

LEGISLATIVE FINANCE-HOUSE/SENATE FINANCE COMM. FILES 8879

HB 220 cont. 493 84

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Changes p. 4 + 5

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Lauterbach  
5/2/90

Original sponsor(s): REP. MENARD, M. Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor fuels, petroleum and chemi-  
7 cal storage tanks, and investigation, containment,  
8 and cleanup of oil and hazardous substances; and  
9 providing for an effective date."

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

11 \* Section 1. PURPOSE AND INTENT. (a) The purpose of this Act is to  
12 provide for

13 (1) establishment of technical assistance mechanisms that will  
14 assist the owners and operators of underground storage tank systems to  
15 comply with federal and state requirements governing their tank systems;  
16 and

17 (2) clean up of existing leaks and prevention of future leaks  
18 associated with underground petroleum storage tank systems in order to  
19 protect the public from contamination of drinking water and to protect the  
20 environment.

21 (b) The legislature recognizes that the regulations governing under-  
22 ground storage tank systems may not be easily understood and that some  
23 owners and operators will be faced with insurance requirements that they  
24 will not be able to satisfy because of contamination relating to their tank  
25 systems. It is the legislature's intent to help these owners and operators  
26 through educational, technical, and financial assistance, and to provide  
27 incentives for prompt compliance with the new requirements of this Act.

28 (c) It is the intent of the legislature that the owners and operators  
29 of underground petroleum storage tank systems train their employees in the

1 proper handling of petroleum products and the use of leak, spill, and  
2 overflow protection devices.

3 (d) It is also the intent of the legislature to develop a program for  
4 underground storage tank systems that will be approved by the federal  
5 government.

6 \* Sec. 2. AS 46.03 is amended by adding new sections to read:

7 ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

8 Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is  
9 established the Board of Storage Tank Assistance. For administrative  
10 purposes, the board is located in the department. The board consists  
11 of the commissioners of environmental conservation and transportation  
12 and public facilities, or their designees, and the following persons  
13 who shall be appointed by the governor:

14 (1) an engineer registered under AS 08.48 who is knowledge-  
15 able about installing, upgrading, repairing, or closing underground  
16 petroleum storage tank systems;

17 (2) a general contractor registered under AS 08.18 who is  
18 knowledgeable about installing, upgrading, repairing, or closing  
19 underground petroleum storage tank systems;

20 (3) two persons who own or operate an underground petroleum  
21 storage tank system, at least one of whom does not own or operate more  
22 than 10 underground petroleum storage tanks; and

23 (4) a member of the insurance industry.

24 (b) The board may employ a full-time director and no more than  
25 one other employee. The department shall provide additional adminis-  
26 trative and clerical support to the board.

27 (c) Members of the board designated under (a)(1) - (4) of this  
28 section serve staggered four-year terms and may be removed by the  
29 governor only after notice and hearing for misconduct, incompetency,

1 or neglect of duty.

2 (d) The board shall meet at the call of the chair, who shall be  
3 selected by the members from among themselves.

4 (e) The members of the board serve without compensation, but are  
5 entitled to per diem and travel expenses authorized by law for boards  
6 and commissions.

7 (f) The department shall implement and enforce the regulations  
8 adopted by the board.

9 Sec. 46.03.363. BOARD REPORT. The board shall submit a report  
10 to the legislature not later than the 10th day following the convening  
11 of each regular session of the legislature. The report may include  
12 information considered significant by the board but must include

13 (1) information about the extent to which releases associ-  
14 ated with underground petroleum storage tank systems have caused  
15 bodily injury or property damages to persons other than the owner or  
16 operator of the system in the preceding fiscal year, and the extent to  
17 which insurance is available to cover that type of injury and damage;

18 (2) recommendations about whether there are specific areas  
19 where state regulations should be more stringent than the federal  
20 regulations for underground petroleum storage tank systems;

21 (3) information on the availability of private commercial  
22 loans and federal loans, loan guarantees, or grants for upgrading  
23 underground petroleum storage tank systems;

24 (4) information on the availability of insurance that would  
25 cover the costs of corrective actions made necessary by a release or  
26 threatened release from an underground petroleum storage tank system;

27 (5) a brief summary of disputes involving the board under  
28 AS 46.03.420(c)(3); and

29 (6) recommendations for amendments or additions to

1 AS 46.03.360 - 46.03.450.

2 Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK  
3 SYSTEMS. (a) The board shall develop a program to abate and prevent  
4 pollution from underground petroleum storage tank systems through the  
5 adoption of regulations under the Administrative Procedure Act  
6 (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.-  
7 03.450, the regulations may govern

- 8 (1) notification and registration;  
9 (2) inspection and record keeping;  
10 (3) construction, installation, and performance;  
11 (4) maintenance, operation, and repair;  
12 (5) technical standards, including standards for spill and  
13 overfill control, corrosion prevention, and release detection and  
14 reporting;  
15 (6) financial responsibility;  
16 (7) certification of underground petroleum storage tank  
17 system workers;  
18 (8) corrective action and cost recovery;  
19 (9) closure and abandonment;  
20 (10) enforcement of regulations; and  
21 (11) prevention of releases to protect the public health and  
22 environment.

23 (b) In the regulations adopted under (a) of this section, the  
24 board may

- 25 (1) distinguish among the sizes, types, classes, locations,  
26 and ages of underground petroleum storage tank systems;  
27 (2) provide for exemptions and deferrals determined to be  
28 necessary by the board; exemptions and deferrals under this paragraph  
29 must be consistent with those granted under federal laws and

*5/3/90 - Proposed deletion of subsection (d)  
JB these  
Proposed deletion of (d)  
+ addition of "these"  
not adopted*

1 regulations.

2 (c) Except as provided in AS 46.03.420(c)(2)(A), when the regu-  
3 lations adopted under this section address areas governed by federal  
4 laws or regulations, the state regulations must be consistent with  
5 federal laws and regulations and may not be more stringent than the  
6 federal laws and regulations.

5/3/40 am  
JB delete (d)

7 ~~(d) The department may not adopt nonemergency regulations in the~~  
8 ~~areas specified in (a) - (c) of this section under any law that does~~  
9 ~~not specifically refer to this subsection. However, the department~~  
10 ~~may adopt emergency regulations in the same areas and subject to the~~  
11 ~~same conditions as the board regulations authorized under (a) - (c) of~~  
12 ~~this section. Emergency regulations adopted under this subsection may~~  
13 ~~not remain in effect for more than 120 days unless the board adopts~~  
14 ~~the regulations in compliance with AS 44.62.060 and 44.62.190 - 44.-~~

15 *5/3/40 T. Lawlerback new (d) the dept. may not adopt regs. that*  
16 *62-210 am conflict w/regs. adopted by the board.*

17 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations  
18 of the board, the department shall provide

19 (1) educational assistance to owners and operators of  
20 underground petroleum storage tank systems to help them comply with  
21 federal and state laws and regulations applicable to the tank systems,  
22 including the registration and notification requirements under AS 46.-  
23 03.380 - 46.03.400;

24 (2) the public with information to help the public under-  
25 stand the effects associated with the release of petroleum and chemi-  
26 cal products into the environment, including releases from petroleum  
27 and chemical storage tank systems.

