

Steve Eliason proposes the following substitute bill:

Petroleum Storage Tank Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the regulation of petroleum storage tanks.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ changes terms "underground" and "petroleum" as appropriate;
- ▶ provides that the Petroleum Storage Tank Restricted Account earns interest to be deposited into that account;
- ▶ addresses registration of underground storage tanks and aboveground petroleum storage tanks;
- ▶ addresses the Petroleum Storage Tank Fund, including authorization to request certain legislative appropriations;
- ▶ modifies assessment of an environmental assurance fee based on the cash balance of the Petroleum Storage Tank Fund;
- ▶ modifies the petroleum storage tank fee provisions;
- ▶ provides for certificates of compliance;
- ▶ clarifies restrictions on petroleum storage tank installation companies;
- ▶ directs certain monies be deposited into the Petroleum Storage Tank Cleanup Fund;
- ▶ addresses claims not covered by the Petroleum Storage Tank Fund;
- ▶ clarifies language regarding liability;
- ▶ addresses eligibility for participation in the Petroleum Storage Tank Fund; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

This bill appropriates \$4,000,000 in restricted fund and account transfers for fiscal year 2026, all of which is from the various sources as detailed in this bill.

Other Special Clauses:

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **19-1-105 (Effective 05/07/25)**, as last amended by Laws of Utah 2015, Chapter 451

34 **19-2a-103 (Effective 05/07/25)**, as renumbered and amended by Laws of Utah 2018,
35 Chapter 120

36 **19-6-105 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202

37 **19-6-402 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451

38 **19-6-403 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202

39 **19-6-404 (Effective 05/07/25)**, as last amended by Laws of Utah 2014, Chapter 227

40 **19-6-405.5 (Effective 05/07/25)**, as last amended by Laws of Utah 1998, Chapter 95

41 **19-6-407 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202

42 **19-6-409 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451

43 **19-6-410.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451

44 **19-6-411 (Effective 05/07/25)**, as last amended by Laws of Utah 2022, Chapter 451

45 **19-6-412 (Effective 05/07/25)**, as last amended by Laws of Utah 2012, Chapter 360

46 **19-6-416.5 (Effective 05/07/25)**, as last amended by Laws of Utah 2012, Chapter 360

47 **19-6-420 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202

48 **19-6-424 (Effective 05/07/25)**, as last amended by Laws of Utah 2012, Chapter 360

49 **19-6-426 (Effective 05/07/25)**, as last amended by Laws of Utah 1997, Chapter 172

50 **19-6-428 (Effective 05/07/25)**, as last amended by Laws of Utah 2021, Chapter 202

51 **19-8-113 (Effective 05/07/25)**, as last amended by Laws of Utah 2005, Chapter 200

52 **19-8-119 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 158

53 **63G-4-102 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Chapter 147

54 **63I-1-219 (Effective 05/07/25)**, as last amended by Laws of Utah 2024, Third Special
55 Session, Chapter 5

56 REPEALS:

57 **19-6-401 (Effective 05/07/25)**, as renumbered and amended by Laws of Utah 1991,
58 Chapter 112



60 *Be it enacted by the Legislature of the state of Utah:*

61 Section 1. Section **19-1-105** is amended to read:

62 **19-1-105 (Effective 05/07/25). Divisions of department -- Control by division**
63 **directors.**

- 64 (1) The following divisions are created within the department:
- 65 (a) the Division of Air Quality, to administer [~~Title 19, Chapter 2, Air Conservation Act~~]
66 Chapter 2, Air Conservation Act;
- 67 (b) the Division of Drinking Water, to administer [~~Title 19, Chapter 4, Safe Drinking~~
68 Water Act] Chapter 4, Safe Drinking Water Act;
- 69 (c) the Division of Environmental Response and Remediation, to administer:
- 70 (i) [~~Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act~~] Chapter 6, Part
71 3, Hazardous Substances Mitigation Act; and
- 72 (ii) [~~Title 19, Chapter 6, Part 4, Underground Storage Tank Act~~] Chapter 6, Part 4,
73 Petroleum Storage Tank Act;
- 74 (d) the Division of Waste Management and Radiation Control, to administer:
- 75 (i) [~~Title 19, Chapter 3, Radiation Control Act~~] Chapter 3, Radiation Control Act;
- 76 (ii) [~~Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act~~] Chapter 6, Part 1,
77 Solid and Hazardous Waste Act;
- 78 (iii) [~~Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act~~] Chapter 6, Part
79 2, Hazardous Waste Facility Siting Act;
- 80 (iv) [~~Title 19, Chapter 6, Part 5, Solid Waste Management Act~~] Chapter 6, Part 5,
81 Solid Waste Management Act;
- 82 (v) [~~Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal~~] Chapter 6, Part 6, Lead
83 Acid Battery Disposal;
- 84 (vi) [~~Title 19, Chapter 6, Part 7, Used Oil Management Act~~] Chapter 6, Part 7, Used
85 Oil Management Act;
- 86 (vii) [~~Title 19, Chapter 6, Part 8, Waste Tire Recycling Act~~] Chapter 6, Part 8, Waste
87 Tire Recycling Act;
- 88 (viii) [~~Title 19, Chapter 6, Part 10, Mercury Switch Removal Act~~] Chapter 6, Part 10,
89 Mercury Switch Removal Act;
- 90 (ix) [~~Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse~~] Chapter 6, Part 11,
91 Industrial Byproduct Reuse; and
- 92 (x) [~~Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program~~] Chapter 6,
93 Part 12, Disposal of Electronic Waste Program; and
- 94 (e) the Division of Water Quality, to administer [~~Title 19, Chapter 5, Water Quality Act~~]
95 Chapter 5, Water Quality Act.
- 96 (2) Each division is under the immediate direction and control of a division director
97 appointed by the executive director.

98 (3)(a) A division director shall possess the administrative skills and training necessary
99 to perform the duties of division director.

100 (b) A division director shall hold one of the following degrees from an accredited
101 college or university:

102 (i) a four-year degree in physical or biological science or engineering;

103 (ii) a related degree; or

104 (iii) a degree in law.

105 (4) The executive director may remove a division director at will.

106 (5) A division director shall serve as the executive secretary to the policymaking board,
107 created in Section 19-1-106, that has rulemaking authority over the division director's
108 division.

109 Section 2. Section **19-2a-103** is amended to read:

110 **19-2a-103 (Effective 05/07/25). Gasoline vapor recovery -- Penalties.**

111 (1) As used in this section:

112 (a) "Gasoline cargo tank" means a tank that:

113 (i) is intended to hold gasoline;

114 (ii) has a capacity of 1,000 gallons or more; and

115 (iii) is attached to or intended to be drawn by a motor vehicle.

116 (b) "Operator" means an individual who controls a motor vehicle:

117 (i) to which a gasoline cargo tank is attached; or

118 (ii) that draws a gasoline cargo tank.

119 (c) [~~"Underground~~] "Petroleum storage tank" means the same as that term is defined in
120 Section [~~19-6-102~~] 19-6-402.

121 (2) The operator of a gasoline cargo tank shall comply with requirements of this section if
122 the operator:

123 (a) permits the loading of gasoline into the gasoline cargo tank; or

124 (b) loads [~~an underground~~] a petroleum storage tank with gasoline from the gasoline
125 cargo tank.

126 (3) Except as provided in Subsection (6), the operator of a gasoline cargo tank may permit
127 the loading of gasoline into a tank described in Subsection (2) or load [~~an underground~~] a
128 petroleum storage tank with gasoline from the gasoline cargo tank described in
129 Subsection (1) only if:

130 (a) emissions from the tank that dispenses 10,000 gallons or more in any one calendar
131 month are controlled by the use of:

- 132 (i) a properly installed and maintained vapor collection and control system that is
133 equipped with fittings that:
- 134 (A) make a vapor-tight connection; and
135 (B) prevent the release of gasoline vapors by automatically closing upon
136 disconnection; and
- 137 (ii) submerged filling or bottom filling methods; and
- 138 (b) the resulting vapor emitted into the air does not exceed the levels described in
139 Subsection (4).
- 140 (4) Vapor emitted into the air as a result of the loading of a tank under Subsection (3) may
141 not exceed 0.640 pounds per 1,000 gallons transferred.
- 142 (5)(a) The department may fine an operator who violates this section:
- 143 (i) up to \$1,000 for a first offense; or
144 (ii) up to \$2,000 for a second offense.
- 145 (b) An operator who violates this section is guilty of a class C misdemeanor for a third
146 or subsequent offense.
- 147 (6) If a facility at which [~~an underground~~] a petroleum storage tank is located does not have
148 the equipment necessary for an operator of a gasoline cargo tank to comply with
149 Subsection (3), the operator is excused from the requirements of Subsections (3) and (4)
150 and may not be fined or penalized under Subsection (5).
- 151 Section 3. Section **19-6-105** is amended to read:
- 152 **19-6-105 (Effective 05/07/25). Rules of board.**
- 153 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
154 Administrative Rulemaking Act:
- 155 (a) establishing minimum standards for protection of human health and the environment,
156 for the storage, collection, transport, transfer, recovery, treatment, and disposal of
157 solid waste, including requirements for the approval by the director of plans for the
158 construction, extension, operation, and closure of solid waste disposal sites;
- 159 (b) identifying wastes that are determined to be hazardous, including wastes designated
160 as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
161 1976, 42 U.S.C., Sec. 6921, et seq.;
- 162 (c) governing generators and transporters of hazardous wastes and owners and operators
163 of hazardous waste treatment, storage, and disposal facilities, including requirements
164 for keeping records, monitoring, submitting reports, and using a manifest, without
165 treating high-volume wastes such as cement kiln dust, mining wastes, utility waste,

