

1 H.111

2 Introduced by Representative McCullough of Williston

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; underground storage tanks;

6 Petroleum Cleanup Fund

7 Statement of purpose of bill as introduced: This bill proposes to authorize  
8 disbursements from the Petroleum Cleanup Fund for the removal of or  
9 corrective action related to an underground storage tank or aboveground  
10 storage tank that presents an actual or imminent threat of petroleum release.

11 An act relating to disbursements from the Petroleum Cleanup Fund to  
12 address potential releases from underground or aboveground storage tanks

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 10 V.S.A. § 1941 is amended to read:

15 § 1941. PETROLEUM CLEANUP FUND

16 (a) A fund to be known as the ~~petroleum cleanup fund~~ Petroleum Cleanup  
17 Fund is created in the state treasury, to be expended by the ~~secretary of the~~  
18 ~~agency of natural resources~~ Secretary of Natural Resources. The ~~fund~~ Fund  
19 shall consist of licensing fees and petroleum tank fees assessed under the  
20 provisions of this chapter, loan repayments, and disbursements that have been

1 recovered, except for underground storage tank permit fees and licensing fees  
2 for tank inspectors. The ~~fund~~ Fund shall have two accounts: the motor fuel  
3 account and the heating fuel account. The motor fuel account shall consist of  
4 all ~~moneys~~ monies deposited into the ~~fund~~ Fund, with the exception of the  
5 licensing fees for heating oil and kerosene described in section 1942 of this  
6 title. The heating fuel account shall consist of all the ~~moneys~~ monies deposited  
7 into the ~~fund~~ Fund from the licensing fees for heating oil and kerosene sold or  
8 used in the state. All balances in the ~~fund~~ Fund at the end of any fiscal year  
9 shall be carried forward and remain a part of the ~~fund~~ Fund. The ~~secretary~~  
10 Secretary may transfer money, in each fiscal year, between the accounts,  
11 provided that the transfer is approved by the advisory committee established  
12 under subsection (e) of this section and does not exceed \$750,000.00. Interest  
13 earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~ Fund. Disbursements  
14 from the ~~fund~~ Fund shall be made by the ~~state treasurer~~ State Treasurer on  
15 warrants drawn by the ~~commissioner of finance and management~~  
16 Commissioner of Finance and Management. The ~~secretary~~ Secretary shall  
17 seek to recover from responsible parties costs incurred under subdivision (b)(8)  
18 of this section.

19 (b) The ~~secretary~~ Secretary may authorize disbursements from the ~~fund~~  
20 Fund for the purpose of the cleanup and restoration of contaminated soil and  
21 groundwater caused by releases of petroleum from underground storage tanks

1 and aboveground storage tanks, including air emissions for remedial actions,  
2 and for compensation of third parties for injury and damage caused by a  
3 release. The Secretary may authorize disbursements from the Fund for  
4 purposes of removal of or corrective action related to an underground storage  
5 tank or an aboveground storage tank that presents an actual or imminent threat  
6 of release. This ~~fund~~ Fund shall be used for no other governmental purposes,  
7 nor shall any portion of the ~~fund~~ Fund ever be available to borrow from by any  
8 branch of government; it being the intent of the ~~legislature~~ General Assembly  
9 that this ~~fund~~ Fund and its increments shall remain intact and inviolate for the  
10 purposes set out in this chapter. Disbursements under this section may be  
11 made only for uninsured costs incurred after January 1, 1987 and for which a  
12 claim is made prior to July 1, 2014 and judged to be in conformance with  
13 prevailing industry rates. This includes:

14 (1) costs incurred by taking corrective action as directed by the ~~secretary~~  
15 Secretary for any release or potential release of petroleum into the environment  
16 from:

17 (A) an underground storage tank defined as a category one tank after  
18 the first \$10,000.00 of the cleanup costs have been borne by the owners or  
19 operators of tanks used for commercial purposes, or after the first \$250.00 of  
20 the cleanup costs have been borne by the owners or operators of tanks with  
21 capacities equal to or less than 1,100 gallons used for farms or residential

1 purposes. Disbursements on any site shall not exceed \$1,240,000.00. These  
2 disbursements shall be made from the motor fuel account;

3 (B) an underground heating fuel tank used for on-premise heating  
4 after the first \$10,000.00 of the cleanup costs have been borne by the owners  
5 or operators of tanks with capacities over 1,100 gallons used for commercial  
6 purposes, or after the first \$250.00 of the cleanup costs have been borne by the  
7 owners or operators of tanks with capacities equal to or less than 1,100 gallons  
8 used for commercial purposes, or after the first \$250.00 of the cleanup costs  
9 have been borne by the owners or operators of residential and farm tanks.