28 Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The  
29 board shall adopt regulations governing the certification of persons  
30 who install, test, close, repair, or significantly change the

1 configuration of underground petroleum storage tanks and tank systems.  
2 The certification program shall be administered by the division of  
3 occupational licensing, Department of Commerce and Economic Develop-  
4 ment. Under the board's regulations and in consultation with the  
5 Department of Environmental Conservation, the division shall make  
6 every reasonable attempt to ensure that opportunities for obtaining  
7 certification under this section are available throughout the state.  
8 The division shall organize presentation of national training courses  
9 that are available in the state and assist residents of isolated  
10 communities who request assistance in becoming certified. The divi-  
11 sion may contract with the University of Alaska, a vocational techni-  
12 cal school, or a regional nonprofit organization to provide the educa-  
13 tion and testing necessary for certification.

14 (b) The division shall establish fees applicable to certifica-  
15 tion under this section in an amount necessary to cover the costs of  
16 the certification program. The fees shall be collected by the divi-  
17 sion. The commissioner of administration shall separately account for  
18 fees deposited in the general fund by the Department of Commerce and  
19 Economic Development under this subsection. The legislature may  
20 appropriate the annual estimated balance of the account to the Depart-  
21 ment of Commerce and Economic Development for operation of the certi-  
22 fication program.

23 (c) Except as provided in (d) of this section, a person may not  
24 install, test, close, repair, or significantly change the config-  
25 uration of an underground petroleum storage tank or tank system unless  
26 that person is certified for the appropriate activity under (a) of  
27 this section. A person who violates this subsection is guilty of a  
28 class B misdemeanor.

29 (d) A person may install, test, close, repair, or significantly

1 change the configuration of an underground petroleum storage tank or  
2 tank system without being certified under this section if

- 3 (1) the person performs the work under the direct super-  
4 vision of another who is certified for that work under this section;  
5 (2) the supervisor inspects the work performed; and  
6 (3) after inspection, the supervisor approves the work in  
7 writing.

8 (e) The Administrative Procedure Act (AS 44.62) applies to  
9 regulations and certifications under this section.

10 (f) The department shall develop and maintain lists of persons  
11 certified under this section to perform the various activities related  
12 to underground petroleum storage tanks and tank systems. The depart-  
13 ment shall provide the lists on request to interested persons.

14 (g) In this section,

15 (1) "close" means to remove petroleum and sludges from the  
16 tanks in the tank system and either fill the tanks with inert solid  
17 material or remove, dismantle, and dispose of the tanks;

18 (2) "division" means the division of occupational licensing  
19 in the Department of Commerce and Economic Development.

20 Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A  
21 person who intends to install, have installed, return to operation, or  
22 acquire ownership of an underground petroleum storage tank or tank  
23 system shall, before the installation or return to operation, or 30  
24 days after acquisition, register the tank or tank system with the  
25 department on a form provided by the department and pay the tank  
26 registration fee required under AS 46.03.385.

27 (b) The owner or operator of an underground petroleum storage  
28 tank or tank system that was installed before and is still in use on  
29 the effective date of this section shall register the tank or tank

1 system with the department on a form provided by the department and  
2 pay the tank registration fee required under AS 46.03.385. For each  
3 tank or tank system registered under this subsection that was in-  
4 stalled before December 22, 1988, the owner or operator shall provide  
5 to the department at the time of registration

6 (1) proof of plans for prompt site assessment or testing  
7 for tank tightness;

8 (2) an application for state assistance to fund part of the  
9 cost of a tank tightness test or site assessment; or

10 (3) proof of tank tightness testing or site assessment that  
11 occurred within the previous 12 months and

12 (A) satisfactory performance of the tank or tank  
13 system during the test, proof of noncontamination if a site  
14 assessment was performed, and proof of compliance with applicable  
15 state financial responsibility requirements; or

16 (B) if the tank or tank system did not perform satis-  
17 factorily during the test, or the site assessment showed evidence  
18 of contamination,

19 (i) a summary of the upgrading, repair, contain-  
20 ment, or cleanup efforts that have been or will be used for  
21 the tank, tank system, or site; or

22 (ii) an application for state assistance under  
23 AS 46.03.420 - 46.03.430; if the applicant is determined to  
24 be ineligible for assistance under AS 46.03.420 - 46.03.430,  
25 the applicant shall comply with (i) of this subparagraph  
26 upon notification of ineligibility.

27 Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registra-  
28 tion under AS 46.03.380, and annually thereafter, the owner or opera-  
29 tor shall pay to the department a registration fee for each tank

1 registered unless the owner or operator has notified the department  
2 under AS 46:03.393 that the tank has been taken out of service. An  
3 underground storage tank that has leak detection, spill and overflow  
4 protection, and corrosion protection that meet requirements of the  
5 board is subject to a \$50 annual registration fee, regardless of tank  
6 capacity. An underground storage tank system that lacks any or all of  
7 these features is subject to an annual registration fee of

8 (1) \$150 if the underground storage tank capacity is less  
9 than 1,000 gallons;

10 (2) \$300 if the underground storage tank capacity is  
11 1,000 - 5,000 gallons;

12 (3) \$500 if the underground storage tank capacity is over  
13 5,000 gallons.

14 (b) An underground petroleum storage tank or tank system owned  
15 or operated by the federal or state government is exempt from the  
16 registration fee in (a) of this section.

17 (c) A registration fee that is not paid within 30 days of when  
18 it is due shall be increased by a late payment fee equal to \$10 per  
19 day until the day of payment.

20 (d) The first annual fee under this section must be accompanied  
21 by the information required under AS 46.03.400. Subsequent annual  
22 fees must be accompanied by the names and addresses of the owner and  
23 operator of the tank system, and the location and capacity of, and  
24 substance being stored in, the tanks for which the fee is being sub-  
25 mitted.

26 (e) The commissioner of administration shall separately account  
27 for money deposited in the general fund by the department under this  
28 section. The legislature may appropriate the annual estimated balance  
29 of the account to the storage tank assistance fund established under

1 AS 46.03.410.

2 Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. A  
3 person who intends to significantly change the configuration of an  
4 underground petroleum storage tank system shall notify the department  
5 before beginning work on the change by completing and returning to the  
6 department a notification form obtained from the department.