- 166 gas and oil drilling muds, and oil production brines in a manner more stringent than
167 they are treated under federal standards;
- 168 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is
169 subject to a plan approval under Section 19-6-108 or that received waste after July
170 26, 1982, to take appropriate corrective action or other response measures for
171 releases of hazardous waste or hazardous waste constituents from the facility,
172 including releases beyond the boundaries of the facility;
- 173 (e) specifying the terms and conditions under which the director shall approve,
174 disapprove, revoke, or review hazardous wastes operation plans;
- 175 (f) governing public hearings and participation under this part;
- 176 (g) establishing standards governing underground storage tanks and aboveground
177 petroleum storage tanks, in accordance with [~~Title 19, Chapter 6, Part 4,~~
178 ~~Underground Storage Tank Act~~] Chapter 6, Part 4, Petroleum Storage Tank Act;
- 179 (h) relating to the collection, transportation, processing, treatment, storage, and disposal
180 of infectious waste in health facilities in accordance with the requirements of Section
181 19-6-106;
- 182 (i) defining closure plans, modification requests, or both for hazardous waste, as class I, class I
183 with prior director approval, class II, or class III;
184 and
- 185 (j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or
186 organic waste substance of any kind to be thrown, or remain upon or in a street, road,
187 ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake,
188 pond, spring, or well.
- 189 (2) If any of the following are determined to be hazardous waste and are therefore subjected
190 to the provisions of this part, the board shall, in the case of landfills or surface
191 impoundments that receive the solid wastes, take into account the special characteristics
192 of the wastes, the practical difficulties associated with applying requirements for other
193 wastes to the wastes, and site-specific characteristics, including the climate, geology,
194 hydrology, and soil chemistry at the site, if the modified requirements assure protection
195 of human health and the environment and are no more stringent than federal standards
196 applicable to waste:
- 197 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,
198 including phosphate rock and overburden from the mining of uranium;
- 199 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste

- 200 generated primarily from the combustion of coal or other fossil fuels; and
 201 (c) cement kiln dust waste.
 202 (3) The board shall establish criteria for siting commercial hazardous waste treatment,
 203 storage, and disposal facilities, including commercial hazardous waste incinerators.
 204 Those criteria shall apply to any facility or incinerator for which plan approval is
 205 required under Section 19-6-108.

206 Section 4. Section **19-6-402** is amended to read:

207 **Part 4. Petroleum Storage Tank Act**

208 **19-6-402 (Effective 05/07/25). Definitions.**

209 As used in this part:

- 210 (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:
 211 (a) a release from a petroleum storage tank; or
 212 (b) the damage caused by that release.
 213 (2) "Aboveground petroleum storage tank" means a storage tank that is, by volume, less
 214 than 10% buried in the ground, including the pipes connected to the storage tank and:
 215 (a)(i) has attached underground piping; or
 216 (ii) rests directly on the ground;
 217 (b) contains regulated substances;
 218 (c) has the capacity to hold 501 gallons or more; and
 219 (d) is not:
 220 (i) used in agricultural operations, as defined by the board by rule made in
 221 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 222 (ii) used for heating oil for consumptive use on the premises where stored;
 223 (iii) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987
 224 Standard Industrial Classification Manual of the federal Executive Office of the
 225 President, Office of Management and Budget;
 226 (iv) directly related to oil or gas production and gathering operations; [or]
 227 (v) used in the fueling of aircraft or ground service equipment at a commercial airport
 228 that serves passengers or cargo, with commercial airport defined in Section
 229 72-10-102[.] ; or
 230 (vi) exempted from the definition of "aboveground petroleum storage tank" by rule
 231 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative
 232 Rulemaking Act, because the storage tank is outside the purposes of this part.
 233 (3) "Board" means the Waste Management and Radiation Control Board created in Section

- 234 19-1-106.
- 235 (4) "Bodily injury" means bodily harm, sickness, disease, or death sustained by [~~a person~~]
236 an individual.
- 237 (5) "Certificate of compliance" means a certificate issued to a facility by the director:
- 238 (a) demonstrating that an owner or operator of a facility containing one or more
239 petroleum storage tanks has met the requirements of this part; and
- 240 (b) listing petroleum storage tanks at the facility, specifying:
- 241 (i) which tanks may receive petroleum; and
- 242 (ii) which tanks have not met the requirements for compliance.
- 243 (6) "Certificate of registration" means a certificate issued to a facility by the director
244 demonstrating that an owner or operator of a facility containing one or more petroleum
245 storage tanks has:
- 246 (a) registered the tanks; and
- 247 (b) paid the annual tank fee.
- 248 (7)(a) "Certified petroleum storage tank consultant" means a person who:
- 249 (i) for a fee, or in connection with services for which a fee is charged, provides or
250 contracts to provide information, opinions, or advice relating to [~~underground~~]
251 petroleum storage tank release:
- 252 (A) management;
- 253 (B) abatement;
- 254 (C) investigation;
- 255 (D) corrective action; or
- 256 (E) evaluation;
- 257 (ii) has submitted an application to the director;
- 258 (iii) received a written statement of certification from the director; and
- 259 (iv) meets the education and experience standards established by the board under
260 Subsection 19-6-403(1)(a)(vii).
- 261 (b) "Certified petroleum storage tank consultant" does not include:
- 262 (i)(A) an employee of the owner or operator of the [~~underground~~] petroleum
263 storage tank; or
- 264 (B) an employee of a business operation that has a business relationship with the
265 owner or operator of the [~~underground~~] petroleum storage tank, and markets
266 petroleum products or manages [~~underground~~] petroleum storage tanks; or
- 267 (ii) [~~a person~~] an individual licensed to practice law in this state who offers only legal

- 268 advice on [~~underground~~] petroleum storage tank release:
- 269 (A) management;
- 270 (B) abatement;
- 271 (C) investigation;
- 272 (D) corrective action; or
- 273 (E) evaluation.
- 274 (8) "Closed" means a petroleum storage tank that is no longer in use that has been:
- 275 (a) emptied and cleaned to remove the liquids and accumulated sludges; and
- 276 (b)(i) removed along with all underground components; or
- 277 (ii) filled with an inert solid material, and in the case of piping, secured and capped.
- 278 (9) "Corrective action plan" means a plan for correcting a release from a petroleum storage
- 279 tank that includes provisions for any of the following:
- 280 (a) cleanup or removal of the release;
- 281 (b) containment or isolation of the release;
- 282 (c) treatment of the release;
- 283 (d) correction of the cause of the release;
- 284 (e) monitoring and maintenance of the site of the release;
- 285 (f) provision of alternative water supplies to a person whose drinking water has become
- 286 contaminated by the release; or
- 287 (g) temporary or permanent relocation, whichever is determined by the director to be
- 288 more cost-effective, of a person whose dwelling has been determined by the director
- 289 to be no longer habitable due to the release.
- 290 (10) "Costs" means money expended for:
- 291 (a) investigation;
- 292 (b) abatement action;
- 293 (c) corrective action;
- 294 (d) judgments, awards, and settlements for bodily injury or property damage to third
- 295 parties;
- 296 (e) legal and claims adjusting costs incurred by the state in connection with judgments,
- 297 awards, or settlements for bodily injury or property damage to third parties; or
- 298 (f) costs incurred by the state risk manager in determining the actuarial soundness of the
- 299 fund.
- 300 (11) "Covered by the fund" means the requirements of Section 19-6-424 have been met.
- 301 (12) "Director" means the director of the Division of Environmental Response and

302 Remediation.

303 (13) "Division" means the Division of Environmental Response and Remediation, created
304 in Subsection 19-1-105(1)(c).

305 (14) "Dwelling" means a building that is usually occupied by a person lodging there at
306 night.

307 (15) "Enforcement proceedings" means a civil action or the procedures to enforce orders
308 established by Section 19-6-425.

309 (16) "Facility" means the petroleum storage tanks located on a single parcel of property or
310 on any property adjacent or contiguous to that parcel.

311 (17) "Fund" means the Petroleum Storage Tank Fund created in Section 19-6-409.

312 (18) "Operator" means a person in control of or who is responsible on a daily basis for the
313 maintenance of a petroleum storage tank that is in use for the storage, use, or dispensing
314 of a regulated substance.

315 (19) "Owner" means:

316 (a) in the case of an underground storage tank in use on or after November 8, 1984, a
317 person who owns an underground storage tank used for the storage, use, or
318 dispensing of a regulated substance;

319 (b) in the case of an underground storage tank in use before November 8, 1984, but not
320 in use on or after November 8, 1984, a person who owned the tank immediately
321 before the discontinuance of its use for the storage, use, or dispensing of a regulated
322 substance; and

323 (c) in the case of an aboveground petroleum storage tank, a person who owns the
324 aboveground petroleum storage tank.

325 (20) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

326 (a) 60 degrees Fahrenheit; and

327 (b) a pressure of 14.7 pounds per square inch absolute.

328 (21) "Petroleum storage tank" means a tank that:

329 (a) is an underground storage tank;

330 (b) is an aboveground petroleum storage tank; or

331 (c) is a tank containing regulated substances that is voluntarily submitted for
332 participation in the [~~Petroleum Storage Tank Fund~~] fund under Section 19-6-415.

333 (22) "Petroleum storage tank installation company" means a person or governmental entity
334 that installs petroleum storage tanks.

