



April 6, 2023

ENGROSSED SENATE BILL No. 246

DIGEST OF SB 246 (Updated April 5, 2023 7:19 pm - DI 125)

Citations Affected: IC 4-10; IC 5-1.2; IC 8-21; IC 13-11; IC 13-14; IC 13-23; IC 13-27; IC 13-30; IC 16-44; IC 22-12; noncode.

Synopsis: Excess liability trust fund. Defines "aboveground storage tank" as a tank that is at least 90% above the surface of the ground, that has a capacity of more than 1,500 gallons but not more than 20,000 gallons, and that is used for the bulk storage and distribution of motor fuel to retailers or used at an airport. Authorizes the use of the petroleum storage tank excess liability trust fund (ELTF) to provide a source of money to satisfy liabilities for corrective action involving aboveground storage tanks as well as underground petroleum storage tanks. Authorizes the use of the ELTF to provide reimbursement of 50% of costs of decommissioning or replacing underground petroleum
(Continued next page)

Effective: July 1, 2023.

**Niemeyer, Gaskill,
Randolph Lonnie M**

(HOUSE SPONSORS — SLAGER, MORRISON)

January 11, 2023, read first time and referred to Committee on Environmental Affairs.
February 7, 2023, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
February 23, 2023, amended, reported favorably — Do Pass.
February 27, 2023, read second time, ordered engrossed. Engrossed.
February 28, 2023, read third time, passed. Yeas 49, nays 0.
HOUSE ACTION
March 6, 2023, read first time and referred to Committee on Environmental Affairs.
March 30, 2023, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
April 6, 2023, amended, reported — Do Pass.

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storage tanks that meet the certain criteria. Requires the underground storage tank financial assurance board to adopt rules concerning this reimbursement program. Transfers, from the state fire marshal and the fire prevention and building safety commission to the Indiana department of environmental management (department) and the environmental rules board, the authority to issue certificates for people who work on underground storage tanks in Indiana. Provides that the commissioner of the department (commissioner) may not: (1) issue an order to secure compliance; or (2) proceed in court; to require the owner or operator of an underground storage tank to undertake corrective action with respect to a release of petroleum from the underground storage tank until the commissioner has received and reviewed the initial site characterization of the site of the release. Establishes requirements for initial site characterizations. Provides that, if a quantity of the released petroleum remains or may remain underground at the site, the commissioner is prohibited from: (1) requesting that the owner or operator execute a restrictive covenant applying to the site of the underground storage tank; (2) making a determination of no further action being required at the site of the underground storage tank; or (3) approving closure of the site of the underground storage tank; unless the commissioner has received and reviewed the initial site characterization. However, allows the commissioner to require the owner or operator to undertake corrective action without having received and reviewed the initial site characterization if the commissioner reasonably believes that the release from the underground storage tank creates a threat to human health or the environment sufficient to necessitate an order or proceeding before the initial site characterization is submitted to the department of environmental management. Provides that the fee for the inspection of gasoline or kerosene shall be imposed on "avgas" (aviation fuel used in piston engine powered aircraft) and jet fuel. Establishes an aviation fuel excess liability trust fund and requires that the inspection fees on avgas and jet fuel be deposited in the account. Provides that the account may be used only for financial responsibility, corrective action, third party indemnification, and administration expenses related to avgas and jet fuel. Provides that a qualified environmental professional, upon behalf of a tank owner, may request a waiver of the initial site characterization requirements and suggest an alternative procedure, as long as the alternative procedure provides substantially equal protection for human health and the environment. Specifies that the subsequent owner of a property that has had a restrictive covenant placed on it because of soil or water contamination due to a leaking underground or aboveground storage tank is eligible for reimbursement for the remediation expenses to remediate the site under the ELTF. Voids an administrative rule concerning eligibility of projects for which funding is available from the airport development grant fund (grant fund) and relocates (with stylistic changes) the contents of the voided administrative rule. Requires the Indiana department of transportation, in determining the match for a state grant for which federal grants are not available, to: (1) consider the airport classification and the type of project; and (2) require matching funds of at least 25%.



April 6, 2023

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 246

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-10-18-12, AS AMENDED BY P.L.113-2014,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 12. If the amount of money in the ~~underground~~
4 petroleum storage tank excess liability trust fund established by
5 IC 13-23-7-1 reaches zero (0), ten million dollars (\$10,000,000) shall
6 be transferred to the ~~underground~~ petroleum storage tank excess
7 liability trust fund from the fund if the:
8 (1) ~~underground~~ petroleum storage tank financial assurance
9 board, **established by IC 13-23-11-1**, recommends that the
10 appropriation should be made; and
11 (2) budget committee approves the appropriation.
12 SECTION 2. IC 5-1.2-12-3, AS AMENDED BY P.L.10-2019,
13 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2023]: Sec. 3. (a) The Indiana brownfields fund is established
15 to provide money for grants, loans, and other financial assistance to or
16 for the benefit of political subdivisions under this chapter. The
17 authority shall administer, hold, and manage the Indiana brownfields

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1 fund.

2 (b) Money in the fund at the end of a state fiscal year does not revert
3 to the state general fund.

4 (c) Expenses of administering the Indiana brownfields fund shall be
5 paid from money in the Indiana brownfields fund.

6 (d) The Indiana brownfields fund consists of the following:

7 (1) Appropriations made by the general assembly.

8 (2) Grants and gifts intended for deposit in the Indiana
9 brownfields fund.

10 (3) Repayments of loans and other financial assistance from the
11 Indiana brownfields fund, including premiums, interest, and
12 penalties.

13 (4) Proceeds from the sale of loans and other financial assistance
14 under section 8 of this chapter.

15 (5) Interest, premiums, gains, or other earnings on the Indiana
16 brownfields fund.

17 (6) Money transferred from the hazardous substances response
18 trust fund under IC 13-25-4-1(a)(9).

19 (7) Fees collected under section 6 of this chapter.

20 (8) Money transferred from the ~~underground~~ petroleum storage
21 tank excess liability trust fund under IC 13-23-7 for the purpose
22 of environmental assessment and remediation on a property
23 containing at least one (1) underground storage tank **or**
24 **aboveground storage tank.**

25 (9) Money transferred from the petroleum trust fund under
26 IC 13-23-12-4(1) for the purpose of corrective actions that
27 involve releases of regulated substances from underground
28 storage tanks **or aboveground storage tanks** and are ineligible
29 to receive funds from the ~~underground~~ petroleum storage tank
30 excess liability trust fund under IC 13-23-7.

31 (e) The authority shall invest the money in the Indiana brownfields
32 fund not currently needed to meet the obligations of the Indiana
33 brownfields fund in accordance with an investment policy adopted by
34 the authority. Interest, premiums, gains, or other earnings from the
35 investments shall be credited to and deposited in the Indiana
36 brownfields fund.

37 (f) As an alternative to subsection (e), the authority may invest or
38 cause to be invested all or a part of the Indiana brownfields fund in a
39 fiduciary account or accounts with a trustee that is a financial
40 institution. Notwithstanding any other law, any investment may be
41 made by the trustee in accordance with one (1) or more trust
42 agreements or indentures. A trust agreement or indenture may allow



disbursements by the trustee to the authority, a participant, or any other person as provided in the trust agreement or indenture.

SECTION 3. IC 8-21-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The department shall adopt rules under IC 4-22-2 to establish a program to foster airport development in Indiana with special emphasis on improvement of airports as an economic development tool. The program must include the following components:

(1) State grants to airports from the grant fund to match federal Aviation Trust Fund grants.

(2) State grants to airports from the grant fund for airport development projects for which federal grants are not available.

(3) Loans to airports from the loan fund for airport development projects.

(b) The rules must establish the following for both grants and loans:

(1) Standards of eligibility.

(2) The maximum amount of money for which any one (1) airport or airport development project is eligible.

(3) Application procedures.

(4) The local matching funds that are required.

(5) In determining the amount of the match for a state grant for which federal grants are not available as described in subsection (a)(2), the department shall:

(A) consider the airport classification and the type of project; and

(B) require matching funds of at least twenty-five percent (25%).

~~(5)~~ (6) Other provisions to administer the grant and loan programs.

SECTION 4. IC 8-21-11-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5.5. (a) The program described in section 5 of this chapter is designed to optimize the use of the grant fund. The primary goals of the allocation program are to:

(1) further the proper development and maintenance of a statewide system of airports;

(2) further economic development; and

(3) provide safety of aircraft operations.

(b) This program requires the project to do the following:

(1) Be for the establishment or improvement of a public use airport.

(2) Be included in the Indiana airports system plan, as



provided in IC 8-21-1-8.

(3) Be located on a site approved by the department.

(4) Follow an airport layout plan approved by the department.

(5) Meet the general design criteria of the Federal Aviation Administration Advisory Circulars.

However, subdivisions (1) through (5) are examples and guidelines and may be waived by the department, where, in the judgment of the department, the public interest is best served by allowing less stringent criteria.

(c) Engineering agreements for work to be financed in part by the grant fund must be reviewed for approval by the department.

(d) Airport development items that are eligible for funding include the following:

(1) Land acquisition for development of airport facilities.

(2) Engineering and legal fees for airport planning and development.

(3) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of runways, taxiways, and aprons.

(4) Acquisition of runway clear zones and aviation easements, or other interests in air space as may be reasonably required for safeguarding aircraft operations in the vicinity of an airport.

(5) Removal of obstructions from approach areas.

(6) Installation or relocation of any of the following:

(A) Segmented circles.

(B) Runway, apron, and taxiway lights.

(C) Taxiway guidance signs.

(D) Obstruction lights.

(E) Security flood lights.

(F) Airport beacons.

(G) Wind and landing direction indicators.

(H) Auxiliary power units.

(I) REILs (Runway End Identification Lights) and visual glideslope indicator systems.

(7) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of airport access roads and public auto parking areas.

(8) Construction of airport safety facilities, security fencing, acquisition of aircraft rescue and firefighting (ARFF) vehicles, and snow removal equipment.



(9) Installation of instrument landing systems, approach lighting systems, and other approach aids.

(10) Development of master planning grants.

(11) Airport operational buildings. However, additional building projects will not be eligible until the eighth fiscal year after the completion of the previous building project.

(12) Terminal buildings, fuel farms, and hangars.

(13) Other items approved by the department, where, in the judgment of the department, the public interest is best served.

SECTION 5. IC 13-11-2-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.3. "Aboveground petroleum storage tank", for purposes of IC 13-23, means an aboveground storage tank that is used to contain petroleum.**

SECTION 6. IC 13-11-2-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.4. (a) "Aboveground storage tank" (or AST), for purposes of this chapter and IC 13-23, means one (1) tank or combination of tanks:**

(1) that is used to contain an accumulation of regulated substances;

(2) the volume of which, including the volume of the aboveground connected pipes described in subsection (b), is not more than ten percent (10%) below the surface of the ground;

(3) with a capacity of over one thousand five hundred (1,500) gallons but not more than twenty thousand (20,000) gallons; and

(4) that is used at:

(A) a bulk plant or facility regulated under the Pipeline Safety Act (49 U.S.C. 60101 et seq.) for the bulk storage and distribution of motor fuel to retailers; or

(B) an airport, including both primary and nonprimary airports as defined in 49 U.S.C. 47102.

(b) If a:

(1) single tank; or

(2) combination of tanks;

constitutes an aboveground storage tank under subsection (a), any pipes that are connected to the single tank or combination of tanks are considered part of the aboveground storage tank.

(c) The term includes a single tank:

(1) that meets the definition set forth in subsection (a); and



- (2) in which there are separate compartments.
- (d) The term does not include any of the following:
- (1) A farm or residential tank with a capacity of not more than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes.
 - (2) A tank used for storing heating oil for consumptive use on the premises on which the tank is stored.
 - (3) A septic tank.
 - (4) A surface impoundment, pit, pond, or lagoon.
 - (5) A storm water or wastewater collection system.
 - (6) A flow-through process tank.
 - (7) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.
 - (8) Any other tank exempted by a rule adopted by the board in accordance with regulations adopted by the Administrator of the United States Environmental Protection Agency.
 - (9) A pipe connected to a tank described in subdivisions (1) through (8).

SECTION 7. IC 13-11-2-2, AS ADDED BY P.L.1-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) "Administrator", **except as provided in subsection (b)**, refers to the administrator of the United States Environmental Protection Agency.

(b) "Administrator", for purposes of IC 13-23 and the administration of the ELTF, means the commissioner of the department of environmental management.

SECTION 8. IC 13-11-2-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15.3. "AST", as used in this chapter and IC 13-23, refers to an aboveground storage tank (as defined in section 0.4 of this chapter).

SECTION 9. IC 13-11-2-17, AS AMENDED BY P.L.13-2013, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 17. (a) "Board", except as provided in subsections (b) through (d), refers to the environmental rules board established by IC 13-13-8-3.

(b) "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

(c) "Board", for purposes of IC 13-23-11, refers to the ~~underground~~ **petroleum** storage tank financial assurance board **established by IC 13-23-11-1**.

(d) "Board", for purposes of IC 13-26, refers to the board of trustees



of a regional water, sewage, or solid waste district.

SECTION 10. IC 13-11-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 50. (a) "Decommissioning", for purposes of IC 13-23, means the removal or closure of an underground storage tank **or aboveground storage tank**.

(b) "Decommissioning", for purposes of IC 13-29-1, means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.

SECTION 11. IC 13-11-2-62.5, AS ADDED BY P.L.96-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 62.5. "Eligible party", as used in IC 13-23, means any of the following:

- (1) An owner, as defined in IC 13-11-2-150.
- (2) An operator, as defined in IC 13-11-2-148(d) and IC 13-11-2-148(e).
- (3) A former owner or operator of a UST **or AST**.
- (4) A transferee of property upon which a UST **or AST** is located.
- (5) A transferee of property upon which a UST **or AST** was located but from which the UST **or AST** has been removed.

SECTION 12. IC 13-11-2-62.7, AS ADDED BY P.L.96-2016, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 62.7. "Eligible release", as used in IC 13-23, means a release of petroleum that meets all of the following criteria:

- (1) The release is from a UST **or AST** that was registered with the department before the date ~~of the ELTF claim on which the claimant confirmed the existence of the release or (if earlier) first suspected the existence of the release.~~
- (2) The release is reported to the department **in accordance with applicable regulations and statutes** not later than thirty (30) days after the date on which the claimant ~~discovered the release.~~ **confirmed the existence of the release or (if earlier) first suspected the existence of the release.**
- (3) An initial site characterization of the facility on which the release occurred is submitted to the department as required by rules adopted by the environmental rules board.
- (4) The release from the UST **or AST** is from the tank or dispensing components of the UST **or AST**, not including the nozzle or hose connecting the nozzle to the pump.

