



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4952

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

415 ILCS 5/57.5
415 ILCS 5/57.8
415 ILCS 5/57.9
415 ILCS 5/57.11

Amends the Environmental Protection Act. Provides that for an underground storage tank release reported on or after the effective date of the amendatory Act, an owner or operator may access the Underground Storage Tank Fund for costs associated with an Environmental Protection Agency approved plan, and the Agency shall approve the payment of costs associated with corrective action without the application of a deductible, except a \$5,000 deductible shall apply to an owner or operator of an underground storage tank that is not registered under the Gasoline Storage Act. Makes changes, applicable to a release reported on or after the effective date, to provisions concerning payments from the Underground Storage Tank Fund for an application for payment from the Fund for an approved plan and budget for a tank that is registered under the Gasoline Storage Act. Provides that if a full payment is not made within specified periods for the applications for these registered tanks, then the Fund must pay the owner or operator 2% interest per month on any unpaid amount until the owner or operator is fully paid. Provides that if the balance in the Underground Storage Tank Fund falls below \$10,000,000 for a period of 6 months, then the 2% percent monthly interest payments shall be suspended until the Fund balance is above \$10,000,000. Makes other changes. Effective January 1, 2019.

LRB100 18763 MJP 33999 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 57.5, 57.8, 57.9, and 57.11 as follows:

6 (415 ILCS 5/57.5)

7 Sec. 57.5. Underground Storage Tanks; removal; repair;
8 abandonment.

9 (a) Notwithstanding the eligibility or the level of
10 deductibility of an owner or operator under the Underground
11 Storage Tank Fund, any owner or operator of an Underground
12 Storage Tank may seek to remove or abandon such tank under the
13 provisions of this Title. In order to be reimbursed under
14 Section 57.8, the owner or operator must comply with the
15 provisions of this Title. Except for interest accrued under
16 paragraph (2.5) of subsection (a) of Section 57.8, in ~~in~~ no
17 event will an owner or operator be reimbursed for any costs
18 which exceed the minimum requirements necessary to comply with
19 this Title.

20 (b) Removal or abandonment of an Underground Storage Tank
21 must be carried out in accordance with regulations adopted by
22 the Office of State Fire Marshal.

23 (c) The Office of the State Fire Marshal or a designated

1 agent shall have an inspector on site at the time of removal,
2 abandonment, or such other times the Office of State Fire
3 Marshal deems appropriate. At such time, the inspector shall,
4 upon preliminary excavation of the tank site, render an opinion
5 as to whether a release of petroleum has occurred and, if so,
6 the owner or operator shall report the known or suspected
7 release to the Illinois Emergency Management Agency. The owner
8 or operator shall determine whether or not a release has
9 occurred in conformance with the regulations adopted by the
10 Board and the Office of the State Fire Marshal. Except that if
11 the opinion of the Office of the State Fire Marshal inspector
12 is that a release of petroleum has occurred and the owner or
13 operator has reported the release to the Illinois Emergency
14 Management Agency within 24 hours of removal of the tank, no
15 such determination is required under this subsection. In the
16 event the owner or operator confirms the presence of a release
17 of petroleum, the owner or operator shall comply with Section
18 57.6. The inspector shall provide the owner or operator, or a
19 designated agent, with an "Eligibility and Deductibility
20 Determination" form. The Office of the State Fire Marshal shall
21 provide on-site assistance to the owner or operator or a
22 designated agent with regard to the eligibility and
23 deductibility procedures as provided in Section 57.9. If the
24 Office of the State Fire Marshal is not on site, the Office of
25 the State Fire Marshal shall provide the owner or operator with
26 an "Eligibility and Deductibility Determination" form within

1 15 days after receiving notice that the confirmed release was
2 reported by the owner or operator.

3 (d) In the event that a release of petroleum is confirmed
4 under subsection (c) of this Section, the owner or operator may
5 elect to backfill the preliminary excavation and proceed under
6 Section 57.6.

