

65-34,129. Aboveground petroleum storage tank release trust fund. (a) There is hereby established as a segregated fund in the state treasury the aboveground petroleum storage tank release trust fund, to be administered by the secretary. Revenue from the following sources shall be deposited in the state treasury and credited to the aboveground fund:

- (1) The applicable proceeds of the environmental assurance fee imposed by this act;
- (2) any moneys recovered by the state under the provisions of this act relating to aboveground storage tanks, including administrative expenses, civil penalties and moneys paid under an agreement, stipulation or settlement;
- (3) interest attributable to investment of moneys in the aboveground fund; and
- (4) moneys received by the secretary in the form of gifts, grants, reimbursements or appropriations from any source intended to be used for the purposes of the aboveground fund, but excluding federal grants and cooperative agreements.

(b) Moneys deposited in the aboveground fund may be expended for the purpose of reimbursing owners and operators and such others as provided by this act for the costs of corrective action subject to the conditions and limitations prescribed by this act, but moneys in the aboveground fund shall not otherwise be used for compensating third parties for bodily injury or property damage caused by a release from an aboveground petroleum storage tank, other than property damage included in a corrective action plan approved by the secretary. In addition, moneys credited to the aboveground fund may be expended for the following purposes:

(1) To permit the secretary to take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or potential release from an aboveground petroleum storage tank;

(2) to permit the secretary to take corrective action where the release or potential release presents an actual or potential threat to human health or the environment, if the owner or operator has not been identified or is unable or unwilling to perform corrective action, including but not limited to providing for alternative water supplies;

(3) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-34,114 through 65-34,124, and amendments thereto, with respect to aboveground storage tanks, including the cost of any additional employees or increased general operating costs of the department attributable thereto, which costs shall not be payable from any moneys other than those credited to the aboveground fund; and

(4) reimbursement of persons as authorized by subsection (g) of K.S.A. 65-34,119 and amendments thereto.

(c) The aboveground fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the aboveground fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the aboveground fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(d) Neither the state of Kansas nor the aboveground fund shall be liable to an owner or operator for the loss of business, damages or taking of property associated with any corrective or enforcement action taken pursuant to this act.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the aboveground fund interest earnings based on:

(1) The average daily balance of moneys in the aboveground fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(f) All expenditures from the aboveground fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

(g) This section shall be part of and supplemental to the Kansas storage tank act.

History: L. 1992, ch. 311, § 10; L. 1992, ch. 305, § 4; L. 1996, ch. 253, § 20; May 23.