SECTION 13. IC 13-11-2-63.5, AS ADDED BY P.L.96-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 63.5. "ELTF", as used in this chapter and



IC 13-23, refers to the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

SECTION 14. IC 13-11-2-73, AS AMENDED BY P.L.96-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 73. "Excess liability trust fund", for purposes of IC 13-23, refers to the ~~underground~~ petroleum storage tank excess liability trust fund (or ELTF) established by IC 13-23-7-1.

SECTION 15. IC 13-11-2-75 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 75. "Exposure assessment", for purposes of IC 13-23, means an assessment to determine the extent of exposure, or potential for exposure, of individuals to any regulated substance from a release from an underground storage tank **or aboveground storage tank** based on factors such as the following:

- (1) The nature and extent of contamination and the existence of or potential for pathways of human exposure, including ground or surface water contamination, air emissions, and food chain contamination.
- (2) The size of the community within the likely pathway of exposure.
- (3) The comparison of expected human exposure levels to the short term and long term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for those contaminants.

SECTION 16. IC 13-11-2-77, AS AMENDED BY P.L.221-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

- (1) A hazardous waste facility.
- (2) An incinerator.
- (3) A solid waste landfill.
- (4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

- (1) emits; or
 - (2) has the potential to emit;
- a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:

- (1) a single site; or



(2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-23, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the storage or distribution of petroleum.

~~(e)~~ **(f)** "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:

- (1) located on a single site or on contiguous or adjacent sites; and
- (2) owned or operated by:
 - (A) the same person; or
 - (B) any person that controls, is controlled by, or is under common control with the same person.

For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

~~(f)~~ **(g)** "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).

~~(g)~~ **(h)** "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

SECTION 17. IC 13-11-2-81 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 81. (a) "Fiduciary", for purposes of IC 13-23-13:

- (1) means a person acting for the benefit of another party as a bona fide:
 - (A) trustee;
 - (B) executor;
 - (C) administrator;
 - (D) custodian;
 - (E) guardian of estates or guardian ad litem;
 - (F) receiver;
 - (G) conservator;
 - (H) committee of estates of incapacitated persons;
 - (I) personal representative;
 - (J) trustee (including a successor to a trustee) under an



- 1 indenture agreement, trust agreement, lease, or similar
 2 financing agreement for debt securities, certificates of interest
 3 or certificates of participation in debt securities, or other forms
 4 of indebtedness as to which the trustee is not, in the capacity
 5 of trustee, the lender; or
 6 (K) representative in a capacity that is similar to the capacities
 7 referred to in clauses (A) through (J); and
 8 (2) does not include:
 9 (A) a person that is acting as a fiduciary with respect to a trust
 10 or other fiduciary estate that was organized for the primary
 11 purpose of, or is engaged in, actively carrying on a trade or
 12 business for profit, unless the trust or other fiduciary estate
 13 was created as part of, or to facilitate, at least one (1) estate
 14 plan or because of the incapacity of a natural person; or
 15 (B) a person that acquires ownership or control of an
 16 underground storage tank **or aboveground storage tank** with
 17 the objective purpose of avoiding liability of the person or
 18 another person.
 19 (b) "Fiduciary", for purposes of IC 13-24-1:
 20 (1) means a person acting for the benefit of another party as a
 21 bona fide:
 22 (A) trustee;
 23 (B) executor;
 24 (C) administrator;
 25 (D) custodian;
 26 (E) guardian of estates or guardian ad litem;
 27 (F) receiver;
 28 (G) conservator;
 29 (H) committee of estates of incapacitated persons;
 30 (I) personal representative;
 31 (J) trustee (including a successor to a trustee) under an
 32 indenture agreement, trust agreement, lease, or similar
 33 financing agreement for debt securities, certificates of interest
 34 or certificates of participation in debt securities, or other forms
 35 of indebtedness as to which the trustee is not, in the capacity
 36 of trustee, the lender; or
 37 (K) representative in a capacity that is similar to the capacities
 38 referred to in clauses (A) through (J); and
 39 (2) does not include:
 40 (A) a person that is acting as a fiduciary with respect to a trust
 41 or other fiduciary estate that was organized for the primary
 42 purpose of, or is engaged in, actively carrying on a trade or



- 1 business for profit, unless the trust or other fiduciary estate
 2 was created as part of, or to facilitate, at least one (1) estate
 3 plan or because of the incapacity of a natural person; or
 4 (B) a person that acquires ownership or control of a petroleum
 5 facility with the purpose of avoiding liability of the person or
 6 of another person.
- 7 (c) "Fiduciary", for purposes of IC 13-25-4:
 8 (1) means a person acting for the benefit of another party as a
 9 bona fide:
 10 (A) trustee;
 11 (B) executor;
 12 (C) administrator;
 13 (D) custodian;
 14 (E) guardian of estates or guardian ad litem;
 15 (F) receiver;
 16 (G) conservator;
 17 (H) committee of estates of incapacitated persons;
 18 (I) personal representative;
 19 (J) trustee (including a successor to a trustee) under an
 20 indenture agreement, trust agreement, lease, or similar
 21 financing agreement for debt securities, certificates of interest
 22 or certificates of participation in debt securities, or other forms
 23 of indebtedness as to which the trustee is not, in the capacity
 24 of trustee, the lender; or
 25 (K) representative in a capacity that is similar to the capacities
 26 referred to in clauses (A) through (J); and
 27 (2) does not include:
 28 (A) a person that is acting as a fiduciary with respect to a trust
 29 or other fiduciary estate that was organized for the primary
 30 purpose of, or is engaged in, actively carrying on a trade or
 31 business for profit, unless the trust or other fiduciary estate
 32 was created as part of, or to facilitate, at least one (1) estate
 33 plan or because of the incapacity of a natural person; or
 34 (B) a person that acquires ownership or control of a vessel or
 35 facility with the objective purpose of avoiding liability of the
 36 person or of another person.
- 37 SECTION 18. IC 13-11-2-81.5 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 81.5. (a) "Fiduciary
 39 capacity", for purposes of IC 13-23-13, means the capacity of a person
 40 in holding title to an underground storage tank **or aboveground**
 41 **storage tank** pursuant to the exercise of the responsibilities of the
 42 person as a fiduciary.



1 (b) "Fiduciary capacity", for purposes of IC 13-24-1, means the
 2 capacity of a person in holding title to a petroleum facility pursuant to
 3 the exercise of the responsibilities of the person as a fiduciary.

4 (c) "Fiduciary capacity", for purposes of IC 13-25-4, means the
 5 capacity of a person in holding title to a vessel or facility pursuant to
 6 the exercise of the responsibilities of the person as a fiduciary.

7 SECTION 19. IC 13-11-2-84 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 84. "Financial
 9 assurance board", for purposes of IC 13-23, refers to the ~~underground~~
 10 petroleum storage tank financial assurance board **established by**
 11 **IC 13-23-11-1.**

12 SECTION 20. IC 13-11-2-85.6, AS ADDED BY P.L.159-2011,
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2023]: Sec. 85.6. "Foreclosure", for purposes of sections
 15 148(e)(2), 150(c), and 151(e) of this chapter, means the acquisition of
 16 a vessel or facility for purposes of IC 13-25-4-8(c), an underground
 17 storage tank **or aboveground storage tank** for purposes of
 18 IC 13-23-13, or a petroleum facility for purposes of IC 13-24-1 through
 19 any of the following:

20 (1) If the vessel or facility, underground storage tank **or**
 21 **aboveground storage tank**, or petroleum facility was security for
 22 an extension of credit previously contracted:

23 (A) purchase at sale under a judgment or decree, power of
 24 sale, or nonjudicial foreclosure;

25 (B) a deed in lieu of foreclosure or a similar conveyance from
 26 a trustee; or

27 (C) repossession.

28 (2) Conveyance under an extension of credit previously
 29 contracted, including the termination of a lease agreement.

30 (3) Any other formal or informal manner by which the person
 31 acquires, for subsequent disposition, title to or possession of a
 32 vessel or facility, underground storage tank **or aboveground**
 33 **storage tank**, or petroleum facility in order to protect the security
 34 interest of the person.

35 SECTION 21. IC 13-11-2-87, AS AMENDED BY P.L.100-2021,
 36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2023]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers
 38 to the environmental management special fund.

39 (b) "Fund", for purposes of IC 13-15-10, refers to the waste facility
 40 operator trust fund.

41 (c) "Fund", for purposes of IC 13-15-11, refers to the environmental
 42 management permit operation fund.



(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

(f) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

(g) "Fund", for purposes of IC 13-19-3-3.2, refers to the CCR program fund.

(h) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

(i) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

(j) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

(k) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

(l) "Fund", for purposes of IC 13-23-6, refers to the ~~underground~~ petroleum storage tank trust fund.

(m) "Fund", for purposes of IC 13-23-7 and IC 13-23-8, refers to the ~~underground~~ petroleum storage tank excess liability trust fund (or ELTF).

(n) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

(o) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

(p) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

SECTION 22. IC 13-11-2-119, AS AMENDED BY P.L.113-2014, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 119. (a) "Lender", for purposes of IC 13-23-13, means any of the following:

(1) An insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

(2) An insured credit union (as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(3) A bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(4) A leasing or trust company that is an affiliate of an insured depository institution.

(5) A person (including a successor or assignee of the person) that:

(A) makes a bona fide extension of credit to; or

(B) takes or acquires a security interest from;



1 a nonaffiliated person.

2 (6) The Federal National Mortgage Association, the Federal
3 Home Loan Mortgage Corporation, the Federal Agricultural
4 Mortgage Corporation, or an entity that buys or sells loans or
5 interests in loans in a bona fide manner.

6 (7) A person that:

7 (A) insures or guarantees against a default in the repayment of
8 an extension of credit; or

9 (B) acts as a surety with respect to an extension of credit;
10 to a nonaffiliated person.

11 (8) A person that provides title insurance and that acquires an
12 underground storage tank **or aboveground storage tank** as a
13 result of assignment or conveyance in the course of underwriting
14 claims and claims settlement.

15 (b) "Lender", for purposes of IC 13-24-1, means any of the
16 following:

17 (1) An insured depository institution (as defined in Section 3 of
18 the Federal Deposit Insurance Act (12 U.S.C. 1813)).

19 (2) An insured credit union (as defined in Section 101 of the
20 Federal Credit Union Act (12 U.S.C. 1752)).

21 (3) A bank or association chartered under the Farm Credit Act of
22 1971 (12 U.S.C. 2001 et seq.).

23 (4) A leasing or trust company that is an affiliate of an insured
24 depository institution.

25 (5) A person (including a successor or assignee of the person)
26 that:

27 (A) makes a bona fide extension of credit to; or

28 (B) takes or acquires a security interest from;
29 a nonaffiliated person.

30 (6) The Federal National Mortgage Association, the Federal
31 Home Loan Mortgage Corporation, the Federal Agricultural
32 Mortgage Corporation, or an entity that buys or sells loans or
33 interests in loans in a bona fide manner.

34 (7) A person that:

35 (A) insures or guarantees against a default in the repayment of
36 an extension of credit; or

37 (B) acts as a surety with respect to an extension of credit;
38 to a nonaffiliated person.

39 (8) A person that provides title insurance and that acquires a
40 petroleum facility as a result of assignment or conveyance in the
41 course of underwriting claims and claims settlement.

42 (c) "Lender", for purposes of IC 13-25-4, means any of the



following:

(1) An insured depository institution (as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)).

(2) An insured credit union (as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(3) A bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(4) A leasing or trust company that is an affiliate of an insured depository institution.

(5) A person (including a successor or assignee of the person) that:

(A) makes a bona fide extension of credit to; or

(B) takes or acquires a security interest from;

a nonaffiliated person.

(6) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or an entity that buys or sells loans or interests in loans in a bona fide manner.

(7) A person that:

(A) insures or guarantees against a default in the repayment of an extension of credit; or

(B) acts as a surety with respect to an extension of credit;

to a nonaffiliated person.

(8) A person that provides title insurance and that acquires a vessel or facility as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

SECTION 23. IC 13-11-2-148, AS AMENDED BY P.L.6-2012, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 148. (a) "Operator", for purposes of IC 13-18-10, means the person in direct or responsible charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental management laws, means the person in direct or responsible charge and supervising the operation of:

(1) a water treatment plant;

(2) a wastewater treatment plant; or

(3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a limited liability company, a partnership, a business association, a unit, or an individual who is a sole proprietor that is one (1) of the following:

(1) A broker.

(2) A person who manages the activities of a transfer station that



1 receives municipal waste.

2 (3) A transporter.

3 (d) "Operator", for purposes of IC 13-23, except as provided in
4 subsections (e), (g), and (h), means a person:

5 (1) in control of; or

6 (2) having responsibility for;

7 the daily operation of an underground storage tank **or aboveground**
8 **storage tank.**

9 (e) "Operator", for purposes of IC 13-23-13, does not include the
10 following:

11 (1) A person who:

12 (A) does not participate in the management of an underground
13 storage tank **or aboveground storage tank;**

14 (B) is otherwise not engaged in the:

15 (i) production;

16 (ii) refining; and

17 (iii) marketing;

18 of regulated substances; and

19 (C) holds evidence of ownership, primarily to protect the
20 owner's security interest in the tank.

21 (2) A person that is a lender that did not participate in
22 management of an underground storage tank **or aboveground**
23 **storage tank** before foreclosure, notwithstanding that the person:

24 (A) forecloses on the vessel or facility; and

25 (B) after foreclosure, sells, re-leases (in the case of a lease
26 finance transaction), or liquidates the underground storage
27 tank **or aboveground storage tank**, maintains business
28 activities, winds up operations, undertakes a response action
29 under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1))
30 or under the direction of an on-scene coordinator appointed
31 under the National Contingency Plan with respect to the
32 underground storage tank **or aboveground storage tank**, or
33 takes any other measure to preserve, protect, or prepare the
34 underground storage tank **or aboveground storage tank** prior
35 to sale or disposition;

36 if the person seeks to sell, re-lease (in the case of a lease finance
37 transaction), or otherwise divest the person of the underground
38 storage tank **or aboveground storage tank** at the earliest
39 practicable, commercially reasonable time, on commercially
40 reasonable terms, taking into account market conditions and legal
41 and regulatory requirements.