335 (23) "Petroleum storage tank installation company permit" means a permit issued by the

- 336 director to a petroleum storage tank installation company.
- 337 [(22)] (24) "Petroleum Storage Tank Restricted Account" means the account created in
338 Section 19-6-405.5.
- 339 [(23)] (25) "Program" means the [~~Environmental Assurance Program~~] environmental
340 assurance program under Section 19-6-410.5.
- 341 [(24)] (26) "Property damage" means physical injury to, destruction of, or loss of use of
342 tangible property.
- 343 [(25)] (27)(a) "Regulated substance" means petroleum and petroleum-based substances
344 comprised of a complex blend of hydrocarbons derived from crude oil through
345 processes of separation, conversion, upgrading, and finishing.
- 346 (b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel
347 oils, lubricants, petroleum solvents, and used oils.
- 348 [(26)] (28)(a) "Release" means spilling, leaking, emitting, discharging, escaping,
349 leaching, or disposing a regulated substance from a petroleum storage tank into
350 ground water, surface water, or subsurface soils.
- 351 (b) A release of a regulated substance from a petroleum storage tank is considered a
352 single release from that tank system.
- 353 [(27)] (29)(a) "Responsible party" means a person who:
- 354 (i) is the owner or operator of a facility;
- 355 (ii) owns or has legal or equitable title in a facility or a petroleum storage tank;
- 356 (iii) owned or had legal or equitable title in a facility at the time petroleum was
357 received or contained at the facility;
- 358 (iv) operated or otherwise controlled activities at a facility at the time petroleum was
359 received or contained at the facility; or
- 360 (v) is [~~an underground~~] a petroleum storage tank installation company.
- 361 (b) "Responsible party," [~~is-~~]as defined in Subsections [(27)(a)(i);] (29)(a)(i), (ii), and (iii),
362 does not include:
- 363 (i) a person who is not an operator and, without participating in the management of a
364 facility and otherwise not engaged in petroleum production, refining, and
365 marketing, holds indicia of ownership:
- 366 (A) primarily to protect the person's security interest in the facility; or
- 367 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or
368 under an employee benefit plan; or
- 369 (ii) governmental ownership or control of property by involuntary transfers as

- 370 provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).
- 371 (c) The exemption created by Subsection [~~(27)(b)(i)(B)~~] (29)(b)(i)(B) does not apply to
- 372 actions taken by the state or [~~its~~] the state's officials or agencies under this part.
- 373 (d) The terms and activities "indicia of ownership," "primarily to protect a security
- 374 interest," "participation in management," and "security interest" under this part are in
- 375 accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec.
- 376 6991b(h)(9).
- 377 (e) The terms "participate in management" and "indicia of ownership" as defined in 40
- 378 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and
- 379 apply to the fiduciaries listed in Subsection [~~(27)(b)(i)(B)~~] (29)(b)(i)(B).
- 380 [~~(28)~~] (30) "Rests directly on the ground" means that at least some portion of a petroleum
- 381 storage tank situated aboveground is in direct contact with soil.
- 382 [~~(29)~~] (31) "Soil test" means a test, established or approved by board rule, to detect the
- 383 presence of petroleum in soil.
- 384 [~~(30)~~] (32) "State cleanup appropriation" means money appropriated by the Legislature to
- 385 the department to fund the investigation, abatement, and corrective action regarding
- 386 releases not covered by the fund.
- 387 [~~(31)~~] (33) "Underground piping" means piping that is buried in the ground that is in direct
- 388 contact with soil and connected to an aboveground petroleum storage tank.
- 389 [~~(32)~~] (34) "Underground storage tank" means a tank regulated under Subtitle I, Resource
- 390 Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:
- 391 (a) underground pipes and lines connected to a storage tank;
- 392 (b) underground ancillary equipment;
- 393 (c) a containment system; and
- 394 (d) each compartment of a multi-compartment storage tank.
- 395 [~~(33) "Underground storage tank installation company" means a person, firm, partnership,~~
- 396 ~~corporation, governmental entity, association, or other organization that installs~~
- 397 ~~underground storage tanks.]~~
- 398 [~~(34) "Underground storage tank installation company permit" means a permit issued to an~~
- 399 ~~underground storage tank installation company by the director.]~~
- 400 [~~(35) "Underground storage tank technician" means a person employed by and acting~~
- 401 ~~under the direct supervision of a certified petroleum storage tank consultant to assist in~~
- 402 ~~carrying out the functions described in Subsection (7)(a).]~~
- 403 Section 5. Section **19-6-403** is amended to read:

404 **19-6-403 (Effective 05/07/25). Powers and duties of board.**

405 The board shall regulate a petroleum storage tank by:

406 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making
407 rules that:

408 (a) provide for the:

409 (i) certification of [~~an underground~~] a petroleum storage tank installer, inspector,
410 tester, or remover;

411 (ii) registration of an underground storage tank operator;

412 (iii) registration of [~~an underground~~] a petroleum storage tank;

413 (iv) administration of the petroleum storage tank program;

414 (v) format of, and required information in, a record kept by an underground storage
415 or petroleum storage tank owner or operator who is participating in the fund;

416 (vi) voluntary participation in the fund for a tank containing regulated substances, but
417 excluded from the definition of a petroleum storage tank as provided in Section
418 19-6-415;

419 (vii) certification of a petroleum storage tank consultant including:

420 (A) a minimum education or experience requirement; and

421 (B) a recognition of the educational requirement of a professional engineer
422 licensed under Title 58, Chapter 22, Professional Engineers and Professional
423 Land Surveyors Licensing Act, as meeting the education requirement for
424 certification; and

425 (viii) compliance with this chapter by an aboveground petroleum storage tank;

426 (b) adopt the requirements for an underground storage tank contained in:

427 (i) the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991, et seq., as may
428 be amended in the future; and

429 (ii) an applicable federal requirement authorized by the federal law referenced in
430 Subsection (1)(b)(i); and

431 (c) comply with the requirements of the Solid Waste Disposal Act, Subchapter IX, 42
432 U.S.C. Sec. 6991, et seq., as may be amended in the future, for the state's assumption
433 of primacy in the regulation of an underground storage tank; and

434 (2) applying the provisions of this part.

435 Section 6. Section **19-6-404** is amended to read:

436 **19-6-404 (Effective 05/07/25). Powers and duties of director.**

437 (1) The director shall:

- 438 (a) administer the petroleum storage tank program established in this part; and
439 (b) as authorized by the board and subject to the provisions of this part, act as executive
440 secretary of the board under the direction of the chairman of the board.
- 441 (2) As necessary to meet the requirements or carry out the purposes of this part, the director
442 may:
- 443 (a) advise, consult, and cooperate with other persons;
444 (b) employ persons;
445 (c) authorize a certified employee or a certified representative of the department to
446 conduct facility inspections and reviews of records required to be kept by this part
447 and by rules made under this part;
448 (d) encourage, participate in, or conduct studies, investigation, research, and
449 demonstrations;
450 (e) collect and disseminate information;
451 (f) enforce rules made by the board and any requirement in this part by issuing notices
452 and orders;
453 (g) review plans, specifications, or other data;
454 (h) under the direction of the executive director, represent the state in [aH]matters
455 pertaining to interstate [~~underground~~] petroleum storage tank management and
456 control, including entering into interstate compacts and other similar agreements;
457 (i) enter into contracts or agreements with political subdivisions for the performance of
458 any of the department's responsibilities under this part if:
459 (i) the contract or agreement is not prohibited by state or federal law and will not
460 result in a loss of federal funding; and
461 (ii) the director determines that:
462 (A) the political subdivision is willing and able to satisfactorily discharge its
463 responsibilities under the contract or agreement; and
464 (B) the contract or agreement will be practical and effective;
465 (j) take any necessary enforcement action authorized under this part, including filing a
466 lien against the real property, which is subject to cleanup and is owned by a
467 responsible party, for the costs of abatement, investigative and corrective actions
468 taken by the agency, if necessary, and depositing any funds received into the
469 Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7;
470 (k) require an owner or operator of [~~an underground~~] a petroleum storage tank to:
471 (i) furnish information or records relating to the tank, its equipment, and contents;

- 472 (ii) monitor, inspect, test, or sample the tank, its contents, and any surrounding soils,
 473 air, or water; or
 474 (iii) provide access to the tank at reasonable times;
 475 (l) take any abatement, investigative, or corrective action as authorized in this part; or
 476 (m) enter into agreements or issue orders to apportion percentages of liability of
 477 responsible parties under Section 19-6-424.5.

478 Section 7. Section **19-6-405.5** is amended to read:

479 **19-6-405.5 (Effective 05/07/25). Creation of restricted account.**

- 480 (1) There is created in the General Fund a restricted account known as the "Petroleum
 481 Storage Tank Restricted Account[-] ," which for purposes of this section is referred to as
 482 the "account."
 483 (2) [AH] The penalties and interest imposed under this part shall be deposited [in] into this
 484 account, except as provided in Section 19-6-410.5. Specified program [funds] money
 485 under this part that [are] is unexpended at the end of the fiscal year [lapse] lapses into this
 486 account.
 487 (3) The account shall earn interest, which shall be deposited into the account.
 488 [(3)] (4) The Legislature shall appropriate the money in the account to the department for
 489 the costs of administering the petroleum storage tank program under this part.

490 Section 8. Section **19-6-407** is amended to read:

491 **19-6-407 (Effective 05/07/25). Registration -- Change of ownership or operation**
 492 **-- Civil penalty.**

- 493 (1)(a) An owner or operator of an underground storage tank shall register the tank with
 494 the director if the tank:
 495 (i) is in use; or
 496 (ii) was closed after January 1, 1974.
 497 (b) If a new person assumes ownership or operational responsibilities for an
 498 underground storage tank, that person shall inform the director of the change [within]
 499 by no later than 30 days after the change occurs.
 500 (c) [Each] An installer of an underground storage tank shall notify the director [of the
 501 completed installation within 60 days following] by no later than 30 days before the
 502 installation of an underground storage tank.
 503 (2)(a) [The] An owner or operator of an aboveground petroleum storage tank shall [
 504 notify the director of the location of the aboveground petroleum storage tank by no
 505 later than:] register the aboveground petroleum storage tank with the director if the

