

SB

128

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/9/99

FURTHER: 4/30/99

DATE TURNED IN TO OFFICE: 30 April 99

Finance Committee considered

SENATE BILL NO. 128

STORAGE TANK ASSISTANCE FUND

and recommends:

- be replaced with _____ CS SB 128 (FIN)
- adopt previous _____ CS _____
- attached amendment(s) forth coming
- adopt Letter of Intent by _____
- further referral to the _____

- Senate Bill: same title
- new title
- House Bill: same title
- technical title
- new: SCR# _____

SIGNING DO PASS		OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roller</i>	✓	<i>Ford</i>	✓		
		<i>Winters</i>	✓		
		<i>Alford</i>	✓		
		<i>Gary</i>	✓		
Co-Chair: <i>Boyer</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Law/Civ. Div.	4/22/99		106.9
DEC			
fiscal note			
forthcoming			

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

REPORTED OUT OF
SFC 4/30/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CSSB 128 (FIN)

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to the storage tank assistance fund, to financial assistance for owners and operators of ..."	BRU	Civil Division
Sponsor Senate Finance Committee	Component	Commercial; Environmental Law
Requester Senate Finance Committee	Component Serial No.	2211; 2092

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	84.2	56.2	56.2	56.2	56.2	56.2
Travel	0.3	0.2	0.2	0.2	0.2	0.2
Contractual	14.6	9.8	9.8	9.8	9.8	9.8
Supplies	1.3	0.9	0.9	0.9	0.9	0.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	106.9	67.0	67.0	67.0	67.0	67.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1079 Storg Tank	106.9	67.0	67.0	67.0	67.0	67.0
TOTAL	106.9	67.0	67.0	67.0	67.0	67.0

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 128 (FIN) changes the storage tank assistance fund from a predominately grant program to a predominately loan program with limited grants available only to small businesses. This change would take effect July 1, 1999.

The changes to the storage tank assistance grant and loan program would create both initial startup costs and ongoing costs for the Department of Law. During the first year under the new provisions, Department of Law expenses would involve development of regulations and forms dealing with loan and grant program eligibility and administration. We would expect that some entities that would have qualified for a grant under the old program will not be able to qualify for either a grant or a loan under the new program, and that other entities will not qualify for the full amounts for which they could have qualified under the old program. These entities may find it difficult or impossible to bring their facilities into compliance; therefore, an increase in the demand for environmental enforcement actions and compliance

Prepared by Joan M. Kasson *Joan M. Kasson*
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 4/30/99, 12:51 PM
 Date 4/30/99

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ANALYSIS CONTINUATION

agreements is expected. We would also expect a high default rate among loan recipients resulting in a continuing need for collection efforts. Collection efforts will be complicated by liability issues because the loan collateral may still be contaminated at the time of loan default.

The new workload generated by this bill would be split between the Civil Division's Commercial and Environmental Law sections, with Commercial handling loan issues and Environmental Law the environmental compliance issues. In the first year, three-quarters of an attorney position would be required, with the work equally divided between the sections. In the second, and subsequent years, once regulations development and other initial start-up work is complete, a half-time position is expected to be sufficient, with the workload continuing to be split equally between the sections.

Fiscal note costs are based on the department's FY00 standard full-time equivalent attorney cost schedule (\$133,926), and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. An additional \$6,500 for one-time equipment purchases, costs that cannot be included in the rate as overhead, are added in FY00 only, and as a practical matter, placed in Commercial with the new part time position. These costs would be split between the separate components as follows:

	FY00	FY01-FY05	PPT
Commercial	\$56.7	\$33.5	1
Environmental Law	\$50.2	\$33.5	
	<u>\$106.9</u>	<u>\$67.0</u>	

FISCAL NOTE

STATE OF ALASKA
1999 Legislative Session

BILL NO. CSSB 128(FIN)

4/30/99

Revision Date: 05/04/99

Dept. Affected: Environmental Conservation
BRU: Spill Prevention and Response
Component: Storage Tank Assistance Fund

Title: Storage Tank Assistance Fund

Sponsor: Senate Finance Committee

Requester: Senate Finance Committee

Component Serial No.

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	250.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
TOTAL OPERATING	250.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	5,159.7					
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CHANGE IN REVENUES []						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1061 CIP Receipts	450.0					
1079 Storage Tank Assistance Fund	(200.0)					
TOTAL	250.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) costs:

0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

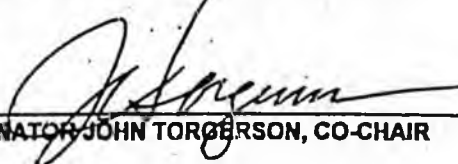
See Attached Sheet

\$250,000 operating expense for anticipated RSA to division of investments for the management of the loan portfolio.

Prepared By SENATE FINANCE COMMITTEE


SENATOR SEAN PARNELL, CO-CHAIR

Date: 5/4/99
Phone: 465-2995


SENATOR JOHN TORGERSON, CO-CHAIR

Date: 5/4/99
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA
1999 Legislative Session

BILL NO. CSSB 128(FIN)

Revision Date: 05/04/99

4/30/99

Dept. Affected: Environmental Conservation
BRU: Spill Prevention and Response
Component: Storage Tank Assistance Fund

Title: Storage Tank Assistance Fund

Sponsor: Senate Finance Committee

Requester: Senate Finance Committee

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	250.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
TOTAL OPERATING	250.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	5,159.7					
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1061 CIP Receipts	450.0					
1079 Storage Tank Assistance Fund	(200.0)					
TOTAL	250.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) costs: 0.0

POSITIONS

Full-time	Part-time	Temporary				

ANALYSIS: (Attach a separate page if necessary)

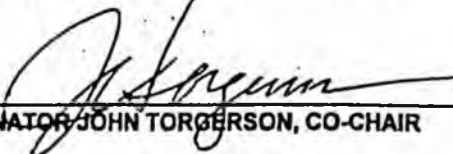
See Attached Sheet

\$250,000 operating expense for anticipated RSA to division of investments for the management of the loan portfolio.