7 Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an  
8 underground petroleum tank or storage tank system is taken out of  
9 operation, the owner or operator of the tank or tank system, or an  
10 agent on the owner's or operator's behalf, shall provide on forms ob-  
11 tained from the department

12 (1) notification of that fact to the department at least 15  
13 days, but not more than 60 days, before the date the tank or tank  
14 system will be taken out of operation unless the tank or tank system  
15 is taken out of operation because of an emergency; in emergency sit-  
16 uations, the owner or operator shall provide notification as promptly  
17 as possible under the circumstances; and

18 (2) evidence satisfactory to the department within 30 days  
19 after the tank or tank system is taken out of operation that the owner  
20 or operator has complied with applicable state and federal laws and  
21 regulations governing temporary or permanent tank closure.

22 Sec. 46.03.400. REGISTRATION FORMS. The registration forms  
23 required under AS 46.03.380 - 46.03.395 must require information about  
24 the geographical location of a tank or tank system, the estimated age  
25 of the tanks and tank system, the total capacity, type of construc-  
26 tion, internal and external protection, and piping of the tanks and  
27 tank system, and the substance currently or proposed to be stored in  
28 the tank system. If the tank or tank system is newly installed, the  
29 owner or operator shall certify that the owner or operator has

1 complied with installation, release detection, corrosion protection,  
2 and financial responsibility requirements of state and federal law.

3 Sec. 46.03.405. PROHIBITIONS. A person may not operate an  
4 underground petroleum storage tank or tank system unless

5 (1) the tank and tank system is registered with the depart-  
6 ment as provided in AS 46.03.360 - 46.03.450 or other law; and

7 (2) except as provided in AS 46.03.420(c)(1)(D), the person  
8 has provided to the department proof of financial responsibility to  
9 the extent required under regulations adopted under AS 46.03.365 or  
10 proof of application for arrangements that would satisfy state finan-  
11 cial responsibility requirements.

12 Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is  
13 established the storage tank assistance fund. It consists of money  
14 appropriated to it by law. The commissioner of administration shall  
15 separately account for earnings on money in the fund that are de-  
16 posited in the general fund by the department. The legislature may  
17 use the estimated balance in the account to make appropriations to the  
18 fund.

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

20 (1) tank tightness tests or site assessments under AS 46.-  
21 03.415;

22 (2) grants and loans under AS 46.03.420 for risk assess-  
23 ment, containment, corrective action, and cleanup costs; and

24 (3) grants under AS 46.03.430 for tank system upgrading and  
25 closure.

26 (c) The commissioner shall submit a report on the status of the  
27 storage tank assistance fund to the legislature not later than the  
28 10th day following the convening of each regular session of the legis-  
29 lature. The report may include information considered significant by

1 the commissioner but must include

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

4 (2) the amount of money expended during the preceding  
5 fiscal year for each type of expense authorized under (b) of this  
6 section;

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

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

17 (5) the priority list of tank system sites for which the  
18 department expects to provide financial assistance in the next fiscal  
19 year.

20 Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE  
21 PROGRAM. (a) The owner or operator of an underground petroleum  
22 storage tank or tank system that was installed before the effective  
23 date of this Act and is operating on the effective date of this Act,  
24 other than the state or federal government, may request the department  
25 to use money from the storage tank assistance fund to reimburse the  
26 owner or operator for eligible costs of a tank tightness test or site  
27 assessment in order to determine if there has been a release of petro-  
28 leum from the owner's or operator's tank system. The department shall  
29 reimburse up to 50 percent of the cost, not to exceed \$300 per tank

1 for tightness tests up to a maximum of \$1,200 per facility, or \$800  
2 per tank for site assessment up to a maximum of \$3,200 per facility.

3 (b) Under regulations adopted by the board, the department shall  
4 determine which costs of tightness testing and site assessment are  
5 eligible costs under this section.

6 (c) Notification of intent to request reimbursement under this  
7 section must be submitted to the department at the time of registra-  
8 tion under AS 46.03.380(b). The activities for which reimbursement is  
9 requested must be completed within 12 months after registration is due  
10 under AS 46.03.380 unless the owner or operator demonstrates to the  
11 department's satisfaction that there is good cause for extending the  
12 deadline. Good cause may be demonstrated by a showing that a qual-  
13 ified site assessor or tank system tester was not available, seasonal  
14 climatic conditions render the appropriate activities unsafe or im-  
15 practicable, or other justification acceptable to the department. If  
16 the department finds good cause for extending the deadline, the de-  
17 partment may extend the deadline for completion of activities for  
18 which reimbursement is requested for a period of time specified by the  
19 department.

20 (d) The department shall make available, on request, lists of  
21 persons who have notified the department that they are available as  
22 site assessors and tank testers for purposes of this section.

23 Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j)  
24 of this section, application may be made to the department by the  
25 owner or operator of an underground petroleum storage tank system,  
26 other than the state or federal government, for grants and loans from  
27 the storage tank assistance fund to pay for the costs of risk assess-  
28 ment, containment, corrective action, and cleanup resulting from a  
29 release of petroleum from or associated with an underground petroleum

1 storage tank system. Applications for assistance under this section  
2 must be submitted to the department before July 1, 1994. The depart-  
3 ment shall rank requests under this section in order of priority,  
4 giving greatest priority to those tank systems that present the great-  
5 est threat or potential threat to human health. The board shall  
6 review the priority list developed by the department.

7 (b) Grants made by the department under this section shall  
8 exclude a portion of the risk assessment, containment, corrective  
9 action, and cleanup costs. The portion of these costs not payable as  
10 a grant by the department under this section is 10 percent of total  
11 costs, up to a maximum of \$25,000 not payable by the department; this  
12 portion of the costs shall be loaned at no interest by the department  
13 to the owner or operator on request with repayment to be made accord-  
14 ing to a schedule agreed to by the parties. The department may re-  
15 quire security or collateral for a loan made under this subsection and  
16 may charge a fee for a late loan repayment equal to five percent of  
17 the amount of the late payment. At the department's discretion, a  
18 loan or grant under this section may be disbursed in partial payments  
19 according to a schedule related to costs anticipated to be incurred  
20 during specified time periods.