- 506 aboveground petroleum storage tank is in use after May 5, 2021.
- 507 (b) If a new person assumes ownership or operational responsibilities for an
 508 aboveground petroleum storage tank, the new person shall inform the director of the
 509 change by no later than 30 days after the change occurs.
- 510 (c) An installer of an aboveground petroleum storage tank shall notify the director at
 511 least 30 days before the installation of an aboveground petroleum storage tank.
- 512 (d) An owner or operator of an aboveground petroleum storage tank shall register the
 513 aboveground petroleum storage tank by no later than:
- 514 (i) June 30, 2022, if the aboveground petroleum storage tank is installed on or before
 515 June 30, 2022; or
- 516 (ii) if the aboveground petroleum storage tank is installed on or after July 1, 2022, at
 517 least 30 days [after] before the day on which installation of the aboveground
 518 petroleum storage tank [is installed;] begins.
- 519 ~~[(iii) 30 days before the aboveground petroleum storage tank is closed; or]~~
- 520 ~~[(iv) within 24 hours of the discovery of a reportable release or suspected release, as~~
 521 ~~defined by rule made in accordance with Title 63G, Chapter 3, Utah~~
 522 ~~Administrative Rulemaking Act, from an aboveground petroleum storage tank.]~~
- 523 ~~[(b)]~~ (e) When notifying the director under this Subsection (2), an owner of an
 524 aboveground petroleum storage tank described in this Subsection (2) shall pay a
 525 processing fee established under Section 63J-1-504.
- 526 ~~[(e)]~~ (f) Before operating an aboveground petroleum storage tank on or after June 30,
 527 2023, the owner or operator of the aboveground petroleum storage tank shall provide
 528 financial responsibility by participating in the ~~[Environmental Assurance Program]~~
 529 program under Section 19-6-410.5 or demonstrating coverage through another
 530 method approved by the board by rule made in accordance with Title 63G, Chapter 3,
 531 Utah Administrative Rulemaking Act.
- 532 ~~[(d)]~~ (g)(i) The director shall certify when an owner or operator of an aboveground
 533 petroleum storage tank is in compliance with this Subsection (2).
- 534 (ii) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
 535 Administrative Rulemaking Act, providing for the identification, through a tag or
 536 other readily identifiable method, of an aboveground petroleum storage tank under
 537 Subsection (2)(a) that is not certified by the director as in compliance with this
 538 Subsection (2).
- 539 (3) The director may issue a notice of agency action assessing a civil penalty in the amount

540 of \$1,000 if an owner, operator, or installer of [~~a petroleum~~] an underground storage tank
 541 or aboveground petroleum storage tank fails to register the tank or provide notice as
 542 required in Subsection (1) or (2).

543 (4) The penalties collected under authority of this section shall be deposited in the
 544 Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

545 Section 9. Section **19-6-409** is amended to read:

546 **19-6-409 (Effective 05/07/25). Petroleum Storage Tank Fund -- Source of**
 547 **revenues.**

548 (1)(a) There is created an enterprise fund entitled the "Petroleum Storage Tank Fund."

549 (b) The sole sources of revenues for the fund are:

550 (i) petroleum storage tank fees paid under Section 19-6-411;

551 (ii) [~~underground~~] petroleum storage tank installation company permit fees paid under
 552 Section 19-6-411;

553 (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;

554 (iv) appropriations to the fund;

555 (v) principal and interest received from the repayment of loans made by the director
 556 under Subsection (5); and

557 (vi) interest accrued on revenues listed in this Subsection (1)(b).

558 (c) Interest earned on fund money is deposited into the fund.

559 (2) The director may expend money from the fund to pay costs:

560 (a) covered by the fund under Section 19-6-419;

561 (b) of administering [~~the~~] this part;

562 [~~(i) fund; and~~]

563 [~~(ii) environmental assurance program and fee under Section 19-6-410.5;~~]

564 (c) incurred by the state for a legal service or claim adjusting service provided in
 565 connection with a claim, judgment, award, or settlement for bodily injury or property
 566 damage to a third party;

567 (d) incurred by the director in determining the actuarial soundness of the fund;

568 (e) incurred by a third party claiming injury or damages from a release reported on or
 569 after May 11, 2010, for hiring a certified petroleum storage tank consultant:

570 (i) to review an investigation or corrective action by a responsible party; and

571 (ii) in accordance with Subsection (4); and

572 (f) allowed under this part that are not listed under this Subsection (2).

573 (3) Costs for the administration of [~~the fund and the environmental assurance fee~~] this part

- 574 shall be as appropriated by the Legislature.
- 575 (4) The director shall:
- 576 (a) in paying costs under Subsection (2)(e):
- 577 (i) determine a reasonable limit on costs paid based on the:
- 578 (A) extent of the release;
- 579 (B) impact of the release; and
- 580 (C) services provided by the certified petroleum storage tank consultant;
- 581 (ii) pay, per release, costs for one certified petroleum storage tank consultant agreed
- 582 to by all third parties claiming damages or injury;
- 583 (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and
- 584 (iv) not pay legal costs of third parties;
- 585 (b) review and give careful consideration to reports and recommendations provided by a
- 586 certified petroleum storage tank consultant hired by a third party; and
- 587 (c) make reports and recommendations provided under Subsection (4)(b) available on
- 588 the [~~Division of Environmental Response and Remediation's~~] division's website.
- 589 (5) The director may loan, in accordance with this section, money available in the fund to a
- 590 person to be used for:
- 591 (a) upgrading [~~an underground~~] a petroleum storage tank;
- 592 (b) replacing [~~an underground~~] a petroleum storage tank; or
- 593 (c) permanently closing [~~an underground~~] a petroleum storage tank.
- 594 (6)(a) A person may apply to the director for a loan under Subsection (5)(c) if [~~all~~] the
- 595 tanks owned or operated by that person are in substantial compliance with[~~all~~] state
- 596 and federal requirements or will be brought into substantial compliance using money
- 597 from the fund.
- 598 (b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:
- 599 (i) the requirements of Subsection (6)(a) are met; and
- 600 (ii) the person participates in the [~~Environmental Assurance Program~~] program under
- 601 Section 19-6-410.5.
- 602 (7) The director shall consider loan applications under Subsection (6) to meet the following
- 603 objectives:
- 604 (a) support availability of gasoline in rural parts of the state;
- 605 (b) support small businesses; and
- 606 (c) reduce the threat of a petroleum release endangering the environment.
- 607 (8)(a) A loan made under this section may not be for more than:

- 608 (i) \$300,000 for all tanks at any one facility;
- 609 (ii) \$100,000 per tank; and
- 610 (iii) 80% of the total cost of:
- 611 (A) upgrading [~~an underground~~] a petroleum storage tank;
- 612 (B) replacing [~~an underground~~] a petroleum storage tank; or
- 613 (C) permanently closing [~~an underground~~] a petroleum storage tank.
- 614 (b) A loan made under this section shall:
- 615 (i) have a fixed annual interest rate of 0%;
- 616 (ii) have a term no longer than 10 years;
- 617 (iii) be made on the condition the loan applicant obtains adequate security for the
- 618 loan as established by board rule under Subsection (9); and
- 619 (iv) comply with rules made by the board under Subsection (9).
- 620 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 621 board shall make rules establishing:
- 622 (a) form, content, and procedure for a loan application;
- 623 (b) criteria and procedures for prioritizing a loan application;
- 624 (c) requirements and procedures for securing a loan;
- 625 (d) procedures for making a loan;
- 626 (e) procedures for administering and ensuring repayment of a loan, including late
- 627 payment penalties;
- 628 (f) procedures for recovering on a defaulted loan; and
- 629 (g) the maximum amount of the fund that may be used for loans.
- 630 (10) A decision by the director to loan money from the fund and otherwise administer the
- 631 fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.
- 632 (11) The Legislature shall appropriate money from the fund to the department for the
- 633 administration costs associated with making loans under this section.
- 634 (12) The director may enter into an agreement with a public entity or private organization to
- 635 perform a task associated with administration of loans made under this section.
- 636 (13) The director may request that the Legislature appropriate money in the fund that is in
- 637 excess of the cash balance required for actuarial soundness to the Petroleum Storage
- 638 Tank Cleanup Fund created in Section 19-6-405.7.
- 639 Section 10. Section **19-6-410.5** is amended to read:
- 640 **19-6-410.5 (Effective 05/07/25). Environmental assurance program --**
- 641 **Participant fee -- State Tax Commission administration, collection, and enforcement of**

642 **tax.**

643 (1) As used in this section:

644 (a) "Cash balance" means cash plus investments and current accounts receivable minus
645 current accounts payable, excluding the liabilities estimated by the executive director.

646 (b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

647 (2)(a) There is created an [~~Environmental Assurance Program~~] environmental assurance
648 program.

649 (b) The program shall provide to a participating owner or operator, upon payment of the
650 fee imposed under Subsection (4), assistance with satisfying the financial
651 responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing [~~funds~~
652 ~~from the Petroleum Storage Tank Fund~~] money from the fund established in Section
653 19-6-409, subject to the terms and conditions of this part, and rules implemented
654 under this part.

655 (3)(a) Subject to Subsection (3)(b), participation in the program is voluntary.

656 (b) An owner or operator seeking to satisfy financial responsibility requirements through
657 the program shall use the program for all petroleum storage tanks that the owner or
658 operator owns or operates.

659 (4)(a) There is assessed an environmental assurance fee of 13/20 cent per gallon on the
660 first sale or use of petroleum products in the state.

661 (b) The environmental assurance fee and any other revenue collected under this section
662 shall be deposited [~~in the Petroleum Storage Tank Fund~~] into the fund created in
663 Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

664 (5)(a) The commission shall administer, collect, and enforce the fee imposed under this
665 section according to the same procedures used in the administration, collection, and
666 enforcement of the state sales and use tax under:

667 (i) Title 59, Chapter 1, General Taxation Policies; and

668 (ii) Title 59, Chapter 12, Part 1, Tax Collection.