Prepared By: SENATE FINANCE COMMITTEE


SENATOR SEAN PARNELL, CO-CHAIR

Date: 5/4/99
Phone: 465-2995


SENATOR JOHN TORGERSON, CO-CHAIR

Date: 5/4/99
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HCSCSSB 128 (FIN)

Revision Date/Time (Note if correction) <u>5/17/99 4:37 PM</u>	Dept. Affected <u>Environmental Conservation</u>
Title <u>An Act relating to the storage tank assistance</u>	BRU <u>Spill Prevention and Response</u>
fund, replacing cleanup grant program with loan program	Component <u>Contaminated Sites Program</u>
Sponsor <u>Senate Finance</u>	
Requester <u>House Finance</u>	Component Serial No. <u>New, Unknown</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	185.0	185.0	185.0	185.0	185.0	185.0
Travel						
Contractual	200.0	130.0	145.0	160.0	175.0	190.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	385.0	315.0	330.0	345.0	360.0	375.0

CAPITAL EXPENDITURES	<u>5,689.7</u>	FRONT SECTION TRANSFER TO STORAGE	
	<u>5,239.7</u>	TANK ASSISTANCE FUND	

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1007 I/A Receipts						
1052 Response Funds	185.0	185.0	185.0	185.0	185.0	185.0
1061 CIP Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1079 Storage Tank Fund	200.0	130.0	145.0	160.0	175.0	190.0
TOTAL	385.0	315.0	330.0	345.0	360.0	375.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS (THESE ARE NOT NEW POSITIONS. THESE POSITIONS WERE PART OF FY 99 AUTHORIZED AND ARE NEEDED TO IMPLEMENT SB 128)

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached page. This fiscal note restores funding for staff in the Department of Environmental Conservation and adds contractual funding to be transferred to the Department of Commerce for incremental loan management costs resulting from passage of SB128. The Storage Tank Program is still reduced by 8 positions from the Governor's Request. The fiscal note also calculates the front section transfer necessary from the Oil and Hazardous Substance Spill Prevention Release and Response Fund ("470 fund) to the Storage Tank Assistance Fund.

Prepared by <u>Larry Dietrick, Director</u>	Phone <u>465-5255</u>
Division <u>Spill Prevention and Response</u>	Date/Time <u>5/17/99 4:37 PM</u>
Approved by <u>Commissioner Michele Brown</u>	Date <u>5/17/99</u>
Agency <u>Department of Environmental Conservation</u>	

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FRONT SECTION CALCULATION

FY 00 Storage Tank Program Operating	777.0	<i>267.6</i>
Increased Department of Commerce Costs for Loan Program (SB 128)	200.0	
Increased Department of Law Costs for Loan Program (SB 128)	0.0	
FY 00 Administrative Services	136.6	
FY 00 Statewide Public Services	0.5	
FY 00 Storage Tank Capital Budget	5,000.0	
Subtotal	6,054.7	<i>5604.7</i>
Less Unreserved Fund Balance	(365.0)	
Front Section Appropriation from "470" Fund to Storage Tank Fund	5,689.7	<i>5239.7</i>

FISCAL NOTE

HGS CSSB 128(RES)

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 128 (FIN)

Revision Date/Time (Note if correction) <u>5/16/99 1:29 PM</u>	Dept. Affected <u>Environmental Conservation</u>
Title <u>An Act relating to the storage tank assistance</u>	BRU <u>Spill Prevention and Response</u>
fund, replacing <u>cleanup grant program with loan program</u>	Component <u>Contaminated Sites Program</u>
Sponsor <u>Senate Finance</u>	
Requester <u>House Finance</u>	Component Serial No. <u>New, Unknown</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	285.8	285.8	285.8	285.8	285.8	285.8
Travel						
Contractual	200.0	130.0	145.0	160.0	175.0	190.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	485.8	415.8	430.8	445.8	460.8	475.8

CAPITAL EXPENDITURES	5,796.6	FRONT SECTION TRANSFER		
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CHANGE IN REVENUES ()					
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1007 I/A Receipts						
1052 Response Funds						
1061 CIP Receipts	285.8	285.8	285.8	285.8	285.8	285.8
1079 Storage Tank Fund	200.0	130.0	145.0	160.0	175.0	190.0
TOTAL	485.8	415.8	430.8	445.8	460.8	475.8

Estimate of any current year (FY99) cost: 0.0

POSITIONS (THESE ARE NOT NEW POSITIONS. THESE POSITIONS WERE PART OF FY 99 AUTHORIZED AND ARE NEEDED TO IMPLEMENT SB 128)

Full-time	6	6	6	6	6	6
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

See attached page. This fiscal note restores funding for staff in the Department of Environmental Conservation and adds contractual funding to be transferred to the Department of Commerce for incremental loan management costs resulting from passage of SB128. The Storage Tank Program is still reduced by 4 positions and 232.9 from the Governor's Request. The fiscal note also calculates the front section transfer necessary from the Oil and Hazardous Substance Spill Prevention Release and Response Fund ('470 fund) to the Storage Tank Assistance Fund.

Prepared by <u>Larry Dietrick, Director</u>	Phone <u>465-5255</u>
Division <u>Spill Prevention and Response</u>	Date/Time <u>5/16/99 1:29 PM</u>
Approved by <u>Commissioner Michele Brown</u>	Date <u>5/16/99</u>
Agency <u>Department of Environmental Conservation</u>	

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**ATTACHMENT TO FISCAL NOTE FOR SB 128
OPERATING BUDGET**

	FY 00 House	Senate Reduction	Conference Committee	Subtotal	SB 128 Fiscal Note DEC Only	Revised SPAR Budget	Backup Program Budget Cut (4 Positions)
Federal Receipts	775.4			775.4		775.4	0.0
Oil Haz Fund	266.0	(227.5)	76.2	114.7		114.7	(151.3)
CIP Receipts	616.5	(551.2)	183.8	249.1	285.8	534.9	(81.6)
Stg Tank Funds	717.6			717.6		717.6	0.0
	2,375.5	(778.7)	260.0	1,856.8	285.8	2,142.6	(232.9)
PCNS	30.5	(15.0)	5.0	20.5	6.0	26.5	(4.0)

Plus Increased Costs for Loan Program - Department of Commerce,
Division of Investments (SB128 Changes to Program) 200.0

Total Fiscal Note for SB 128 491.8

FRONT SECTION

FY 00 Storage Tank Program Operating	717.6
Increased Department of Commerce Costs for Loan Program (SB 128)	200.0
Increased Department of Law Costs for Loan Program (SB 128)	106.9
FY 00 Administrative Services	136.6
FY 00 Statewide Public Services	0.5
FY 00 Storage Tank Capital Budget	5,000.0
Subtotal	6,161.6
Less Unreserved Fund Balance	(365.0)
Front Section Appropriation from "470" Fund to Storage Tank Fund	5,796.6
Original Front Section Transfer	5,489.7
Increased Front Section Transfer	306.9

Increased Costs - Commerce and Law

FISCAL NOTE

STATE OF ALASKA
1999 Legislative Session

BILL NO. CSSB 128(FIN)

5/4/99

Revision Date: 05/04/99

Dept. Affected Environmental Conservation

Title: Storage Tank Assistance Fund

BRU Spill Prevention and Response

Component Storage Tank Assistance Fund

Sponsor: Senate Finance Committee

Requester: Senate Finance Committee

Component Serial No.

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	250.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
TOTAL OPERATING	250.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	5,159.7					
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1061 CIP Receipts	450.0					
1079 Storage Tank Assistance Fund	(200.0)					
TOTAL	250.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) costs: 0.0

POSITIONS


Full-time	Part-time	Temporary				

ANALYSIS: (Attach a separate page if necessary)

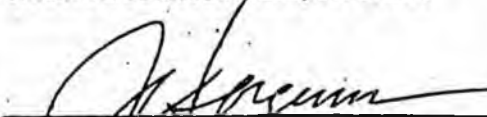
See Attached Sheet

\$250,000 operating expense for anticipated RSA to division of investments for the management of the loan portfolio.