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

25 (1) establishes the following to the department's reason-  
26 able satisfaction:

27 (A) the owner or operator reported the release to the  
28 department in compliance with state and federal law before  
29 July 1, 1994, for a release that the owner or operator

1 establishes first occurred on or after the effective date of this  
2 section and before December 22, 1992;

3 (B) the owner or operator promptly reported the re-  
4 lease to the department in compliance with applicable regula-  
5 tions;

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

8 (D) the owner and operator have, within six months  
9 after the effective date of this section, been in compliance with  
10 all state and federal laws applicable to underground petroleum  
11 storage tank systems and releases from them, including notifica-  
12 tion and registration laws, but excluding financial responsibil-  
13 ity requirements;

14 (E) the release was not a result of the owner's or  
15 operator's gross negligence, recklessness, or intentional con-  
16 duct;

17 (2) agrees to

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

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

1 or properly dismantle, remove, and dispose of the tanks in accor-  
2 dance with applicable state and federal regulations; and

3 (3) agrees to submit a plan for risk assessment, contain-  
4 ment, corrective action, and cleanup to the department for its review  
5 and approval; if the department and the owner or operator cannot reach  
6 agreement on a plan or on later changes in the plan, the owner or  
7 operator may apply to the board to decide the dispute; the board may  
8 issue a decision in a dispute brought to it under this paragraph; the  
9 decision is binding on the owner, operator, and department if the  
10 owner or operator continues to request assistance under this section.

11 (d) The department may deny a request for a grant or loan under  
12 this section if the department determines that one or more of the  
13 following conditions exists:

14 (1) the fund established under AS 46.03.410 lacks suffi-  
15 cient money; if a request for a grant or loan is denied under this  
16 paragraph, it shall be granted, without the requirement of a new  
17 application, when money is next available, subject to the existence of  
18 higher-priority requests;

19 (2) other risk assessment, containment, corrective action,  
20 and cleanup activities for which money may be used under AS 46.03.410  
21 constitute a higher priority for fund expenditures; if a request is  
22 initially denied under this paragraph, it shall be granted later  
23 without the necessity of a new application, subject to available  
24 funding and other higher priorities; or

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

27 (e) A request for a grant under this section, and a grant pay-  
28 ment made under this section, may not exceed \$1,000,000 per occur-  
29 rence, less the amount not payable as a grant under (b) of this

1 section.

2 (f) Under regulations adopted by the board, the department shall  
3 determine which costs of risk assessment, containment, corrective  
4 action, and cleanup are eligible for payment under this section.

5 (g) The board shall adopt regulations reasonably necessary to  
6 enable the department to implement this section. The regulations must  
7 be consistent with federal law except as provided in (c)(2)(A) of this  
8 section.

9 (h) This section does not affect the liability under state or  
10 federal law of any person for the costs of risk management, contain-  
11 ment, corrective action, and cleanup resulting from a release of  
12 petroleum. However, notwithstanding the provisions of AS 46.08.-  
13 070(a), the department may not seek reimbursement of a grant made  
14 under this section unless the department determines that the grant was  
15 requested under false pretenses or that other circumstances render the  
16 grant inconsistent with this section or with applicable regulations.  
17 This section does not affect the authority of the department to seek  
18 recovery from the owner or operator of costs other than grants and  
19 loans actually made to an owner or operator under this section.

20 (i) The commissioner of administration shall separately account  
21 for money deposited by the department under this section. The legis-  
22 lature may appropriate the annual estimated balance of the account to  
23 the fund established under AS 46.03.410.

24 Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The  
25 board shall, by regulation, establish a grant program to be admini-  
26 tered by the department under which the owner or operator of an under-  
27 ground petroleum storage tank, other than the state or federal govern-  
28 ment, may, upon application, receive a grant for 60 percent of the  
29 eligible costs of tank upgrading or closure, subject to a maximum

1 total grant of \$60,000 per facility.

2 (b) The regulations adopted under (a) of this section

3 (1) may limit the number of grants that may be awarded to  
4 an owner or operator during a calendar year;

5 (2) must include criteria for determining eligible costs  
6 under this section.

7 (c) A grant may not be awarded under this section for upgrading  
8 or closure activities that do not meet the requirements of state and  
9 federal law.

10 (d) In this section,

11 (1) "closure" means to remove all petroleum and sludges  
12 from an underground petroleum storage tank and either fill the tank  
13 with inert solid material or properly dismantle, remove, and dispose  
14 of the tank;

15 (2) "upgrading" means to add or retrofit cathodic protec-  
16 tion systems, lining, spill and overflow controls, or similar systems  
17 to improve the ability of an underground petroleum storage tank system  
18 to prevent a release.

19 Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a)  
20 Financial records submitted to the department or the board by the  
21 owner or operator of an underground petroleum storage tank system are  
22 confidential and not subject to inspection or copying under AS 09.25.-  
23 110 - 09.25.120. The department, in consultation with the affected  
24 owner or operator, shall determine which information is confidential  
25 under this subsection.

26 (b) The confidentiality conferred by (a) of this section does  
27 not apply to statistical information compiled by the department about  
28 the number, capacity, and location of underground petroleum storage  
29 tank systems in the state.

1           Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

2           (1) "board" means the Board of Storage Tank Assistance  
3 established under AS 46.03.360;

4           (2) "chemical" means any substance defined in 42 U.S.C.  
5 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,  
6 Compensation, and Liability Act of 1980), as amended, and any sub-  
7 stance having the characteristics identified or listed under 42 U.S.C.  
8 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-  
9 er the substance is a solid waste;

10           (3) "containment and cleanup" has the meaning given in  
11 AS 46.08.900 except that it does not include incidental administrative  
12 costs;

13           (4) "corrective action" means action necessary to stop the  
14 migration, determine the extent, and undertake recovery of petroleum  
15 after its unpermitted release; clean up affected soil and groundwater;  
16 and stabilize the site of the release to prevent or remove hazards to  
17 public health or the environment;

18           (5) "facility" means contiguous land and structures on or  
19 in the land containing underground petroleum storage tanks owned by  
20 the same person;

21           (6) "farm" means a tract of land devoted to the production  
22 of crops or raising animals, including fish, and associated residences  
23 and improvements; "farm" includes fish hatcheries, rangelands, and  
24 nurseries with growing operations;

25           (7) "petroleum" means crude oil or any fraction of crude  
26 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7  
27 pounds per square inch absolute; "petroleum" includes petroleum-based  
28 substances comprised of a complex blend of hydrocarbons derived from  
29 crude oil through processes of separation, conversion, upgrading, and

1 finishing, such as motor fuels, jet fuels, distillate fuel oils,  
2 residual fuel oils, lubricants, petroleum solvents, and used oils;

3 (8) "release" has the meaning given in AS 46.08.900;

4 (9) "risk assessment" means a determination of potential  
5 health effects including effects of containment exposure through  
6 inhalation, ingestion, dermal absorption, and other means, and the  
7 assessment of risk to human health and the environment from contami-  
8 nants remaining in the land, air, or water as a result of a release;

