

**SENATE BILL NO. 153**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION

**BY SENATOR LEMAN**

**Introduced: 3/21/01**

**Referred: Resources, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act replacing the storage tank assistance fund with the underground storage tank**  
2 **revolving loan fund and relating to that revolving loan fund; repealing the tank cleanup**  
3 **program and the tank upgrading and closure program; and providing for an effective**  
4 **date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1.** AS 46.03.360(e) is amended to read:

7 (e) Under AS 44.62 (Administrative Procedure Act), the board shall adopt  
8 regulations under which the department shall

9 (1) rank requests for assistance under AS 46.03.422 [AS 46.03.420  
10 AND 46.03.422];

11 (2) determine which costs of risk assessment, containment, corrective  
12 action, and cleanup are eligible costs under AS 46.03.422 [AS 46.03.420 AND  
13 46.03.422];

14 (3) DETERMINE WHICH COSTS OF UPGRADING AND

1 CLOSURE ARE ELIGIBLE COSTS UNDER AS 46.03.430].

2 \* **Sec. 2.** AS 46.03.360(f) is amended to read:

3 (f) If the department determines that an owner or operator is not eligible for **a**  
 4 **loan under AS 46.03.422** [ASSISTANCE UNDER AS 46.03.410 - 46.03.430] or that  
 5 a cost is not eligible under **AS 46.03.422** [AS 46.03.415 - 46.30.430] and the affected  
 6 owner or operator disputes that determination, or if an owner or operator disputes the  
 7 ranking assigned to a request for assistance under **AS 46.03.422** [AS 46.03.420 OR  
 8 46.03.422], the owner or operator may apply to the board for resolution of the dispute.  
 9 The board may issue a decision in a dispute brought to it under this subsection. The  
 10 decision is binding on the owner, operator, and department.

11 \* **Sec. 3.** AS 46.03.360(g) is amended to read:

12 (g) The board may adopt regulations to limit the number of sites per calendar  
 13 year for which an owner or operator may be awarded **a loan under AS 46.03.422**  
 14 [FINANCIAL ASSISTANCE UNDER AS 46.03.420 - 46.03.430]. The department  
 15 shall implement the regulations.

16 \* **Sec. 4.** AS 46.03.365(c) is amended to read:

17 (c) **When** [EXCEPT AS PROVIDED IN AS 46.03.420(c)(2)(A), WHEN] the  
 18 regulations adopted under this section address areas governed by federal laws or  
 19 regulations, the state regulations must be consistent with federal laws and regulations  
 20 and may not be more stringent than the federal laws and regulations.

21 \* **Sec. 5.** AS 46.03.385(e) is amended to read:

22 (e) The legislature may appropriate the annual estimated balance of the  
 23 account maintained by the commissioner of administration under AS 37.05.142 to the  
 24 **underground** storage tank **revolving loan** [ASSISTANCE] fund established under  
 25 AS 46.03.410.

26 \* **Sec. 6.** AS 46.03.405 is amended to read:

27 **Sec. 46.03.405. Prohibitions.** A person, including a governmental entity or  
 28 institution [,] or a public corporation, may not operate an underground petroleum  
 29 storage tank or tank system unless

30 (1) the tank and tank system **are** [IS] registered with the department as  
 31 provided in AS 46.03.360 - 46.03.450 or other law; and

1 (2) [EXCEPT AS PROVIDED IN AS 46.03.420(c)(1)(D),] the person  
 2 has provided to the department proof of financial responsibility to the extent required  
 3 under regulations adopted under AS 46.03.365 or proof of application for  
 4 arrangements that would satisfy state financial responsibility requirements.

5 \* **Sec. 7.** AS 46.03.410 is amended to read:

6 **Sec. 46.03.410. Underground storage [STORAGE] tank revolving loan**  
 7 **[ASSISTANCE] fund.** (a) There is established the **underground** storage tank  
 8 **revolving loan** [ASSISTANCE] fund. It consists of money appropriated to it by law,  
 9 **repayments of principal and interest on loans made under AS 46.03.422, and**  
 10 **income earned on money in the fund** [. THE DEPARTMENT SHALL DEPOSIT  
 11 EARNINGS ON MONEY IN THE FUND IN THE GENERAL FUND]. The  
 12 legislature may use the estimated balance in the account maintained by the  
 13 commissioner of administration under AS 37.05.142 to make appropriations to the  
 14 fund. The legislature may appropriate unencumbered money from the fund for the  
 15 cost of risk assessment, containment, corrective action, and cleanup relating to an  
 16 underground petroleum storage tank system owned or operated by the state, the  
 17 University of Alaska, a public corporation, a school district, or another political  
 18 subdivision or instrumentality of the state. The legislature may also appropriate  
 19 unencumbered money from the fund for state legal and regulatory expenses associated  
 20 with underground petroleum storage tanks. An application for funds under  
 21 **AS 46.03.422** [AS 46.03.420, 46.03.422, AND 46.03.430] is not considered an  
 22 encumbrance for purposes of this subsection.