Prepared By: SENATE FINANCE COMMITTEE


SENATOR SEAN PARNELL, CO-CHAIR

Date: 5/4/99
Phone: 465-2995


SENATOR JOHN TORGERSON, CO-CHAIR

Date: 5/4/99
Phone: 465-2828

Amendment to

CS for SB 128 (RES)

By Sen. ^{Adopted} Donley
(no objection)

Pg 3 Line 16 page 2 line 30
after "state," insert

The legislature may also appropriate unencumbered money from the fund for state legal and regulatory expenses associated with underground ~~sto~~ petroleum storage tanks.

SENATE FINANCE
COMMITTEE

Amendment Number: 1

Bill Number: CS SB 128 (RES)

Sponsor: Donley Date: 4/12/99

Logged In By: J. Mindy

conform to version "I"

A FAX

Alaska State Legislature

Date: 30 April 99

To: Judy - Legal Services

Fax #: 2029 Phone #: 2450

From: Mindy - Senate Finance Secretary

Phone #: 4935

Re: Need new CS Final for SB 128
1-LS0624\K 4/28/99 plus three amendments
attached. Note changes to #3. Date change is
conceptual to allow you to conform elsewhere
as needed. Call w/ any questions - Thx Mindy

Following this page, please find 4 pages(s). If this does not reach you in full, please inform us ASAP.

faxed 10:35



THANK YOU

Adopted

SENATE FINANCE
COMMITTEE

Amendment Number: #2
Bill Number: CS SB 128 (FIN)
Sponsor: Torgerson Date: 4/30/99
Logged In By: Mindy

AMENDMENT

moved by Sen. Donley
w/o obj. ADOPTED

Offered in the Senate
To CSSB 128(FIN)

By Senator Torgerson

- 1 Page 7, line 23 after "minus"
- 2 Delete "liabilities, including"

- 3 Page 7, line 28 after "goodwill"
- 4 Delete "or the value of rights to patents or royalties"

AMENDMENT

OFFERED IN THE SENATE

BY _____

TO: CSSB 128 (RES), Version "II"

Phillips - moved
Torgerson - object
Phillips - amend (1) conceptual to conform
Phillips - amend (2)
Adams - object (2) 4-3-2 - adopt
(2) b-1-2 (Adams) (Wilken, Kelly, Adams, Fey)
(Leman, Parnell absent)

1 Page 7, following line 28:

2 Insert a new bill section to read:

3 "*Sec. 12. TRANSITION: REGULATIONS: (a) ~~The Department of Environmental~~
4 ~~Conservation~~ or the Board of Storage Tank Assistance may adopt regulations as authorized
5 by this Act and other respective statutory authority to implement changes made by this Act.
6 Regulations adopted under this section may not take effect until the corresponding enabling
7 statute takes effect under sec. 14 of this Act.

8 (b) Notwithstanding any provision of this Act, regulations in effect on June 30, 1999,
9 relating to the Storage Tank Assistance Fund, that are not inconsistent with the provisions of
10 this Act, remain in effect until amended or repealed under the respective authorities of the
11 (2) ~~Department of Environmental Conservation~~ or the Board of Storage Tank Assistance."

12 Renumber the following bill sections accordingly.

13 Page 7, line 29:

14 Delete "Section 1"

15 Insert "Sections 1 and 12"

SENATE AMENDMENT

By DONLEY

To: CSSB 128

SENATE BILL No. _____

To: Version M

HOUSE BILL No. _____

PAGE: _____ LINE: _____
Conceptual Amendment

Maximum cap on loans
of \$500,000

Maximum cap on grants
of \$250,000

Maximum cap on any
combination of grants and loans
of \$500,000.

Donley - moved
Wilken - object
4-3-2 (Green, Wilken, Kellynaw)
(Leman, Parnell)
absent

SUBJECT: amend #3 (Adopted)
DATE: SB 128

	YEA	NAY
SENATOR DONLEY	✓	
SENATOR LEMAN		absent
SENATOR WILKEN	✓	
SENATOR ADAMS		✓
SENATOR P. KELLY	✓	
SENATOR L. GREEN	✓	
SENATOR PHILLIPS	✓	
SENATOR TORGERSON	✓	
SENATOR PARNELL		absent
TOTAL:	<u>6</u>	<u>1</u>

SUBJECT: _____
DATE: _____

	YEA	NAY
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:		

VOID

SUBJECT: amend. to amend #3 ADOPTED
DATE: _____

	YEA	NAY
SENATOR LEMAN		absent
SENATOR WILKEN		✓
SENATOR ADAMS		✓
SENATOR P. KELLY		✓
SENATOR L. GREEN	✓	
SENATOR PHILLIPS	✓	
SENATOR DONLEY	✓	
SENATOR TORGERSON	✓	
SENATOR PARNELL		absent
TOTAL:	<u>4</u>	<u>3</u>

SUBJECT: _____
DATE: _____

	YEA	NAY
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:		

SUBJECT: _____
DATE: _____

	<u>YEA</u>	<u>NAY</u>
SENATOR P.KELLY		
SENATOR L. GREEN		
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:		

SUBJECT: _____
DATE: _____

	<u>YEA</u>	<u>NAY</u>
SENATOR PHILLIPS		
SENATOR DONLEY		
SENATOR LEMAN		
SENATOR WILKEN		
SENATOR ADAMS		
SENATOR P. KELLY		
SENATOR L. GREEN		
SENATOR TORGERSON		
SENATOR PARNELL		
TOTAL:		

SUBJECT: amend #4 ADOPTED
DATE: SB 127

	<u>YEA</u>	<u>NAY</u>
SENATOR L. GREEN		✓
SENATOR PHILLIPS	✓	
SENATOR DONLEY	✓	
SENATOR LEMAN		absent
SENATOR WILKEN		✓
SENATOR ADAMS	✓	
SENATOR P.KELLY		✓
SENATOR TORGERSON	✓	
SENATOR PARNELL		absent
TOTAL:		

4 3

I-LS0624\K ✓
Lauterbach
4/28/99

Moved by Sen. Wilke
w/o obj. ADOPTED

CS FOR SENATE BILL NO. 128(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act moving the termination date of the Board of Storage Tank Assistance
2 to June 30, 1999; relating to the storage tank assistance fund, to financial
3 assistance for owners and operators of underground petroleum storage tank
4 systems, and to discharges from underground petroleum storage tank systems; and
5 providing for an effective date."