9 (10) "site assessment" means investigation of suspected  
10 underground petroleum storage tank system leaks and source identifica-  
11 tion;

12 (11) "tank system" means an underground petroleum storage  
13 tank system;

14 (12) "underground storage tank" means one or a combination  
15 of stationary devices, including underground pipes connected to the  
16 devices, that is designed to contain an accumulation of petroleum, the  
17 volume of which, including the volume of underground pipes, is 10  
18 percent or more beneath the surface of the ground, except that the  
19 term does not include a

20 (A) farm or residential tank of 1,100 gallons or less  
21 capacity used for storing motor fuel for noncommercial purposes;

22 (B) tank used for storing heating oil for consumptive  
23 use on the premises where stored;

24 (C) septic tank;

25 (D) pipeline facility, including gathering lines,

26 (i) regulated under 49 U.S.C. 1671, et seq.,  
27 (Natural Gas Pipeline Safety Act of 1968);

28 (ii) regulated under 49 U.S.C. 2001, et seq.,  
29 (Hazardous Liquid Pipeline Safety Act of 1979); or

1 (iii) that is an intrastate pipeline facility  
2 regulated under state laws comparable to the provisions of  
3 law referred to in (i) or (ii) of this subparagraph;

4 (E) surface impoundment, pit, pond, or lagoon;

5 (F) storm water or waste water collection system;

6 (G) flow-through process tank;

7 (H) liquid trap or associated gathering lines directly  
8 related to oil or gas production and gathering operations;

9 (I) storage tank situated in an underground area such  
10 as a basement, cellar, mineworking, drift, shaft, or tunnel, if  
11 the storage tank is situated upon or above the surface of the  
12 floor;

13 (J) tank with a capacity of 110 gallons or less;

14 (K) tank containing hazardous wastes regulated under  
15 42 U.S.C. 6921 - 6939b; or

16 (L) tank system that the board or the department has  
17 exempted by regulations adopted under AS 46.03.365;

18 (13) "underground petroleum storage tank system" means an  
19 underground storage tank containing petroleum together with its under-  
20 ground ancillary equipment and related containment system, if any; in  
21 this paragraph, "ancillary equipment" means devices used to distrib-  
22 ute, meter, or control the flow of petroleum to and from the system,  
23 including piping, fittings, flanges, valves, and pumps.

24 \* Sec. 3. LIMITED IMMUNITY FROM LIABILITY. (a) Notwithstanding  
25 AS 46.03.420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822,  
26 a person is not civilly or criminally liable to the state under those  
27 sections for a discharge covered by those sections if the person demon-  
28 strates by a preponderance of the evidence that the person

29 (1) is the owner or operator of an underground petroleum storage

1 tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this  
2 Act, that was installed before December 22, 1988, and the discharge oc-  
3 curred from that tank or tank system before December 22, 1992;

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

8 (3) is receiving or has been approved for state funds under  
9 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

10 (4) did not intentionally cause the discharge.

11 (b) In this section, "corrective action" has the meaning given in  
12 AS 46.03.450, enacted by sec. 2 of this Act.

13 \* Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or  
14 operator of an underground petroleum storage tank or tank system whose tank  
15 or tank system was installed after January 1, 1974, but was taken out of  
16 use before the effective date of AS 46.03.380, enacted by sec. 2 of this  
17 Act, shall notify the department about the tank or tank system within six  
18 months after the effective date of this section by completing and returning  
19 to the department a form obtained from the department. The form must  
20 comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to  
21 the notification form required under AS 46.03.395, enacted by sec. 2 of  
22 this Act.

23 \* Sec. 5. The initial registration and information required under  
24 AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months  
25 after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

26 \* Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an  
27 underground petroleum storage tank system, other than the state or federal  
28 government, who began risk assessment, containment, cleanup, corrective  
29 action, upgrading, or closure activities related to the tank system on or

1 after December 22, 1988, but before the effective date of this section, may  
2 apply to the department for reimbursement of a portion of the eligible  
3 costs incurred by the person for those activities, as determined under (b)  
4 of this section. Application under this section must be submitted within  
5 six months after the effective date of this section. Payments made by the  
6 department shall be from the fund established under AS 46.03.410, enacted  
7 by sec. 2 of this Act.

8 (b) An applicant for reimbursement under this section shall submit  
9 evidence satisfactory to the department of the costs that are eligible for  
10 reimbursement under this section, as determined by the department under  
11 regulations of the board. The department shall, subject to the availabil-  
12 ity of funds, reimburse the applicant for 90 percent of the eligible costs  
13 of containment, cleanup, corrective action, and risk assessment and 60  
14 percent of the eligible costs of upgrading or closure, subject to the  
15 following limitations:

16 (1) the department shall calculate the amount of costs reimburs-  
17 able under this section after subtracting amounts the department determines  
18 are recoverable by the owner or operator from related insurance or other  
19 persons who are liable for the costs;

20 (2) total costs reimbursed under this section to an owner or  
21 operator may not exceed \$200,000.

22 (c) In addition to other requirements of this section, an owner or  
23 operator is not eligible for reimbursement under this section for costs of  
24 containment, cleanup, risk assessment, corrective action, upgrading, or  
25 closure related to a release unless the owner or operator establishes the  
26 following to the department's satisfaction:

27 (1) the release was promptly reported to state authorities in  
28 compliance with applicable regulations;

29 (2) the tank or tank system from which the release occurred was

1 installed before December 22, 1988;

2 (3) other than the release, the tank or tank system has been in  
3 compliance with state and federal laws applicable to underground petroleum  
4 storage tank systems since December 22, 1988, including notification and  
5 registration laws, but excluding financial responsibility requirements;

6 (4) the release was not a result of the owner's or operator's  
7 gross negligence, recklessness, or intentional conduct;

8 (5) all containment, cleanup, risk assessment, corrective  
9 action, upgrading, and closure activities have been performed in compliance  
10 with state and federal law.

11 (d) In addition to other requirements of this section, an owner or  
12 operator is not eligible for costs of risk assessment, upgrading, or clo-  
13 sure unrelated to a release unless the owner or operator establishes the  
14 following to the department's satisfaction:

15 (1) the tank or tank system has been in compliance with state  
16 and federal laws applicable to underground petroleum storage tank systems  
17 since December 22, 1988, including notification and registration laws, but  
18 excluding financial responsibility requirements;

19 (2) all risk assessment, upgrading, and closure activities have  
20 been performed in compliance with state and federal laws.