23 (b) The commissioner may use money in the fund to pay for

24 (1) [GRANTS AND] loans under **AS 46.03.422** [AS 46.03.420 AND  
 25 46.03.422] for risk assessment, containment, corrective action, and cleanup costs; and

26 (2) **costs of administering the fund and the tank cleanup loan**  
 27 **program under AS 46.03.422** [GRANTS UNDER AS 46.03.430 FOR TANK  
 28 SYSTEM UPGRADING AND CLOSURE].

29 (c) The commissioner shall prepare a report on the status of the **underground**  
 30 storage tank **revolving loan** [ASSISTANCE] fund and notify the legislature not later  
 31 than the 10th day following the convening of each regular session of the legislature

1 that the report is available. The report may include information considered significant  
2 by the commissioner but must include

3 (1) the amount and source of money received by the fund during the  
4 preceding fiscal year;

5 (2) the amount of money expended during the preceding fiscal year for  
6 **expenses** [EACH TYPE OF EXPENSE] authorized under (b) of this section;

7 (3) a detailed summary of department activities paid for from the fund  
8 during the preceding fiscal year, including how many requests [FOR ASSISTANCE]  
9 have been made to the department to use the fund for [GRANTS OR] loans for testing,  
10 site assessment, risk assessment, upgrading, closure, containment, corrective action,  
11 and cleanup costs, and the number of requests funded in each activity area;

12 (4) the projected cost for the next fiscal year of monitoring, operating,  
13 and maintaining sites where department activities have been completed or are  
14 expected to start or be continued during the fiscal year;

15 (5) the priority list of tank system sites for which the department  
16 expects to provide **loans** [FINANCIAL ASSISTANCE] in the next fiscal year.

17 \* **Sec. 8.** AS 46.03.422(a) is amended to read:

18 (a) The commissioner may make a loan from the **underground** storage tank  
19 **revolving loan** [ASSISTANCE] fund to an owner or operator of an underground  
20 petroleum storage tank system for the costs of risk assessment, containment, corrective  
21 action, and cleanup resulting from a release of petroleum from or associated with an  
22 underground petroleum storage tank system if the owner or operator submitted a  
23 timely application for a grant under **former** AS 46.03.420 and agrees

24 (1) to accept a loan in the same or lesser amount instead of a grant for  
25 the same project;

26 (2) to provide additional security or collateral for the loan if requested  
27 by the department;

28 (3) [EITHER] to

29 (A) upgrade all underground petroleum storage tanks located at  
30 the facility from which the release occurred to the standards set by state and  
31 federal regulations according to a time line established by the department; or

1 (B) remove and properly dispose of all liquids and sludges  
 2 from the underground petroleum storage tanks located at the facility from  
 3 which the release occurred, conduct a site assessment, and either fill the tanks  
 4 with inert solid material or properly dismantle, remove, and dispose of the  
 5 tanks in accordance with applicable state and federal regulations; and

6 (4) to submit a plan for risk assessment, containment, corrective  
 7 action, and cleanup to the department for its review and approval; if the department  
 8 and the owner or operator cannot reach agreement on a plan, on later changes in the  
 9 plan, or on a cleanup decision, the owner or operator may apply to the board to review  
 10 the dispute; the board may issue a recommendation to the department in a dispute  
 11 brought to it under this paragraph; the recommendation may include a suggested time  
 12 limit for completing appropriate cleanup activities or reaching a cleanup decision.

13 \* **Sec. 9.** AS 46.03.422(e) is amended to read:

14 (e) This section does not affect

15 (1) the liability under state or federal law of a person or entity that  
 16 receives a loan [ASSISTANCE] under this section for the costs of risk management,  
 17 containment, corrective action, and cleanup resulting from a release of petroleum; or

18 (2) the authority of the department to seek recovery from the owner or  
 19 operator of costs other than [GRANTS OR] loans actually made to an owner or  
 20 operator under this section.

21 \* **Sec. 10.** AS 46.03.422(g) is amended to read:

22 (g) A loan payment under this section, when combined with loans and grants  
 23 to the same owner or operator under former AS 46.03.420 and former AS 46.03.430  
 24 [46.03.430], may not exceed \$500,000.

25 \* **Sec. 11.** AS 46.03.422(h) is amended to read:

26 (h) The legislature may appropriate to the underground storage tank  
 27 revolving loan [ASSISTANCE] fund established under AS 46.03.410 the annual  
 28 estimated balance of the account maintained under AS 37.05.142 by the commissioner  
 29 of administration to keep track of loan repayments, including interest payments, under  
 30 this section.