669 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
670 commission shall make rules to establish:

671 (i) the method of payment of the environmental assurance fee;

672 (ii) the procedure for reimbursement or exemption of an owner or operator that does
673 not participate in the program, including an owner or operator of an [~~above-ground~~]
674 aboveground petroleum storage tank; and

675 (iii) the procedure for confirming with the department that an owner or operator

- 676 qualifies for reimbursement or exemption under Subsection (5)(b)(ii).
- 677 (c) The commission may retain an amount not to exceed 2.5% of fees collected under
678 this section for the cost to the commission of rendering its services.
- 679 (d) By January 1, 2015, for underground storage tanks, and by July 1, 2026, for
680 aboveground petroleum storage tanks, the division shall, by rule, create:
- 681 (i) a model for assessing the risk profile of each facility participating in the program,
682 for purposes of qualifying for a rebate of a portion of the environmental assurance
683 fee described in Subsection (4) collected from an owner or operator that
684 participates in the program; and
- 685 (ii) a rebate schedule listing the amount of the environmental assurance fee that an
686 owner or operator participating in the program may qualify for based on risk
687 profiles determined by the model developed under Subsection (5)(d)(i).
- 688 (e) The rebate described in Subsection (5)(d):
- 689 (i) may not exceed 40% of the actual fee collected from an owner or operator of a
690 low-risk [~~underground~~] petroleum storage tank as defined in the risk-based model
691 developed under Subsection (5)(d);
- 692 (ii) is administered on a per facility basis;
- 693 (iii) is based on the facility's risk profile at the end of the prior calendar year;
- 694 (iv) is only applicable to an environmental assurance fee collected after December
695 30, 2014, for underground storage tanks, and June 30, 2026, for aboveground
696 petroleum storage tanks; and
- 697 (v) shall be claimed in the form of a refund from the commission.
- 698 (f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.
- 699 (6)(a) The person responsible for payment of the fee under this section shall, by the last
700 day of the month following the month in which the sale occurs:
- 701 (i) complete and submit the form prescribed by the commission; and
- 702 (ii) pay the fee to the commission.
- 703 (b)(i) The penalties and interest for failure to file the form or to pay the
704 environmental assurance fee are the same as the penalties and interest under
705 Sections 59-1-401 and 59-1-402.
- 706 (ii) The commission shall deposit penalties and interest collected under this section in
707 the [~~Petroleum Storage Tank Fund~~] fund.
- 708 (c) The commission shall report to the department a person who is delinquent in
709 payment of the fee under this section.

710 (7)(a)(i) If the cash balance of the [~~Petroleum Storage Tank Fund~~] fund on June 30
 711 of any year exceeds [~~\$50,000,000~~] \$60,000,000, the assessment of the
 712 environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent
 713 per gallon beginning the following November 1.

714 (ii) If after the environmental assurance fee is reduced under Subsection (7)(a)(i) and
 715 the cash balance of the fund on June 30 of any year is less than \$20,000,000, the
 716 assessment of the environmental assurance fee reverts back to 13/20 cent per
 717 gallon as provided in Subsection (4) beginning the following November 1.

718 [~~(ii) The reduction under this Subsection (7)(a) remains in effect until modified by~~
 719 ~~the Legislature in a general or special session.]~~

720 (b) The commission shall determine the cash balance of the fund each year as of June 30.

721 (c) Before September 1 of each year, the department shall provide the commission with
 722 the accounts payable of the fund as of June 30.

723 Section 11. Section **19-6-411** is amended to read:

724 **19-6-411 (Effective 05/07/25). Petroleum storage tank fee for program**
 725 **participants.**

726 (1) In addition to the [~~underground~~] petroleum storage tank registration fee paid in Section
 727 19-6-408, the owner or operator of a petroleum storage tank who elects to participate in
 728 the [~~environmental assurance-~~]program under Section 19-6-410.5 shall also pay [~~an~~
 729 ~~annual petroleum storage tank fee~~] the following petroleum storage tank fees to the
 730 department for each facility[~~as follows~~]:

731 (a) an annual fee of:

732 (i) \$450 for each tank in a facility with an annual facility throughput rate of 70,000
 733 gallons or less;

734 (ii) \$150 for each tank in a facility with an annual facility throughput rate of greater
 735 than 70,000 gallons; and

736 (iii) \$450 for each tank in a facility regarding which:

737 (A) the facility's throughput rate is not reported to the department [~~within~~] no later
 738 than 30 days after the date this throughput information is requested by the
 739 department; or

740 (B) the owner or operator elects to pay the fee under this Subsection (1)(a)(iii),
 741 rather than report under Subsection (1)(a)(i) or (ii); and

742 (b) for any new tank:

743 (i) that is installed to replace an existing tank at an existing facility, any annual

744 petroleum storage tank fee paid for the current fiscal year for the existing tank is
 745 applicable to the new tank; and

746 (ii) installed at a new facility or at an existing facility, which is not a replacement for
 747 another existing tank, the fees are as provided in Subsection (1)(a)(ii).

748 (2)(a) As a condition of receiving a petroleum storage tank installation permit and being
 749 eligible for benefits under Section 19-6-419 from the [~~Petroleum Storage Tank Fund,~~
 750 ~~each underground~~] fund, a petroleum storage tank installation company shall pay to
 751 the department the following fees to be deposited in the fund:

752 (i) an annual fee of:

753 (A) \$2,000 per [~~underground~~] petroleum storage tank installation company if the
 754 installation company has installed 15 or fewer [~~underground~~] petroleum storage
 755 tanks within the 12 months preceding the fee due date; or

756 (B) \$4,000 per [~~underground~~] petroleum storage tank installation company if the
 757 installation company has installed 16 or more [~~underground~~] petroleum storage
 758 tanks within the 12 months preceding the fee due date; and

759 (ii) \$200 for each [~~underground~~] petroleum storage tank installed in the state, to be
 760 paid [~~prior to completion of installation~~] before installation begins.

761 (b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
 762 Administrative Rulemaking Act, specifying which portions of [~~an underground~~] a
 763 petroleum storage tank installation shall be subject to the permitting fees when less
 764 than a [~~full underground~~] complete petroleum storage tank system is installed.

765 (3)(a) Fees under Subsection (1) are due on or before July 1 annually.

766 (b) If the department does not receive payment of the fee on or before July 1, the
 767 department shall impose a [~~late~~] civil penalty of [~~\$60~~] \$100 per facility.

768 (c)(i) The fee and the [~~late~~] civil penalty accrue interest at 12% per annum.

769 (ii) If the fee, the [~~late~~] civil penalty, and all accrued interest are not received by the
 770 department [~~within 60 days after July 1~~] by no later than 30 days after the first
 771 install of the fiscal year, the eligibility of the owner or operator to receive
 772 payments for claims against the fund lapses on the [~~61st day after July 1~~] 31st day
 773 after beginning the first install of the fiscal year.

774 (iii) In order for the owner or operator to reinstate eligibility to receive payments for
 775 claims against the fund, the owner or operator shall meet the requirements of
 776 Subsection [~~19-6-428(3)~~] 19-6-428(2).

777 (4)(a)(i) Fees under Subsection (2)(a)(i) are due [~~on or before July 1 annually~~] 30

778 days before the petroleum storage tank installation company begins the first install
 779 of a fiscal year. If the department does not receive payment of the fees [~~on or~~
 780 before July 1] 30 days before the petroleum storage tank installation company
 781 begins the first install of a fiscal year, the department shall impose a [~~late~~] civil
 782 penalty of [~~\$60~~] \$100 per petroleum storage tank installation company. The fee
 783 and the [~~late~~] civil penalty accrue interest at 12% per annum.

784 (ii) If payment of the fee, [~~late~~] civil penalty, and all accrued interest due are not
 785 received by the department [~~within 60 days after July 1, the underground~~] by no
 786 later than 30 days after the petroleum storage tank installation company begins the
 787 first install of the fiscal year, the petroleum storage tank installation company's
 788 permit and eligibility to receive payments for claims against the fund lapse on [~~the~~
 789 61st day after July 1] the 31st day after the petroleum storage tank installation
 790 company begins the first install of the fiscal year.

791 (b)(i) [~~Fees under Subsection (2)(a)(ii) are due prior to completion of installation~~] A
 792 petroleum storage tank installation company shall pay the fees under Subsection
 793 (2)(a) before installation and issuance of a petroleum storage tank installation
 794 company permit. If the department does not receive payment of the fees [~~prior to~~
 795 completion of] before installation, the department shall impose a [~~late~~] civil penalty
 796 of [~~\$60 per facility~~] \$500 per petroleum storage tank. The fee and the [~~late~~] civil
 797 penalty accrue interest at 12% per annum.

798 (ii) If installation is complete without paying the installation permit fee and having a
 799 valid petroleum storage tank installation company permit, the petroleum storage
 800 tank installation company is not eligible to receive payments for claims against the
 801 fund for releases from the petroleum storage tank being installed that may occur
 802 before a certificate of compliance is issued for that petroleum storage tank.

803 [~~(ii) If the fee, late penalty, and all accrued interest are not received by the~~
 804 ~~department within 60 days after the underground storage tank installation is~~
 805 ~~completed, eligibility to receive payments for claims against the fund for that tank~~
 806 ~~lapse on the 61st day after the tank installation is completed.]~~

807 (c) The director may not reissue the [~~underground~~] petroleum storage tank installation
 808 company permit until the fee, [~~late~~] civil penalty, and [~~all~~] accrued interest are
 809 received by the department.

810 (5) If the executive director determines that the fees established in Subsections (1) and (2)
 811 and the environmental assurance fee established in Section 19-6-410.5 are insufficient to

812 maintain the fund on an actuarially sound basis, the executive director may petition the
 813 Legislature to increase the petroleum storage tank and ~~[underground]~~ petroleum storage
 814 tank installation company permit fees, and the environmental assurance fee to a level
 815 that will sustain the fund on an actuarially sound basis.

816 (6) The director may waive all or part of the fees required to be paid~~[on or before May 5,~~
 817 ~~1997,]~~ for a petroleum storage tank under this section if no fuel has been dispensed from
 818 the tank on or after July 1, 1991.

819 (7)(a) The director shall issue a certificate of compliance to the owner or operator of a
 820 petroleum storage tank~~[or underground storage tank]~~, for which payment of fees has
 821 been made and other requirements have been met to qualify for a certificate of
 822 compliance under this part.

823 (b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
 824 Administrative Rulemaking Act, providing for the identification, through a tag or
 825 other readily identifiable method, of a petroleum storage tank~~[or underground~~
 826 ~~storage tank]~~ under Subsection (7)(a) that does not qualify for a certificate of
 827 compliance under this part.

