

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 767**

Introduced by Schilz, 47.

Read first time January 09, 2014

Committee:

A BILL

1 FOR AN ACT relating to the environment; to amend section 81-15,123,  
2 Reissue Revised Statutes of Nebraska, and section  
3 66-1519, Revised Statutes Cumulative Supplement, 2012; to  
4 change permitted uses of a fund; to change a provision  
5 relating to rules and regulations for training  
6 requirements; and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 66-1519, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

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

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

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

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

14                  (2) Money in the fund may be spent for: (a) Reimbursement  
15 for the costs of remedial action by a responsible person or his or  
16 her designated representative and costs of remedial action undertaken  
17 by the department in response to a release first reported after July  
18 17, 1983, and on or before June 30, 2016, including reimbursement for  
19 damages caused by the department or a person acting at the  
20 department's direction while investigating or inspecting or during  
21 remedial action on property other than property on which a release or  
22 suspected release has occurred; (b) payment of any amount due from a  
23 third-party claim; (c) fee collection expenses incurred by the State  
24 Fire Marshal; (d) direct expenses incurred by the department in  
25 carrying out the Petroleum Release Remedial Action Act; (e) other

1 costs related to fixtures and tangible personal property as provided  
2 in section 66-1529.01; (f) interest payments as allowed by section  
3 66-1524; (g) claims approved by the State Claims Board authorized  
4 under section 66-1531; ~~and~~ (h) the direct and indirect costs incurred  
5 by the department in responding to spills and other environmental  
6 emergencies related to petroleum or petroleum products; and (i)  
7 reimbursement to a responsible person or his or her qualified trainer  
8 for the cost of compliance with the operator training requirements of  
9 the federal Energy Policy Act of 2005.

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

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

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

22 81-15,123 The State Fire Marshal shall adopt and  
23 promulgate rules and regulations governing release, detection,  
24 prevention, and correction procedures applicable to all owners and  
25 operators as shall be necessary to protect human health, public

1 safety, and the environment. Such rules and regulations may  
2 distinguish between types, classes, and ages of tanks. In making such  
3 distinctions, the State Fire Marshal shall consider, but not be  
4 limited to, location of the tanks, soil and climate conditions, uses  
5 of the tanks, history of maintenance, age of the tanks, current  
6 industry-recommended practices, national consensus codes,  
7 hydrogeology, depth to the ground water, size of the tanks, quantity  
8 of regulated substances periodically deposited in or dispensed from  
9 the tanks, the technical capability of the owners and operators, and  
10 the compatibility of the regulated substance and the materials of  
11 which the tank is fabricated. Before adoption, such rules and  
12 regulations shall be reviewed and approved by the Director of  
13 Environmental Quality who shall determine whether the proposed rules  
14 and regulations are adequate to protect the environment. Rules and  
15 regulations adopted and promulgated pursuant to this section shall  
16 include, but not be limited to:

- 17 (1) Proper procedures and specifications for the  
18 construction, design, installation, replacement, or repair of tanks;
- 19 (2) A permit and registration system for all tanks;
- 20 (3) A program to establish an inspection system for all  
21 tanks. Such program shall provide for periodic safety inspections and  
22 spot checks of monitoring systems by the State Fire Marshal. A fee  
23 schedule may also be developed for the inspection of new tank and  
24 piping installations and tank closures in the manner prescribed in  
25 section 81-505.01. Such inspection fees shall be remitted by the

1 State Fire Marshal to the State Treasurer for credit to the  
2 Underground Storage Tank Fund. No fee shall be charged for the  
3 periodic safety inspections and spot checks of monitoring systems by  
4 the State Fire Marshal;

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

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

9 (b) An inventory-control procedure for any tank used  
10 solely for consumptive onsite purposes and not for resale. Such  
11 control procedure shall determine the method of inventory measurement  
12 giving consideration to the economic burden created by the procedure.  
13 The frequency of inventory measurement for such category of tank  
14 shall include at least one measurement every thirty days;

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

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

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

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

24 (7) Financial responsibility requirements, taking into  
25 account the financial responsibility requirements established

1 pursuant to 42 U.S.C. 6991b(d);

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

6 (9) Requirements for maintaining records of any  
7 monitoring or leak-detection system, inventory-control system, or  
8 tank-testing or comparable 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  
12 the acceptance of a regulated substance into, an underground storage  
13 tank at a facility which has been identified by the State Fire  
14 Marshal to be ineligible for such delivery, deposit, or acceptance;  
15 and

16 (12) ~~Effective August 8, 2009, requirements~~ Requirements  
17 for training and certification of operators. In adopting such rules  
18 and regulations, the State Fire Marshal shall establish training and  
19 experience requirements for qualified trainers that will insure  
20 operators receive appropriate training necessary to protect human  
21 health, public safety, and the environment in the operation of tanks.

22 Nothing in this section shall be construed to require a  
23 subcontractor working under the direction of a licensed installation  
24 or removal contractor to be licensed.

25 Sec. 3. Original section 81-15,123, Reissue Revised

1 Statutes of Nebraska, and section 66-1519, Revised Statutes  
2 Cumulative Supplement, 2012, are repealed.