42 (3) A person who:



- 1 (A) does not own or lease, directly or indirectly, the facility or
 2 business at which the underground storage tank **or**
 3 **aboveground storage tank** is located;
 4 (B) does not participate in the management of the facility or
 5 business described in clause (A); and
 6 (C) is engaged only in:
 7 (i) filling;
 8 (ii) gauging; or
 9 (iii) filling and gauging;
 10 the product level in the course of delivering fuel to an
 11 underground storage tank **or aboveground storage tank**.
 12 (4) A political subdivision (as defined in IC 36-1-2-13) or unit of
 13 federal or state government that:
 14 (A) acquires ownership or control of an underground storage
 15 tank **or aboveground storage tank** on a brownfield because
 16 of:
 17 (i) bankruptcy;
 18 (ii) foreclosure;
 19 (iii) tax delinquency, including an acquisition under
 20 IC 6-1.1-24 or IC 6-1.1-25;
 21 (iv) abandonment;
 22 (v) the exercise of eminent domain, including any purchase
 23 of property once an offer to purchase has been tendered
 24 under IC 32-24-1-5;
 25 (vi) receivership;
 26 (vii) transfer from another political subdivision or unit of
 27 federal or state government;
 28 (viii) acquiring an area needing redevelopment (as defined
 29 in IC 36-7-1-3) or conducting redevelopment activities,
 30 specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,
 31 IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and
 32 IC 36-7-15.1-15.5;
 33 (ix) other circumstances in which the political subdivision
 34 or unit of federal or state government involuntarily acquired
 35 an interest in the property because of the political
 36 subdivision's or unit's function as sovereign; or
 37 (x) any other means to conduct remedial actions on a
 38 brownfield; and
 39 (B) is engaged only in activities in conjunction with:
 40 (i) investigation or remediation of hazardous substances,
 41 petroleum, and other pollutants associated with a
 42 brownfield, including complying with land use restrictions



and institutional controls; or

(ii) monitoring or closure of an underground storage tank **or aboveground storage tank;**

unless existing contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the political subdivision or unit of federal or state government.

(f) For purposes of subsection (e)(4)(B), reckless, willful, or wanton misconduct constitutes gross negligence.

(g) "Operator" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(h) "Operator" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 24. IC 13-11-2-150, AS AMENDED BY P.L.159-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), (c), (d), (e), (f) and (g)) means:

(1) for an underground storage tank **or aboveground storage tank** that:

(A) was:

(i) in use on November 8, 1984; or

(ii) brought into use after November 8, 1984;

for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank **or aboveground storage tank** or the real property that is the underground storage tank site **or aboveground storage tank site**, or both; or

(B) was:

(i) in use before November 8, 1984; but

(ii) no longer in use on November 8, 1984;

a person who owned the tank immediately before the discontinuation of the tank's use; or

(2) a person who conveyed ownership or control of the underground storage tank **or aboveground storage tank** to a



political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:

(A) bankruptcy;

(B) foreclosure;

(C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;

(D) abandonment;

(E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;

(F) receivership;

(G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;

(H) other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or

(I) any other means to conduct remedial actions on a brownfield;

if the person was a person described in subdivision (1) immediately before the person conveyed ownership or control of the underground storage tank **or aboveground storage tank**.

(b) "Owner", for purposes of IC 13-23-13, does not include a person who:

(1) does not participate in the management of an underground storage tank **or aboveground storage tank**;

(2) is otherwise not engaged in the:

(A) production;

(B) refining; and

(C) marketing;

of regulated substances; and

(3) holds indicia of ownership primarily to protect the owner's security interest in the tank.

(c) "Owner", for purposes of IC 13-23, does not include a person that is a lender that did not participate in management of an underground storage tank **or aboveground storage tank** before foreclosure, notwithstanding that the person:

(1) forecloses on the underground storage tank **or aboveground storage tank**; and

(2) after foreclosure, sells, re-leases (in the case of a lease finance



transaction), or liquidates the underground storage tank **or aboveground storage tank**, maintains business activities, winds up operations, undertakes a response action under Section 107(d)(1) of CERCLA (42 U.S.C. 9607(d)(1)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan with respect to the underground storage tank **or aboveground storage tank**, or takes any other measure to preserve, protect, or prepare the underground storage tank **or aboveground storage tank** prior to sale or disposition;

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the underground storage tank **or aboveground storage tank** at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

(d) "Owner", for purposes of IC 13-23, does not include a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government that acquired ownership or control of an underground storage tank **or aboveground storage tank** because of:

- (1) bankruptcy;
- (2) foreclosure;
- (3) tax delinquency, including an acquisition under IC 6-1.1-24 or IC 6-1.1-25;
- (4) abandonment;
- (5) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
- (6) receivership;
- (7) transfer from another political subdivision or unit of federal or state government;
- (8) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;
- (9) other circumstances in which the political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or
- (10) any other means to conduct remedial actions on a brownfield;

unless the political subdivision or unit of federal or state government causes or contributes to the release or threatened release of a regulated



substance, in which case the political subdivision or unit of federal or state government is subject to IC 13-23 in the same manner and to the same extent as a nongovernmental entity under IC 13-23.

(e) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank **or aboveground storage tank** to assist and support a political subdivision's revitalization and reuse of a brownfield for noncommercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23.

(f) "Owner" does not include a person that after June 30, 2009, meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(q) of CERCLA (42 U.S.C. 9607(q)) that apply for purposes of the determination of liability for a release of a hazardous substance.

(g) "Owner" does not include a person that meets, for purposes of the determination under IC 13-23-13 of liability for a release from an underground storage tank **or aboveground storage tank**, the exemption criteria under Section 107(r) of CERCLA (42 U.S.C. 9607(r)) that apply for purposes of the determination of liability for a release of a hazardous substance, except that the person acquires ownership of the facility after June 30, 2009.

SECTION 25. IC 13-11-2-151.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 151.2. (a) "Participate in management", for purposes of IC 13-23-13, means actually participating in the management or operational affairs of an underground storage tank **or aboveground storage tank**.

(b) The term does not include the following:

- (1) Merely having the capacity to influence, or the unexercised right to control, underground **or aboveground** storage operations.
- (2) Performing an act or failing to perform an act before the time at which a security interest is created in an underground storage tank **or aboveground storage tank**.
- (3) Holding a security interest or abandoning a security interest.
- (4) Including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, a warranty, or another term or condition that relates to environmental compliance.
- (5) Monitoring or enforcing the terms and conditions of the



extension of credit or security interest.

(6) Monitoring or undertaking at least one (1) inspection of an underground storage tank **or aboveground storage tank**.

(7) Requiring a response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the underground storage tank **or aboveground storage tank** prior to, during, or on the expiration of the term of the extension of credit.

(8) Providing financial advice or other advice or counseling in an effort to mitigate, prevent, or cure default or decrease in the value of an underground storage tank **or aboveground storage tank**.

(9) Restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance.

(10) Exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement.

(11) Conducting a response action under Section 107(d) of CERCLA (42 U.S.C. 9607(d)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, unless the person conducting the response action assumes or manifests responsibility:

(A) for the overall management of the underground storage tank **or aboveground storage tank**, encompassing day to day decision making with respect to environmental compliance; or

(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank **or aboveground storage tank** other than the function of environmental compliance.

(c) As used in this section, "extension of credit" includes a lease finance transaction:

(1) in which the lessor does not initially select the leased underground storage tank **or aboveground storage tank** and does not during the lease term control the daily operations or maintenance of the underground storage tank **or aboveground storage tank**; or

(2) that conforms with regulations issued by:

(A) the appropriate federal banking agency or the appropriate state bank supervisor (as those terms are defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813); or

(B) the National Credit Union Administration Board.

SECTION 26. IC 13-11-2-161 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 161. (a) "Petroleum facility", for purposes of IC 13-24-1, means any of the following:

- (1) A building.
- (2) A structure.
- (3) An installation.
- (4) A piece of equipment.
- (5) A pipe, including a pipe that runs into a sewer or publicly owned treatment facility.
- (6) A well.
- (7) A pit.
- (8) A pond.
- (9) A lagoon.
- (10) An impoundment.
- (11) A ditch.
- (12) A landfill.
- (13) A storage container.
- (14) A motor vehicle.
- (15) Rolling stock.
- (16) Aircraft.
- (17) A site or an area on which petroleum has been:
 - (A) deposited;
 - (B) stored;
 - (C) disposed of;
 - (D) placed; or
 - (E) located.

(b) The term does not include the following:

- (1) A consumer product in consumer use.
- (2) An underground storage tank **or aboveground storage tank.**

SECTION 27. IC 13-11-2-163 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 163. "Petroleum trust fund", for purposes of IC 13-23, refers to the ~~underground~~ petroleum storage tank trust fund established by IC 13-23-6-1.

SECTION 28. IC 13-11-2-172, AS AMENDED BY P.L.189-2018, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 172. "Program", for purposes of IC 13-23, refers to an underground storage tank **and aboveground storage tank** release:

- (1) detection;
- (2) prevention; and
- (3) correction;

program created in accordance with the requirements of IC 13-23 or IC 13-7-20 (before its repeal).



SECTION 29. IC 13-11-2-177.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 177.7. "Qualified environmental professional", for purposes of IC 13-23-13, means the following:

(1) A registered professional engineer (as defined in IC 25-31-1-2).

(2) A licensed professional geologist (as defined in IC 25-17.6-1-6.5).

(3) A certified hazardous materials manager (CHMM) as certified by the Institute of Hazardous Material Management.

(4) A professional soil scientist registered under IC 25-31.5-4-1.

SECTION 30. IC 13-11-2-184 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 184. (a) "Release", for purposes of IC 13-23, means any:

- (1) spilling;
- (2) leaking;
- (3) emitting;
- (4) discharging;
- (5) escaping;
- (6) leaching; or
- (7) disposing;

from an underground storage tank **or aboveground storage tank** into ground water, surface water, subsurface soils, or surface soils.

(b) "Release", for purposes of IC 13-24-1, means:

- (1) a spill;
- (2) a leak;
- (3) an emission;
- (4) a discharge;
- (5) an escape;
- (6) a leaching; or
- (7) a disposing;

of petroleum into ground water, surface water, subsurface soils, or surface soils. The term does not include the release of petroleum into land used by a scrap metal processor (as defined in IC 9-13-2-162) or farmer, unless the commissioner determines that the release of the petroleum is adverse to human health.

(c) "Release", for purposes of IC 13-25-2, means any:

- (1) spilling;
- (2) leaking;
- (3) pumping;
- (4) pouring;



- 1 (5) emitting;
- 2 (6) emptying;
- 3 (7) discharging;
- 4 (8) injecting;
- 5 (9) escaping;
- 6 (10) leaching;
- 7 (11) dumping; or
- 8 (12) disposing;
- 9 into the environment of any hazardous chemical, extremely hazardous
- 10 substance, or toxic chemical. The term includes the abandonment or
- 11 discarding of barrels, containers, and other closed receptacles.
- 12 (d) "Release", for purposes of IC 13-25-4, means any:
- 13 (1) spilling;
- 14 (2) leaking;
- 15 (3) pumping;
- 16 (4) pouring;
- 17 (5) emitting;
- 18 (6) emptying;
- 19 (7) discharging;
- 20 (8) injecting;
- 21 (9) escaping;
- 22 (10) leaching;
- 23 (11) dumping; or
- 24 (12) disposing;
- 25 into the environment. The term includes the abandonment or discarding
- 26 of barrels, containers, or other closed receptacles containing any
- 27 hazardous substance.
- 28 (e) "Release", for purposes of IC 13-25-5, means any:
- 29 (1) spilling;
- 30 (2) leaking;
- 31 (3) pumping;
- 32 (4) pouring;
- 33 (5) emitting;
- 34 (6) emptying;
- 35 (7) discharging;
- 36 (8) injecting;
- 37 (9) escaping;
- 38 (10) leaching;
- 39 (11) dumping; or
- 40 (12) disposing;
- 41 into the environment. The term includes the abandonment or discarding
- 42 of barrels, containers, or other closed receptacles containing any



hazardous substance or petroleum.

SECTION 31. IC 13-11-2-194, AS AMENDED BY P.L.178-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 194. (a) "Retailer", for purposes of IC 13-20-14, means a person engaged in the business of selling new tires at retail in Indiana.

(b) "Retailer", for purposes of IC 13-20-16, means a person engaged in the business of selling lead acid batteries at retail in Indiana.

(c) "Retailer", for purposes of section 195.7 of this chapter and IC 13-20.5, means a person that sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a covered entity and not for resale in any form.

(d) "Retailer", for purposes of section 0.4 of this chapter and IC 13-23, means a person who purchases motor fuel for sale to the general public for ultimate consumption.

SECTION 32. IC 13-11-2-241, AS AMENDED BY P.L.96-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 241. (a) "Underground storage tank" (or UST), for purposes of this chapter and IC 13-23, means one (1) tank or a combination of tanks:

(1) that is used to contain an accumulation of regulated substances; and

(2) the volume of which, including the volume of the underground connected pipes described in subsection (b), is at least ten percent (10%) beneath the surface of the ground.

(b) If:

(1) a single tank; or

(2) a combination of tanks;

constitutes an underground storage tank under subsection (a), any underground pipes that are connected to the single tank or combination of tanks are also part of the underground storage tank.

(c) The term defined in subsection (a) includes a single tank:

(1) that meets the definition set forth in subsection (a); and

(2) in which there are separate compartments.

(d) The term does not include any of the following:

(1) A farm or residential tank with a capacity of not more than one thousand one hundred (1,100) gallons that is used for storing motor fuel for noncommercial purposes.

(2) A tank used for storing heating oil for consumptive use on the premises on which the tank is stored.

(3) A septic tank.