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

7 * **Section 1.** AS 44.66.010(a)(18) is amended to read:

8 (18) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 1999
9 [2000];

10 * **Sec. 2.** AS 46.03.360(e) is amended to read:

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

13 (1) [DETERMINE WHICH COSTS OF TIGHTNESS TESTING AND

1 SITE ASSESSMENT ARE ELIGIBLE COSTS UNDER AS 46.03.415;

2 (2)] rank requests for assistance under AS 46.03.420 and 46.03.422;

3 (2) [(3)] determine which costs of risk assessment, containment,
4 corrective action, and cleanup are eligible costs under AS 46.03.420 and 46.03.422;

5 (3) [(4)] determine which costs of upgrading and closure are eligible
6 costs under AS 46.03.430.

7 * Sec. 3. AS 46.03.360(f) is amended to read:

8 (f) If the department determines that an owner or operator is not eligible for
9 assistance under AS 46.03.410 - 46.03.430 or that a cost is not eligible under
10 AS 46.03.415 - 46.30.430 and the affected owner or operator disputes that
11 determination, or if an owner or operator disputes the ranking assigned to a request for
12 assistance under AS 46.03.420 or 46.03.422, the owner or operator may apply to the
13 board for resolution of the dispute. The board may issue a decision in a dispute
14 brought to it under this subsection. The decision is binding on the owner, operator,
15 and department.

16 * Sec. 4. AS 46.03.410(a) is amended to read:

17 (a) There is established the storage tank assistance fund. It consists of money
18 appropriated to it by law. The department shall deposit earnings on money in the fund
19 in the general fund. The legislature may use the estimated balance in the account
20 maintained by the commissioner of administration under AS 37.05.142 to make
21 appropriations to the fund. The legislature may appropriate unencumbered money
22 from the fund for the cost of risk assessment, containment, corrective action, and
23 cleanup relating to an underground petroleum storage tank system owned or
24 operated by the state, the University of Alaska, a public corporation, a school
25 district, or another political subdivision or instrumentality of the state. The
26 legislature may also appropriate unencumbered money from the fund for state
27 legal and regulatory expenses associated with underground petroleum storage
28 tanks. An application for funds under AS 46.03.420, 46.03.422, and 46.03.430 is
29 not considered an encumbrance for purposes of this subsection.

30 * Sec. 5. AS 46.03.410(b) is amended to read:

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

1 (1) [TANK TIGHTNESS TESTS OR SITE ASSESSMENTS UNDER
2 AS 46.03.415;

3 (2)] grants and loans under AS 46.03.420 and 46.03.422 for risk
4 assessment, containment, corrective action, and cleanup costs; and

5 (2) [(3)] grants under AS 46.03.430 for tank system upgrading and
6 closure.

7 * Sec. 6. AS 46.03.420(a) is amended to read:

8 (a) The commissioner may make a grant from the storage tank assistance
9 fund to an [SUBJECT TO (b) - (i) OF THIS SECTION, APPLICATION MAY BE
10 MADE TO THE DEPARTMENT BY THE] owner or operator of an underground
11 petroleum storage tank system, other than the state or federal government, [FOR
12 GRANTS AND LOANS FROM THE STORAGE TANK ASSISTANCE FUND TO
13 PAY] for the costs of risk assessment, containment, corrective action, and cleanup
14 resulting from a release of petroleum from or associated with an underground
15 petroleum storage tank system if the owner or operator meets the requirements of
16 this section. Applications for assistance under this section must be submitted to the
17 department before July 1, 1994. Under regulations of the board, the department shall
18 rank requests under this section in order of priority, giving greatest priority to those
19 tank systems that present the greatest threat or potential threat to human health.

20 * Sec. 7. AS 46.03.420(b) is amended to read:

21 (b) A grant [GRANTS] made by the department under this section must
22 [SHALL] exclude a portion of the risk assessment, containment, corrective action, and
23 cleanup costs. The portion of these costs not payable as a grant by the department
24 under this section is 10 percent of total costs, up to a maximum of \$25,000 not
25 payable by the department; this portion of the costs shall be loaned at no interest by
26 the department to the owner or operator on request with repayment to be made
27 according to a schedule agreed to by the parties. The department may require security
28 or collateral for a loan made under this subsection and may charge a fee for a late loan
29 repayment equal to five percent of the amount of the late payment. At the
30 department's discretion, a loan or grant under this section may be disbursed in partial
31 payments according to a schedule related to costs anticipated to be incurred during

1 specified time periods.

2 * **Sec. 8.** AS 46.03.420(c) is amended to read:

3 (c) An owner or operator of an underground petroleum storage tank system is
4 not eligible for a grant or loan under this section for activities related to a release
5 unless the release occurs before December 22, 1993, and the owner or operator

6 (1) establishes the following to the department's reasonable satisfaction:

7 (A) the owner or operator reported the release to the department
8 in compliance with state and federal law before July 1, 1994, for a release that
9 the owner or operator establishes first occurred on or after September 5, 1990,
10 and before December 22, 1993;

11 (B) the owner or operator promptly reported the release to the
12 department in compliance with applicable regulations;

13 (C) the tank or tank system from which the release occurred
14 was installed before December 22, 1988;

15 (D) the owner and operator have, within six months after
16 September 5, 1990, been in compliance with all state and federal laws
17 applicable to underground petroleum storage tank systems and releases from
18 them, including notification and registration laws, but excluding financial
19 responsibility requirements;

20 (E) the release was not a result of the owner's or operator's
21 gross negligence, recklessness, or intentional conduct;

22 (2) agrees to

23 (A) upgrade all underground petroleum storage tanks located at
24 the facility from which the release occurred to the standards set by state and
25 federal regulations according to a time line established by the department;
26 notwithstanding (g) of this section and AS 46.03.365(c), the department may
27 require upgrading under this subparagraph that is required earlier than that
28 required under federal law; or

29 (B) remove and properly dispose of all liquids and sludges from
30 the underground petroleum storage tanks located at the facility from which the
31 release occurred, conduct a site assessment, and either fill the tanks with inert

1 solid material or properly dismantle, remove, and dispose of the tanks in
2 accordance with applicable state and federal regulations; [AND]

3 (3) agrees to submit a plan for risk assessment, containment, corrective
4 action, and cleanup to the department for its review and approval; if the department
5 and the owner or operator cannot reach agreement on a plan or on later changes in the
6 plan, the owner or operator may apply to the board to review the dispute; the board
7 may issue a recommendation to the department in a dispute brought to it under this
8 paragraph; and

9 (4) certifies, under oath and subject to penalties for perjury, on a
10 form developed by the department and adopted as a regulation that the owner or
11 operator's tangible net worth is \$1,000,000 or less as of the effective date of this
12 bill section.

13 * Sec. 9. AS 46.03.420(e) is amended to read:

14 (e) A request for a grant under this section, and a grant payment made under
15 this section, may not exceed \$250,000 [\$1,000,000 PER OCCURRENCE], less the
16 amount not payable as a grant under (b) of this section.