21 (e) The department may deny all or a portion of a request for reim-  
22 bursement under this section if

23 (1) it disapproves of a method used for the risk assessment,  
24 containment, cleanup, corrective action, upgrading, or closure; the owner  
25 or operator may appeal a denial of payment made under this paragraph to the  
26 Board of Storage Tank Assistance; the board may issue a decision on a  
27 dispute brought to it under this paragraph; the decision is binding on the  
28 owner, operator, and department;

29 (2) the fund established under AS 46.03.410, enacted by sec. 2  
SCS CSHB 220(Fin)

1 of this Act, lacks sufficient money; if a request for reimbursement is  
2 denied under this paragraph, it shall be granted without the requirement of  
3 a new application, when money is next available, subject to the existence  
4 of a higher priority for use of money in the storage tank assistance fund;  
5 or

6 (3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2  
7 of this Act, remain unfunded; when all eligible requests for funding under  
8 AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been sat-  
9 isfied in a given fiscal year and a balance remains in the storage tank  
10 assistance fund, eligible requests under this section may be satisfied on a  
11 first-come, first-served basis without the requirement of a new applica-  
12 tion.

13 (f) If an owner or operator of an underground petroleum storage tank  
14 system, other than the state or federal government, began risk assessment,  
15 containment, cleanup, corrective action, upgrading, or closure activities  
16 related to the tank system on or after December 22, 1988, and before the  
17 effective date of this section, but those activities are not complete on  
18 the effective day of this section, the owner or operator may apply for  
19 reimbursement under this section for costs incurred before the effective  
20 date of this section; the owner or operator may apply for assistance under  
21 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for costs incurred  
22 or anticipated after the effective date of this Act. A request for reim-  
23 bursement under this subsection has the same low priority as other reim-  
24 bursement requests under this section, but requests for assistance to  
25 complete activities begun before the effective date of this section shall  
26 be prioritized with other requests made under AS 46.03.420 - 46.03.430,  
27 enacted by sec. 2 of this Act, and are subject to the same requirements and  
28 maximum amounts established under those sections.

29 (g) In this section,

1 (1) "board," "containment and cleanup," "corrective action,"  
2 "release," "risk assessment," "tank system," and "underground petroleum  
3 storage tank system" have the meanings given in AS 46.03.450, enacted by  
4 sec. 2 of this Act;

5 (2) "closure" and "upgrading" have the meanings given in AS 46.-  
6 03.430, enacted by sec. 2 of this Act.

7 \* Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental  
8 conservation shall notify the Alaska Legislative Council and the revisor of  
9 statutes in writing when regulations have been adopted under AS 46.03.-  
10 375(a), enacted by sec. 2 of this Act, for a specific activity for which  
11 certification is required under that section.

12 \* Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make  
13 initial appointments to the Board of Storage Tank Assistance required under  
14 AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the  
15 effective date of AS 46.03.360, enacted by sec. 2 of this Act.

16 \* Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act,  
17 take effect for a specific activity for which certification is required  
18 under that section, one year after the effective date of regulations adopt-  
19 ed under AS 46.03.375 governing certification for that activity.

20 (b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six  
21 months after the effective date of AS 46.03.380, enacted by sec. 2 of this  
22 Act.

23 \* Sec. 10. Except as provided in sec. 9 of this Act, this Act takes  
24 effect immediately under AS 01.10.070(c).  
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26  
27  
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Lauterbach  
4/29/90

Original sponsor(s): REP. MENARD, M.Davis, Brown, Larson, Navarre, Cato, Koponen, Gruenberg, Spohnholz, Goll, Ellis, Foster, Jacko, Boyer, Boucher, Swackhammer, Kubina

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 220 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor fuels, petroleum and chemi-  
7 cal storage tanks, and investigation, containment,  
8 and cleanup of oil and hazardous substances; and  
9 providing for an effective date."

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

11 \* Section 1. PURPOSE AND INTENT. (a) The purpose of this Act is to  
12 provide for

13 (1) establishment of technical assistance mechanisms that will  
14 assist the owners and operators of underground storage tank systems to  
15 comply with federal and state requirements governing their tank systems;  
16 and

17 (2) clean up of existing leaks and prevention of future leaks  
18 associated with underground petroleum storage tank systems in order to  
19 protect the public from contamination of drinking water and to protect the  
20 environment.

21 (b) The legislature recognizes that the regulations governing under-  
22 ground storage tank systems may not be easily understood and that some  
23 owners and operators will be faced with insurance requirements that they  
24 will not be able to satisfy because of contamination relating to their tank  
25 systems. It is the legislature's intent to help these owners and operators  
26 through educational, technical, and financial assistance, and to provide  
27 incentives for prompt compliance with the new requirements of this Act.

28 (c) It is the intent of the legislature that the owners and operators  
29 of underground petroleum storage tank systems train their employees in the

1 proper handling of petroleum products and the use of leak, spill, and  
2 overflow protection devices.

3 (d) It is also the intent of the legislature to develop a program for  
4 underground storage tank systems that will be approved by the federal  
5 government.

6 \* Sec. 2. AS 46.03 is amended by adding new sections to read:

7 ARTICLE 6A. UNDERGROUND STORAGE TANK SYSTEMS.

8 Sec. 46.03.360. BOARD OF STORAGE TANK ASSISTANCE. (a) There is  
9 established the Board of Storage Tank Assistance. For administrative  
10 purposes, the board is located in the department. The board consists  
11 of the commissioners of environmental conservation and transportation  
12 and public facilities, or their designees, and the following persons  
13 who shall be appointed by the governor:

14 (1) an engineer registered under AS 08.48 who is knowledge-  
15 able about installing, upgrading, repairing, or closing underground  
16 petroleum storage tank systems;

17 (2) a general contractor registered under AS 08.18 who is  
18 knowledgeable about installing, upgrading, repairing, or closing  
19 underground petroleum storage tank systems;

20 (3) two persons who own or operate an underground petroleum  
21 storage tank system, at least one of whom does not own or operate more  
22 than 10 underground petroleum storage tanks; and

23 (4) a member of the insurance industry.

24 (b) The board may employ a full-time director and no more than  
25 one other employee. The department shall provide additional adminis-  
26 trative and clerical support to the board.

27 (c) Members of the board designated under (a)(1) - (4) of this  
28 section serve staggered four-year terms and may be removed by the  
29 governor only after notice and hearing for misconduct, incompetency,

1 or neglect of duty.

2 (d) The board shall meet at the call of the chair, who shall be  
3 selected by the members from among themselves.

4 (e) The members of the board serve without compensation, but are  
5 entitled to per diem and travel expenses authorized by law for boards  
6 and commissions.

7 (f) The department shall implement and enforce the regulations  
8 adopted by the board.