7 (e) In the event that an Underground Storage Tank is found
8 to be ineligible for payment from the Underground Storage Tank
9 Fund, the owner or operator shall proceed under Sections 57.6
10 and 57.7.

11 (f) In the event that no release of petroleum is confirmed,
12 the owner or operator shall proceed to complete the removal of
13 the underground storage tank, and when appropriate, dispose of
14 the tank and backfill the excavation or, in the alternate,
15 abandon the underground storage tank in place. Either option
16 shall be in accordance with regulations adopted by the Office
17 of the State Fire Marshal. The owner or operator shall certify
18 to the Office of the State Fire Marshal that the tank removal
19 or abandonment was conducted in accordance with all applicable
20 rules and regulations, and the Office of the State Fire Marshal
21 shall then issue a certificate of removal or abandonment to the
22 owner or operator. If the Office of the State Fire Marshal
23 fails to issue a certificate of removal or abandonment within
24 30 days of receipt of the certification, the certification
25 shall be considered rejected by operation of law and a final
26 action appealable to the Board. Nothing in this Title shall

1 prohibit the Office of the State Fire Marshal from making an
2 independent inspection of the site and challenging the veracity
3 of the owner or operator certification.

4 (g) The owner or operator of an underground storage tank
5 taken out of operation before January 2, 1974, or an
6 underground storage tank used exclusively to store heating oil
7 for consumptive use on the premises where stored and which
8 serves other than a farm or residential unit shall not be
9 required to remove or abandon in place such underground storage
10 tank except in the case in which the Office of the State Fire
11 Marshal has determined that a release from the underground
12 storage tank poses a current or potential threat to human
13 health and the environment. In that case, and upon receipt of
14 an order from the Office of the State Fire Marshal, the owner
15 or operator of such underground storage tank shall conduct
16 removal and, if necessary, site investigation and corrective
17 action in accordance with this Title and regulations
18 promulgated by the Office of State Fire Marshal and the Board.

19 (h) In the event that a release of petroleum occurred
20 between September 13, 1993, and August 1, 1994, for which the
21 Office of the State Fire Marshal issued a certificate of
22 removal or abandonment based on its determination of "no
23 release" or "minor release," and the Office of the State Fire
24 Marshal subsequently has rescinded that determination and
25 required a report of a confirmed release to the Illinois
26 Emergency Management Agency, the owner or operator may be

1 eligible for reimbursement for the costs of site investigation
2 and corrective action incurred on or after the date of the
3 release but prior to the notification of the Illinois Emergency
4 Management Agency. The date of the release shall be the date of
5 the initial inspection by the Office of the State Fire Marshal
6 as recorded in its inspection log. Eligibility and
7 deductibility shall be determined in accordance with this
8 Title, the owner or operator must comply with the provisions of
9 this Act and its rules, and in no case shall the owner or
10 operator be reimbursed for costs exceeding the minimum
11 requirements of this Act and its rules.

12 (Source: P.A. 92-554, eff. 6-24-02.)

13 (415 ILCS 5/57.8)

14 Sec. 57.8. Underground Storage Tank Fund; payment; options
15 for State payment; deferred correction election to commence
16 corrective action upon availability of funds. If an owner or
17 operator is eligible to access the Underground Storage Tank
18 Fund pursuant to an Office of State Fire Marshal
19 eligibility/deductible final determination letter issued in
20 accordance with Section 57.9, the owner or operator may submit
21 a complete application for final or partial payment to the
22 Agency for activities taken in response to a confirmed release.
23 An owner or operator may submit a request for partial or final
24 payment regarding a site no more frequently than once every 90
25 days.

1 (a) Payment after completion of corrective action
2 measures. The owner or operator may submit an application for
3 payment for activities performed at a site after completion of
4 the requirements of Sections 57.6 and 57.7, or after completion
5 of any other required activities at the underground storage
6 tank site.

7 (1) This paragraph applies to a release reported under
8 Section 57.5 before the effective date of this amendatory
9 Act of the 100th General Assembly.

