and inserting “relevant”; and*

21 *(C) in subsection (b)(4), by striking*
22 *“Evironmental” and inserting “Environmental”.*

23 **SEC. 3. ADDITION TO TRUST FUND PURPOSES.**

24 *Section 9508(c)(1) of the Internal Revenue Code of*
25 *1986 (relating to expenditures) is amended by striking “to*

1 *carry out section 9003(h)" and all that follows and inserting*
2 *ing "to carry out—*

3 *"(A) section 9003(h) of the Solid Waste Dis-*
4 *posal Act (as in effect on the date of enactment*
5 *of the Superfund Amendments and Reauthoriza-*
6 *tion Act of 1986); and*

7 *"(B) section 9004(f) of the Solid Waste Dis-*
8 *posal Act (as in effect on the date of enactment*
9 *of the Leaking Underground Storage Tank Trust*
10 *Fund Amendments Act of 1998).".*

11 **SEC. 4. STUDY.**

12 *The Administrator of the Environmental Protection*
13 *Agency shall conduct a study to determine the corrosive ef-*
14 *fects of methyl tertiary butyl ether on underground storage*
15 *tanks.*

Amend the title so as to read: "A bill to amend the Solid Waste Disposal Act to require that at least 80 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act, and for other purposes.".

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[Report No. 105-360]

A BILL

To amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act.

OCTOBER 1 (legislative day, SEPTEMBER 29), 1998

Reported with an amendment and an amendment to the title