17 * Sec. 10. AS 46.03 is amended by adding a new section to read:

18 **Sec. 46.03.422. Tank cleanup loan program.** (a) The commissioner may
19 make a loan from the storage tank assistance fund to an owner or operator of an
20 underground petroleum storage tank system for the costs of risk assessment,
21 containment, corrective action, and cleanup resulting from a release of petroleum from
22 or associated with an underground petroleum storage tank system if the owner or
23 operator submitted a timely application for a grant under 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 from
2 the underground petroleum storage tanks located at the facility from which the
3 release occurred, conduct a site assessment, and either fill the tanks with inert
4 solid material or properly dismantle, remove, and dispose of the tanks in
5 accordance with applicable state and federal regulations; and

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

12 (b) The department may require more security or collateral for a loan made
13 under this section than was required under a previously approved grant application for
14 the same project.

15 (c) Under regulations of the board, the department shall rank requests under
16 this section in order of priority, giving greatest priority to those tank systems that
17 present the greatest threat or potential threat to human health.

18 (d) The department may deny a request for a loan under this section if

19 (1) other risk assessment, containment, corrective action, tank upgrading
20 or closure, and cleanup activities for which money may be used under AS 46.03.410
21 constitute a higher priority for fund expenditures;

22 (2) the work that would have been covered by the loan has already
23 been completed; or

24 (3) the loan is for reimbursement of expenses previously incurred.

25 (e) This section does not affect

26 (1) the liability under state or federal law of a person or entity that
27 receives assistance under this section for the costs of risk management, containment,
28 corrective action, and cleanup resulting from a release of petroleum; or

29 (2) the authority of the department to seek recovery from the owner or
30 operator of costs other than grants or loans actually made to an owner or operator
31 under this section.

1 (f) The rate of interest on a loan under this section is equal to the 12th Federal
2 Reserve District discount rate in effect on January 1 of the year in which the loan is
3 approved plus one-half percentage point. The department shall disburse a loan in
4 partial payments according to a schedule that allows reasonable oversight and
5 assessment during implementation of the plan approved under (a) of this section. The
6 interest rate applicable to a loan remains the same throughout the project for which the
7 loan was approved but begins accruing on each partial payment only after
8 disbursement of that payment.

9 (g) The legislature may appropriate to the storage tank assistance fund
10 established under AS 46.03.410 the annual estimated balance of the account maintained
11 under AS 37.05.142 by the commissioner of administration to keep track of loan
12 repayments, including interest payments, under this section.

13 * Sec. 11. AS 46.03.430(c) is amended to read:

14 (c) A grant may not be awarded under this section

15 (1) for upgrading or closure activities that do not meet the requirements
16 of state and federal law; or

17 (2) unless the owner or operator certifies to the department under
18 oath on penalty of perjury that, as of the effective date of this bill section, the
19 tangible net worth of the owner or operator is \$250,000 or less.

20 * Sec. 12. AS 46.03.450 is amended by adding a new paragraph to read:

21 (14) "tangible net worth" means the value of tangible assets, including
22 existing assets and probable future economic benefits that will be obtained or
23 controlled by the entity as a result of past transactions, minus liabilities, including
24 liabilities associated with bringing underground petroleum storage tank systems into
25 compliance with state and federal laws and liabilities associated with releases of
26 petroleum from underground petroleum storage tank systems; notwithstanding other
27 provisions of this paragraph, "tangible net worth" does not include the value of
28 goodwill or the value of rights to patents or royalties.

29 * Sec. 13. Section 4(a), ch. 96, SLA 1990, is amended to read:

30 (a) Notwithstanding AS 46.03.420(h), 46.03.422(e), 46.03.758, 46.03.760,
31 46.03.780, 46.03.790, and 46.03.822, a person, including a municipal school district,

1 regional educational attendance area, or municipality, is not civilly or criminally liable
2 to the state under those sections for a discharge covered by those sections if the person
3 demonstrates by a preponderance of the evidence that the person

4 (1) is the owner or operator of an underground petroleum storage tank
5 or tank system, as defined in AS 46.03.450 [, ENACTED BY SEC. 2 OF THIS ACT,]
6 that was installed before December 22, 1988, and the discharge occurred from that
7 tank or tank system before December 22, 1992;

8 (2) acted in good faith to report, assess, and mitigate damage from the
9 discharge and to undertake corrective action in accordance with applicable state and
10 federal law and was in compliance with all applicable state and federal law before the
11 discharge occurred;

12 (3) is receiving or has been approved for state funds under
13 AS 46.03.420 - 46.03.430 [, ENACTED BY SEC. 2 OF THIS ACT]; and

14 (4) did not intentionally cause the discharge.

15 * **Sec. 14.** AS 46.03.380(b)(2), 46.03.380(b)(3)(B)(ii), 46.03.415; and sec. 7, ch. 96, SLA
16 1990, are repealed.

17 * **Sec. 15.** Section 1 of this Act takes effect immediately under AS 01.10.070(c).

18 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect July 1, 1999.

Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

I-LS0624V
Lauterbach/Chenoweth
4/17/99

CS FOR SENATE BILL NO. 128()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act moving the termination date of the Board of Storage Tank Assistance
2 to June 30, 1999; relating to the storage tank assistance fund, to financial
3 assistance for owners and operators of underground petroleum storage tank
4 systems, and to discharges from underground petroleum storage tank systems; and
5 providing for an effective date."

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 * Section 1. AS 44.66.010(a)(18) is amended to read:

8 (18) Board of Storage Tank Assistance (AS 46.03.360) - June 30, 1999
9 [2000];

10 * Sec. 2. AS 46.03.360(e) is amended to read:

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

13 (1) [DETERMINE WHICH COSTS OF TIGHTNESS TESTING AND

1 SITE ASSESSMENT ARE ELIGIBLE COSTS UNDER AS 46.03.415;

2 (2)] rank requests for assistance under AS 46.03.420 and 46.03.422;

3 (2) [(3)] determine which costs of risk assessment, containment,
4 corrective action, and cleanup are eligible costs under AS 46.03.420 and 46.03.422;

5 (3) [(4)] determine which costs of upgrading and closure are eligible
6 costs under AS 46.03.430 and 46.03.432.

7 * Sec. 3. AS 46.03.360(f) is amended to read:

8 (f) If the department determines that an owner or operator is not eligible for
9 assistance under AS 46.03.410 - 46.03.432 [AS 46.03.410 - 46.03.430] or that a cost
10 is not eligible under AS 46.03.410 - 46.03.432 [AS 46.03.415 - 46.30.430] and the
11 affected owner or operator disputes that determination, or if an owner or operator
12 disputes the ranking assigned to a request for assistance under AS 46.03.420 or
13 46.03.422, the owner or operator may apply to the board for resolution of the dispute.
14 The board may issue a decision in a dispute brought to it under this subsection. The
15 decision is binding on the owner, operator, and department.