828 Section 12. Section **19-6-412** is amended to read:

829 **19-6-412 (Effective 05/07/25). Petroleum storage tank -- Certificate of**
 830 **compliance.**

831 (1)~~(a) Beginning July 1, 1990, an owner or operator of a petroleum storage tank may~~
 832 ~~obtain a certificate of compliance for the facility.]~~

833 ~~[(b) Effective July 1, 1991, each]~~ An owner or operator of a petroleum storage tank shall
 834 have a certificate of compliance for the facility.

835 (2) The director shall issue a certificate of compliance if:

836 (a) the owner or operator has a certificate of registration;

837 (b) the owner or operator demonstrates ~~[it]~~ the owner or operator is participating in the [
 838 ~~Environmental Assurance Program]~~ program under Section 19-6-410.5, or otherwise
 839 demonstrates compliance with financial assurance requirements as defined by rule;

840 (c) all state and federal statutes, rules, and regulations have been substantially complied
 841 with; and

842 (d) all tank test requirements of Section 19-6-413 have been met.

843 (3) If the ownership of or responsibility for the petroleum storage tank changes, the
 844 certificate of compliance is still valid unless it has been revoked or has lapsed.

845 (4) The director may issue a certificate of compliance for a period of less than one year to

846 maintain an administrative schedule of certification.

847 (5) The director shall reissue a certificate of compliance if the owner or operator of [~~an~~
848 ~~underground~~] a petroleum storage tank has complied with the requirements of Subsection
849 (2).

850 (6) If the owner or operator electing to participate in the program has a number of tanks in
851 an area where the director finds it would be difficult to accurately determine which of
852 the tanks may be the source of a release, the owner may only elect to place all of the
853 tanks in the area in the program, but not just some of the tanks in the area.

854 Section 13. Section **19-6-416.5** is amended to read:

855 **19-6-416.5 (Effective 05/07/25). Restrictions on petroleum storage tank**
856 **installation companies -- Civil penalty.**

857 (1) [~~After July 1, 1994, no individual or underground~~] An individual or petroleum storage
858 tank installation company may not install [~~an underground~~] a petroleum storage tank
859 without having a valid [~~underground~~] petroleum storage tank installation company
860 permit.

861 (2) [~~Any~~] An individual or [~~underground~~] petroleum storage tank installation company who
862 installs [~~an underground~~] a petroleum storage tank in violation of Subsection (1) is
863 subject to a civil penalty of \$500 per [~~underground~~] petroleum storage tank.

864 (3) The director shall issue a notice of agency action assessing a civil penalty of \$500
865 against [~~any underground~~] a petroleum storage tank installation company or [~~person~~]
866 individual who installs [~~an underground~~] a petroleum storage tank in violation of
867 Subsection (1).

868 Section 14. Section **19-6-420** is amended to read:

869 **19-6-420 (Effective 05/07/25). Releases -- Abatement actions -- Corrective**
870 **actions.**

871 (1) If the director determines that a release from a petroleum storage tank has occurred, the
872 director shall:

873 (a) identify and name as many of the responsible parties as reasonably possible; and
874 (b) determine which responsible parties, if any, are covered by the fund regarding the
875 release in question.

876 (2) Regardless of whether the petroleum storage tank generating the release is covered by
877 the fund:

878 (a) the director may order the owner or operator to take abatement, or investigative or
879 corrective action, including the submission of a corrective action plan; and

- 880 (b) if the owner or operator fails to comply with the action ordered by the director under
881 Subsection (2)(a), the director may take one or more of the following actions:
- 882 (i) subject to the conditions in this part, use money from the fund, if the tank involved
883 is covered by the fund, state cleanup appropriation, or the Petroleum Storage Tank
884 Cleanup Fund created under Section 19-6-405.7 to perform investigative,
885 abatement, or corrective action;
- 886 (ii) commence an enforcement proceeding;
- 887 (iii) enter into agreements or issue orders as allowed by Section 19-6-424.5;
- 888 (iv) recover costs from responsible parties equal to their proportionate share of
889 liability as determined by Section 19-6-424.5; or
- 890 (v) where the owner or operator is the responsible party, revoke the responsible
891 party's certificate of compliance, as described in Section 19-6-414.
- 892 (3)(a) Subject to the limitations established in Section 19-6-419, the director shall
893 provide money from the fund for abatement action for a release generated by a tank
894 covered by the fund if:
- 895 (i) the owner or operator takes the abatement action ordered by the director; and
896 (ii) the director approves the abatement action.
- 897 (b) If a release presents the possibility of imminent and substantial danger to the public
898 health or the environment, the owner or operator may take immediate abatement
899 action and petition the director for reimbursement from the fund for the costs of the
900 abatement action. If the owner or operator can demonstrate to the satisfaction of the
901 director that the abatement action was reasonable and timely in light of
902 circumstances, the director shall reimburse the petitioner for costs associated with
903 immediate abatement action, subject to the limitations established in Section 19-6-419.
- 904 (c) The owner or operator shall notify the director within 24 hours of the abatement
905 action taken.
- 906 (4)(a) If the director determines corrective action is necessary, the director shall order
907 the owner or operator to submit a corrective action plan to address the release.
- 908 (b) If the owner or operator submits a corrective action plan, the director shall review the
909 corrective action plan and approve or disapprove the plan.
- 910 (c) In reviewing the corrective action plan, the director shall consider the following:
- 911 (i) the threat to public health;
- 912 (ii) the threat to the environment; and
- 913 (iii) the cost-effectiveness of alternative corrective actions.

- 914 (5) If the director approves the corrective action plan or develops the director's own
915 corrective action plan, the director shall:
- 916 (a) approve the estimated cost of implementing the corrective action plan;
917 (b) order the owner or operator to implement the corrective action plan;
918 (c)(i) if the release is covered by the fund, determine the amount of fund money to
919 be allocated to an owner or operator to implement a corrective action plan; and
920 (ii) subject to the limitations established in Section 19-6-419, provide money from
921 the fund to the owner or operator to implement the corrective action plan.
- 922 (6)(a) The director may not distribute any money from the fund for corrective action
923 until the owner or operator obtains the director's approval of the corrective action
924 plan.
- 925 (b) An owner or operator who begins corrective action without first obtaining approval
926 from the director and who is covered by the fund may be reimbursed for the costs of
927 the corrective action, subject to the limitations established in Section 19-6-419, if:
- 928 (i) the owner or operator submits the corrective action plan to the director [~~within~~ no
929 later than seven days after beginning corrective action; and
930 (ii) the director approves the corrective action plan.
- 931 (7) If the director disapproves the plan, the director shall solicit a new corrective action plan
932 from the owner or operator.
- 933 (8) If the director disapproves the second corrective action plan, or if the owner or operator
934 fails to submit a second plan within a reasonable time, the director may:
- 935 (a) develop an alternative corrective action plan; and
936 (b) act as authorized under Subsections (2) and (5).
- 937 (9)(a) When notified that the corrective action plan has been implemented, the director
938 shall inspect the location of the release to determine whether or not the corrective
939 action has been properly performed and completed.
- 940 (b) If the director determines the corrective action has not been properly performed or
941 completed, the director may issue an order requiring the owner or operator to
942 complete the corrective action within the time specified in the order.
- 943 (10)(a) For releases not covered by the fund, the director may recover from the
944 responsible party expenses incurred by the division for managing and overseeing the
945 abatement, and investigation or corrective action of the release. These expenses shall
946 be:
- 947 (i) billed quarterly per release;

- 948 (ii) due ~~[within]~~ no later than 30 days ~~[of]~~ from billing;
- 949 (iii) deposited ~~[with the division as dedicated credits]~~ into the Petroleum Storage Tank
- 950 Cleanup Fund established in Section 19-6-405.7;
- 951 (iv) used by the division for the administration of the ~~[underground]~~ petroleum
- 952 storage tank program outlined in this part; and
- 953 (v) billed per hourly rates as established under Section 63J-1-504.
- 954 (b) If the responsible party fails to pay expenses under Subsection 10(a), the director
- 955 may:
- 956 (i) revoke the responsible party's certificate of compliance, as described in Section
- 957 19-6-414, if the responsible party is also the owner or operator; and
- 958 (ii) pursue an action to collect expenses in Subsection 10(a), including the costs of
- 959 collection.
- 960 (11) This section does not apply to a release of a substance defined as a regulated substance
- 961 in Section 101(14) of the Comprehensive Environmental Response, Compensation and
- 962 Liability Act of 1980.
- 963 Section 15. Section **19-6-424** is amended to read:
- 964 **19-6-424 (Effective 05/07/25). Claims not covered by fund.**
- 965 (1) The director may not authorize payments from the fund unless:
- 966 (a) the claim was based on a release occurring during a period for which that tank was
- 967 covered by the fund;
- 968 (b) there are sufficient revenues in the fund; and
- 969 ~~[(b)]~~ (c) the claim was made:
- 970 ~~[(i) during a period for which that tank was covered by the fund; or]~~
- 971 ~~[(ii)(A) within]~~
- 972 (i) no later than one year after that fund-covered tank is closed; or
- 973 ~~[(B) within]~~
- 974 (ii) no later than six months after the end of the period during which the tank was
- 975 covered by the fund~~[-and]~~ .
- 976 ~~[(e) there are sufficient revenues in the fund.]~~
- 977 (2) The director may authorize payments from the fund if the claim was made by a
- 978 responsible party, as determined in accordance with Section 19-6-420 or 19-6-424.5,
- 979 that:
- 980 (a) was in good standing with the program under Section 19-6-410.5 at the time
- 981 ownership ceased; and

982 (b) lost coverage for a release due to the actions or inactions of a subsequent responsible
 983 party.

984 (3) The director may not authorize payments from the fund for [~~an underground~~] a petroleum
 985 storage tank installation company unless:

986 (a) the claim was based on a release occurring during the period prior to the issuance of
 987 a certificate of compliance;

988 (b) the claim was made [~~within~~] no later than 12 months after the date the tank is issued a
 989 certificate of compliance for that tank; and

990 (c) there are sufficient revenues in the fund.