9 Sec. 46.03.363. BOARD REPORT. The board shall submit a report  
10 to the legislature not later than the 10th day following the convening  
11 of each regular session of the legislature. The report may include  
12 information considered significant by the board but must include

13 (1) information about the extent to which releases associ-  
14 ated with underground petroleum storage tank systems have caused  
15 bodily injury or property damages to persons other than the owner or  
16 operator of the system in the preceding fiscal year, and the extent to  
17 which insurance is available to cover that type of injury and damage;

18 (2) recommendations about whether there are specific areas  
19 where state regulations should be more stringent than the federal  
20 regulations for underground petroleum storage tank systems;

21 (3) information on the availability of private commercial  
22 loans and federal loans, loan guarantees, or grants for upgrading  
23 underground petroleum storage tank systems;

24 (4) information on the availability of insurance that would  
25 cover the costs of corrective actions made necessary by a release or  
26 threatened release from an underground petroleum storage tank system;

27 (5) a brief summary of disputes involving the board under  
28 AS 46.03.420(c)(3); and

29 (6) recommendations for amendments or additions to

1 AS 46.03.360 - 46.03.450.

2 Sec. 46.03.365. REGULATION OF UNDERGROUND PETROLEUM STORAGE TANK  
3 SYSTEMS. (a) The board shall develop a program to abate and prevent  
4 pollution from underground petroleum storage tank systems through the  
5 adoption of regulations under the Administrative Procedure Act  
6 (AS 44.62). Consistent with other provisions in AS 46.03.360 - 46.-  
7 03.450, the regulations may govern

- 8 (1) notification and registration;  
9 (2) inspection and record keeping;  
10 (3) construction, installation, and performance;  
11 (4) maintenance, operation, and repair;  
12 (5) technical standards, including standards for spill and  
13 overfill control, corrosion prevention, and release detection and  
14 reporting;  
15 (6) financial responsibility;  
16 (7) certification of underground petroleum storage tank  
17 system workers;  
18 (8) corrective action and cost recovery;  
19 (9) closure and abandonment;  
20 (10) enforcement of regulations; and  
21 (11) prevention of releases to protect the public health and  
22 environment.

23 (b) In the regulations adopted under (a) of this section, the  
24 board may

- 25 (1) distinguish among the sizes, types, classes, locations,  
26 and ages of underground petroleum storage tank systems;  
27 (2) provide for exemptions and deferrals determined to be  
28 necessary by the board; exemptions and deferrals under this paragraph  
29 must be consistent with those granted under federal laws and

1 regulations.

2 (c) Except as provided in AS 46.03.420(c)(2)(A), when the regu-  
3 lations adopted under this section address areas governed by federal  
4 laws or regulations, the state regulations must be consistent with  
5 federal laws and regulations and may not be more stringent than the  
6 federal laws and regulations.

7 (d) The department may not adopt nonemergency regulations in the  
8 areas specified in (a) - (c) of this section under any law that does  
9 not specifically refer to this subsection. However, the department  
10 may adopt emergency regulations in the same areas and subject to the  
11 same conditions as the board regulations authorized under (a) - (c) of  
12 this section. Emergency regulations adopted under this subsection may  
13 not remain in effect for more than 120 days unless the board adopts  
14 the regulations in compliance with AS 44.62.060 and 44.62.190 - 44.-  
15 62.210.

16 Sec. 46.03.370. EDUCATIONAL ASSISTANCE. Under the regulations  
17 of the board, the department shall provide

18 (1) educational assistance to owners and operators of  
19 underground petroleum storage tank systems to help them comply with  
20 federal and state laws and regulations applicable to the tank systems,  
21 including the registration and notification requirements under AS 46.-  
22 03.380 - 46.03.400;

23 (2) the public with information to help the public under-  
24 stand the effects associated with the release of petroleum and chemi-  
25 cal products into the environment, including releases from petroleum  
26 and chemical storage tank systems.

27 Sec. 46.03.375. CERTIFICATION OF STORAGE TANK WORKERS. (a) The  
28 board shall adopt regulations governing the certification of persons  
29 who install, test, close, repair, or significantly change the

1 configuration of underground petroleum storage tanks and tank systems.  
2 The certification program shall be administered by the division of  
3 occupational licensing, Department of Commerce and Economic Develop-  
4 ment. Under the board's regulations and in consultation with the  
5 Department of Environmental Conservation, the division shall make  
6 every reasonable attempt to ensure that opportunities for obtaining  
7 certification under this section are available throughout the state.  
8 The division shall organize presentation of national training courses  
9 that are available in the state and assist residents of isolated  
10 communities who request assistance in becoming certified. The divi-  
11 sion may contract with the University of Alaska, a vocational techni-  
12 cal school, or a regional nonprofit organization to provide the educa-  
13 tion and testing necessary for certification.

14 (b) The division shall establish fees applicable to certifica-  
15 tion under this section in an amount necessary to cover the costs of  
16 the certification program. The fees shall be collected by the divi-  
17 sion. The commissioner of administration shall separately account for  
18 fees deposited in the general fund by the Department of Commerce and  
19 Economic Development under this subsection. The legislature may  
20 appropriate the annual estimated balance of the account to the Depart-  
21 ment of Commerce and Economic Development for operation of the certi-  
22 fication program.

23 (c) Except as provided in (d) of this section, a person may not  
24 install, test, close, repair, or significantly change the config-  
25 uration of an underground petroleum storage tank or tank system unless  
26 that person is certified for the appropriate activity under (a) of  
27 this section. A person who violates this subsection is guilty of a  
28 class B misdemeanor.

29 (d) A person may install, test, close, repair, or significantly

1 change the configuration of an underground petroleum storage tank or  
2 tank system without being certified under this section if

3 (1) the person performs the work under the direct super-  
4 vision of another who is certified for that work under this section;

5 (2) the supervisor inspects the work performed; and

6 (3) after inspection, the supervisor approves the work in  
7 writing.

8 (e) The Administrative Procedure Act (AS 44.62) applies to  
9 regulations and certifications under this section.

10 (f) The department shall develop and maintain lists of persons  
11 certified under this section to perform the various activities related  
12 to underground petroleum storage tanks and tank systems. The depart-  
13 ment shall provide the lists on request to interested persons.

14 (g) In this section, "close" means to perform underground petro-  
15 leum storage tank system site assessment, or to remove petroleum and  
16 sludges from the tanks in the tank system, and either fill the tanks  
17 with inert solid material or remove, dismantle, and dispose of the  
18 tanks.