(4) A pipeline facility, including gathering lines, that:



- 1 (A) is regulated under **the Pipeline Safety Act** ~~the Natural~~
 2 ~~Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.);~~
 3 ~~(B) is regulated under the Hazardous Liquid Pipeline Safety~~
 4 ~~Act of 1979 (49 U.S.C. 60101 et seq.); or~~
 5 ~~(C) (B) is an intrastate pipeline facility regulated under state~~
 6 ~~laws comparable to the laws identified in clauses clause (A).~~
 7 ~~through (B).~~
 8 (5) A surface impoundment, pit, pond, or lagoon.
 9 (6) A ~~stormwater~~ **storm water** or wastewater collection system.
 10 (7) A flow-through process tank.
 11 (8) A liquid trap or associated gathering lines directly related to
 12 oil or gas production and gathering operations.
 13 (9) A storage tank situated in an underground area such as:
 14 (A) a basement;
 15 (B) a cellar;
 16 (C) a mineworking;
 17 (D) a drift;
 18 (E) a shaft; or
 19 (F) a tunnel;
 20 if the storage tank is situated upon or above the surface of the
 21 floor.
 22 (10) Any other tank exempted by a rule adopted by the board in
 23 accordance with regulations adopted by the Administrator of the
 24 United States Environmental Protection Agency.
 25 (11) A pipe connected to a tank described in subdivisions (1)
 26 through (10).
 27 SECTION 33. IC 13-14-9-1, AS AMENDED BY P.L.133-2012,
 28 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2023]: Sec. 1. (a) Except as provided in sections 8 and 14 of
 30 this chapter, this chapter applies to the following:
 31 (1) The board.
 32 (2) The ~~underground~~ **petroleum** storage tank financial assurance
 33 board established by IC 13-23-11-1.
 34 (b) In addition to the requirements of IC 4-22-2 and IC 13-14-8, a
 35 board may not adopt a rule except in accordance with this chapter.
 36 SECTION 34. IC 13-23-2-2 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A unit of local
 38 government may not enact or enforce an ordinance that requires:
 39 (1) a permit;
 40 (2) a license;
 41 (3) an approval;
 42 (4) an inspection; or



(5) the payment of a fee or tax;
for the installation, use, retrofitting, closure, or removal of an
underground storage tank **or aboveground storage tank** unless the
department has approved the ordinance or a proposed ordinance in
writing.

SECTION 35. IC 13-23-3-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~state fire~~
~~marshal department~~ shall, under rules adopted by the ~~fire prevention~~
~~and building safety commission board~~ under IC 4-22-2 **and**
IC 13-14-9, establish a certification program for persons who
supervise, manage, or direct underground storage tank **or**
aboveground storage tank:

- (1) installation or retrofitting;
- (2) testing;
- (3) cathodic protection procedures; or
- (4) decommissioning.

(b) A person may be certified by the ~~state fire marshal department~~
if the person submits evidence to the ~~state fire marshal department~~
that the person has successfully completed:

- (1) the International Fire Code Institute examination; or
- (2) another appropriate examination approved by the ~~state fire~~
~~marshal department~~.

(c) The ~~state fire marshal department~~ may create a supplemental
educational library concerning proper installation and closure of
underground storage tanks **or aboveground storage tanks**, which
includes the American Petroleum Institute's series, "An Education and
Certification Program for Underground Storage Tank Professionals"
and "API 653 Aboveground Storage Tank Inspector Certification
Program".

SECTION 36. IC 13-23-3-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) A person
described under section 1 of this chapter may not:

- (1) install or retrofit;
- (2) test;
- (3) provide cathodic protection for; or
- (4) decommission;

an underground storage tank **or aboveground storage tank** unless the
person has been certified by the ~~state fire marshal department~~.

(b) The ~~state fire marshal department~~ may temporarily deny or
revoke the certification of a person made under subsection (a) if the
person has negligently violated a standard established by the board **or**
~~the fire prevention and building safety commission~~ concerning the:



1 (1) installation or retrofitting;
 2 (2) testing;
 3 (3) cathodic protection; or
 4 (4) decommissioning;
 5 of an underground storage tank **or aboveground storage tank.**

6 (c) If a person:

- 7 (1) has been denied certification; or
 8 (2) had the person's certification revoked under subsection (b) or
 9 IC 13-7-20-13.3(b) (before its repeal);

10 the ~~state fire marshal department~~ may certify the person only if the
 11 person files a performance bond with the ~~state fire marshal~~
 12 **department** in an amount established by the ~~fire prevention and~~
 13 ~~building safety commission~~ **board.**

14 (d) If a person who is certified or attempts to become certified under
 15 subsection (c) intentionally or negligently violates a standard
 16 established by the board ~~or the fire prevention and building safety~~
 17 ~~commission~~ concerning the installation or retrofitting of, testing of,
 18 provision of cathodic protection for, or decommissioning of an
 19 underground storage tank **or aboveground storage tank**, the ~~state fire~~
 20 ~~marshal department~~ may:

- 21 (1) permanently deny the certification of the person; or
 22 (2) permanently revoke the certification of the person.

23 SECTION 37. IC 13-23-3-4 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A certificate
 25 issued under section 1 of this chapter expires two (2) years from the
 26 date a person successfully completes the examination to qualify to
 27 obtain the certificate.

28 (b) The ~~fire prevention and building safety commission board~~ may
 29 adopt rules establishing renewal procedures for certificates that expire
 30 under subsection (a).

31 SECTION 38. IC 13-23-5-1, AS AMENDED BY P.L.96-2016,
 32 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2023]: Sec. 1. (a) Subject to section 2 of this chapter, and
 34 except as provided in subsection (b), an underground storage tank,
 35 whether of single or double wall construction, may not be installed
 36 before the effective date of the rules adopted under IC 13-23-1-2 for the
 37 purpose of storing regulated substances unless:

- 38 (1) the tank will prevent releases due to corrosion or structural
 39 failure for the operational life of the tank;
 40 (2) the tank is:
 41 (A) cathodically protected against corrosion;
 42 (B) constructed of noncorrosive material;



- 1 (C) steel clad with a noncorrosive material; or
- 2 (D) designed to prevent the release or threatened release of
- 3 any stored substance;
- 4 (3) the material used in the construction or lining of the tank is
- 5 compatible with the substance to be stored; and
- 6 (4) after July 1, 2007, all newly installed or replaced piping
- 7 connected to the tank meets the secondary containment
- 8 requirements adopted by the board.
- 9 (b) An underground storage tank system that contains alcohol
- 10 blended fuels composed of greater than fifteen percent (15%) alcohol
- 11 ~~is a petroleum UST system (as defined in 329 IAC 9-1-36 as in effect~~
- 12 ~~January 1, 2007) and~~ may be installed during the period referred to in
- 13 subsection (a) if the system is otherwise in compliance with rules
- 14 adopted by the board concerning technical and safety requirements
- 15 relating to the physical characteristics of underground petroleum
- 16 storage tanks and ancillary equipment, including dispensing equipment,
- 17 used in the storing or dispensing of alcohol blended fuels for purposes
- 18 of all other provisions of this article.
- 19 (c) Owners and operators of underground storage tank systems that
- 20 store, carry, or dispense alcohol blended fuels composed of greater than
- 21 fifteen percent (15%) alcohol that comply with subsection (b) are
- 22 considered to meet the standards of:
- 23 (1) compatibility under subsection (a)(3); and
- 24 (2) compliance for purposes of all other provisions of this article.
- 25 SECTION 39. IC 13-23-6-1 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~
- 27 petroleum storage tank trust fund is established to provide a source of
- 28 money for the uses set forth in IC 13-23-13-6.
- 29 SECTION 40. IC 13-23-6-2, AS AMENDED BY P.L.38-2012,
- 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2023]: Sec. 2. The sources of money for the fund are as
- 32 follows:
- 33 (1) Grants made by the United States Environmental Protection
- 34 Agency to the state under cooperative agreements under Section
- 35 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C.
- 36 6991b(h)(7)).
- 37 (2) Costs recovered by the state under IC 13-23-13-8 in
- 38 connection with any corrective action undertaken under
- 39 IC 13-23-13-2 with respect to a release of petroleum.
- 40 (3) Costs recovered by the state in connection with the
- 41 enforcement of this article with respect to any release of
- 42 petroleum.



(4) Appropriations made by the general assembly, gifts, and donations intended for deposit in the fund.

(5) Penalties imposed under IC 13-23-14.

(6) Revenue from the ~~underground~~ petroleum storage tank registration fee deposited in the fund under ~~IC 13-23-12-4~~.

IC 13-23-12-4(1).

SECTION 41. IC 13-23-7-1, AS AMENDED BY P.L.96-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) The ~~underground~~ petroleum storage tank excess liability trust fund (or ELTF) is established for the following purposes:

(1) Assisting owners and operators of underground petroleum storage tanks to establish evidence of financial responsibility as required under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities for corrective action **for underground petroleum storage tanks and aboveground storage tanks.**

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3.

(4) Providing a source of money to pay for the expenses of the department incurred in:

(A) paying and administering claims against the ELTF for those job activities and expenses that consist exclusively of administering the ELTF;

(B) inspecting underground storage tanks **and aboveground storage tanks; and**

(C) establishing and implementing an online underground storage tank **and aboveground storage tank** operator training program that complies with the requirements of the federal Energy Policy Act of 2005; **and**

(D) project management and oversight of eligible releases.

(5) Providing a source of money to pay for the expenses of the department incurred under section 7(b) of this chapter.

(b) The expenses described in subsection (a)(4) that are paid from the ELTF in a state fiscal year may not exceed eleven percent (11%) of the fund income in the immediately preceding state fiscal year.

(c) The ELTF is designated as a trust fund.

SECTION 42. IC 13-23-7-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.2. (a) The aviation fuel account is established within the ELTF. The account shall be administered by the commissioner or the commissioner's designee.**



(b) The account consists of the following:

(1) Fees on the inspection of avgas (as defined in IC 16-44-2-0.5) and jet fuel (as defined in IC 16-44-2-1.5) that are deposited in the account under IC 16-44-2-18(g).

(2) All earnings on investments of funds in the account.

(3) Gifts and donations intended for deposit in the fund.

(4) Any other money authorized to be deposited in or appropriated to the account.

(c) Money in the account is continuously appropriated for purposes of this section.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(e) Money in the account may be used only for the following purposes:

(1) Assisting owners and operators of tanks used for the storage of avgas or jet fuel in establishing evidence of financial responsibility, if necessary under IC 13-23-4.

(2) Providing a source of money to satisfy liabilities for corrective action involving avgas or jet fuel.

(3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3 in claims involving avgas or jet fuel.

(4) Providing a source of money to pay the expenses incurred by the department:

(A) for job activities and expenses that consist exclusively of administering the aviation fuel account;

(B) in inspecting aviation fuel storage tanks; and

(C) in providing training through the program established under IC 13-23-7-1(a)(4)(C) to operators of underground tanks used to store avgas or jet fuel.

(5) Beginning December 31, 2023, annually providing to the airport development grant fund established by IC 8-21-11-4 an amount equal to the difference between:

(A) the entire balance in the aviation fuel account; and

(B) a reserve amount that, in combination with an estimate of the fees that will be deposited in the aviation fuel account under subsection (b)(1) during the following calendar year, is reasonably anticipated by the commissioner or the commissioner's designee as administrator of the aviation fuel account to be sufficient



to meet the purposes set forth in subdivisions (1) through (4) in the following year.

(f) The expenses of administering the account shall be paid from money in the account.

(g) Money that is in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 43. IC 13-23-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) For purposes of this section, the term "remediation expenses" includes reimbursement for the expenses incurred to remediate the site and all other eligible expenses under this article.

(b) Each subsequent owner of a property that has had a restrictive covenant placed on it because of soil or water contamination due to a leaking underground or aboveground storage tank is eligible for reimbursement for the remediation expenses to remediate the site under the ELTF if:

(1) the tank was registered under IC 13-23-12; and

(2) all annual fees for the tank were paid before the eligible release.

SECTION 44. IC 13-23-9-1.3, AS AMENDED BY P.L.200-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.3. (a) The total amount otherwise available from the ELTF in connection with an eligible release discovered on or after July 1, 2016, shall be reduced by:

(1) a deductible amount of fifteen thousand dollars (\$15,000); and

(2) if any annual registration fees that were due in 2014 or a later year are not paid in full before the submittal of the initial site characterization as required by the rules adopted by the environmental rules board, an additional amount under subsection (b).

(b) The additional amount referred to in subsection (a)(2) is the sum of:

(1) all annual registration fees due under IC 13-23-12-1 for USTs and ASTs, as applicable, located at the facility from which the release occurred that:

(A) were due in 2014 or a later year; and

(B) have not been paid; plus

(2) an additional amount of one thousand dollars (\$1,000) for each annual registration fee imposed by IC 13-23-12-1 on a UST and AST, as applicable, located at the facility from which the release occurred that:



(A) was due in 2014 or a later year; and

(B) was not paid in the year the fee was originally due.

SECTION 45. IC 13-23-9-1.5, AS AMENDED BY P.L.200-2017, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.5. (a) The administrator may pay ELTF claims only for costs that:

(1) are reasonable and cost effective; and

(2) result from or reimburse the claimant for the following:

(A) Work performed for site characterization.

(B) Development and implementation of a corrective action plan that:

(i) is approved by the commissioner under rules adopted by the environmental rules board; and

(ii) has not been suspended.

(C) Work performed as part of an emergency response necessary to abate an immediate threat of harm to human health, property, or the environment.

(D) Third party indemnification claims submitted in accordance with section 3 of this chapter.

(E) Reasonable attorney's fees incurred in defense of third party claims.

(F) Releases that occurred on or after April 1, 1988.

(G) Compensation paid by the claimant to technicians for services performed in preparation of the claimant's ELTF claim.

(H) Work performed to decommission or replace an underground petroleum storage tank as provided under section 1.7 of this chapter.

(b) The administrator may also pay ELTF claims for costs not described in subsection (a) if allowed under rules adopted by the **petroleum storage tank** financial assurance board.

SECTION 46. IC 13-23-9-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.7. (a) The administrator may pay an ELTF claim for fifty percent (50%) of the costs of decommissioning or replacing an underground petroleum storage tank, provided that:**

(1) the applicant is the owner of the tank;

(2) such decommissioning or replacement is necessary, in the judgment of the administrator, to protect human health and the environment considering the age, obsolescence, and level of deterioration of the tank; and



1 **(3) the costs:**

2 **(A) are reasonable and cost effective; and**

3 **(B) result from or reimburse the claimant for work**
 4 **performed decommissioning the tank or replacing the tank**
 5 **with a new tank.**

6 **(b) The expenses described in subsection (a) that are paid from**
 7 **the ELTF in a state fiscal year may not exceed:**

8 **(1) ten million dollars (\$10,000,000) each year for claims**
 9 **submitted by applicants owning not more than twelve (12)**
 10 **underground petroleum storage tanks;**

11 **(2) seven million five hundred thousand dollars (\$7,500,000)**
 12 **each year for claims submitted by applicants owning more**
 13 **than twelve (12) but not more than one hundred (100)**
 14 **underground petroleum storage tanks; and**

15 **(3) two million five hundred thousand dollars (\$2,500,000)**
 16 **each year for claims submitted by applicants owning more**
 17 **than one hundred (100) underground petroleum storage**
 18 **tanks.**

19 SECTION 47. IC 13-23-11-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The ~~underground~~
 21 **petroleum** storage tank financial assurance board is created.