991 [~~(3)~~] (4) The director may require the claimant to provide additional information as
 992 necessary to demonstrate coverage by the fund at the time of submittal of the claim.

993 [~~(4)~~] (5) If the Legislature repeals or refuses to reauthorize the program for petroleum
 994 storage tanks established in this part, the director may authorize payments from the fund
 995 as provided in this part for claims made until the end of the time period established in
 996 Subsection (1)[~~or~~] , (2), or (3) provided there are sufficient revenues in the fund.

997 Section 16. Section **19-6-426** is amended to read:

998 **19-6-426 (Effective 05/07/25). Limitation of liability of state -- Liability of**
 999 **responsible parties -- Indemnification agreement involving responsible parties.**

1000 (1) This part [~~is not intended to~~] does not create an insurance program.

1001 (2) The fund established in this part shall only provide funds to finance costs for
 1002 responsible parties who meet the requirements of this part when releases from petroleum
 1003 storage tanks occur.

1004 (3) The assets of the fund, if any, are the sole source of money to pay claims against the
 1005 fund.

1006 (4) The state is not liable for:

1007 (a) any amounts payable from the fund for which the fund does not have sufficient assets;

1008 (b) any expenses or debts of the fund; or

1009 (c) any claim arising from the creation, management, rate-setting, or any other activity
 1010 pertaining to the fund.

1011 (5) The responsible parties are liable for any costs associated with any release from the [
 1012 underground] petroleum storage tank system.

1013 (6) This part does not preclude a responsible party from enforcing or recovering under any
 1014 agreement or contract for indemnification associated with a release from the tank or
 1015 from pursuing any other legal remedies that may be available against any party.

1016 (7) If any payment is made under this part, the fund shall be subrogated to all the
 1017 responsible parties' rights of recovery against any person~~[or organization]~~ and the
 1018 responsible parties shall execute and deliver instruments and papers and do whatever
 1019 else is necessary to secure the rights. The responsible parties shall do nothing after a
 1020 release is discovered to prejudice the rights. In the event of recovery by the fund, any
 1021 amount recovered shall first be used to reimburse the responsible parties for costs they
 1022 are required to pay pursuant to Section 19-6-419.

1023 (8) Parties who elect to participate in the fund do so subject to the conditions and
 1024 limitations in this section and in this part.

1025 Section 17. Section **19-6-428** is amended to read:

1026 **19-6-428 (Effective 05/07/25). Eligibility for participation in the fund.**

1027 (1) Subject to ~~[the requirements of]~~Section 19-6-410.5, an owner or operator of ~~[an existing]~~
 1028 a petroleum storage tank~~[that is covered by the fund on May 5, 1997,]~~ may elect to~~[~~
 1029 ~~continue to]~~ participate in the program by meeting the requirements of this part,
 1030 including paying the tank fees and environmental assurance fee as provided in Sections
 1031 19-6-410.5 and 19-6-411.

1032 ~~[(2) A new petroleum storage tank that is installed after May 5, 1997, or a tank eligible~~
 1033 ~~under Section 19-6-415, may elect to participate in the program by complying with the~~
 1034 ~~requirements of this part.]~~

1035 ~~[(3)] (2)(a) [An owner or operator of a petroleum storage tank who elects to not~~
 1036 ~~participate in the program, including by the use of an alternative financial assurance~~
 1037 ~~meehanism] If an owner or operator elects to participate in the program after a period~~
 1038 ~~of non-participation, the owner or operator of the petroleum storage tank shall, in~~
 1039 ~~order to subsequently participate in the program:~~

1040 (i) perform a tank tightness test;

1041 (ii) except as provided in Subsection ~~[(3)(b),]~~ (2)(b), (c), or (d), perform a site check,
 1042 including soil and, when applicable, groundwater samples, to demonstrate that no
 1043 release of petroleum exists or that there has been adequate remediation of releases
 1044 as required by board rules;

1045 (iii) provide the required tests and samples to the director; and

1046 (iv) comply with the requirements of this part.

1047 (b) A site check under Subsection ~~[(3)(a)(ii)]~~ (2)(a)(ii) is not required if the director
 1048 determines, with reasonable cause, that soil and groundwater samples are
 1049 unnecessary to establish that no petroleum has been released.

- 1050 (c) ~~[For an aboveground petroleum storage tank, a site check under Subsection (3)(a)(ii)~~
 1051 ~~is not required to participate in the program except that if the aboveground petroleum~~
 1052 ~~storage tank does not conduct a site check:]~~
- 1053 (i) For an aboveground petroleum storage tank, a site check under Subsection
 1054 (2)(a)(ii) is not required to participate in the program and historic contamination is
 1055 covered as provided in Subsection (2)(c)(ii) if the release meets the requirements
 1056 of this part.
- 1057 ~~[(i) historic]~~
- 1058 (ii)(A) Historic contamination, as defined by rule made in accordance with Title
 1059 63G, Chapter 3, Utah Administrative Rulemaking Act[;]
- 1060 ~~[(A) subject to the other provisions of this Subsection (3)(e),]~~ is covered only
 1061 if the historic contamination is discovered more than five years after the day
 1062 the owner or operator elects to participate in the program[;].
- 1063 (B) Historic contamination is 20% covered beginning on the five-year date[; and]
 1064 after five years of continuous participation in the program.
- 1065 (C) Historic contamination is covered at increasing amounts of 20% each year
 1066 after [the five-year date until at the 10-year date] the five years of continuous
 1067 participation in the program until after 10 years of continuous participation in
 1068 the program the historic contamination is covered at 100%[; and].
- 1069 ~~[(ii) new]~~
- 1070 (iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3,
 1071 Utah Administrative Rulemaking Act, are covered at 100% beginning on the day
 1072 the aboveground petroleum storage tank participates in the program.
- 1073 (d)(i) For an underground storage tank that previously elected not to participate in
 1074 the program, a site check under Subsection ~~[(3)(a)(ii)]~~ (2)(a)(ii) is not required to
 1075 begin participating in the program~~[-, except that if the underground storage tank~~
 1076 ~~does not conduct a site check:]~~ and historic contamination is covered as provided
 1077 in under Subsection (2)(d)(ii) if the release meets the requirements of this part.
- 1078 ~~[(i) historic]~~
- 1079 (ii)(A) Historic contamination, as defined by rule made in accordance with Title
 1080 63G, Chapter 3, Utah Administrative Rulemaking Act[;]
- 1081 ~~[(A) subject to the other provisions of this Subsection (3)(d),]~~ is covered only
 1082 if the historic contamination is discovered more than five years after the day
 1083 the owner or operator elects to participate in the program[;].

1084 (B) Historic contamination is 20% covered [~~beginning on the five-year date; and~~
 1085 ~~after five years of continuous participation in the program.~~

1086 (C) Historic contamination is covered at increasing amounts of 20% each year
 1087 after [~~the five-year date until at the 10-year date~~] the five years of continuous
 1088 participation in the program until after 10 years of continuous participation in
 1089 the program the historic contamination is covered at 100% [~~; and~~] .

1090 [(ii) new]

1091 (iii) New releases, as defined by rule made in accordance with Title 63G, Chapter 3,
 1092 Utah Administrative Rulemaking Act, are covered at 100% beginning on the day
 1093 the underground storage tank participates in the program.

1094 [(4)] (3) The director shall review the tests and samples provided under Subsection [
 1095 (3)(a)(iii)] (2)(a)(iii) to determine:

- 1096 (a) whether or not any release of the petroleum has occurred; or
 1097 (b) if the remediation is adequate.

1098 Section 18. Section **19-8-113** is amended to read:

1099 **19-8-113 (Effective 05/07/25). Applicant's release from liability.**

1100 (1)(a) An applicant who is not responsible for the contaminant or contamination under
 1101 the provisions listed in Subsection (1)(b) at the time the applicant applies to enter into
 1102 a voluntary cleanup agreement under this chapter is released by issuance of a
 1103 certificate of completion under Section 19-8-111 from all liability to the state for
 1104 cleanup of property covered by the certificate and from all liability for claims arising
 1105 under state law for contribution regarding matters addressed by the certificate of
 1106 completion, except for any releases or consequences the applicant causes.

1107 (b) Provisions referred to in Subsection (1)(a) are: [~~Title 19, Chapter 5, Water Quality~~
 1108 ~~Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6,~~
 1109 ~~Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4,~~
 1110 ~~Underground Storage Tank Act.]~~

1111 (i) Chapter 5, Water Quality Act;

1112 (ii) Chapter 6, Part 1, Solid and Hazardous Waste Act;

1113 (iii) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or

1114 (iv) Chapter 6, Part 4, Petroleum Storage Tank Act.

1115 (2) There is no release from liability under this chapter if a certificate of completion is
 1116 obtained by fraud, misrepresentation, or the knowing failure to disclose material
 1117 information.