31 \* **Sec. 12.** AS 46.08.040(a) is amended to read:

1 (a) In addition to money in the response account of the fund that is transferred  
2 to the commissioner of community and economic development to make grants under  
3 AS 29.60.510 and to pay for impact assessments under AS 29.60.560, the  
4 commissioner of environmental conservation may use money

5 (1) from the response account in the fund

6 (A) when authorized by AS 46.08.045, to investigate and  
7 evaluate the release or threatened release of oil or a hazardous substance, and  
8 contain, clean up, and take other necessary action, such as monitoring and  
9 assessing, to address a release or threatened release of oil or a hazardous  
10 substance that poses an imminent and substantial threat to the public health or  
11 welfare, or to the environment;

12 (B) to provide matching funds in the event of a release of oil or  
13 a hazardous substance for which use of the response account is authorized by  
14 AS 46.08.045 for participation

15 (i) in federal oil discharge cleanup activities; and

16 (ii) under 42 U.S.C. 9601 - 9657 (Comprehensive  
17 Environmental Response, Compensation, and Liability Act of 1980);  
18 and

19 (C) to recover the costs to the state, a municipality, a village, or  
20 a school district of a containment and cleanup resulting from the release or the  
21 threatened release of oil or a hazardous substance for which money was  
22 expended from the response account;

23 (2) from the prevention account in the fund to

24 (A) investigate and evaluate the release or threatened release of  
25 oil or a hazardous substance, except a release described in AS 46.08.045(a),  
26 and contain, clean up, and take other necessary action, such as monitoring and  
27 assessing, to address a release or threatened release of oil or a hazardous  
28 substance, except a release described in AS 46.08.045(a);

29 (B) pay all costs incurred

30 (i) to establish and maintain the oil and hazardous  
31 substance response office;

1 (ii) under agreements entered into under AS 46.04.090  
2 or AS 46.09.040;

3 (iii) to review oil discharge prevention and contingency  
4 plans submitted under AS 46.04.030;

5 (iv) to conduct training, response exercises, inspections,  
6 and tests, in order to verify equipment inventories and ability to prevent  
7 and respond to oil and hazardous substance release emergencies, and to  
8 undertake other activities intended to verify or establish the  
9 preparedness of the state, a municipality, or a party required by  
10 AS 46.04.030 to have an approved contingency plan to act in  
11 accordance with that plan; and

12 (v) to verify or establish proof of financial  
13 responsibility required by AS 46.04.040;

14 (C) pay, when presented with appropriate documentation by the  
15 Department of Military and Veterans' Affairs, the expenses incurred by the  
16 Department of Military and Veterans' Affairs for Alaska State Emergency  
17 Response Commission activities, including staff support, when the activities  
18 and staff support relate to oil or hazardous substances, and for the costs of  
19 being prepared for responding to a request by the department for support in  
20 response and restoration, but not including the costs of maintaining the  
21 response corps and the emergency response depots under AS 26.23.045;

22 (D) pay all costs incurred to acquire, repair, or improve an asset  
23 having an anticipated life of more than one year and that is acquired, repaired,  
24 or improved as a preparedness measure by which the state may respond to,  
25 recover from, reduce, or eliminate the effects of a release or threatened release  
26 of oil or a hazardous substance;

27 (E) pay the costs, if approved by the commissioner, that were  
28 incurred by local emergency planning committees to carry out the duties  
29 assigned them by AS 26.23.073(g);

30 (F) provide matching funds in the event of the release of oil or  
31 a hazardous substance, except a release of oil for the containment and cleanup

1 of which use of the response account is authorized by AS 46.08.045, for  
2 participation

3 (i) in federal oil discharge cleanup activities; and

4 (ii) under 42 U.S.C. 9601 - 9657 (Comprehensive  
5 Environmental Response, Compensation, and Liability Act of 1980);

6 (G) pay or reimburse the **underground** storage tank **revolving**  
7 **loan** [ASSISTANCE] fund established in AS 46.03.410 for expenditures from  
8 that fund authorized by AS 46.03.410(b);

9 (H) transfer to the Department of Community and Economic  
10 Development for payment by the commissioner of community and economic  
11 development of

12 (i) municipal impact grants when authorized under  
13 AS 29.60.510(b)(2);

14 (ii) assessments of the social and economic effects of  
15 the release of oil or hazardous substances as required by AS 29.60.560  
16 when, in the judgment of the commissioner, the release of oil or a  
17 hazardous substance is not one that is described in AS 46.08.045; and

18 (iii) grants to repair, improve, or replace fuel storage  
19 facilities under the bulk fuel system emergency repair and upgrade  
20 program;

21 (I) recover the costs to the state, a municipality, a village, or a  
22 school district of a containment and cleanup resulting from the release or  
23 threatened release of oil or a hazardous substance for which money was  
24 expended from the prevention account;

25 (J) prepare, review, and revise

26 (i) the state's master oil and hazardous substance  
27 discharge prevention and contingency plan required by AS 46.04.200;  
28 and

29 (ii) a regional master oil and hazardous substance  
30 discharge prevention and contingency plan required by AS 46.04.210;  
31 and

1 (K) restore the environment by addressing the effects of an oil  
2 or hazardous substance release.

3 \* **Sec. 13.** AS 46.03.420 and 46.03.430 are repealed.

4 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITIONAL PROVISION. The underground storage tank revolving loan fund  
7 established in AS 46.03.410, as amended in sec. 7 of this Act, is the successor to the storage  
8 tank assistance fund, and the balance in the storage tank assistance fund on the effective date  
9 of this Act shall be retained in the underground storage tank revolving loan fund.

10 \* **Sec. 15.** This Act takes effect July 1, 2001.