16 * Sec. 4. AS 46.03.360(g) is amended to read:

17 (g) The board may adopt regulations to limit the number of sites per calendar
18 year for which an owner or operator may be awarded financial assistance under
19 AS 46.03.420 - 46.03.432 [AS 46.03.420 - 46.03.430]. The department shall
20 implement the regulations.

21 * Sec. 5. AS 46.03.410(a) is amended to read:

22 (a) There is established the storage tank assistance fund. It consists of money
23 appropriated to it by law. The department shall deposit earnings on money in the fund
24 in the general fund. The legislature may use the estimated balance in the account
25 maintained by the commissioner of administration under AS 37.05.142 to make
26 appropriations to the fund. The legislature may appropriate unencumbered money
27 from the fund for the cost of risk assessment, containment, corrective action, and
28 cleanup relating to an underground petroleum storage tank system owned or
29 operated by the state, the University of Alaska, a public corporation, a school
30 district, or another political subdivision or instrumentality of the state. An
31 application for funds under AS 46.03.420, 46.03.422, 46.03.430, and 46.03.432 is

1 not considered an encumbrance for purposes of this subsection.

2 * Sec. 6. AS 46.03.410(b) is amended to read:

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

4 (1) [TANK TIGHTNESS TESTS OR SITE ASSESSMENTS UNDER
5 AS 46.03.415;

6 (2)] grants and loans under AS 46.03.420 and 46.03.422 for risk
7 assessment, containment, corrective action, and cleanup costs; and

8 (2) grants and loans [(3) GRANTS] under AS 46.03.430 and
9 46.03.432 for tank system upgrading and closure.

10 * Sec. 7. AS 46.03.420(a) is amended to read:

11 (a) The commissioner may make a grant from the storage tank assistance
12 fund to an [SUBJECT TO (b) - (i) OF THIS SECTION, APPLICATION MAY BE
13 MADE TO THE DEPARTMENT BY THE] owner or operator of an underground
14 petroleum storage tank system, other than the state or federal government, [FOR
15 GRANTS AND LOANS FROM THE STORAGE TANK ASSISTANCE FUND TO
16 PAY] for the costs of risk assessment, containment, corrective action, and cleanup
17 resulting from a release of petroleum from or associated with an underground
18 petroleum storage tank system. Applications for assistance under this section must be
19 submitted to the department before July 1, 1994. Under regulations of the board, the
20 department shall rank requests under this section in order of priority, giving greatest
21 priority to those tank systems that present the greatest threat or potential threat to
22 human health.

23 * Sec. 8. AS 46.03.420(b) is amended to read:

24 (b) A grant [GRANTS] made by the department under this section must
25 [SHALL] exclude a portion of the risk assessment, containment, corrective action, and
26 cleanup costs. The portion of these costs not payable as a grant by the department
27 under this section is 10 percent of total costs, up to a maximum of \$25,000 not
28 payable by the department; this portion of the costs shall be loaned at no interest by
29 the department to the owner or operator on request with repayment to be made
30 according to a schedule agreed to by the parties. The department may require security
31 or collateral for a loan made under this subsection and may charge a fee for a late loan

1 repayment equal to five percent of the amount of the late payment. At the
2 department's discretion, a loan or grant under this subsection [SECTION] may be
3 disbursed in partial payments according to a schedule related to costs anticipated to be
4 incurred during specified time periods.

5 * Sec. 9. AS 46.03.420(c) is amended to read:

6 (c) An owner or operator of an underground petroleum storage tank system is
7 not eligible for a grant [OR LOAN] under this section for activities related to a release
8 unless the release occurs before December 22, 1993, and the owner or operator

9 (1) establishes the following to the department's reasonable satisfaction:

10 (A) the owner or operator reported the release to the department
11 in compliance with state and federal law before July 1, 1994, for a release that
12 the owner or operator establishes first occurred on or after September 5, 1990,
13 and before December 22, 1993;

14 (B) the owner or operator promptly reported the release to the
15 department in compliance with applicable regulations;

16 (C) the tank or tank system from which the release occurred
17 was installed before December 22, 1988;

18 (D) the owner and operator have, within six months after
19 September 5, 1990, been in compliance with all state and federal laws
20 applicable to underground petroleum storage tank systems and releases from
21 them, including notification and registration laws, but excluding financial
22 responsibility requirements;

23 (E) the release was not a result of the owner's or operator's
24 gross negligence, recklessness, or intentional conduct;

25 (2) agrees to

26 (A) upgrade all underground petroleum storage tanks located at
27 the facility from which the release occurred to the standards set by state and
28 federal regulations according to a time line established by the department;
29 notwithstanding (g) of this section and AS 46.03.365(c), the department may
30 require upgrading under this subparagraph that is required earlier than that
31 required under federal law; or

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

6 (3) agrees 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 or on later changes in the
9 plan, the owner or operator may apply to the board to review the dispute; the board
10 may issue a recommendation to the department in a dispute brought to it under this
11 paragraph.

12 * Sec. 10. AS 46.03.420(d) is amended to read:

13 (d) The department

14 (1) may not approve an application for a grant under this section
15 if the amount of the grant requested is less than 25 percent of the applicant's
16 assets; and

17 (2) may deny a request for a grant [OR LOAN] under this section if
18 the department determines that one or more of the following conditions exists:

19 (A) [(1)] the fund established under AS 46.03.410 lacks
20 sufficient money; if a request for a grant [OR LOAN] is denied under this
21 subparagraph [PARAGRAPH], it shall be granted, without the requirement
22 of a new application, when money is next available, subject to the existence of
23 higher-priority requests;

24 (B) [(2)] other risk assessment, containment, corrective action,
25 and cleanup activities for which money may be used under AS 46.03.410
26 constitute a higher priority for fund expenditures; if a request is initially denied
27 under this subparagraph [PARAGRAPH], it shall be granted later without the
28 necessity of a new application, subject to available funding and other higher
29 priorities; or

30 (3) the owner or operator fails to meet the requirements set out in (c)
31 of this section.

1 * **Sec. 11.** AS 46.03.420(e) is amended to read:

2 (e) A request for a grant under this section, and a grant payment made under
3 this section, may not exceed \$250,000 [\$1,000,000 PER OCCURRENCE], less the
4 amount not payable as a grant under (b) of this section.

5 * **Sec. 12.** AS 46.05 is amended by adding a new section to read:

6 **Sec. 46.03.422. Tank cleanup loan program.** (a) The commissioner may
7 make a loan from the storage tank assistance fund to an owner or operator of an
8 underground petroleum storage tank system for the costs of risk assessment,
9 containment, corrective action, and cleanup resulting from a release of petroleum from
10 or associated with an underground petroleum storage tank system if the owner or
11 operator submitted a timely application for a grant under AS 46.03.420 and agrees

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

14 (2) to provide additional security or collateral for the loan if requested
15 by the department

16 (3) either to

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

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

25 (4) to submit a plan for risk assessment, containment, corrective action,
26 and cleanup to the department for its review and approval; if the department and the
27 owner or operator cannot reach agreement on a plan or on later changes in the plan,
28 the owner or operator may apply to the board to review the dispute; the board may
29 issue a recommendation to the department in a dispute brought to it under this
30 paragraph.