22 SECTION 48. IC 13-23-11-2, AS AMENDED BY P.L.200-2017,
 23 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2023]: Sec. 2. (a) The board consists of the following nine (9)
 25 members:

26 (1) The ~~commissioner~~ **administrator** or the ~~commissioner's~~
 27 **administrator's** designee.

28 (2) One (1) member nominated by the treasurer of state in
 29 consultation with the commissioner of the department of state
 30 revenue.

31 (3) One (1) member representing the independent petroleum
 32 wholesale distributor-marketer industry. In making this
 33 appointment, the governor may consider the recommendation of
 34 the Indiana petroleum marketers and convenience store
 35 association.

36 (4) One (1) member representing the petroleum refiner-supplier
 37 industry. In making this appointment, the governor may consider
 38 the recommendation of the Indiana petroleum council.

39 (5) One (1) member of the financial lending community who has
 40 experience with loan guaranty programs.

41 (6) One (1) member representing the convenience store operator
 42 industry or independent petroleum retail distributor-marketer



industry. In making this appointment, the governor may consider the recommendation of the Indiana petroleum marketers and convenience store association.

(7) One (1) member representing environmental interests.

(8) One (1) member representing an environmental consulting firm that performs work involving underground storage tank **or aboveground storage tank** corrective actions.

(9) One (1) member representing the property and casualty insurance industry.

(b) The governor shall appoint the members specified in subsection (a)(2) through (a)(9) for terms of two (2) years.

SECTION 49. IC 13-23-11-7, AS AMENDED BY P.L.96-2016, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. (a) The board shall do the following:

(1) Adopt rules under IC 4-22-2 and IC 13-14-9 necessary to do the following:

(A) Carry out the duties of the board under this article.

(B) Establish standards and procedures under which:

(i) eligible parties may submit ELTF claims; and

(ii) the administrator of the ELTF may pay ELTF claims.

(C) Establish standards for determining the reasonableness and cost effectiveness of corrective action for purposes of reimbursement from the ELTF under IC 13-23-9-1.5(a)(1).

(D) Establish standards for priorities in the payment of ELTF claims, including a priority for claims associated with releases from USTs **and ASTs** that pose an immediate and significant threat to the environment.

(E) Provide reimbursement from the petroleum storage tank excess liability trust fund for fifty percent (50%) of costs of decommissioning or replacing underground petroleum storage tanks that meet the criteria under IC 13-23-9-1.7.

(F) Establish procedures to reopen ELTF eligibility and funding for a release previously granted "no further action" (NFA) status by the department should either the department or the owner of the underground petroleum storage tank or aboveground petroleum storage tank subsequently decide to permanently decommission the use of the site as a petroleum facility and undertake the investigation and remediation of any residual contamination arising from the site's former use as a petroleum facility. Before reopening ELTF eligibility and



- 1 **funding, the administrator may require that the applicant**
 2 **provide information regarding the planned future use of**
 3 **the site.**
 4 (2) Take testimony and receive a written report at every meeting
 5 of the board from the ~~commissioner~~ **administrator** or the
 6 ~~commissioner's~~ **administrator's** designee regarding the financial
 7 condition and operation of the ELTF, including:
 8 (A) a detailed breakdown of contractual and administrative
 9 expenses the department is claiming from the ELTF under
 10 IC 13-23-7-1(a)(4); and
 11 (B) a claims statistics report consisting of:
 12 (i) the status and amounts of claims submitted to the ELTF;
 13 and
 14 (ii) ELTF claims payments made.
 15 Testimony shall be taken and a written report shall be received
 16 under this subdivision at every meeting of the board. However,
 17 the testimony and written report are not required more than one
 18 (1) time during any thirty (30) day period.
 19 (3) Consult with the department on administration of the ELTF in
 20 developing uniform policies and procedures for revenue
 21 collection and claims administration of the ELTF.
 22 (b) The department shall consult with the board on administration
 23 of the ELTF. The consultation must include evaluation of alternative
 24 means of administering the ELTF in a cost effective and efficient
 25 manner.
 26 (c) At each meeting of the board, the department shall provide the
 27 board with a written report on the financial condition and operation of
 28 the ELTF.
 29 SECTION 50. IC 13-23-12-1, AS AMENDED BY P.L.96-2016,
 30 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2023]: Sec. 1. (a) Each year, if an underground storage tank
 32 **or aboveground storage tank** has not been closed before January 1 of
 33 the year under:
 34 (1) rules adopted under IC 13-23-1-2; or
 35 (2) a requirement imposed by the commissioner before the
 36 adoption of rules under IC 13-23-1-2;
 37 the owner of the underground storage tank **or aboveground storage**
 38 **tank** shall pay to the department an annual registration fee.
 39 (b) The annual registration fee required by this section is as follows:
 40 (1) Ninety dollars (\$90) for each underground petroleum storage
 41 tank **or aboveground petroleum storage tank.**
 42 (2) Two hundred forty-five dollars (\$245) for each underground



1 storage tank containing regulated substances other than
2 petroleum.

3 (c) If an underground storage tank **or aboveground storage tank**
4 consists of a single tank in which there are separate compartments, a
5 separate fee shall be paid under subsection (b) for each compartment
6 within the single tank.

7 (d) If an underground storage tank consists of a combination of
8 tanks, a separate fee shall be paid under subsection (b) for each
9 compartment within each tank in the combination of tanks.

10 (e) The following apply to tanks that contain separate compartments
11 and that were in use before July 1, 2014:

12 (1) For the period preceding July 1, 2014, the payment of a single
13 annual fee of ninety dollars (\$90) for a tank containing separate
14 compartments shall be deemed to satisfy the requirements of
15 subsection (b).

16 (2) The department shall not be required to pay any refunds to a
17 tank owner that paid a separate fee under subsection (b) for each
18 compartment within a tank before July 1, 2014.

19 SECTION 51. IC 13-23-12-4, AS AMENDED BY P.L.220-2014,
20 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2023]: Sec. 4. The department shall collect the fees paid under
22 this chapter and deposit the fees as follows:

23 (1) Fees paid in connection with underground petroleum storage
24 tanks **or aboveground petroleum storage tanks under section**
25 **1(b)(1) of this chapter** shall be deposited in the petroleum trust
26 fund.

27 (2) Fees paid **under section 1(b)(2) of this chapter** in connection
28 with underground storage tanks used to contain regulated
29 substances other than petroleum shall be deposited in the
30 hazardous substances response trust fund **established by**
31 **IC 13-25-4-1.**

32 SECTION 52. IC 13-23-13-1 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) **Subject to**
34 **subsections (b)(1) and (d),** the commissioner may, under rules adopted
35 under IC 13-23-1-2:

36 (1) issue an order under IC 13-14-2-7 or IC 4-21.5-4; or

37 (2) proceed under IC 13-14-2-6;

38 to require the owner or operator of an underground storage tank **or**
39 **aboveground storage tank** to undertake corrective action with respect
40 to any release of a regulated substance.

41 (b) **Except as provided in subsection (d), the commissioner may**
42 **not, with respect to a release of petroleum from an underground**



storage tank or aboveground storage tank:

(1) take action under subsection (a); or

(2) if a reportable quantity of the released petroleum remains or may remain underground at the site of the underground storage tank or aboveground storage tank:

(A) request that the owner or operator of the underground storage tank or aboveground storage tank execute a restrictive covenant (as defined in IC 13-11-2-193.5) applying to the site of the underground storage tank or aboveground storage tank;

(B) make a determination of no further action being required at the site of the underground storage tank or aboveground storage tank; or

(C) approve closure, or its equivalent, of the site of the underground storage tank or aboveground storage tank;

unless the commissioner has received and reviewed the initial site characterization of the site of the release or an alternative evaluation is prepared for submittal to the commissioner in accordance with subsection (c).

(c) When necessary and feasible as determined by a qualified environmental professional, an initial site characterization shall include:

(1) site-specific geologic information obtained from a minimum of three (3) continuously sampled soil borings; and

(2) hydrogeologic information, including depth to ground water and ground water flow directions and gradients, obtained from a minimum of three (3) monitoring wells screened across the water table.

A qualified environmental professional, on behalf of the owner or operator of an underground storage tank or an aboveground storage tank from which there has been a release of petroleum, may submit for approval by the commissioner an alternative procedure for initial site characterization and request a waiver of the requirements in this subsection. The commissioner may approve the request for a waiver and alternative procedure only if the alternative procedure provides substantially equal protection for human health and the environment. If an initial site characterization does not define the nature and extent of the contaminant plume, additional investigation shall be performed when necessary and feasible as determined by a qualified environmental professional.

(d) The commissioner may take action under subsection (a)



1 without having received and reviewed the initial site
 2 characterization if the commissioner reasonably believes that the
 3 release from the underground storage tank or aboveground
 4 storage tank creates a threat to human health or the environment
 5 sufficient to necessitate action under subsection (a) before the
 6 initial site characterization is submitted to the department.

7 ~~(b)~~ (e) If the commissioner:

8 (1) requires corrective action under subsection (a); and

9 (2) determines that the corrective action will be done properly and
 10 promptly by the owner or operator of the underground storage
 11 tank **or aboveground storage tank** from which the release
 12 occurs;

13 the commissioner may enter into an agreed order with the owner or
 14 operator to implement necessary corrective action.

15 SECTION 53. IC 13-23-13-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The commissioner,
 17 under rules adopted under IC 13-23-1-2, may undertake corrective
 18 action with respect to any release of a regulated substance into the
 19 environment from an underground storage tank **or aboveground**
 20 **storage tank** if:

21 (1) that action is necessary, in the judgment of the commissioner,
 22 to protect human health and the environment; and

23 (2) at least one (1) of the following conditions exists:

24 (A) A person cannot be found not later than ninety (90) days
 25 after a suspected or confirmed release is identified (or a
 26 shorter time necessary to protect human health and the
 27 environment) who is:

28 (i) an owner or operator of the underground storage tank **or**
 29 **aboveground storage tank**;

30 (ii) subject to the rules concerning corrective action; and

31 (iii) capable of properly carrying out corrective action with
 32 respect to the release.

33 (B) An existing situation requires prompt action by the
 34 commissioner under this section to protect human health and
 35 the environment.

36 (C) The cost of corrective action at the site of an underground
 37 storage tank exceeds the amount of financial responsibility
 38 required under IC 13-23-1-2(c)(6), IC 13-23-4-4, and
 39 IC 13-23-4-5 and, considering the class or category of
 40 underground storage tank from which the release occurred,
 41 expenditures by the state are necessary to ensure an effective
 42 corrective action.



(D) The owner or operator of the underground storage tank **or aboveground storage tank** has failed or refused to comply with an order of the commissioner or a judgment of a court of competent jurisdiction under section 1 of this chapter to take corrective action with respect to the release.

SECTION 54. IC 13-23-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. In:

(1) issuing orders requiring corrective action under section 1 of this chapter; or

(2) undertaking corrective action under section 2 of this chapter; the commissioner shall give priority to releases of regulated substances from underground storage tanks **or aboveground storage tanks** that pose the greatest threat to human health and the environment.

SECTION 55. IC 13-23-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. In issuing orders requiring corrective action under section 1 of this chapter or undertaking corrective action under section 2 of this chapter the commissioner may:

(1) require only a limited form of corrective action; and

(2) implement streamlined administrative procedures;

with respect to a release of a regulated substance from an underground storage tank **or aboveground storage tank** that, in the judgment of the commissioner, poses little or no immediate threat to human health or to the environment.

SECTION 56. IC 13-23-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5.5. (a) Notwithstanding any other provision of this chapter, a person who is not an owner or operator of an underground storage tank **or an aboveground storage tank** is liable to the state only for corrective action to address a surface spill or overfill of a regulated substance from the underground storage tank **or aboveground storage tank** that is intentionally caused by the person during the delivery of the regulated substance into the underground storage tank **or aboveground storage tank**.

(b) A person who is liable for corrective action under subsection (a) is subject to a claim for contribution to corrective action costs arising solely from the surface spill or overfill by a person described in section 8(b)(1) or 8(b)(2) of this chapter. Except as otherwise provided in ~~subsection~~ **subsections** (c) and (d), an action for contribution under this section may be brought in the same manner and is subject to the same provisions as an action brought under section 8(b) of this chapter.

(c) Before a person brings a contribution action under this section,



the person must provide written notice of intent to bring the action by certified mail to:

(1) the department; and

(2) each person allegedly responsible for the surface spill or overfill that occurred during the delivery of a regulated substance into the underground storage tank **or aboveground storage tank.**

(d) A person that provides notice under subsection (c) may not bring a contribution action if:

(1) the department commences an administrative proceeding or a civil action concerning the alleged surface spill or overfill not later than ninety (90) days after receiving notice under subsection (c)(1); or

(2) the person who receives the notice under subsection (c)(2) agrees in writing, within ninety (90) days after receipt of the notice, to remediate the surface spill or overfill in accordance with the state's rules governing spills and overfills.

SECTION 57. IC 13-23-13-6, AS AMENDED BY P.L.220-2014, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) Except as provided in subsection (b), the commissioner, under rules adopted under IC 13-23-1-2, may use money in the petroleum trust fund to pay the following costs and expenses associated with underground petroleum storage tanks **or aboveground petroleum storage tanks:**

(1) Costs incurred for corrective action conducted under cooperative agreements entered into between the state and the Administrator of the United States Environmental Protection Agency under Section 9003(h)(7) of the federal Solid Waste Disposal Act (42 U.S.C. 6991b(h)(7)), in accordance with the provisions of the cooperative agreements.

(2) Expenses incurred by the state for the following:

(A) Corrective actions that are ordered or undertaken under this chapter.

(B) Enforcement of this article.

(3) Expenses incurred by the state under section 8 of this chapter in recovering the costs of corrective actions undertaken under section 2 of this chapter.

(4) Administrative expenses and personnel expenses incurred by the state in carrying out this article.

(b) Notwithstanding subsection (a), fifty percent (50%) of the fees deposited in the petroleum trust fund under IC 13-23-12-4(1) shall be used by the commissioner to pay for corrective actions:

(1) **that are** taken under this chapter ~~that~~ **and** involve releases of



regulated substances from underground storage tanks **or aboveground storage tanks**; and

(2) that are not eligible to receive funds from the ~~underground~~ petroleum storage tank excess liability trust fund under IC 13-23-7.

