

# SENATE BILL NO. 742

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

4236S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 319.129, RSMo, and to enact in lieu thereof one new section relating to the petroleum storage tank insurance fund.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 319.129, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 319.129,  
3 to read as follows:

319.129. 1. There is hereby created a special trust  
2 fund to be known as the "Petroleum Storage Tank Insurance  
3 Fund" within the state treasury which shall be the successor  
4 to the underground storage tank insurance fund. Moneys in  
5 such special trust fund shall not be deemed to be state  
6 funds. Notwithstanding the provisions of section 33.080 to  
7 the contrary, moneys in the fund shall not be transferred to  
8 general revenue at the end of each biennium.

9 2. The owner or operator of any underground storage  
10 tank, including the state of Missouri and its political  
11 subdivisions and public transportation systems, in service  
12 on August 28, 1989, shall submit to the department a fee of  
13 one hundred dollars per tank on or before December 31,  
14 1989. The owner or operator of any underground storage tank  
15 who seeks to participate in the petroleum storage tank  
16 insurance fund, including the state of Missouri and its  
17 political subdivisions and public transportation systems,  
18 and whose underground storage tank is brought into service

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 after August 28, 1998, shall transmit one hundred dollars  
20 per tank to the board with his or her initial application.  
21 Such amount shall be a one-time payment, and shall be in  
22 addition to the payment required by section 319.133. The  
23 owner or operator of any aboveground storage tank regulated  
24 by this chapter, including the state of Missouri and its  
25 political subdivisions and public transportation systems,  
26 who seeks to participate in the petroleum storage tank  
27 insurance fund, shall transmit one hundred dollars per tank  
28 to the board with his or her initial application. Such  
29 amount shall be a one-time payment and shall be in addition  
30 to the payment required by section 319.133. Moneys received  
31 pursuant to this section shall be transmitted to the  
32 director of revenue for deposit in the petroleum storage  
33 tank insurance fund.

34 3. The state treasurer may deposit moneys in the fund  
35 in any of the qualified depositories of the state. All such  
36 deposits shall be secured in a manner and upon the terms as  
37 are provided by law relative to state deposits. Interest  
38 earned shall be credited to the petroleum storage tank  
39 insurance fund.

40 4. The general administration of the fund and the  
41 responsibility for the proper operation of the fund,  
42 including all decisions relating to payments from the fund,  
43 are hereby vested in a board of trustees. The board of  
44 trustees shall consist of the commissioner of administration  
45 or the commissioner's designee, the director of the  
46 department of natural resources or the director's designee,  
47 the director of the department of agriculture or the  
48 director's designee, and eight citizens appointed by the  
49 governor with the advice and consent of the senate. Three  
50 of the appointed members shall be owners or operators of

51 retail petroleum storage tanks, including one tank owner or  
52 operator of greater than one hundred tanks; one tank owner  
53 or operator of less than one hundred tanks; and one  
54 aboveground storage tank owner or operator. One appointed  
55 trustee shall represent a financial lending institution, and  
56 one appointed trustee shall represent the insurance  
57 underwriting industry. One appointed trustee shall  
58 represent industrial or commercial users of petroleum. The  
59 two remaining appointed citizens shall have no petroleum-  
60 related business interest, and shall represent the  
61 nonregulated public at large. The members appointed by the  
62 governor shall serve four-year terms except that the  
63 governor shall designate two of the original appointees to  
64 be appointed for one year, two to be appointed for two  
65 years, two to be appointed for three years and two to be  
66 appointed for four years. Any vacancies occurring on the  
67 board shall be filled in the same manner as provided in this  
68 section.

69 5. [The board shall meet in Jefferson City, Missouri,  
70 within thirty days following August 28, 1996. Thereafter,]  
71 The board shall meet upon the written call of the chairman  
72 of the board or by the agreement of any six members of the  
73 board. Notice of each meeting shall be delivered to all  
74 other trustees in person or by registered mail not less than  
75 six days prior to the date fixed for the meeting. The board  
76 may meet at any time by unanimous mutual consent. There  
77 shall be at least one meeting in each quarter.

78 6. Six trustees shall constitute a quorum for the  
79 transaction of business, and any official action of the  
80 board shall be based on a majority vote of the trustees  
81 present.

82           7. The trustees shall serve without compensation but  
83 shall receive from the fund their actual and necessary  
84 expenses incurred in the performance of their duties for the  
85 board.

86           8. The board of trustees shall be a type III agency  
87 and shall appoint an executive director and other employees  
88 as needed, who shall be state employees and be eligible for  
89 all corresponding benefits. The executive director shall  
90 have charge of the offices, operations, records, and other  
91 employees of the board, subject to the direction of the  
92 board. Employees of the board shall receive such salaries  
93 and necessary expenses as shall be fixed by the board.

94           9. Staff resources for the Missouri petroleum storage  
95 tank insurance fund may be provided by the department of  
96 natural resources or another state agency as otherwise  
97 specifically determined by the board. The fund shall  
98 compensate the department of natural resources or other  
99 state agency for all costs of providing staff required by  
100 this subsection. Such compensation shall be made pursuant  
101 to contracts negotiated between the board and the department  
102 of natural resources or other state agency.

103           10. In order to carry out the fiduciary management of  
104 the fund, the board may select and employ, or may contract  
105 with, persons experienced in insurance underwriting,  
106 accounting, the servicing of claims and rate making, and  
107 legal counsel to defend third-party claims, who shall serve  
108 at the board's pleasure. Invoices for such services shall  
109 be presented to the board in sufficient detail to allow a  
110 thorough review of the costs of such services.

111           11. [At the first meeting of the board,] The board  
112 shall elect one of its members as chairman. The chairman

113 shall preside over meetings of the board and perform such  
114 other duties as shall be required by action of the board.

115         12. The board shall elect one of its members as vice  
116 chairman, and the vice chairman shall perform the duties of  
117 the chairman in the absence of the latter or upon the  
118 chairman's inability or refusal to act.

119         13. The board shall determine and prescribe all rules  
120 and regulations as they relate to fiduciary management of  
121 the fund, pursuant to the purposes of sections 319.100 to  
122 319.137. In no case shall the board have oversight  
123 regarding environmental cleanup standards for petroleum  
124 storage tanks.

125         14. No trustee or staff member of the fund shall  
126 receive any gain or profit from any moneys or transactions  
127 of the fund. This shall not preclude any eligible trustee  
128 from making a claim or receiving benefits from the petroleum  
129 storage tank insurance fund as provided by sections 319.100  
130 to 319.137.

131         15. The board may reinsure all or a portion of the  
132 fund's liability. Any insurer who sells environmental  
133 liability insurance in this state may, at the option of the  
134 board, reinsure some portion of the fund's liability.

135         16. The petroleum storage tank insurance fund shall  
136 expire on December 31, **[2025] 2030**, unless extended by  
137 action of the general assembly. After December 31, **[2025]**  
138 **2030**, the board of trustees may continue to function for the  
139 sole purpose of completing payment of claims made prior to  
140 December 31, **[2025] 2030**.

141         17. The board shall annually commission an independent  
142 financial audit of the petroleum storage tank insurance  
143 fund. The board shall biennially commission an actuarial  
144 analysis of the petroleum storage tank insurance fund. The

145 results of the financial audit and the actuarial analysis  
146 shall be made available to the public. The board may  
147 contract with third parties to carry out the requirements of  
148 this subsection.

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