

UNDERGROUND STORAGE TANK ACT AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Don L. Ipson

LONG TITLE

Committee Note:

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

General Description:

This bill modifies provisions relating to the Underground Storage Tank Act.

Highlighted Provisions:

This bill:

- ▶ modifies Petroleum Storage Tank Trust Fund loan provisions by:
 - requiring a person who applies for a loan to upgrade or replace an underground storage tank to participate in the Environmental Assurance Program; and
 - increasing the maximum amount that may be loaned from the fund; and
- ▶ extends the repeal date for Title 19, Chapter 6, Part 4, Underground Storage Tank

Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-409, as last amended by Laws of Utah 2014, Chapter 227



28 **63I-1-219**, as last amended by Laws of Utah 2017, Chapter 35



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

31 Section 1. Section **19-6-409** is amended to read:

32 **19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.**

33 (1) (a) There is created a private-purpose trust fund entitled the "Petroleum Storage
34 Tank Trust Fund."

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

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

37 (ii) underground storage tank installation company permit fees paid under Section
38 **19-6-411**;

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

40 (iv) appropriations to the fund;

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

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

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

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

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

47 (b) of administering the:

48 (i) fund; and

49 (ii) environmental assurance program and fee under Section **19-6-410.5**;

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

53 (d) incurred by the executive director in determining the actuarial soundness of the
54 fund;

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

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

58 (ii) in accordance with Subsection (4);

59 (f) incurred by the department to implement the study described in Subsection
60 19-6-410.5(8), including a one-time cost of up to \$200,000 for the actuarial study described in
61 Subsection 19-6-410.5(8)(a)(ii); and

62 (g) allowed under this part that are not listed under this Subsection (2).

63 (3) Costs for the administration of the fund and the environmental assurance fee shall
64 be appropriated by the Legislature.

65 (4) The director shall:

66 (a) in paying costs under Subsection (2)(e):

67 (i) determine a reasonable limit on costs paid based on the:

68 (A) extent of the release;

69 (B) impact of the release; and

70 (C) services provided by the certified underground storage tank consultant;

71 (ii) pay, per release, costs for one certified underground storage tank consultant agreed
72 to by all third parties claiming damages or injury;

73 (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

74 (iv) not pay legal costs of third parties;

75 (b) review and give careful consideration to reports and recommendations provided by
76 a certified underground storage tank consultant hired by a third party; and

77 (c) make reports and recommendations provided under Subsection (4)(b) available on
78 the Division of Environmental Response and Remediation's website.

79 (5) The director may loan, in accordance with this section, money available in the fund
80 to a person to be used for:

81 (a) upgrading an underground storage tank;

82 (b) replacing an underground storage tank; or

83 (c) permanently closing an underground storage tank.

84 (6) (a) A person may apply to the director for a loan under Subsection (5)(c) if all tanks
85 owned or operated by that person are in substantial compliance with all state and federal
86 requirements or will be brought into substantial compliance using money from the fund.

87 (b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:

88 (i) the requirements of Subsection (6)(a) are met; and

89 (ii) the person participates in the Environmental Assurance Program under Section

90 [19-6-410.5.](#)

91 (7) The director shall consider loan applications under Subsection (6) to meet the
92 following objectives:

- 93 (a) support availability of gasoline in rural parts of the state;
- 94 (b) support small businesses; and
- 95 (c) reduce the threat of a petroleum release endangering the environment.

96 (8) (a) A loan made under this section may not be for more than:

- 97 (i) [~~\$150,000~~] \$300,000 for all tanks at any one facility;
- 98 (ii) [~~\$50,000~~] \$100,000 per tank; and
- 99 (iii) 80% of the total cost of:

- 100 (A) upgrading an underground storage tank;
- 101 (B) replacing an underground storage tank; or
- 102 (C) permanently closing an underground storage tank.

103 (b) A loan made under this section shall:

- 104 (i) have a fixed annual interest rate of 0%;
- 105 (ii) have a term no longer than 10 years;
- 106 (iii) be made on the condition the loan applicant obtains adequate security for the loan
107 as established by board rule under Subsection (9); and

108 (iv) comply with rules made by the board under Subsection (9).

109 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
110 board shall make rules establishing:

- 111 (a) form, content, and procedure for a loan application;
- 112 (b) criteria and procedures for prioritizing a loan application;
- 113 (c) requirements and procedures for securing a loan;
- 114 (d) procedures for making a loan;
- 115 (e) procedures for administering and ensuring repayment of a loan, including late
116 payment penalties;
- 117 (f) procedures for recovering on a defaulted loan; and
- 118 (g) the maximum amount of the fund that may be used for loans.

119 (10) A decision by the director to loan money from the fund and otherwise administer
120 the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

121 (11) The Legislature shall appropriate money from the fund to the department for the
122 administration costs associated with making loans under this section.

123 (12) The director may enter into an agreement with a public entity or private
124 organization to perform a task associated with administration of loans made under this section.

125 Section 2. Section **63I-1-219** is amended to read:

126 **63I-1-219. Repeal dates, Title 19.**

127 (1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

128 (2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

129 (3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

130 (4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,
131 2019.

132 (5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July
133 1, 2020.

134 (6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,
135 [~~2018~~] 2028.

136 (7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

137 (8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

138 (9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

139 (10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1,
140 2027.