Not more than eleven percent (11%) of the funds expended under this subsection may be used to pay for administrative and personnel expenses incurred in carrying out this subsection.

SECTION 58. IC 13-23-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) Except where an owner or operator can prove that a release from an underground storage tank **or aboveground storage tank** was caused solely by:

- (1) an act of God;
- (2) an act of war;
- (3) negligence on the part of the state or the United States government; or
- (4) any combination of the causes set forth in subdivisions (1) through (3);

the owner or operator of an underground storage tank **or aboveground storage tank** is liable to the state for the actual costs of any corrective action taken under section 2 of this chapter or IC 13-7-20-19(b) (before its repeal) involving the underground storage tank **or aboveground storage tank** and is responsible for undertaking any corrective action, including undertaking an exposure assessment, ordered under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal), or required by this title or a rule adopted under this title.

(b) A person who:

- (1) pays to the state the costs described under subsection (a); or
- (2) undertakes corrective action resulting from a release from an underground storage tank **or aboveground storage tank**, regardless of whether the corrective action is undertaken voluntarily or under an order issued under this chapter, IC 13-23-14-1, IC 13-7-20-19 (before its repeal), or IC 13-7-20-26 (before its repeal);

is entitled to receive a contribution from a person who owned or operated the underground storage tank **or aboveground storage tank** at the time the release occurred. A person who brings a successful action to receive a contribution from an owner or operator is also entitled to receive reasonable attorney's fees and court costs from the owner or operator. An action brought under this subsection may be brought in a circuit or superior court. In resolving a contribution claim,



a court may allocate the cost of a corrective action among the parties to the action using equitable factors that the court determines are appropriate.

(c) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of petroleum shall be deposited in the petroleum trust fund.

(d) Money recovered by the state under this section in connection with any corrective action undertaken with respect to a release of a regulated substance other than petroleum shall be deposited in the hazardous substances response trust fund.

(e) The state may recover corrective action costs under this section in an action commenced under IC 13-14-2-6, IC 13-14-2-7, IC 13-7-5-7 (before its repeal), or IC 13-7-5-8 (before its repeal). An action to recover corrective action costs under this section may be combined, as appropriate, with an action to enforce an order issued under section 1 of this chapter or IC 13-7-20-19(a) (before its repeal) to require corrective action not already undertaken by the commissioner.

SECTION 59. IC 13-23-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) An indemnification agreement, a hold harmless agreement, or other similar agreement or conveyance is not effective to transfer the liability imposed under section 8 of this chapter from:

(1) the owner or operator of an:

(A) underground storage tank; or

(B) aboveground storage tank; or

(2) any person who may be liable for a release or threat of release under this article;

to any other person.

(b) This section does not bar an agreement to:

(1) insure;

(2) hold harmless; or

(3) indemnify;

a party to an agreement for any liability under this article.

SECTION 60. IC 13-23-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) For the purpose of enabling the commissioner to take or to assess the need for corrective action under this chapter or to enforce this article, an owner or operator of an underground storage tank **or aboveground storage tank**, upon the request of an officer, an employee, or a designated representative of the department, shall do the following:

(1) Furnish information relating to the:

(A) underground storage tank; ~~or~~



- 1 **(B) aboveground storage tank; or**
 2 **(C) associated equipment or contents.**
 3 (2) Conduct monitoring or testing of the underground storage tank
 4 **or aboveground storage tank**, including associated equipment
 5 or contents.
 6 (3) Conduct monitoring or testing of soils, air, surface water, or
 7 ground water surrounding the underground storage tank **or**
 8 **aboveground storage tank** if:
 9 (A) tank testing, using methods that are applicable to but not
 10 in excess of federal standards, confirms a release of regulated
 11 substance; or
 12 (B) other evidence exists that gives cause for reasonable
 13 suspicion that a release has occurred.
 14 (4) Permit, at all reasonable times, the officer, employee, or
 15 designated representative to have access to and to copy all records
 16 relating to the underground storage tank **or aboveground storage**
 17 **tank.**
 18 (5) Permit the officer, employee, or designated representative to
 19 have access for corrective action.
 20 (b) For the purposes set forth in subsection (a), an officer, an
 21 employee, or a designated representative of the department may enter
 22 at reasonable times any establishment or other place where an
 23 underground storage tank **or aboveground storage tank** is located or
 24 where a regulated substance may be present due to a release from an
 25 underground storage tank **or aboveground storage tank** to do the
 26 following:
 27 (1) Inspect and obtain samples from any person of any regulated
 28 substances contained in the underground storage tank **or**
 29 **aboveground storage tank.**
 30 (2) Conduct monitoring or testing of:
 31 (A) the underground storage tank;
 32 **(B) the aboveground storage tank;**
 33 ~~(B)~~ **(C)** associated equipment or contents; or
 34 ~~(C)~~ **(D)** surrounding:
 35 (i) soils;
 36 (ii) air;
 37 (iii) surface water; or
 38 (iv) ground water.
 39 (3) Take corrective action under section 2 of this chapter.
 40 (c) Every action authorized by this section shall be commenced and
 41 completed with reasonable promptness.
 42 SECTION 61. IC 13-23-13-14, AS AMENDED BY P.L.159-2011,



SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. For purposes of IC 13-11-2-148(e), IC 13-11-2-150(b), and IC 13-11-2-150(c), a person that is a lender and that holds evidence of ownership primarily to protect a security interest in an underground storage tank **or aboveground storage tank** shall be considered to participate in management (as defined in IC 13-11-2-151.2) of the underground storage tank **or aboveground storage tank** only if, while the borrower is still in possession of the underground storage tank **or aboveground storage tank** encumbered by the security interest, the person:

(1) exercises decision making control over the environmental compliance related to the underground storage tank **or aboveground storage tank** such that the person has undertaken responsibility for the hazardous substance handling or disposal practices related to the underground storage tank **or aboveground storage tank**; or

(2) exercises control at a level comparable to that of a manager of the underground storage tank **or aboveground storage tank** such that the person has assumed or manifested responsibility:

(A) for the overall management of the underground storage tank **or aboveground storage tank** encompassing day to day decision making with respect to environmental compliance; or
(B) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the underground storage tank **or aboveground storage tank** other than the function of environmental compliance.

SECTION 62. IC 13-23-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 15. (a) The liability of a fiduciary under this title for the release or threatened release of a hazardous substance at, from, or in connection with an underground storage tank **or aboveground storage tank** held in a fiduciary capacity shall not exceed the assets held in the fiduciary capacity.

(b) Subsection (a) does not apply to the extent that a person is liable under this title independently of the person's ownership of an underground storage tank **or aboveground storage tank** as a fiduciary or actions taken in a fiduciary capacity.

(c) Subsections (a) and (d) do not limit the liability pertaining to a release or threatened release of a hazardous substance if negligence of a fiduciary causes or contributes to the release or threatened release.

(d) A fiduciary is not liable in its personal capacity under this title for any of the following:

(1) Undertaking or directing another person to undertake a



1 response action under 42 U.S.C. 9607(d)(1) or under the direction
 2 of an on-scene coordinator designated under the National
 3 Contingency Plan.

4 (2) Undertaking or directing another person to undertake other
 5 lawful means of addressing a hazardous substance in connection
 6 with the underground storage tank **or aboveground storage tank**.

7 (3) Terminating the fiduciary relationship.

8 (4) Including in the terms of the fiduciary agreement a covenant,
 9 warranty, or other term or condition that relates to compliance
 10 with an environmental law, or monitoring, modifying, or
 11 enforcing the term or condition.

12 (5) Monitoring or undertaking at least one (1) inspection of the
 13 underground storage tank **or aboveground storage tank**.

14 (6) Providing financial advice or other advice or counseling to
 15 other parties to the fiduciary relationship, including the settlor or
 16 beneficiary.

17 (7) Restructuring, renegotiating, or otherwise altering the terms
 18 and conditions of the fiduciary relationship.

19 (8) Administering, as a fiduciary, an underground storage tank **or**
 20 **aboveground storage tank** that was contaminated before the
 21 fiduciary relationship began.

22 (9) Declining to take any of the actions referred to in subdivisions
 23 (2) through (8).

24 (e) This section does not apply to a person if the person:

25 (1) acts in a capacity other than:

26 (A) a fiduciary capacity; or

27 (B) a beneficiary capacity;

28 and, in that capacity, directly or indirectly benefits from a trust or
 29 fiduciary relationship; or

30 (2) is a beneficiary and a fiduciary with respect to the same
 31 fiduciary estate and, as a fiduciary, receives benefits that exceed
 32 customary or reasonable compensation and incidental benefits
 33 permitted under other applicable law.

34 (f) This section does not preclude a claim against the assets of the
 35 estate or trust administered by:

36 (1) the fiduciary; or

37 (2) a nonemployee agent or independent contractor retained by a
 38 fiduciary.

39 (g) This section does not:

40 (1) affect the rights, immunities, or other defenses that are
 41 available under:

42 (A) this title; or



- 1 (B) other law that is applicable to a person subject to this
 2 chapter; or
 3 (2) create:
 4 (A) any liability for a person; or
 5 (B) a private right of action against a fiduciary or any other
 6 person.
- 7 SECTION 63. IC 13-23-13-16, AS ADDED BY P.L.221-2007,
 8 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2023]: Sec. 16. (a) A political subdivision or unit of federal
 10 or state government that acquired ownership or control of an
 11 underground storage tank **or aboveground storage tank** on a
 12 brownfield by any of the means listed in IC 13-11-2-150(c) and
 13 IC 13-11-2-151(b) may undertake any activity in conjunction with:
 14 (1) investigation or remediation of hazardous substances,
 15 petroleum, and other pollutants associated with a brownfield,
 16 including complying with land use restrictions and institutional
 17 controls; or
 18 (2) monitoring or closure of an:
 19 (A) underground storage tank; **or**
 20 (B) **aboveground storage tank;**
 21 without being considered as contributing to the existing release or
 22 threatened release of a regulated substance on, in, or at the brownfield
 23 unless existing contamination on the brownfield is exacerbated due to
 24 gross negligence or intentional misconduct by the political subdivision
 25 or unit of federal or state government.
 26 (b) For purposes of subsection (a), reckless, willful, or wanton
 27 misconduct constitutes gross negligence.
- 28 SECTION 64. IC 13-23-14-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. A person who
 30 violates a rule adopted under IC 13-23-1-2 by:
 31 (1) knowingly failing to give a required notification; or
 32 (2) submitting false information;
 33 is subject to a civil penalty of not more than ten thousand dollars
 34 (\$10,000) for each underground storage tank **or aboveground storage**
 35 **tank** for which a required notification is not given or for which false
 36 information is submitted.
- 37 SECTION 65. IC 13-23-14-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) Except as
 39 provided in subsection (b), a person who violates:
 40 (1) a requirement or standard set forth in this article; or
 41 (2) a rule adopted under IC 13-23-1-2 other than a violation
 42 described in section 2 of this chapter;



1 is subject to a civil penalty of not more than ten thousand dollars
 2 (\$10,000) per underground storage tank **or aboveground storage tank**
 3 for each day of violation.

4 (b) A person is not subject to the civil penalty described in
 5 subsection (a) if:

6 (1) the violation arose from an underground storage tank **or**
 7 **aboveground storage tank** that is on a brownfield;

8 (2) the person was not the owner or operator of the underground
 9 storage tank **or aboveground storage tank** when the violation
 10 first occurred;

11 (3) the person does not dispense a regulated substance into or
 12 from the underground **storage tank or aboveground storage**
 13 **tank:**

14 (A) for any purpose other than temporary or permanent
 15 closure; or

16 (B) in violation of any federal, state, or local regulations; and

17 (4) the underground storage tank **or aboveground storage tank**
 18 is brought into compliance with this article not later than one (1)
 19 year after the person acquired ownership of the property.

20 SECTION 66. IC 13-23-14-4, AS AMENDED BY P.L.38-2012,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2023]: Sec. 4. (a) A person who fails to comply with an order
 23 issued by the commissioner under this article or IC 13-7-20 (before its
 24 repeal) after the order becomes effective is subject to a civil penalty of
 25 not more than twenty-five thousand dollars (\$25,000) for each day of
 26 continued noncompliance.

27 (b) It is a defense to a violation of this section due to noncompliance
 28 with an order issued under IC 13-23-1-4 that the person has not been
 29 notified that an underground storage tank **or aboveground storage**
 30 **tank** that is the subject of the order is ineligible for delivery, deposit,
 31 or acceptance of a regulated substance as determined by the
 32 commissioner.

33 SECTION 67. IC 13-23-16-2, AS ADDED BY P.L.221-2007,
 34 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 2. If the department receives a report concerning:

36 (1) the discovery of released regulated substances at an
 37 underground storage tank **or aboveground storage tank** site or
 38 in the surrounding area under 329 IAC 9-4-1(1); or

39 (2) a spill or overfill under 329 IAC 9-4-4(a);

40 the department shall, not more than seven (7) days after receiving the
 41 report, provide notice of the release, spill, or overfill to the county
 42 health officer of each county in which the release, spill, or overfill



1 occurred.

2 SECTION 68. IC 13-27-8-3, AS AMENDED BY P.L.133-2012,
3 SECTION 155, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) The following boards may
5 adopt rules to implement this chapter to the extent consistent with
6 federal law:

- 7 (1) The board.
8 (2) The ~~underground~~ **petroleum** storage tank financial assurance
9 board established by IC 13-23-11-1.

10 (b) The rules adopted under subsection (a) may establish the
11 following:

- 12 (1) Eligibility requirements for participation in environmental
13 performance based programs.
14 (2) Compliance methods and schedules that:
15 (A) differ from compliance methods and schedules that apply
16 to nonparticipants in environmental performance based
17 programs under rules adopted by the boards;
18 (B) apply only to participants in environmental performance
19 based programs; and
20 (C) include any of the following:
21 (i) Changes to monitoring and reporting requirements and
22 schedules.
23 (ii) Streamlined submission requirements for permit
24 renewals.
25 (iii) Prioritized applications.
26 (iv) Authorization to make without prior governmental
27 approval certain operational changes that do not result in
28 additional environmental impact.
29 (3) Recognition incentives to encourage participation in
30 environmental performance based programs.
31 (4) Other incentives consistent with the policies of this title and
32 federal law to encourage participation in environmental
33 performance based programs.
34 (5) Requirements for participants in environmental performance
35 based programs to implement any of the following:
36 (A) Continuous improvement environmental systems.
37 (B) Pollution prevention and waste minimization programs
38 developed under IC 13-27-7.