31 (b) The department may require more security or collateral for a loan made

1 under this section than was required under a previously approved grant application for
2 the same project.

3 (c) Under regulations of the board, the department shall rank requests under
4 this section in order of priority, giving greatest priority to those tank systems that
5 present the greatest threat or potential threat to human health.

6 (d) The department may deny a request for a loan under this section if other
7 risk assessment, containment, corrective action, tank upgrading or closure, and cleanup
8 activities for which money may be used under AS 46.03.410 constitute a higher
9 priority for fund expenditures.

10 (e) This section does not affect

11 (1) the liability under state or federal law of a person or entity that
12 receives assistance under this section for the costs of risk management, containment,
13 corrective action, and cleanup resulting from a release of petroleum; or

14 (2) the authority of the department to seek recovery from the owner or
15 operator of costs other than grants or loans actually made to an owner or operator
16 under this section.

17 (f) The rate of interest on a loan under this section is equal to the 12th Federal
18 Reserve District discount rate in effect on January 1 of the year in which the loan is
19 approved plus one-half percentage point. The department shall disburse a loan in
20 partial payments according to a schedule that allows reasonable oversight and
21 assessment during implementation of the plan approved under (a) of this section. The
22 interest rate applicable to a loan remains the same throughout the project for which the
23 loan was approved but begins accruing on each partial payment only after
24 disbursement of that payment.

25 (g) The legislature may appropriate to the storage tank assistance fund
26 established under AS 46.03.410 the annual estimated balance of the account maintained
27 under AS 37.05.142 by the commissioner of administration to keep track of loan
28 repayments, including interest payments, under this section.

29 * Sec. 13. AS 46.03.430(c) is amended to read:

30 (c) A grant may not be awarded under this section

31 (1) for upgrading or closure activities that do not meet the requirements

1 of state and federal law; and

2 (2) if the amount of the grant requested is less than 25 percent of
3 the applicant's assets.

4 * Sec. 14. AS 46.03 is amended by adding a new section to read:

5 **Sec. 46.03.432. Tank upgrading and closure loan program.** (a) The
6 department shall, by regulation, establish a loan program under which the owner or
7 operator of an underground petroleum storage tank may receive a loan for 60 percent
8 of the eligible costs of tank upgrading or closure, subject to a maximum total loan of
9 \$60,000 for each facility.

10 (b) An owner or operator is eligible for a loan under this section only if

11 (1) a timely application for a grant was submitted under AS 46.03.430
12 for the facility; and

13 (2) the owner or operator agrees to accept a loan instead of the grant.

14 (c) Under regulations adopted by the board, the department shall determine
15 which costs of upgrading and closure are eligible for a loan under this section.

16 (d) The rate of interest on a loan under this section is equal to the 12th Federal
17 Reserve District discount rate in effect on January 1 of the year in which the loan is
18 approved plus one-half percentage point. The department shall disburse a loan in
19 partial payments according to a schedule that allows reasonable oversight and
20 assessment during the project funded by the loan. The interest rate applicable to a
21 loan remains the same throughout the project for which the loan was approved but
22 begins accruing on each partial payment only after disbursement of that payment.

23 (e) A loan may not be awarded under this section for upgrading or closure
24 activities that do not meet the requirements of state and federal law.

25 (f) The legislature may appropriate to the storage tank assistance fund
26 established under AS 46.03.410 the annual estimated balance of the account maintained
27 under AS 37.05.142 by the commissioner of administration to keep track of loan
28 repayments, including interest payments, under this section.

29 (g) In this section,

30 (1) "closure" means to remove all petroleum and sludges from an
31 underground petroleum storage tank and either fill the tank with inert solid material

1 or properly dismantle, remove, and dispose of the tank;

2 (2) "upgrading" means to add or retrofit cathodic protection systems,
3 lining, spill and overflow controls, or similar systems to improve the ability of an
4 underground petroleum storage tank system to prevent a release.

5 * **Sec. 15.** Section 4(a), ch. 96, SLA 1990, is amended to read:

6 (a) Notwithstanding AS 46.03.420(h), 46.03.422(e), 46.03.758, 46.03.760,
7 46.03.780, 46.03.790, and 46.03.822, a person, including a municipal school district,
8 regional educational attendance area, or municipality, is not civilly or criminally liable
9 to the state under those sections for a discharge covered by those sections if the person
10 demonstrates by a preponderance of the evidence that the person

11 (1) is the owner or operator of an underground petroleum storage tank
12 or tank system, as defined in AS 46.03.450 [ENACTED BY SEC. 2 OF THIS ACT,]
13 that was installed before December 22, 1988, and the discharge occurred from that
14 tank or tank system before December 22, 1992;

15 (2) acted in good faith to report, assess, and mitigate damage from the
16 discharge and to undertake corrective action in accordance with applicable state and
17 federal law and was in compliance with all applicable state and federal law before the
18 discharge occurred;

19 (3) is receiving or has been approved for state funds under
20 AS 46.03.420 - 46.03.432 [AS 46.03.420 - 46.03.430, ENACTED BY SEC. 2 OF
21 THIS ACT]; and

22 (4) did not intentionally cause the discharge.

23 * **Sec. 16.** AS 46.03.380(b)(3)(B)(ii), 46.03.415; and sec. 7, ch. 96, SLA 1990, are
24 repealed.

25 * **Sec. 17.** Section 1 of this Act takes effect immediately under AS 01.10.070(c).

26 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect July 1, 1999.

SENATE FINANCE COMMITTEE
1999 COMMITTEE ACTION

Bill Number	SB 128
Ameidment	CS "I"
Motion	Adopt
<u>Motion by</u>	Parnell
<u>Objection</u>	
<u>Objection by</u>	Adams
<u>Removed</u>	
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Gary Wilken	Y
Senator Pete Kelly	Y
Senator Lyda Green	Y
Senator Randy Phillips	—
Senator Dave Donley	—
Senator Loren Leman	Y
Senator Al Adams	N
Co-Chair Sean Parnell	Y
Co-Chair John Torgerson	Y
<u>Tally</u>	
Yea	0 6
Nay	0 1
Absent	0 2
<u>MOTION</u>	Pass

LEGAL SERVICES

SB 128

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 8, 1999

SUBJECT: Storage Tank Assistance Fund (Work Order No. 1-LS0624\A)

TO: Senator Dave Donley

FROM: Terri Lauterbach
Legislative Counsel 

Enclosed is a draft that meets what I understand to be your request relating to the storage tank assistance fund and the cleanup program funded by it. The bill would do the following:

(1) specify that the legislature could appropriate money from the storage tank assistance fund for cleanup projects relating to governmental oil tanks; and

(2) convert the current grant program for cleanup of problems with private oil tanks to a loan program (without changing any time deadlines in the current law).