10 These disbursements shall be made from the heating fuel account;

11 (C) an aboveground storage tank site after the first \$1,000.00 of the  
12 cleanup costs have been borne by the owners or operators of tanks used for  
13 commercial purposes, or after the first \$250.00 of the cleanup costs have been  
14 borne by the owners or operators of residential and farm tanks. Disbursements  
15 under this subdivision (b)(1)(C) on any individual site shall not exceed  
16 \$25,000.00. These disbursements shall be made from the motor fuel account  
17 or heating fuel account, depending upon the use or contents of the tank;

18 (D) a bulk storage aboveground motor fuel or heating fuel storage  
19 tank site after the first \$10,000.00 of the cleanup costs have been borne by the  
20 owners or operators of tanks used for commercial purposes. Disbursements

1 under this subdivision (b)(1)(D) on any individual site shall not exceed  
2 \$990,000.00. These disbursements shall be made from the motor fuel account;

3 (E) where a site is contaminated by petroleum releases from both  
4 heating fuel and motor fuel tanks, or where the source of the petroleum  
5 contamination has not been ascertained, the ~~secretary~~ Secretary shall have the  
6 discretion to disburse funds from either the heating oil or motor fuel account,  
7 or both;

8 (2) costs incurred in compensating third parties for bodily injury and  
9 property damage, as approved by the ~~secretary~~ Secretary in consultation with  
10 the ~~commissioner of financial regulation~~ Commissioner of Financial  
11 Regulation caused by release of petroleum from an underground category one  
12 storage tank into the environment from a site, up to ~~one million dollars~~  
13 \$1,000,000.00, but shall not include payment of any punitive damages;

14 (3) costs incurred in taking immediate corrective action to contain or  
15 mitigate the effects of any release of petroleum into the environment from an  
16 underground storage tank or aboveground storage tank if, in the judgment of  
17 the ~~secretary~~ Secretary, such action is necessary to protect the public health  
18 and the environment. The ~~secretary~~ Secretary may seek reimbursement of the  
19 first \$10,000.00 of the costs;

20 (4) the cost of corrective action up to \$1 million for any release of  
21 petroleum into the environment from an underground storage tank or tanks:

1 (A) whose owner, in the judgment of the ~~secretary~~ Secretary, is  
2 incapable of carrying out the corrective action; or

3 (B) whose owner or operator cannot be determined; or

4 (C) [Deleted.]

5 (D) whose owner, in the judgment of the ~~secretary~~ Secretary, is  
6 financially incapable of carrying out the corrective action in a timely manner;

7 (5) [Deleted.]

8 (6) the costs of creating and operating a risk retention pool authorized  
9 by section 1939 of this title, which costs are in excess of a reasonable  
10 contribution by participants, as determined by the ~~secretary~~ Secretary with the  
11 advice of the ~~commissioner of financial regulation~~ Commissioner of Financial  
12 Regulation. The authority for disbursements under this subdivision shall  
13 terminate on June 1, 1992;

14 (7) administrative and field supervision costs incurred by the ~~secretary~~  
15 Secretary in carrying out the provisions of this subchapter. Annual  
16 disbursements shall not exceed six percent of annual receipts;

17 (8) the cost of initiating spill control procedures, removal actions, and  
18 remedial actions to clean up spills of oil and other petroleum products ~~where~~ if  
19 the responsible party is unknown, cannot be contacted, is unwilling to take  
20 action, or does not take timely action that the ~~secretary~~ Secretary considers  
21 necessary.

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Sec. 2. EFFECTIVE DATE

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This act shall take effect on July 1, 2013.