- 1118 (3)(a) After a certificate of completion is issued under this chapter, an owner who then
 1119 acquires property covered by the certificate, or a lender who then makes a loan
 1120 secured by property covered by the certificate, is released from all liability to the
 1121 state regarding property covered by the certificate for cleanup of contamination
 1122 released before the date of the certificate, and from all liability for claims arising
 1123 under state law for contribution regarding matters addressed by the certificate of
 1124 completion, except under Subsection (3)(b).
- 1125 (b) A release of liability under Subsection (3)(a) is not available to an owner or lender
 1126 under Subsection (3)(a) who:
- 1127 (i) was originally responsible for a release or contamination under [~~Title 19, Chapter~~
 1128 ~~5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;~~
 1129 ~~Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19,~~
 1130 ~~Chapter 6, Part 4, Underground Storage Tank Act] :~~
- 1131 (A) Chapter 5, Water Quality Act;
 1132 (B) Chapter 6, Part 1, Solid and Hazardous Waste Act;
 1133 (C) Chapter 6, Part 3, Hazardous Substances Mitigation Act; or
 1134 (D) Chapter 6, Part 4, Petroleum Storage Tank Act;
- 1135 (ii) changes the land use from the use specified in the certificate of completion if the
 1136 changed use or uses may reasonably be expected to result in increased risks to
 1137 human health or the environment; or
- 1138 (iii) causes further releases on the property covered by the certification.
- 1139 (c) A release under this Subsection (3) is subject to the limitations of Subsection (2).
- 1140 (4) The executive director may issue enforceable written assurances to a contiguous
 1141 property owner of real property stating that no enforcement action under this part may
 1142 be initiated against the contiguous property owner and providing the owner protection
 1143 from state law cost recovery and contribution actions.
- 1144 Section 19. Section **19-8-119** is amended to read:
- 1145 **19-8-119 (Effective 05/07/25). Apportionment or contribution.**
- 1146 (1) Any party who incurs costs under a voluntary agreement entered into under this part in
 1147 excess of the party's liability may seek contribution in an action in a court with
 1148 jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party
 1149 who is or may be liable under Subsection 19-6-302(21) or [~~19-6-402(27)] 19-6-402(29)
 1150 for the excess costs after providing written notice to any other party that the party
 1151 bringing the action has entered into a voluntary agreement and will incur costs.~~

1152 (2) In resolving claims made under Subsection (1), the court shall allocate costs using the
1153 standards in Subsection 19-6-310(2).

1154 Section 20. Section **63G-4-102** is amended to read:

1155 **63G-4-102 (Effective 05/07/25). Scope and applicability of chapter.**

1156 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute
1157 superseding provisions of this chapter by explicit reference to this chapter, the
1158 provisions of this chapter apply to every agency of the state and govern:

1159 (a) state agency action that determines the legal rights, duties, privileges, immunities, or
1160 other legal interests of an identifiable person, including agency action to grant, deny,
1161 revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license;
1162 and

1163 (b) judicial review of the action.

1164 (2) This chapter does not govern:

1165 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

1166 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive
1167 a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the
1168 issuance of a tax assessment, except that this chapter governs an agency action
1169 commenced by a taxpayer or by another person authorized by law to contest the
1170 validity or correctness of the action;

1171 (c) state agency action relating to extradition, to the granting of a pardon or parole, a
1172 commutation or termination of a sentence, or to the rescission, termination, or
1173 revocation of parole or probation, to the discipline of, resolution of a grievance of,
1174 supervision of, confinement of, or the treatment of an inmate or resident of a
1175 correctional facility, the Utah State Hospital, the Utah State Developmental Center,
1176 or a person in the custody or jurisdiction of the Office of Substance Use and Mental
1177 Health, or a person on probation or parole, or judicial review of the action;

1178 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a
1179 student or teacher in a school or educational institution, or judicial review of the
1180 action;

1181 (e) an application for employment and internal personnel action within an agency
1182 concerning its own employees, or judicial review of the action;

1183 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah
1184 Occupational Safety and Health Act, and Title 58, Occupations and Professions,
1185 except that this chapter governs an agency action commenced by the employer,

- 1186 licensee, or other person authorized by law to contest the validity or correctness of
1187 the citation or assessment;
- 1188 (g) state agency action relating to management of state funds, the management and
1189 disposal of school and institutional trust land assets, and contracts for the purchase or
1190 sale of products, real property, supplies, goods, or services by or for the state, or by
1191 or for an agency of the state, except as provided in those contracts, or judicial review
1192 of the action;
- 1193 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of
1194 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository
1195 Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository
1196 Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of
1197 Utah, or judicial review of the action;
- 1198 (i) the initial determination of a person's eligibility for unemployment benefits, the initial
1199 determination of a person's eligibility for benefits under Title 34A, Chapter 2,
1200 Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease
1201 Act, or the initial determination of a person's unemployment tax liability;
- 1202 (j) state agency action relating to the distribution or award of a monetary grant to or
1203 between governmental units, or for research, development, or the arts, or judicial
1204 review of the action;
- 1205 (k) the issuance of a notice of violation or order under Title 53, Chapter 2d, Emergency
1206 Medical Services Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3,
1207 Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,
1208 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste
1209 Act, Title 19, Chapter 6, Part 4, [~~Underground~~] Petroleum Storage Tank Act, [~~or~~]
1210 Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part
1211 10, Mercury Switch Removal Act, except that this chapter governs an agency action
1212 commenced by a person authorized by law to contest the validity or correctness of
1213 the notice or order;
- 1214 (l) state agency action, to the extent required by federal statute or regulation, to be
1215 conducted according to federal procedures;
- 1216 (m) the initial determination of a person's eligibility for government or public assistance
1217 benefits;
- 1218 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of
1219 registration;

- 1220 (o) a license for use of state recreational facilities;
- 1221 (p) state agency action under Chapter 2, Government Records Access and Management
1222 Act, except as provided in Section 63G-2-603;
- 1223 (q) state agency action relating to the collection of water commissioner fees and
1224 delinquency penalties, or judicial review of the action;
- 1225 (r) state agency action relating to the installation, maintenance, and repair of headgates,
1226 caps, valves, or other water controlling works and weirs, flumes, meters, or other
1227 water measuring devices, or judicial review of the action;
- 1228 (s) the issuance and enforcement of an initial order under Section 73-2-25;
- 1229 (t)(i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and
1230 (ii) an action taken by the Division of Securities under a hearing conducted under
1231 Section 61-1-11.1, including a determination regarding the fairness of an issuance
1232 or exchange of securities described in Subsection 61-1-11.1(1);
- 1233 (u) state agency action relating to water well driller licenses, water well drilling permits,
1234 water well driller registration, or water well drilling construction standards, or
1235 judicial review of the action;
- 1236 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah
1237 Antidiscrimination Act;
- 1238 (w) state environmental studies and related decisions by the Department of
1239 Transportation approving state or locally funded projects, or judicial review of the
1240 action;
- 1241 (x) the suspension of operations under Subsection 32B-1-304(3);
- 1242 (y) the issuance of a determination of violation by the Governor's Office of Economic
1243 Opportunity under Section 11-41-104; or
- 1244 (z) a challenge to an aspect of a distribution management plan under Section 73-33-202.
- 1245 (3) This chapter does not affect a legal remedy otherwise available to:
- 1246 (a) compel an agency to take action; or
1247 (b) challenge an agency's rule.
- 1248 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative
1249 proceeding, or the presiding officer during an adjudicative proceeding from:
- 1250 (a) requesting or ordering a conference with parties and interested persons to:
1251 (i) encourage settlement;
1252 (ii) clarify the issues;
1253 (iii) simplify the evidence;

- 1254 (iv) facilitate discovery; or
- 1255 (v) expedite the proceeding; or
- 1256 (b) granting a timely motion to dismiss or for summary judgment if the requirements of
- 1257 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving
- 1258 party, except to the extent that the requirements of those rules are modified by this
- 1259 chapter.
- 1260 (5)(a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by
- 1261 this chapter, except as explicitly provided in that section.
- 1262 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is
- 1263 governed by this chapter.
- 1264 (6) This chapter does not preclude an agency from enacting a rule affecting or governing an
- 1265 adjudicative proceeding or from following the rule, if the rule is enacted according to the
- 1266 procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule
- 1267 conforms to the requirements of this chapter.
- 1268 (7)(a) If the attorney general issues a written determination that a provision of this
- 1269 chapter would result in the denial of funds or services to an agency of the state from
- 1270 the federal government, the applicability of the provision to that agency shall be
- 1271 suspended to the extent necessary to prevent the denial.
- 1272 (b) The attorney general shall report the suspension to the Legislature at its next session.
- 1273 (8) Nothing in this chapter may be interpreted to provide an independent basis for
- 1274 jurisdiction to review final agency action.
- 1275 (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause
- 1276 shown, from lengthening or shortening a time period prescribed in this chapter, except
- 1277 the time period established for judicial review.
- 1278 (10) Notwithstanding any other provision of this section, this chapter does not apply to a
- 1279 special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent
- 1280 expressly provided in Section 19-1-301.5.
- 1281 (11) Subsection (2)(w), regarding action taken based on state environmental studies and
- 1282 policies of the Department of Transportation, applies to any claim for which a court of
- 1283 competent jurisdiction has not issued a final unappealable judgment or order before May
- 1284 14, 2019.
- 1285 Section 21. Section **63I-1-219** is amended to read:
- 1286 **63I-1-219 (Effective 05/07/25). Repeal dates: Title 19.**
- 1287 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

- 1288 (2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.
- 1289 (3) Section 19-4-115, Drinking water quality in schools and child care centers, is repealed
1290 July 1, 2027.
- 1291 (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.
- 1292 (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.
- 1293 (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1,
1294 2030.
- 1295 (7) Title 19, Chapter 6, Part 4, [~~Underground~~] Petroleum Storage Tank Act, is repealed July
1296 1, 2028.
- 1297 (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.
- 1298 (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.
- 1299 (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.
- 1300 (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

1301 Section 22. **Repealer.**

1302 This bill repeals:

1303 Section **19-6-401, Short title.**

1304 Section 23. **FY 2026 Appropriation.**

1305 The following sums of money are appropriated for the fiscal year beginning July 1,
1306 2025, and ending June 30, 2026. These are additions to amounts previously appropriated for
1307 fiscal year 2026.

1308 Subsection 23(a). **Restricted Fund and Account Transfers**

1309 The Legislature authorizes the State Division of Finance to transfer the following
1310 amounts between the following funds or accounts as indicated. Expenditures and outlays from
1311 the funds to which the money is transferred must be authorized by an appropriation.

1312 ITEM 1 To Petroleum Storage Tank Cleanup Fund

1313 From Petroleum Storage Tank Fund, One-time 4,000,000

1314 Schedule of Programs:

1315 Petroleum Storage Tank Cleanup Fund 4,000,000

1316 Section 24. **Effective Date.**

1317 This bill takes effect on May 7, 2025.