

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 143**

Introduced by Schilz, 47.

Read first time January 09, 2015

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the environment; to amend section  
2 81-15,123, Reissue Revised Statutes of Nebraska, and section  
3 66-1519, Revised Statutes Cumulative Supplement, 2014; to change  
4 permitted uses of a fund; to change a provision relating to rules  
5 and regulations for training requirements; to provide for payment of  
6 certain training costs; to repeal the original sections; and to  
7 declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-1519, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 66-1519 (1) There is hereby created the Petroleum Release Remedial  
4 Action Cash Fund to be administered by the department. Revenue from the  
5 following sources shall be remitted to the State Treasurer for credit to  
6 the fund:

7 (a) The fees imposed by sections 66-1520 and 66-1521;

8 (b) Money paid under an agreement, stipulation, cost-recovery award  
9 under section 66-1529.02, or settlement; and

10 (c) Money received by the department in the form of gifts, grants,  
11 reimbursements, property liquidations, or appropriations from any source  
12 intended to be used for the purposes of the fund.

13 (2) Money in the fund may be spent for: (a) Reimbursement for the  
14 costs of remedial action by a responsible person or his or her designated  
15 representative and costs of remedial action undertaken by the department  
16 in response to a release first reported after July 17, 1983, and on or  
17 before June 30, 2016, including reimbursement for damages caused by the  
18 department or a person acting at the department's direction while  
19 investigating or inspecting or during remedial action on property other  
20 than property on which a release or suspected release has occurred; (b)  
21 payment of any amount due from a third-party claim; (c) fee collection  
22 expenses incurred by the State Fire Marshal; (d) direct expenses incurred  
23 by the department in carrying out the Petroleum Release Remedial Action  
24 Act; (e) other costs related to fixtures and tangible personal property  
25 as provided in section 66-1529.01; (f) interest payments as allowed by  
26 section 66-1524; (g) claims approved by the State Claims Board authorized  
27 under section 66-1531; ~~and~~ (h) the direct and indirect costs incurred by  
28 the department in responding to spills and other environmental  
29 emergencies related to petroleum or petroleum products; and (i)  
30 reimbursement of the training costs of the entities selected to provide  
31 training pursuant to subdivision (12) of section 81-15,123.

1           (3) Transfers may be made from the Petroleum Release Remedial Action  
2 Cash Fund to the General Fund at the direction of the Legislature. The  
3 State Treasurer shall transfer one million five hundred thousand dollars  
4 from the Petroleum Release Remedial Action Cash Fund to the Ethanol  
5 Production Incentive Cash Fund on July 1 of each of the following years:  
6 2004 through 2011.

7           (4) Any money in the Petroleum Release Remedial Action Cash Fund  
8 available for investment shall be invested by the state investment  
9 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska  
10 State Funds Investment Act.

11           Sec. 2. Section 81-15,123, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13           81-15,123 The State Fire Marshal shall adopt and promulgate rules  
14 and regulations governing release, detection, prevention, and correction  
15 procedures applicable to all owners and operators as shall be necessary  
16 to protect human health, public safety, and the environment. Such rules  
17 and regulations may distinguish between types, classes, and ages of  
18 tanks. In making such distinctions, the State Fire Marshal shall  
19 consider, but not be limited to, location of the tanks, soil and climate  
20 conditions, uses of the tanks, history of maintenance, age of the tanks,  
21 current industry-recommended practices, national consensus codes,  
22 hydrogeology, depth to the ground water, size of the tanks, quantity of  
23 regulated substances periodically deposited in or dispensed from the  
24 tanks, the technical capability of the owners and operators, and the  
25 compatibility of the regulated substance and the materials of which the  
26 tank is fabricated. Before adoption, such rules and regulations shall be  
27 reviewed and approved by the Director of Environmental Quality who shall  
28 determine whether the proposed rules and regulations are adequate to  
29 protect the environment. Rules and regulations adopted and promulgated  
30 pursuant to this section shall include, but not be limited to:

31           (1) Proper procedures and specifications for the construction,

1 design, installation, replacement, or repair of tanks;

2 (2) A permit and registration system for all tanks;

3 (3) A program to establish an inspection system for all tanks. Such  
4 program shall provide for periodic safety inspections and spot checks of  
5 monitoring systems by the State Fire Marshal. A fee schedule may also be  
6 developed for the inspection of new tank and piping installations and  
7 tank closures in the manner prescribed in section 81-505.01. Such  
8 inspection fees shall be remitted by the State Fire Marshal to the State  
9 Treasurer for credit to the Underground Storage Tank Fund. No fee shall  
10 be charged for the periodic safety inspections and spot checks of  
11 monitoring systems by the State Fire Marshal;

12 (4) A monitoring system for all tanks which includes, but is not  
13 limited to, the following:

14 (a) An inventory-control procedure for any tank used to hold  
15 petroleum products or hazardous substances for resale;

16 (b) An inventory-control procedure for any tank used solely for  
17 consumptive onsite purposes and not for resale. Such control procedure  
18 shall determine the method of inventory measurement giving consideration  
19 to the economic burden created by the procedure. The frequency of  
20 inventory measurement for such category of tank shall include at least  
21 one measurement every thirty days;

22 (c) Provisions for the prompt reporting of any release of a  
23 regulated substance; and

24 (d) A procedure for the proper method of monitoring tanks;

25 (5) A procedure for notifying the State Fire Marshal of temporarily  
26 or permanently abandoned tanks;

27 (6) A procedure for removing or making safe any abandoned tanks,  
28 except that the State Fire Marshal may dispense with such procedure in  
29 special circumstances;

30 (7) Financial responsibility requirements, taking into account the  
31 financial responsibility requirements established pursuant to 42 U.S.C.

1 6991b(d);

2 (8) Requirements for maintaining a leak-detection system, an  
3 inventory-control system, and a tank-testing or comparable system or  
4 method designed to identify releases in a manner consistent with the  
5 protection of human health, public safety, and the environment;

6 (9) Requirements for maintaining records of any monitoring or leak-  
7 detection system, inventory-control system, or tank-testing or comparable  
8 system;

9 (10) Provisions to establish a system for licensing tank  
10 installation and removal contractors;

11 (11) Provisions to prohibit delivery to, deposit into, or the  
12 acceptance of a regulated substance into, an underground storage tank at  
13 a facility which has been identified by the State Fire Marshal to be  
14 ineligible for such delivery, deposit, or acceptance; and

15 (12) Requirements Effective August 8, 2009, requirements for  
16 training and certification of operators. In adopting such rules and  
17 regulations, the State Fire Marshal shall establish training and  
18 experience requirements for qualified trainers that will insure operators  
19 receive appropriate training necessary to be in compliance with the  
20 operator training requirements of the federal Energy Policy Act of 2005.  
21 The State Fire Marshal shall, in consultation with the Department of  
22 Environmental Quality, select no more than three entities to provide  
23 training for operators. Upon approval by the State Fire Marshal of the  
24 training being completed, the Department of Environmental Quality shall  
25 pay the entity providing the training the cost of the training.  
26 Reimbursement of training costs may be made for training provided on and  
27 after January 1, 2015. Training cost shall not include any cost  
28 associated with a person taking the training.

29 Nothing in this section shall be construed to require a  
30 subcontractor working under the direction of a licensed installation or  
31 removal contractor to be licensed.

1           Sec. 3.   Original section 81-15,123, Reissue Revised Statutes of  
2 Nebraska, and section 66-1519, Revised Statutes Cumulative Supplement,  
3 2014, are repealed.

4           Sec. 4.   Since an emergency exists, this act takes effect when  
5 passed and approved according to law.