39 SECTION 69. IC 13-30-3-11, AS AMENDED BY P.L.133-2012,
40 SECTION 159, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2023]: Sec. 11. An order of the commissioner
42 under this chapter may do any of the following:



(1) Include a direction to cease and desist from violations of the following:

(A) Environmental management laws.

(B) Air pollution control laws.

(C) Water pollution control laws.

(D) A rule adopted by the board.

(E) A rule adopted by the ~~underground~~ **petroleum** storage tank financial assurance board ~~created~~ **established** by IC 13-23-11-1.

(2) Impose monetary penalties in accordance with the following:

(A) Environmental management laws.

(B) Air pollution control laws.

(C) Water pollution control laws.

(3) Mandate corrective action, including corrective action to be taken beyond the boundaries of the area owned or controlled by the person to whom the order is directed, to alleviate the violation.

(4) Revoke a permit or condition or modify the terms of a permit.

SECTION 70. IC 13-30-4-1, AS AMENDED BY P.L.133-2012, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) Subject to IC 13-14-6 and except as provided in IC 13-23-14-2 and IC 13-23-14-3, a person who violates:

(1) any provision of:

(A) environmental management laws;

(B) air pollution control laws;

(C) water pollution control laws;

(D) IC 13-18-14-1;

(E) a rule or standard adopted by the board; or

(F) a rule or standard adopted by the ~~underground~~ **petroleum** storage tank financial assurance board ~~created~~ **established** by IC 13-23-11-1; or

(2) any determination, permit, or order made or issued by the commissioner under:

(A) environmental management laws or IC 13-7 (before its repeal);

(B) air pollution control laws or IC 13-1-1 (before its repeal);

or

(C) water pollution control laws or IC 13-1-3 (before its repeal);

is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day of any violation.

(b) The department may:



(1) recover the civil penalty described in subsection (a) in a civil action commenced in any court with jurisdiction; and

(2) request in the action that the person be enjoined from continuing the violation.

SECTION 71. IC 13-30-7-7, AS AMENDED BY P.L.133-2012, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. The following shall adopt rules under IC 4-22-2 and IC 13-14-9 to administer this chapter:

(1) The board.

(2) The ~~underground~~ **petroleum** storage tank financial assurance board ~~created~~ **established** by IC 13-23-11-1.

SECTION 72. IC 16-44-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 0.5. As used in this chapter, "avgas" means aviation fuel used in piston engine powered aircraft within the general aviation community.**

SECTION 73. IC 16-44-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.5. As used in this chapter, "jet fuel" means aviation fuel designed for use in aircraft powered by gas-turbine engines.**

SECTION 74. IC 16-44-2-18, AS AMENDED BY P.L.234-2019, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18. (a) **The fee imposed by subsection (b):**

(1) applies to avgas to the same extent and in the same manner as it applies to gasoline; and

(2) applies to jet fuel to the same extent and in the same manner as it applies to kerosene;

except as provided in subsection (g).

(b) Except as provided in subsection (b); (c), fees for the inspection of gasoline or kerosene shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

(b) (c) A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

(c) (d) Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or



1 kerosene products are received, unless the person receiving the
 2 gasoline or kerosene is licensed as a distributor under the gasoline tax
 3 law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or
 4 kerosene shall do the following:

5 (1) Include in the person's monthly gasoline tax report a statement
 6 of all gasoline and kerosene received during the preceding
 7 calendar month on which inspection fees are due.

8 (2) Remit the amount of the inspection fees at the same time the
 9 monthly motor fuel tax report is due.

10 ~~(d)~~ (e) A refiner or other person supplying gasoline or kerosene to
 11 the first receiver in Indiana may elect to pay the fees monthly on all
 12 gasoline or kerosene supplied to persons in Indiana not licensed as
 13 distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is
 14 not licensed as a distributor under the gasoline tax law of Indiana
 15 (IC 6-6-1.1), the supplier shall, as a condition precedent to such
 16 election, file with the state department a corporate surety bond that
 17 meets the following conditions:

18 (1) Is in the form and amount that the state department
 19 determines, not to exceed two thousand dollars (\$2,000).

20 (2) Is conditioned that the supplier does the following:

21 (A) Reports all gasoline and kerosene supplied by the supplier
 22 to persons in Indiana not licensed as distributors under the
 23 gasoline tax law (IC 6-6-1.1).

24 (B) Pays inspection fees monthly on or before the twenty-fifth
 25 day of each calendar month for the preceding calendar month.

26 ~~(e)~~ (f) A person taking credit for gasoline or kerosene exported or
 27 returned to a refinery or terminal shall substantiate that credit in the
 28 manner that the state department reasonably requires by rule.

29 **(g) Fees collected under this section for the inspection of:**

30 **(1) avgas; and**

31 **(2) jet fuel;**

32 **shall be deposited in the aviation fuel account of the ELTF under**
 33 **IC 13-23-7-1.2.**

34 SECTION 75. IC 16-44-2-18.5, AS AMENDED BY P.L.1-2006,
 35 SECTION 307, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2023]: Sec. 18.5. (a) As used in this section,
 37 "special fuel" has the meaning set forth in IC 6-6-2.5-22, except that
 38 the term does not include kerosene.

39 (b) Except as provided in subsection (c), fees for the inspection of
 40 special fuel shall be at the rate of fifty cents (\$0.50) per barrel (fifty
 41 (50) gallons) on all special fuel sold or used in producing or generating
 42 power for propelling motor vehicles in Indiana less deductions



provided in this section.

(c) A fee for the inspection of special fuel may not be charged with respect to special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30.

(d) The fee imposed by this chapter on special fuel sold or used in producing or generating power for propelling motor vehicles in Indiana shall be collected and remitted to the state at the same time, by the same person, and in accordance with the same requirements for collection and remittance of the special fuels tax under IC 6-6-2.5-35.

(e) Fees collected under this section shall be deposited by the department in the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(f) A person who receives a refund of special fuel tax under IC 6-6-2.5 is also entitled to a refund of fees paid under this section if:

(1) the fees were paid with respect to special fuel that was used for an exempt purpose described in IC 6-6-2.5-30; and

(2) the person submits to the department of state revenue a claim for a refund, in the form prescribed by the department of state revenue, that includes the following information:

(A) Any evidence requested by the department of state revenue concerning the person's:

(i) payment of the fee imposed by this section; and

(ii) receipt of a refund of special fuel taxes from the department of state revenue under IC 6-6-2.5.

(B) Any other information reasonably requested by the department of state revenue.

The department of state revenue may make any investigation it considers necessary before refunding fees to a person.

SECTION 76. IC 16-44-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 19. All money collected for inspections under this chapter shall be deposited in the ~~underground~~ petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

SECTION 77. IC 22-12-2-2, AS AMENDED BY P.L.249-2019, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) The commission consists of eleven (11) members, nine (9) of whom shall be appointed by the governor.

(b) The term of a commission member is four (4) years.

(c) The state health commissioner or the commissioner's designee shall serve as a member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a member of the commission.



(d) Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters. The governor shall consider appointing individuals to the commission with experience in the following:

- (1) A paid fire department.
- (2) A volunteer fire department.
- (3) The field of fire insurance.
- (4) The fire service industry.
- (5) The manufactured housing industry.
- (6) The field of fire protection engineering.
- (7) As a professionally licensed engineer.
- (8) Building contracting.
- (9) The field of building one (1) and two (2) family dwellings.
- (10) As a professionally licensed architect.
- (11) The design or construction of heating, ventilating, air conditioning, or plumbing systems.
- (12) The design or construction of regulated lifting devices.
- (13) City, town, or county building inspection.
- (14) Regulated amusement devices.
- (15) Accessibility requirements and personal experience with a disability.
- ~~(16) Underground and aboveground motor fuel storage tanks and dispensing systems.~~
- ~~(17)~~ (16) The masonry trades.
- ~~(18)~~ (17) Energy conservation codes and standards, including the manner in which energy conservation codes and standards apply to:

- (A) residential;
 - (B) single and multiple family dwelling; or
 - (C) commercial;
- building codes.

~~(19)~~ (18) The boiler and pressure vessel industry.

(e) Not more than five (5) of the appointed members of the commission may be affiliated with the same political party.

SECTION 78. [EFFECTIVE JULY 1, 2023] (a) As used in this SECTION, "board" refers to the environmental rules board established by IC 13-13-8-3.

(b) As used in this SECTION, "department" means the department of environmental management established by IC 13-13-1-1.

(c) On July 1, 2023, all powers, duties, agreements, and



1 liabilities of the:

2 (1) state fire marshal to regulate the certification of
3 underground storage tank workers under IC 13-23-3, before
4 its amendment by this act, are transferred to the department;
5 and

6 (2) fire prevention and building safety commission to regulate
7 the certification of underground storage tank workers under
8 IC 13-23-3, before its amendment by this act, are transferred
9 to the board.

10 (d) On July 1, 2023, all records, property, and funds used by
11 the:

12 (1) state fire marshal to regulate the certification of
13 underground storage tank workers under IC 13-23-3, before
14 its amendment by this act, are transferred to the department;
15 and

16 (2) fire prevention and building safety commission to regulate
17 the certification of underground storage tank workers under
18 IC 13-23-3, before its amendment by this act, are transferred
19 to the board.

20 (e) After June 30, 2023, any amounts owed to the:

21 (1) state fire marshal in connection with the regulation of the
22 certification of underground storage tank workers before July
23 1, 2023, are considered to be owed to the department as the
24 successor agency; and

25 (2) fire prevention and building safety commission in
26 connection with the regulation of the certification of
27 underground storage tank workers before July 1, 2023, are
28 considered to be owed to the board as the successor agency.

29 (f) The rules adopted by the fire prevention and building safety
30 commission before July 1, 2023, under 675 IAC 12-12, concerning
31 the underground storage tank certification program are
32 considered, after June 30, 2023, rules of the board.

33 (g) This SECTION expires July 1, 2024.

34 SECTION 79. [EFFECTIVE JULY 1, 2023] (a) The administrator
35 may reimburse the following costs from the fund:

36 (1) Investigation and remediation of petroleum contamination
37 from an eligible aboveground petroleum storage tank.

38 (2) Fifty percent (50%) of decommissioning or replacing of an
39 underground petroleum storage tank, if the administrator
40 determines that removal is necessary to protect human health
41 and the environment, considering the condition of the tank,
42 including the age, level of deterioration, and obsolescence of



1 the tank.

2 (3) Costs for investigation and remediation of a site for which
3 a "no further action" (NFA) status has been granted if the
4 owner decides to permanently decommission the site as a
5 petroleum facility and undertake the investigation and
6 remediation of the remaining contamination for the site's
7 former use as a petroleum facility. The administrator shall
8 allow for the restoration of ELTF eligibility in such a case and
9 may require information regarding the planned future use for
10 the site.

11 (b) This SECTION expires upon the effective date of the rules
12 adopted by the petroleum storage tank financial assurance board
13 under IC 13-23-11-7 as amended by this act.

14 SECTION 80. [EFFECTIVE JULY 1, 2023] (a) 105 IAC 3-1-2 is
15 void. The publisher of the Indiana Administrative Code shall
16 remove 105 IAC 3-1-2 from the Indiana Administrative Code.

17 (b) This SECTION expires July 1, 2024.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 7, after "is" insert **"used to contain petroleum."**

Page 3, delete line 8.

Page 4, line 18, delete "administrating" and insert **"IC 13-23 and the administration of"**.

Page 4, line 33, reset in roman "IC 13-23-11,".

Page 4, line 33, delete "IC 13-23,".

Page 11, delete lines 21 through 31.

Page 13, delete lines 32 through 38.

Page 24, delete lines 16 through 20.

Page 25, delete lines 41 through 42.

Delete pages 26 through 27.

Page 28, delete lines 1 through 8.

Page 30, delete lines 4 through 42.

Delete pages 31 through 32.

Page 33, delete lines 1 through 13.

Page 33, line 17, delete "tank or" and insert "tank,".

Page 33, line 18, delete "aboveground storage tank,".

Page 33, line 35, delete "or aboveground storage tank".

Page 33, line 42, delete "or aboveground petroleum".

Page 34, line 1, delete "storage tanks".

Page 34, line 4, delete "or".

Page 34, line 5, delete "aboveground storage tank".

Page 34, delete lines 11 through 31.

Page 35, line 12, strike "IC 13-23-12-4." and insert **"IC 13-23-12-4(1)."**

Page 35, line 19, delete "and aboveground petroleum storage tanks".

Page 35, line 23, delete "." and insert **"for underground petroleum storage tanks and aboveground storage tanks."**

Page 39, between lines 6 and 7, begin a new line double block indented and insert:

"(E) Provide reimbursement from the petroleum storage tank excess liability trust fund for fifty percent (50%) of costs of decommissioning or replacing underground petroleum storage tanks that meet the criteria under IC 13-23-9-1.7.

(F) Establish procedures to reopen ELTF eligibility and



funding for a release previously granted "no further action" (NFA) status by the department should either the department or the owner of the underground petroleum storage tank or aboveground petroleum storage tank subsequently decide to permanently decommission the use of the site as a petroleum facility and undertake the investigation and remediation of any residual contamination arising from the site's former use as a petroleum facility. Before reopening ELTF eligibility and funding, the administrator may require that the applicant provide information regarding the planned future use of the site."

Page 40, line 4, delete "or aboveground storage tank".

Page 40, line 10, delete "or aboveground storage tank".

Page 40, line 28, after "storage tanks" insert "**under section 1(b)(1) of this chapter**".

Page 40, line 30, after "paid" insert "**under section 1(b)(2) of this chapter**".

Page 40, line 30, delete "or".

Page 40, line 31, delete "aboveground storage tanks".

Page 40, line 33, delete "fund." and insert "fund **established by IC 13-25-4-1.**".

Page 40, line 35, delete "The" and insert "**Subject to subsections (b)(1) and (d), the**".

Page 40, between lines 41 and 42, begin a new paragraph and insert:
"(b) Except as provided in subsection (d), the commissioner may not, with respect to a release of petroleum from an underground storage tank:

(1) take action under subsection (a); or

(2) if a quantity of the released petroleum remains or may remain underground at the site of the underground storage tank:

(A) request that the owner or operator of the underground storage tank execute a restrictive covenant (as defined in IC 13-11-2-193.5) applying to the site of the underground storage tank;

(B) make a determination of no further action being required at the site of the underground storage tank; or

(C) approve closure, or its equivalent, of the site of the underground storage tank;

unless the commissioner has received and reviewed the initial site characterization of the site of the release.



