

1 H.389

2 Introduced by Representative Trieber of Rockingham

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; underground storage tanks;

6 Petroleum Cleanup Fund; disbursements

7 Statement of purpose of bill as introduced: This bill proposes to provide that  
8 disbursements from the Petroleum Cleanup Fund shall be only for actual costs  
9 and that a recipient of disbursements from the Fund may not profit from the  
10 disbursement.

11 An act relating to disbursement from the Petroleum Cleanup Fund

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

13 Sec. 1. 10 V.S.A. § 1941(b) is amended to read:

14 (b) The ~~secretary~~ Secretary may authorize disbursements from the ~~fund~~  
15 Fund for the purpose of the cleanup and restoration of contaminated soil and  
16 groundwater caused by releases of petroleum from underground storage tanks  
17 and aboveground storage tanks, including air emissions for remedial actions,  
18 and for compensation of third parties for injury and damage caused by a  
19 release. This ~~fund~~ Fund shall be used for no other governmental purposes, nor  
20 shall any portion of the ~~fund~~ Fund ever be available to borrow from by any

1 branch of government; it being the intent of the ~~legislature~~ Legislature that this  
2 ~~fund~~ Fund and its increments shall remain intact and inviolate for the purposes  
3 set out in this chapter. Disbursements under this section shall be made only for  
4 actual costs of taking corrective action or compensating third parties for  
5 injuries. A recipient of a disbursement under this section shall not profit from  
6 the disbursement, directly or through transfer to a corporation, company, or  
7 other entity of which the recipient is a principal owner. Disbursements under  
8 this section may be made only for uninsured costs incurred after January 1,  
9 1987 and for which a claim is made prior to July 1, 2014 and judged to be in  
10 conformance with prevailing industry rates. This includes:

11 (1) costs incurred by taking corrective action as directed by the ~~secretary~~  
12 Secretary for any release of petroleum into the environment from:

13 (A) an underground storage tank defined as a category one tank after  
14 the first \$10,000.00 of the cleanup costs have been borne by the owners or  
15 operators of tanks used for commercial purposes, or after the first \$250.00 of  
16 the cleanup costs have been borne by the owners or operators of tanks with  
17 capacities equal to or less than 1,100 gallons used for farms or residential  
18 purposes. Disbursements on any site shall not exceed \$1,240,000.00. These  
19 disbursements shall be made from the motor fuel account;

20 (B) an underground heating fuel tank used for on-premise heating  
21 after the first \$10,000.00 of the cleanup costs have been borne by the owners

1 or operators of tanks with capacities over 1,100 gallons used for commercial  
2 purposes, or after the first \$250.00 of the cleanup costs have been borne by the  
3 owners or operators of tanks with capacities equal to or less than 1,100 gallons  
4 used for commercial purposes, or after the first \$250.00 of the cleanup costs  
5 have been borne by the owners or operators of residential and farm tanks.

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

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

14 (D) a bulk storage aboveground motor fuel or heating fuel storage  
15 tank site after the first \$10,000.00 of the cleanup costs have been borne by the  
16 owners or operators of tanks used for commercial purposes. Disbursements  
17 under this subdivision (b)(1)(D) on any individual site shall not exceed  
18 \$990,000.00. These disbursements shall be made from the motor fuel account;

19 (E) where a site is contaminated by petroleum releases from both  
20 heating fuel and motor fuel tanks, or where the source of the petroleum  
21 contamination has not been ascertained, the ~~secretary~~ Secretary shall have the

1 discretion to disburse funds from either the heating oil or motor fuel account,  
2 or both;

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

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

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

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

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

20 (C) [Deleted.]

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

3 (5) [Deleted.]

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

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

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

18 Sec. 2. EFFECTIVE DATE

19 This act shall take effect on passage.