10 In the case of any approved plan and budget for which
11 payment is being sought, the Agency shall make a payment
12 determination within 120 days of receipt of the
13 application. Such determination shall be considered a
14 final decision. The Agency's review shall be limited to
15 generally accepted auditing and accounting practices. In
16 no case shall the Agency conduct additional review of any
17 plan which was completed within the budget, beyond auditing
18 for adherence to the corrective action measures in the
19 proposal. If the Agency fails to approve the payment
20 application within 120 days, such application shall be
21 deemed approved by operation of law and the Agency shall
22 proceed to reimburse the owner or operator the amount
23 requested in the payment application. However, in no event
24 shall the Agency reimburse the owner or operator an amount
25 greater than the amount approved in the plan.

26 (2) This paragraph applies to a release reported under

1 Section 57.5 before the effective date of this amendatory
2 Act of the 100th General Assembly. If sufficient funds are
3 available in the Underground Storage Tank Fund, the Agency
4 shall, within 60 days, forward to the Office of the State
5 Comptroller a voucher in the amount approved under the
6 payment application.

7 (2.5) This paragraph applies to a release reported
8 under Section 57.5 on or after the effective date of this
9 amendatory Act of the 100th General Assembly.

10 In the case of an application for an approved plan that
11 is at or under a budget approved by the Agency for a tank
12 registered under the Gasoline Storage Act, the Agency shall
13 have 30 days from receipt of the application to make a
14 payment determination and, if sufficient funds are
15 available in the Underground Storage Tank Fund, to forward
16 to the Office of the State Comptroller a voucher in the
17 amount approved under the payment application. The
18 determination shall be considered a final decision. The
19 Agency's review shall be limited to generally accepted
20 auditing and accounting practices. In no case shall the
21 Agency conduct additional review of any plan which was
22 completed within the budget, beyond auditing for adherence
23 to the corrective action measures in the proposal. If the
24 Agency fails to approve the payment application within 30
25 days, then the application shall be deemed approved by
26 operation of law and the Agency shall proceed to reimburse

1 the owner or operator the amount requested in the payment
2 application. If a full payment is not made within 30 days
3 of receipt of the application, then the Fund must pay the
4 owner or operator 2% interest per month on any unpaid
5 amount until the owner or operator is fully paid.

6 In the case of an application for an approved plan that
7 is over a budget approved by the Agency for a tank that is
8 registered under the Gasoline Storage Act, the Agency shall
9 have 60 days from receipt of the application to make a
10 payment determination and, if sufficient funds are
11 available in the Underground Storage Tank Fund, 30 days
12 from the date of the payment determination to forward to
13 the Office of the State Comptroller a voucher in the amount
14 approved under the payment application. The determination
15 shall be considered a final decision. The Agency's review
16 shall be limited to generally accepted auditing and
17 accounting practices. In no case shall the Agency conduct
18 additional review of any plan which was completed within
19 the budget, beyond auditing for adherence to the corrective
20 action measures in the proposal. If the Agency fails to
21 approve the payment application within 60 days, then the
22 application shall be deemed approved by operation of law
23 and the Agency shall proceed to reimburse the owner or
24 operator the amount requested in the payment application.
25 If a full payment is not made within 30 days of the date
26 that the voucher is forwarded to the Comptroller, then the

1 Fund must pay the owner or operator 2% interest per month
2 on any unpaid amount until the owner or operator is fully
3 paid.

4 Except for interest accrued under this paragraph, in no
5 event shall the Agency reimburse the owner or operator an
6 amount greater than the amount approved in the plan.

7 If the balance in the Underground Storage Tank Fund
8 falls below \$10,000,000 for a period of 6 months, then the
9 2% percent monthly interest payments under this paragraph
10 shall be suspended until the Fund balance is above
11 \$10,000,000.

12 (3) In the case of insufficient funds, the Agency shall
13 form a priority list for payment and shall notify persons
14 in such priority list monthly of the availability of funds
15 and when payment shall be made. Payment shall be made to
16 the owner or operator at such time as sufficient funds
17 become available for the costs associated with site
18 investigation and corrective action and costs expended for
19 activities performed where no proposal is required, if
20 applicable. Such priority list shall be available to any
21 owner or operator upon request. Priority for payment shall
22 be determined by the date the Agency receives a complete
23 request for partial or final payment. Upon receipt of
24 notification from the Agency that the requirements of this
25 Title have been met, the Comptroller shall make payment to
26 the owner or operator of the amount approved by the Agency,

1 if sufficient money exists in the Fund. If there is
2 insufficient money in the Fund, then payment shall not be
3 made. If the owner or operator appeals a final Agency
4 payment determination and it is determined that the owner
5 or operator is eligible for payment or additional payment,
6 the priority date for the payment or additional payment
7 shall be the same as the priority date assigned to the
8 original request for partial or final payment.

9 (4) Any deductible, as determined pursuant to the
10 Office of the State Fire Marshal's eligibility and
11 deductibility final determination in accordance with
12 Section 57.9, shall be subtracted from any payment invoice
13 paid to an eligible owner or operator. Only one deductible
14 shall apply per underground storage tank site.

15 (5) In the event that costs are or will be incurred in
16 addition to those approved by the Agency, or after payment,
17 the owner or operator may submit successive plans
18 containing amended budgets. The requirements of Section
19 57.7 shall apply to any amended plans.

20 (6) For purposes of this Section, a complete
21 application shall consist of:

22 (A) A certification from a Licensed Professional
23 Engineer or Licensed Professional Geologist as
24 required under this Title and acknowledged by the owner
25 or operator.

26 (B) A statement of the amounts approved in the

1 budget and the amounts actually sought for payment
2 along with a certified statement by the owner or
3 operator that the amounts so sought were expended in
4 conformance with the approved budget.

5 (C) A copy of the Office of the State Fire
6 Marshal's eligibility and deductibility determination.

7 (D) Proof that approval of the payment requested
8 will not result in the limitations set forth in
9 subsection (g) of this Section being exceeded.

10 (E) A federal taxpayer identification number and
11 legal status disclosure certification on a form
12 prescribed and provided by the Agency.

13 (F) If the Agency determined under subsection
14 (c) (3) of Section 57.7 of this Act that corrective
15 action must include a project labor agreement, a
16 certification from the owner or operator that the
17 corrective action was (i) performed under a project
18 labor agreement that meets the requirements of Section
19 25 of the Project Labor Agreements Act and (ii)
20 implemented in a manner consistent with the terms and
21 conditions of the Project Labor Agreements Act and in
22 full compliance with all statutes, regulations, and
23 Executive Orders as required under that Act and the
24 Prevailing Wage Act.

25 (b) Commencement of site investigation or corrective
26 action upon availability of funds. The Board shall adopt

1 regulations setting forth procedures based on risk to human
2 health or the environment under which the owner or operator who
3 has received approval for any budget plan submitted pursuant to
4 Section 57.7, and who is eligible for payment from the
5 Underground Storage Tank Fund pursuant to an Office of the
6 State Fire Marshal eligibility and deductibility
7 determination, may elect to defer site investigation or
8 corrective action activities until funds are available in an
9 amount equal to the amount approved in the budget. The
10 regulations shall establish criteria based on risk to human
11 health or the environment to be used for determining on a
12 site-by-site basis whether deferral is appropriate. The
13 regulations also shall establish the minimum investigatory
14 requirements for determining whether the risk based criteria
15 are present at a site considering deferral and procedures for
16 the notification of owners or operators of insufficient funds,
17 Agency review of request for deferral, notification of Agency
18 final decisions, returning deferred sites to active status, and
19 earmarking of funds for payment.

20 (c) When the owner or operator requests indemnification for
21 payment of costs incurred as a result of a release of petroleum
22 from an underground storage tank, if the owner or operator has
23 satisfied the requirements of subsection (a) of this Section,
24 the Agency shall forward a copy of the request to the Attorney
25 General. The Attorney General shall review and approve the
26 request for indemnification if:

1 (1) there is a legally enforceable judgment entered
 2 against the owner or operator and such judgment was entered
 3 due to harm caused by a release of petroleum from an
 4 underground storage tank and such judgment was not entered
 5 as a result of fraud; or

6 (2) a settlement with a third party due to a release of
 7 petroleum from an underground storage tank is reasonable.

8 (d) Notwithstanding any other provision of this Title, the
 9 Agency shall not approve payment to an owner or operator from
 10 the Fund for costs of corrective action or indemnification
 11 incurred during a calendar year in excess of the following
 12 aggregate amounts based on the number of petroleum underground
 13 storage tanks owned or operated by such owner or operator in
 14 Illinois.

Amount	Number of Tanks
\$2,000,000	fewer than 101
\$3,000,000	101 or more

18 (1) Costs incurred in excess of the aggregate amounts
 19 set forth in paragraph (1) of this subsection shall not be
 20 eligible for payment in subsequent years.

21 (2) For purposes of this subsection, requests
 22 submitted by any of the agencies, departments, boards,
 23 committees or commissions of the State of Illinois shall be
 24 acted upon as claims from a single owner or operator.

25 (3) For purposes of this subsection, owner or operator
 26 includes (i) any subsidiary, parent, or joint stock company

1 of the owner or operator and (ii) any company owned by any
2 parent, subsidiary, or joint stock company of the owner or
3 operator.

4 (e) Costs of corrective action or indemnification incurred
5 by an owner or operator which have been paid to an owner or
6 operator under a policy of insurance, another written
7 agreement, or a court order are not eligible for payment under
8 this Section. An owner or operator who receives payment under a
9 policy of insurance, another written agreement, or a court
10 order shall reimburse the State to the extent such payment
11 covers costs for which payment was received from the Fund. Any
12 monies received by the State under this subsection (e) shall be
13 deposited into the Fund.

14 (f) (Blank.)

15 (g) The Agency shall not approve any payment from the Fund
16 to pay an owner or operator:

17 (1) for costs of corrective action incurred by such
18 owner or operator in an amount in excess of \$1,500,000 per
19 occurrence; and

20 (2) for costs of indemnification of such owner or
21 operator in an amount in excess of \$1,500,000 per
22 occurrence.

23 (h) Payment of any amount from the Fund for corrective
24 action or indemnification shall be subject to the State
25 acquiring by subrogation the rights of any owner, operator, or
26 other person to recover the costs of corrective action or

1 indemnification for which the Fund has compensated such owner,
2 operator, or person from the person responsible or liable for
3 the release.

4 (i) If the Agency refuses to pay or authorizes only a
5 partial payment, the affected owner or operator may petition
6 the Board for a hearing in the manner provided for the review
7 of permit decisions in Section 40 of this Act.

8 (j) Costs of corrective action or indemnification incurred
9 by an owner or operator prior to July 28, 1989, shall not be
10 eligible for payment or reimbursement under this Section.

11 (k) The Agency shall not pay costs of corrective action or
12 indemnification incurred before providing notification of the
13 release of petroleum in accordance with the provisions of this
14 Title.

15 (l) Corrective action does not include legal defense costs.
16 Legal defense costs include legal costs for seeking payment
17 under this Title unless the owner or operator prevails before
18 the Board in which case the Board may authorize payment of
19 legal fees.

20 (m) The Agency may apportion payment of costs for plans
21 submitted under Section 57.7 if:

22 (1) the owner or operator was deemed eligible to access
23 the Fund for payment of corrective action costs for some,
24 but not all, of the underground storage tanks at the site;
25 and

26 (2) the owner or operator failed to justify all costs

1 attributable to each underground storage tank at the site.

2 (n) The Agency shall not pay costs associated with a
3 corrective action plan incurred after the Agency provides
4 notification to the owner or operator pursuant to item (7) of
5 subsection (b) of Section 57.7 that a revised corrective action
6 plan is required. Costs associated with any subsequently
7 approved corrective action plan shall be eligible for
8 reimbursement if they meet the requirements of this Title.

9 (Source: P.A. 98-109, eff. 7-25-13.)

10 (415 ILCS 5/57.9)

11 Sec. 57.9. Underground Storage Tank Fund; eligibility and
12 deductibility.

13 (a) The Underground Storage Tank Fund shall be accessible
14 by owners and operators who have a confirmed release from an
15 underground storage tank or related tank system of a substance
16 listed in this Section. The owner or operator is eligible to
17 access the Underground Storage Tank Fund if the eligibility
18 requirements of this Title are satisfied and:

19 (1) Neither the owner nor the operator is the United
20 States Government.

21 (2) The tank does not contain fuel which is exempt from
22 the Motor Fuel Tax Law.

23 (3) The costs were incurred as a result of a confirmed
24 release of any of the following substances:

25 (A) "Fuel", as defined in Section 1.19 of the Motor

1 Fuel Tax Law.

2 (B) Aviation fuel.

3 (C) Heating oil.

4 (D) Kerosene.

5 (E) Used oil which has been refined from crude oil
6 used in a motor vehicle, as defined in Section 1.3 of
7 the Motor Fuel Tax Law.

8 (4) The owner or operator registered the tank and paid
9 all fees in accordance with the statutory and regulatory
10 requirements of the Gasoline Storage Act.

11 (5) The owner or operator notified the Illinois
12 Emergency Management Agency of a confirmed release, the
13 costs were incurred after the notification and the costs
14 were a result of a release of a substance listed in this
15 Section. Costs of corrective action or indemnification
16 incurred before providing that notification shall not be
17 eligible for payment.

18 (6) The costs have not already been paid to the owner
19 or operator under a private insurance policy, other written
20 agreement, or court order.

21 (7) The costs were associated with "corrective action"
22 of this Act.

23 If the underground storage tank which experienced a
24 release of a substance listed in this Section was installed
25 after July 28, 1989, the owner or operator is eligible to
26 access the Underground Storage Tank Fund if it is

1 demonstrated to the Office of the State Fire Marshal the
2 tank was installed and operated in accordance with Office
3 of the State Fire Marshal regulatory requirements. Office
4 of the State Fire Marshal certification is prima facie
5 evidence the tank was installed pursuant to the Office of
6 the State Fire Marshal regulatory requirements.

7 (b) For releases reported prior to the effective date of
8 this amendatory Act of the 96th General Assembly, an owner or
9 operator may access the Underground Storage Tank Fund for costs
10 associated with an Agency approved plan and the Agency shall
11 approve the payment of costs associated with corrective action
12 after the application of a \$10,000 deductible, except in the
13 following situations:

14 (1) A deductible of \$100,000 shall apply when none of
15 the underground storage tanks were registered prior to July
16 28, 1989, except in the case of underground storage tanks
17 used exclusively to store heating oil for consumptive use
18 on the premises where stored and which serve other than
19 farms or residential units, a deductible of \$100,000 shall
20 apply when none of these tanks were registered prior to
21 July 1, 1992.

22 (2) A deductible of \$50,000 shall apply if any of the
23 underground storage tanks were registered prior to July 28,
24 1989, and the State received notice of the confirmed
25 release prior to July 28, 1989.

26 (3) A deductible of \$15,000 shall apply when one or

1 more, but not all, of the underground storage tanks were
2 registered prior to July 28, 1989, and the State received
3 notice of the confirmed release on or after July 28, 1989.

4 For releases reported on or after the effective date of
5 this amendatory Act of the 96th General Assembly until the
6 effective date of this amendatory Act of the 100th General
7 Assembly, an owner or operator may access the Underground
8 Storage Tank Fund for costs associated with an Agency approved
9 plan, and the Agency shall approve the payment of costs
10 associated with corrective action after the application of a
11 \$5,000 deductible.

12 For a release reported on or after the effective date of
13 this amendatory Act of the 100th General Assembly, an owner or
14 operator may access the Underground Storage Tank Fund for costs
15 associated with an Agency approved plan, and the Agency shall
16 approve the payment of costs associated with corrective action
17 without the application of a deductible, except a \$5,000
18 deductible shall apply to an owner or operator of an
19 underground storage tank that is not registered under the
20 Gasoline Storage Act.

21 A deductible shall apply annually for each site at which
22 costs were incurred under a claim submitted pursuant to this
23 Title, except that if corrective action in response to an
24 occurrence takes place over a period of more than one year, in
25 subsequent years, no deductible shall apply for costs incurred
26 in response to such occurrence.

1 (c) Eligibility and deductibility determinations shall be
2 made by the Office of the State Fire Marshal.

3 (1) When an owner or operator reports a confirmed
4 release of a regulated substance, the Office of the State
5 Fire Marshal shall provide the owner or operator with an
6 "Eligibility and Deductibility Determination" form. The
7 form shall either be provided on-site or within 15 days of
8 the Office of the State Fire Marshal receipt of notice
9 indicating a confirmed release. The form shall request
10 sufficient information to enable the Office of the State
11 Fire Marshal to make a final determination as to owner or
12 operator eligibility to access the Underground Storage
13 Tank Fund pursuant to this Title and the appropriate
14 deductible. The form shall be promulgated as a rule or
15 regulation pursuant to the Illinois Administrative
16 Procedure Act by the Office of the State Fire Marshal.
17 Until such form is promulgated, the Office of State Fire
18 Marshal shall use a form which generally conforms with this
19 Act.

20 (2) Within 60 days of receipt of the "Eligibility and
21 Deductibility Determination" form, the Office of the State
22 Fire Marshal shall issue one letter enunciating the final
23 eligibility and deductibility determination, and such
24 determination or failure to act within the time prescribed
25 shall be a final decision appealable to the Illinois
26 Pollution Control Board.

1 (Source: P.A. 96-908, eff. 6-8-10.)

2 (415 ILCS 5/57.11)

3 Sec. 57.11. Underground Storage Tank Fund; creation.

4 (a) There is hereby created in the State Treasury a special
5 fund to be known as the Underground Storage Tank Fund. There
6 shall be deposited into the Underground Storage Tank Fund all
7 monies received by the Office of the State Fire Marshal as fees
8 for underground storage tanks under Sections 4 and 5 of the
9 Gasoline Storage Act, fees pursuant to the Motor Fuel Tax Law,
10 and beginning July 1, 2013, payments pursuant to the Use Tax
11 Act, the Service Use Tax Act, the Service Occupation Tax Act,
12 and the Retailers' Occupation Tax Act. All amounts held in the
13 Underground Storage Tank Fund shall be invested at interest by
14 the State Treasurer. All income earned from the investments
15 shall be deposited into the Underground Storage Tank Fund no
16 less frequently than quarterly. Moneys in the Underground
17 Storage Tank Fund, pursuant to appropriation, may be used by
18 the Agency and the Office of the State Fire Marshal for the
19 following purposes:

20 (1) To take action authorized under Section 57.12 to
21 recover costs under Section 57.12.

22 (2) To assist in the reduction and mitigation of damage
23 caused by leaks from underground storage tanks, including
24 but not limited to, providing alternative water supplies to
25 persons whose drinking water has become contaminated as a

1 result of those leaks.

2 (3) To be used as a matching amount towards federal
3 assistance relative to the release of petroleum from
4 underground storage tanks.

5 (4) For the costs of administering activities of the
6 Agency and the Office of the State Fire Marshal relative to
7 the Underground Storage Tank Fund.

8 (5) For payment of costs of corrective action incurred
9 by and indemnification to operators of underground storage
10 tanks as provided in this Title.

11 (6) For a total of 2 demonstration projects in amounts
12 in excess of a \$10,000 deductible charge designed to assess
13 the viability of corrective action projects at sites which
14 have experienced contamination from petroleum releases.
15 Such demonstration projects shall be conducted in
16 accordance with the provision of this Title.

17 (7) Subject to appropriation, moneys in the
18 Underground Storage Tank Fund may also be used by the
19 Department of Revenue for the costs of administering its
20 activities relative to the Fund and for refunds provided
21 for in Section 13a.8 of the Motor Fuel Tax Act.

22 (b) Moneys in the Underground Storage Tank Fund may,
23 pursuant to appropriation, be used by the Office of the State
24 Fire Marshal or the Agency to take whatever emergency action is
25 necessary or appropriate to assure that the public health or
26 safety is not threatened whenever there is a release or

1 substantial threat of a release of petroleum from an
2 underground storage tank and for the costs of administering its
3 activities relative to the Underground Storage Tank Fund.

4 (c) Beginning July 1, 1993, the Governor shall certify to
5 the State Comptroller and State Treasurer the monthly amount
6 necessary to pay debt service on State obligations issued
7 pursuant to Section 6 of the General Obligation Bond Act. On
8 the last day of each month, the Comptroller shall order
9 transferred and the Treasurer shall transfer from the
10 Underground Storage Tank Fund to the General Obligation Bond
11 Retirement and Interest Fund the amount certified by the
12 Governor, plus any cumulative deficiency in those transfers for
13 prior months.

14 (d) Except as provided in subsection (c) of this Section,
15 the Underground Storage Tank Fund is not subject to
16 administrative charges authorized under Section 8h of the State
17 Finance Act that would in any way transfer any funds from the
18 Underground Storage Tank Fund into any other fund of the State.

19 (e) Each fiscal year, subject to appropriation, the Agency
20 may commit up to \$10,000,000 of the moneys in the Underground
21 Storage Tank Fund to the payment of corrective action costs for
22 legacy sites that meet one or more of the following criteria as
23 a result of the underground storage tank release: (i) the
24 presence of free product, (ii) contamination within a regulated
25 recharge area, a wellhead protection area, or the setback zone
26 of a potable water supply well, (iii) contamination extending

1 beyond the boundaries of the site where the release occurred,
2 or (iv) such other criteria as may be adopted in Agency rules.

3 (1) Fund moneys committed under this subsection (e)
4 shall be held in the Fund for payment of the corrective
5 action costs for which the moneys were committed.

6 (2) The Agency may adopt rules governing the commitment
7 of Fund moneys under this subsection (e).

8 (3) This subsection (e) does not limit the use of Fund
9 moneys at legacy sites as otherwise provided under this
10 Title.

11 (4) For the purposes of this subsection (e), the term
12 "legacy site" means a site for which (i) an underground
13 storage tank release was reported prior to January 1, 2005,
14 (ii) the owner or operator has been determined eligible to
15 receive payment from the Fund for corrective action costs,
16 and (iii) the Agency did not receive any applications for
17 payment prior to January 1, 2010.

18 (f) Beginning July 1, 2013, if the amounts deposited into
19 the Fund from moneys received by the Office of the State Fire
20 Marshal as fees for underground storage tanks under Sections 4
21 and 5 of the Gasoline Storage Act and as fees pursuant to the
22 Motor Fuel Tax Law during a State fiscal year are sufficient to
23 pay all claims for payment by the fund received during that
24 State fiscal year, then the amount of any payments into the
25 fund pursuant to the Use Tax Act, the Service Use Tax Act, the
26 Service Occupation Tax Act, and the Retailers' Occupation Tax

1 Act during that State fiscal year shall be deposited as
2 follows: 75% thereof shall be paid into the State treasury and
3 25% shall be reserved in a special account and used only for
4 the transfer to the Common School Fund as part of the monthly
5 transfer from the General Revenue Fund in accordance with
6 Section 8a of the State Finance Act.

7 (Source: P.A. 98-109, eff. 7-25-13.)

8 Section 99. Effective date. This Act takes effect January
9 1, 2019.