(c) An initial site characterization must include:

- (1) site-specific geologic information obtained from a minimum of three (3) continuously sampled soil borings; and
- (2) hydrogeologic information, including depth to ground water and ground water flow directions and gradients, obtained from a minimum of three (3) monitoring wells screened across the water table.

If an initial site characterization does not define the nature and extent of the contaminant plume, additional investigation shall be performed.

(d) The commissioner may take action under subsection (a) without having received and reviewed the initial site characterization if the commissioner reasonably believes that the release from the underground storage tank creates a threat to human health or the environment sufficient to necessitate action under subsection (a) before the initial site characterization is submitted to the department."

Page 40, line 42, strike "(b)" and insert "(e)".

Page 40, line 42, delete "commissioner" and insert "commissioner:

- (1) requires corrective action under subsection (a); and
- (2)".

Page 41, line 3, delete "occurs," and insert "occurs;".

Page 41, line 3, beginning with "the commissioner" begin a new line blocked left.

Page 41, line 27, delete "or aboveground storage tank".

Page 41, line 31, delete "or aboveground storage tank".

Page 43, line 33, after "(1)" insert "**that are**".

Page 43, line 33, after "chapter" strike "that" and insert "**and**".

Page 43, delete line 42.

Page 44, delete lines 1 through 13.

Page 45, delete lines 23 through 31.

Page 57, line 4, delete "IC 13-23-1-5." and insert "**IC 13-23-11-7.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 246 as introduced.)

NIEMEYER, Chairperson

Committee Vote: Yeas 10, Nays 0.

ES 246—LS 7314/DI 150



COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 5, delete "fifteen million dollars (\$15,000,000),".

Page 1, line 5, reset in roman "zero (0),".

and when so amended that said bill do pass.

(Reference is to SB 246 as printed February 8, 2023.)

MISHLER, Chairperson

Committee Vote: Yeas 11, Nays 1.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

Page 3, line 34, delete "defined in subsection (a)".

Page 5, line 31, delete "AST," and insert "AST,".

Page 21, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 27. IC 13-11-2-177.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 177.7. "Qualified environmental professional", for purposes of IC 13-23-13, means the following:**

(1) A registered professional engineer (as defined in IC 25-31-1-2).

(2) A licensed professional geologist (as defined in IC 25-17.6-1-6.5).

(3) A certified hazardous materials manager (CHMM) as certified by the Institute of Hazardous Material Management.

(4) A professional soil scientist registered under IC 25-31.5-4-1.".

Page 26, line 2, strike "state fire".

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Page 26, line 3, strike "marshal." and insert "**department.**".

Page 29, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 39. IC 13-23-7-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.2. (a) The aviation fuel account is established within the ELTF. The account shall be administered by the commissioner or the commissioner's designee.**

(b) The account consists of the following:

- (1) Fees on the inspection of avgas (as defined in IC 16-44-2-0.5) and jet fuel (as defined in IC 16-44-2-1.5) that are deposited in the account under IC 16-44-2-18(g).**
- (2) All earnings on investments of funds in the account.**
- (3) Gifts and donations intended for deposit in the fund.**
- (4) Any other money authorized to be deposited in or appropriated to the account.**

(c) Money in the account is continuously appropriated for purposes of this section.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(e) Money in the account may be used only for the following purposes:

- (1) Assisting owners and operators of tanks used for the storage of avgas or jet fuel in establishing evidence of financial responsibility, if necessary under IC 13-23-4.**
- (2) Providing a source of money to satisfy liabilities for corrective action involving avgas or jet fuel.**
- (3) Providing a source of money for the indemnification of third parties under IC 13-23-9-3 in claims involving avgas or jet fuel.**
- (4) Providing a source of money to pay the expenses incurred by the department:**
 - (A) for job activities and expenses that consist exclusively of administering the aviation fuel account;**
 - (B) in inspecting aviation fuel storage tanks; and**
 - (C) in providing training through the program established under IC 13-23-7-1(a)(4)(C) to operators of underground tanks used to store avgas or jet fuel.**
- (5) Beginning December 31, 2023, annually providing to the airport development grant fund established by IC 8-21-11-4 an amount equal to the difference between:**



(A) the entire balance in the aviation fuel account; and
 (B) a reserve amount that, in combination with an estimate of the fees that will be deposited in the aviation fuel account under subsection (b)(1) during the following calendar year, is reasonably anticipated by the commissioner or the commissioner's designee as administrator of the aviation fuel account to be sufficient to meet the purposes set forth in subdivisions (1) through (4) in the following year.

(f) The expenses of administering the account shall be paid from money in the account.

(g) Money that is in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 40. IC 13-23-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) For purposes of this section, the term "remediation expenses" includes reimbursement for the expenses incurred to remediate the site and all other eligible expenses under this article.

(b) Each subsequent owner of a property that has had a restrictive covenant placed on it because of soil or water contamination due to a leaking underground or aboveground storage tank is eligible for reimbursement for the remediation expenses to remediate the site under the ELTF if:

- (1) the tank was registered under IC 13-23-12; and
- (2) all annual fees for the tank were paid before the eligible release."

Page 30, line 41, delete "costs are:" and insert "costs:".

Page 30, line 42, after "(A)" insert "are".

Page 31, line 13, after "hundred" insert "thousand".

Page 31, line 23, strike "commissioner" and insert "administrator".

Page 31, line 23, strike "commissioner's" and insert "administrator's".

Page 33, line 1, strike "commissioner" and insert "administrator".

Page 33, line 1, strike "commissioner's" and insert "administrator's".

Page 34, line 39, after "tank" delete ":" and insert "or aboveground storage tank:".

Page 34, line 41, after "a" insert "reportable".

Page 35, line 1, after "tank" delete ":" and insert "or aboveground storage tank:".

Page 35, line 3, after "tank" insert "or aboveground storage tank".



Page 35, line 5, after "tank" delete ";" and insert **"or aboveground storage tank;"**.

Page 35, line 7, after "tank" delete ";" and insert **"or aboveground storage tank;"**.

Page 35, line 9, after "tank" delete ";" and insert **"or aboveground storage tank;"**.

Page 35, line 11, delete "release." and insert **"release or an alternative evaluation is prepared for submittal to the commissioner in accordance with subsection (c)."**

Page 35, delete line 12, begin a new paragraph and insert:

"(c) When necessary and feasible as determined by a qualified environmental professional, an initial site characterization shall include:"

Page 35, delete lines 19 through 21, begin a new line blocked left and insert:

"A qualified environmental professional, on behalf of the owner or operator of an underground storage tank or an aboveground storage tank from which there has been a release of petroleum, may submit for approval by the commissioner an alternative procedure for initial site characterization and request a waiver of the requirements in this subsection. The commissioner may approve the request for a waiver and alternative procedure only if the alternative procedure provides substantially equal protection for human health and the environment. If an initial site characterization does not define the nature and extent of the contaminant plume, additional investigation shall be performed when necessary and feasible as determined by a qualified environmental professional."

Page 35, line 25, after "tank" insert **"or aboveground storage tank"**.

Page 47, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 67. IC 16-44-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 0.5. As used in this chapter, "avgas" means aviation fuel used in piston engine powered aircraft within the general aviation community.

SECTION 68. IC 16-44-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.5. As used in this chapter, "jet fuel" means aviation fuel designed for use in aircraft powered by gas-turbine engines.

SECTION 69. IC 16-44-2-18, AS AMENDED BY P.L.234-2019,



SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 18. (a) **The fee imposed by subsection (b):**

(1) applies to avgas to the same extent and in the same manner as it applies to gasoline; and

(2) applies to jet fuel to the same extent and in the same manner as it applies to kerosene;

except as provided in subsection (g).

(b) Except as provided in subsection ~~(b)~~, **(c)**, fees for the inspection of gasoline or kerosene shall be at the rate of fifty cents (\$0.50) per barrel (fifty (50) gallons) on all gasoline or kerosene received in Indiana less deductions provided in this section.

~~(b)~~ **(c)** A fee for inspection of gasoline or kerosene may not be charged for the following:

(1) On transport or tank car shipments direct to the federal government.

(2) On gasoline or kerosene received and subsequently exported from Indiana or returned to refineries or marine or pipeline terminals in Indiana.

~~(c)~~ **(d)** Fees shall be paid to the state department by the person receiving gasoline or kerosene in Indiana at the time gasoline or kerosene products are received, unless the person receiving the gasoline or kerosene is licensed as a distributor under the gasoline tax law (IC 6-6-1.1). In that case, the person in receipt of the gasoline or kerosene shall do the following:

(1) Include in the person's monthly gasoline tax report a statement of all gasoline and kerosene received during the preceding calendar month on which inspection fees are due.

(2) Remit the amount of the inspection fees at the same time the monthly motor fuel tax report is due.

~~(d)~~ **(e)** A refiner or other person supplying gasoline or kerosene to the first receiver in Indiana may elect to pay the fees monthly on all gasoline or kerosene supplied to persons in Indiana not licensed as distributors under the gasoline tax law (IC 6-6-1.1). If the supplier is not licensed as a distributor under the gasoline tax law of Indiana (IC 6-6-1.1), the supplier shall, as a condition precedent to such election, file with the state department a corporate surety bond that meets the following conditions:

(1) Is in the form and amount that the state department determines, not to exceed two thousand dollars (\$2,000).

(2) Is conditioned that the supplier does the following:

(A) Reports all gasoline and kerosene supplied by the supplier to persons in Indiana not licensed as distributors under the



gasoline tax law (IC 6-6-1.1).

(B) Pays inspection fees monthly on or before the twenty-fifth day of each calendar month for the preceding calendar month.

(f) A person taking credit for gasoline or kerosene exported or returned to a refinery or terminal shall substantiate that credit in the manner that the state department reasonably requires by rule.

(g) Fees collected under this section for the inspection of:

(1) avgas; and

(2) jet fuel;

shall be deposited in the aviation fuel account of the ELTF under IC 13-23-7-1.2."

Page 50, line 21, after "with" insert "**the**".

Page 50, line 26, after "regulation of" insert "**the**".

Page 50, line 37, delete "above ground" and insert "**aboveground**".

Page 50, line 37, delete "tank;" and insert "**tank**".

Page 51, line 1, delete "tank; and" and insert "**tank**".

Page 51, line 3, delete "action (NFA)"" and insert "**action**" (NFA) **status**".

Page 51, line 12, delete "." and insert "**as amended by this act**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 246 as printed February 24, 2023.)

MORRISON

Committee Vote: yeas 13, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 3. IC 8-21-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) The department shall adopt rules under IC 4-22-2 to establish a program to foster airport development in Indiana with special emphasis on improvement of airports as an economic development tool. The program must include the following components:

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- (1) State grants to airports from the grant fund to match federal Aviation Trust Fund grants.
- (2) State grants to airports from the grant fund for airport development projects for which federal grants are not available.
- (3) Loans to airports from the loan fund for airport development projects.
- (b) The rules must establish the following for both grants and loans:
 - (1) Standards of eligibility.
 - (2) The maximum amount of money for which any one (1) airport or airport development project is eligible.
 - (3) Application procedures.
 - (4) The local matching funds that are required.
 - (5) In determining the amount of the match for a state grant for which federal grants are not available as described in subsection (a)(2), the department shall:**
 - (A) consider the airport classification and the type of project; and**
 - (B) require matching funds of at least twenty-five percent (25%).**
 - ~~(5)~~ **(6) Other provisions to administer the grant and loan programs.**

SECTION 4. IC 8-21-11-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 5.5. (a) The program described in section 5 of this chapter is designed to optimize the use of the grant fund. The primary goals of the allocation program are to:**

- (1) further the proper development and maintenance of a statewide system of airports;**
- (2) further economic development; and**
- (3) provide safety of aircraft operations.**
- (b) This program requires the project to do the following:**
 - (1) Be for the establishment or improvement of a public use airport.**
 - (2) Be included in the Indiana airports system plan, as provided in IC 8-21-1-8.**
 - (3) Be located on a site approved by the department.**
 - (4) Follow an airport layout plan approved by the department.**
 - (5) Meet the general design criteria of the Federal Aviation Administration Advisory Circulars.**

However, subdivisions (1) through (5) are examples and guidelines and may be waived by the department, where, in the judgment of



the department, the public interest is best served by allowing less stringent criteria.

(c) Engineering agreements for work to be financed in part by the grant fund must be reviewed for approval by the department.

(d) Airport development items that are eligible for funding include the following:

- (1) Land acquisition for development of airport facilities.
- (2) Engineering and legal fees for airport planning and development.
- (3) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of runways, taxiways, and aprons.
- (4) Acquisition of runway clear zones and aviation easements, or other interests in air space as may be reasonably required for safeguarding aircraft operations in the vicinity of an airport.
- (5) Removal of obstructions from approach areas.
- (6) Installation or relocation of any of the following:
 - (A) Segmented circles.
 - (B) Runway, apron, and taxiway lights.
 - (C) Taxiway guidance signs.
 - (D) Obstruction lights.
 - (E) Security flood lights.
 - (F) Airport beacons.
 - (G) Wind and landing direction indicators.
 - (H) Auxiliary power units.
 - (I) REILs (Runway End Identification Lights) and visual glideslope indicator systems.
- (7) Grading, drainage, paving, and miscellaneous items necessary for the construction or reconstruction of airport access roads and public auto parking areas.
- (8) Construction of airport safety facilities, security fencing, acquisition of aircraft rescue and firefighting (ARFF) vehicles, and snow removal equipment.
- (9) Installation of instrument landing systems, approach lighting systems, and other approach aids.
- (10) Development of master planning grants.
- (11) Airport operational buildings. However, additional building projects will not be eligible until the eighth fiscal year after the completion of the previous building project.
- (12) Terminal buildings, fuel farms, and hangars.
- (13) Other items approved by the department, where, in the



judgment of the department, the public interest is best served."

Page 55, after line 6, begin a new paragraph and insert:

"SECTION 80. [EFFECTIVE JULY 1, 2023] (a) 105 IAC 3-1-2 is void. The publisher of the Indiana Administrative Code shall remove 105 IAC 3-1-2 from the Indiana Administrative Code.

(b) This SECTION expires July 1, 2024."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 246 as printed March 30, 2023.)

THOMPSON

Committee Vote: yeas 20, nays 0.