Section 1. Contains a technical amendment to reflect the changes made in AS 46.03.420 later in the bill.

Section 2. Contains a technical amendment to reflect the changes made in AS 46.03.420 later in the bill.

Section 3. Authorizes appropriations from the storage tank assistance fund for governmental tank cleanup. As you know from your experience on the Finance Committee, the legislature is free to appropriate money from this fund at any time for any purpose (not just storage tank cleanup). However, I have included the language as you requested. This amendment also clarifies the status of the pending grant applications.

Section 4. The new language in the first line ensures that an appropriation from the fund for another purpose would be given effect before the commissioner's use of the fund is authorized. The amendment in paragraph (2) removes the grant language you requested to be removed. Do you also want to remove the grants under paragraph (3)? As I recall, we have only talked about the cleanup program on the telephone, not the closure program. I also do not know if there are pending applications for this program.

Section 5. This section rewrites the grant program to be a loan program. As I believe you requested, the loans would be available only to people who already have grant applications on file and who agree to convert those grant applications to loan applications. Subsection

Senator Dave Donley

March 8, 1999

Page 2

(c) is derived from current AS 46.03.420(h) and seemed to me to be a necessary provision to retain from current law. You may wish to consult DEC (or authorize me to do so) to see if there are other provisions in current AS 46.03.420 that should be retained for the loan program. For instance, the material in current law requiring applicants to submit plans for upgrading and cleanup might still be necessary. I do not know if the plans were part of the approved applications or not, or if new plans might be needed now because of the passage of time or for another reason.

Section 6. This is a technical change made necessary by the rewriting of AS 46.03.420.

Section 7. This is a technical change made necessary by the rewriting of AS 46.03.420.

Section 8. Effective date.

TML:jdr
99-101.jdr

Enclosure



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

FOR SENATE BILL 128

"AN ACT RELATING TO THE STORAGE TANK ASSISTANCE FUND"

Senate Bill 128 allows the legislature to appropriate money from the storage tank assistance fund for projects relating to governmental fuel storage tanks and converts the existing grant program to a loan program.

No other state has a grant program and providing grants to private entities for cleanup of their storage tank facilities does not make fiscal sense. Many states do have loan programs and providing an affordable loan program to private entities for the purpose of cleaning up problematic private fuel tanks is much more fiscally responsible. Dispensing loans instead of grants also encourages private entities to take greater care during the initial installation of fuel storage tanks.

DD/mn

IN THE LEGISLATURE OF THE STATE OF ALASKA
AMENDMENTS TO CS SB128 (RES)

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***Section 9. Delete Section 9, AS 46.03.431, in it's entirety.**

*** NEW - Section 10.** AS 46.03 is amended by adding a new section to read:

AS 46.03.422. Small Business Cleanup Grant Program.

(a) Subject to (b) - (k) of this section, owners or operators of an underground petroleum storage tank system, other than the state or federal government who made a timely application for a grant under former AS 46.03.420 may receive grants from the storage tank assistance fund to pay for the costs of risk assessment, containment, corrective action, and cleanup resulting from a release of petroleum from or associated with an underground petroleum storage tank system. Under regulations of the board, the department shall rank requests under this section in order of priority, giving greatest priority to those tank systems that present the greatest threat or potential threat to human health.

(b) To be eligible for consideration for a grant under this program, an owner or operator, other than a municipality, must provide the department with written certification, on a form established by the department by regulation, signed under oath and subject to penalty for perjury, indicating that

(1) the owner or operator has not been self insured pursuant to 40 C.F.R. sec. 280.95 on or after the effective date of this section;

(2) the owner or operator has not had tangible net assets of over 1 million dollars at any time on or after the effective date of this section; and

(3) the owner or operator does not have tangible net assets that exceed the product of multiplying the estimated costs of risk assessment, containment, corrective action, and cleanup by four. For purposes of this section "tangible net assets" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(c) Grants made by the department shall exclude a portion of the investigation, containment and cleanup costs. The portion of costs not payable by the department under this section shall be based on the total available capacity of petroleum tanks in use by the owner or operator and reported to the department on their annual registration form established by AS 46.03.380, as follows:

Total capacity in-use by owner or operator	Costs not payable as a grant
Less than 75,000 gallons total capacity	10%
More than 75,000 gallons and less than 125,000 gallons	20%
More than 125,000 gallons and less than 250,000 gallons	30%

(d) Eligible costs not payable under this section shall be available as a loan under the Cleanup Loan Program established under AS 46.03.421. At the department's discretion, a grant under this section may be disbursed in partial payments according to a schedule related to costs anticipated to be incurred during specified time periods.

AMENDMENT

OFFERED IN THE SENATE

BY _____

TO: CSSB 128 (RES), Version "H"

1 Page 7, following line 28:

2 Insert a new bill section to read:

3 ****Sec. 12. TRANSITION: REGULATIONS:** (a) The Department of Environmental
4 Conservation or the Board of Storage Tank Assistance may adopt regulations as authorized
5 by this Act and other respective statutory authority to implement changes made by this Act.
6 Regulations adopted under this section may not take effect until the corresponding enabling
7 statute takes effect under sec. 14 of this Act.

8 (b) Notwithstanding any provision of this Act, regulations in effect on June 20, 1999,
9 relating to the Storage Tank Assistance Fund, that are not inconsistent with the provisions of
10 this Act, remain in effect until amended or repealed under the respective authorities of the
11 Department of Environmental Conservation or the Board of Storage Tank Assistance."

12 Renumber the following bill sections accordingly.

13 Page 7, line 29:

14 Delete "Section 1"

15 Insert "Sections 1 and 12"

SENATE FINANCE COMMITTEE

SIGN-IN

SB 128-STORAGE TANK ASSISTANCE FUND

NAME: Steven Daugherty Subject/Bill No: SB128
Co./Dept./Title: Dept of Law, AAG Phone: 465-3600
Address: JUNEAU Zip: 99801

Do you wish to testify? Yes No Respond To Questions

NAME: JOHN BARNETT Subject/Bill No: SB 128
Co./Dept./Title: BOARD OF STORAGE TANKS Phone: 465-5219
Address: 410 WILLOUGHBY JUNEAU Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

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Co./Dept./Title: Dept. of Law, Assistant Attorney General Phone: 465-3600

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SENATE FINANCE COMMITTEE

SIGN-IN

SB 128-STORAGE TANK ASSISTANCE FUND

NAME: Steven Daugherty Subject/Bill No: SB 128
Co./Dept./Title: Dept. of Law Phone: 965-3600
Address: Juneau Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: John BARNETT Subject/Bill No: SB 128
Co./Dept./Title: EXEC. DIR. BOARD OF STORAGE TANK ASSISTANCE Phone: 465-5219
Address: JUNEAU Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions