

1 **SENATE FLOOR VERSION**

2 February 20, 2012

3 As Amended

4 SENATE BILL NO. 1163

By: Bingman of the Senate

and

Liebmann of the House

5  
6  
7  
8 **[ Corporation Commission - Petroleum Storage Tank**  
9 **Indemnity Fund - effective date -**  
10 **emergency ]**

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 17 O.S. 2011, Section 353, is  
14 amended to read as follows:

15 Section 353. A. There is hereby created within the Corporation  
16 Commission, the "Petroleum Storage Tank Indemnity Fund". The  
17 Director shall hire an Administrator who shall administer the  
18 Indemnity Fund and Indemnity Fund Program. The Indemnity Fund shall  
19 be administered by the Administrator for the benefit of those  
20 persons determined to be eligible by the Administrator to receive  
21 total or partial reimbursement for:

22 1. The costs determined to be eligible by the Administrator in  
23 preparing a corrective action plan;

1        2. The cost of corrective action taken in response to an  
2 eligible release;

3        3. Payment of claims for property damage or personal injury  
4 resulting from an eligible release; and

5        4. Necessary costs incidental to the cost of a site assessment  
6 or the corrective action taken and for filing and obtaining  
7 reimbursement from the Indemnity Fund.

8        B. Reimbursements made to or for the benefit of eligible  
9 persons shall be exempt from the Oklahoma Central Purchasing Act.

10       C. 1. Costs incurred as a result of a release from a storage  
11 tank system owned or operated by this state or by the federal  
12 government are ~~not~~ reimbursable pursuant to the provisions of the  
13 Oklahoma Petroleum Storage Tank Release Indemnity Program. State  
14 and federally owned facilities shall take the proper corrective  
15 action as may be necessary to protect the environment from a leaking  
16 storage tank system. Provided, that an agency of the state may  
17 access said fund for reimbursement when it purchases property  
18 containing storage tanks from an owner or operator qualified to  
19 access the Indemnity Fund and upon which an eligible release has  
20 occurred prior to the agency acquiring the property. ~~In such case,~~  
21 ~~the agency of the state shall be reimbursed for allowable costs in~~  
22 ~~excess of Five Thousand Dollars (\$5,000.00) with the attendant co-~~  
23 ~~pay as referenced in subsection H of Section 356 of this title~~  
24 ~~available to the agency at the same level or amount of reimbursement~~

1 ~~as the qualified owner or operator would have received pursuant to~~  
2 ~~Section 356 of this title.~~

3 2. Costs incurred as a result of a release from a storage tank  
4 system owned or operated by a Class I Railroad are not reimbursable  
5 pursuant to the provisions of the Oklahoma Petroleum Storage Tank  
6 Release Indemnity Program.

7 D. The Indemnity Fund shall consist of:

8 1. All monies received by the Commission as proceeds from the  
9 assessment imposed pursuant to Section 354 of this title;

10 2. Interest attributable to investment of money in the  
11 Indemnity Fund; and

12 3. Money received by the Commission in the form of gifts,  
13 grants, reimbursements, or from any other source intended to be used  
14 for the purposes specified by or collected pursuant to the  
15 provisions of the Oklahoma Petroleum Storage Tank Release Indemnity  
16 Program.

17 E. 1. Except as provided for in subsection F of this section,  
18 the monies deposited in the Indemnity Fund shall at no time become  
19 monies of the state and shall not become part of the general budget  
20 of the Commission or any other state agency. Except as otherwise  
21 authorized by subsection F of this section, the Oklahoma Storage  
22 Tank Regulation Act and the Oklahoma Petroleum Storage Tank Release  
23 Indemnity Program, no monies from the Indemnity Fund shall be  
24 transferred for any purpose to any other state agency or any account

1 of the Commission or be used for the purpose of contracting with any  
2 other state agency or reimbursing any other state agency for any  
3 expense.

4 2. Except as provided for in subsection F of this section, no  
5 monies from the Indemnity Fund shall be used to pay or reimburse the  
6 Commission for the salary of any employee, except for the Compliance  
7 and Inspection Department, while such employee is performing work  
8 involved in the regulation of storage tanks pursuant to the Oklahoma  
9 Storage Tank Regulation Act or the administration of programs  
10 pursuant to ~~said act~~ the Oklahoma Storage Tank Regulation Act,  
11 including the development, review and approval of corrective action  
12 plans as required by the regulatory programs; however, the Indemnity  
13 Fund shall pay for all costs associated with administering the  
14 Compliance and Inspection Department including, but not limited to,  
15 automobile and travel costs, computer software and equipment, and  
16 other costs incurred in administering the Compliance and Inspection  
17 Department. The Commission shall cross train the field staff of the  
18 Petroleum Storage Tank Division to perform inspections and related  
19 field activities for all programs within the Division and the  
20 Oklahoma Petroleum Storage Tank Release Indemnity Program may  
21 reimburse the Division the actual costs of inspection services  
22 performed on behalf of the Oklahoma Petroleum Storage Tank Release  
23 Indemnity Program.

24 3. Monies in the Indemnity Fund shall only be expended for:

- 1           a.    reimbursements to eligible persons unless duly  
2                    assigned to another, and
- 3           b.    costs incurred by the Indemnity Fund Program for the  
4                    administration of the fund and costs incurred for the  
5                    sole purpose of evaluating claims and determining  
6                    whether specific claims qualify for payment or  
7                    reimbursement from such Indemnity Fund.

8           Any costs incurred by and reimbursed to the Commission pursuant  
9 to the provisions of the Oklahoma Petroleum Storage Tank Release  
10 Indemnity Program shall not exceed the actual expenditures made by  
11 the Commission to implement the provisions of the Oklahoma Petroleum  
12 Storage Tank Release Indemnity Program.

13           4.    Payment of claims from the Indemnity Fund shall not become  
14 or be construed to be an obligation of this state.  No claims  
15 submitted for reimbursement from the Indemnity Fund shall be paid  
16 with state monies.

17           F.    The Administrator of the Corporation Commission is hereby  
18 allowed to transfer funds from the Petroleum Storage Tank Indemnity  
19 Fund in amounts determined to be necessary and for the purposes  
20 authorized in Section 2 of this act.  The total amount transferred  
21 shall not exceed the amount set forth in Section 2 of this act.  The  
22 transfer and expenditure authorizations provided by this subsection  
23 and Section 2 of this act shall remain in effect until June 30,  
24 2011.

1 SECTION 2. This act shall become effective July 1, 2012.

2 SECTION 3. It being immediately necessary for the preservation  
3 of the public peace, health and safety, an emergency is hereby  
4 declared to exist, by reason whereof this act shall take effect and  
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-15-12 - DO  
7 PASS, As Amended and Coauthored.