19 Sec. 46.03.380. REGISTRATION OF TANKS AND TANK SYSTEMS. (a) A  
20 person who intends to install, have installed, return to operation, or  
21 acquire ownership of an underground petroleum storage tank or tank  
22 system shall, before the installation or return to operation, or 30  
23 days after acquisition, register the tank or tank system with the  
24 department on a form provided by the department and pay the tank  
25 registration fee required under AS 46.03.385.

26 (b) The owner or operator of an underground petroleum storage  
27 tank or tank system that was installed before and is still in use on  
28 the effective date of this section shall register the tank or tank  
29 system with the department on a form provided by the department and

1 pay the tank registration fee required under AS 46.03.385. For each  
2 tank or tank system registered under this subsection that was in-  
3 stalled before December 22, 1988, the owner or operator shall provide  
4 to the department at the time of registration

5 (1) proof of plans for prompt site assessment or testing  
6 for tank tightness;

7 (2) an application for state assistance to fund part of the  
8 cost of a tank tightness test or site assessment; or

9 (3) proof of tank tightness testing or site assessment that  
10 occurred within the previous 12 months and

11 (A) satisfactory performance of the tank or tank  
12 system during the test, proof of noncontamination if a site  
13 assessment was performed, and proof of compliance with applicable  
14 state and federal financial responsibility requirements; or

15 (B) if the tank or tank system did not perform satis-  
16 factorily during the test, or the site assessment showed evidence  
17 of contamination,

18 (i) a summary of the upgrading, repair, contain-  
19 ment, or cleanup efforts that have been or will be used for  
20 the tank, tank system, or site; or

21 (ii) an application for state assistance under  
22 AS 46.03.420 - 46.03.430; if the applicant is determined to  
23 be ineligible for assistance under AS 46.03.420 - 46.03.430,  
24 the applicant shall comply with (i) of this subparagraph  
25 upon notification of ineligibility.

26 Sec. 46.03.385. REGISTRATION FEE. (a) At the time of registra-  
27 tion under AS 46.03.380, and annually thereafter, the owner or opera-  
28 tor shall pay to the department a registration fee for each tank  
29 registered unless the owner or operator has notified the department

1 under AS 46.03.395 that the tank has been taken out of service. An  
2 underground storage tank that has leak detection, spill and overflow  
3 protection, and corrosion protection that meet requirements of the  
4 board is subject to a \$50 annual registration fee, regardless of tank  
5 capacity. An underground storage tank system that lacks any or all of  
6 these features is subject to an annual registration fee of

7 (1) \$150 if the underground storage tank capacity is less  
8 than 1,000 gallons;

9 (2) \$300 if the underground storage tank capacity is  
10 1,000 - 5,000 gallons;

11 (3) \$500 if the underground storage tank capacity is over  
12 5,000 gallons.

13 (b) An underground petroleum storage tank or tank system owned  
14 or operated by the federal or state government is exempt from the  
15 registration fee in (a) of this section.

16 (c) A registration fee that is not paid within 30 days of when  
17 it is due shall be increased by a late payment fee equal to \$10 per  
18 day until the day of payment.

19 (d) The first annual fee under this section must be accompanied  
20 by the information required under AS 46.03.400. Subsequent annual  
21 fees must be accompanied by the names and addresses of the owner and  
22 operator of the tank system, and the location and capacity of, and  
23 substance being stored in, the tanks for which the fee is being sub-  
24 mitted.

25 (e) The commissioner of administration shall separately account  
26 for money deposited in the general fund by the department under this  
27 section. The legislature may appropriate the annual estimated balance  
28 of the account to the storage tank assistance fund established under  
29 AS 46.03.410.

1           Sec. 46.03.390. NOTIFICATION OF CHANGES IN TANK SYSTEMS. A  
2 person who intends to significantly change the configuration of an  
3 underground petroleum storage tank system shall notify the department  
4 before beginning work on the change by completing and returning to the  
5 department a notification form obtained from the department.

6           Sec. 46.03.395. NOTIFICATION OF TANK SYSTEM CLOSURE. If an  
7 underground petroleum tank or storage tank system is taken out of  
8 operation, the owner or operator of the tank or tank system, or an  
9 agent on the owner's or operator's behalf, shall provide on forms ob-  
10 tained from the department

11           (1) notification of that fact to the department at least 15  
12 days, but not more than 60 days, before the date the tank or tank  
13 system will be taken out of operation unless the tank or tank system  
14 is taken out of operation because of an emergency; in emergency sit-  
15 uations, the owner or operator shall provide notification as promptly  
16 as possible under the circumstances; and

17           (2) evidence satisfactory to the department within 30 days  
18 after the tank or tank system is taken out of operation that the owner  
19 or operator has complied with applicable federal laws and regulations  
20 governing temporary or permanent tank closure.

21           Sec. 46.03.400. REGISTRATION FORMS. The registration forms  
22 required under AS 46.03.380 - 46.03.395 must require information about  
23 the geographical location of a tank or tank system, the estimated age  
24 of the tanks and tank system, the total capacity, type of construc-  
25 tion, internal and external protection, and piping of the tanks and  
26 tank system, and the substance currently or proposed to be stored in  
27 the tank system. If the tank or tank system is newly installed, the  
28 owner or operator shall certify that the owner or operator has com-  
29 plied with installation, release detection, corrosion protection, and

1 financial responsibility requirements of state and federal law.

2 Sec. 46.03.405. PROHIBITIONS. A person may not operate an  
3 underground petroleum storage tank or tank system unless

4 (1) the tank and tank system is registered with the depart-  
5 ment as provided in AS 46.03.360 - 46.03.450 or other law; and

6 (2) except as provided in AS 46.03.420(c)(1)(D), the person  
7 has provided to the department proof of financial responsibility to  
8 the extent required under federal regulations and regulations adopted  
9 under AS 46.03.365 or proof of application for arrangements that would  
10 satisfy federal and state financial responsibility requirements.

11 Sec. 46.03.410. STORAGE TANK ASSISTANCE FUND. (a) There is  
12 established the storage tank assistance fund. It consists of money  
13 appropriated to it by law. The commissioner of administration shall  
14 separately account for earnings on money in the fund that are de-  
15 posited in the general fund by the department. The legislature may  
16 use the estimated balance in the account to make appropriations to the  
17 fund.

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

19 (1) tank tightness tests or site assessments under AS 46.-  
20 03.415;

21 (2) grants and loans under AS 46.03.420 for risk assess-  
22 ment, containment, and cleanup costs; and

23 (3) grants under AS 46.03.430 for tank system upgrading and  
24 closure.

25 (c) The commissioner shall submit a report on the status of the  
26 storage tank assistance fund to the legislature not later than the  
27 10th day following the convening of each regular session of the legis-  
28 lature. The report may include information considered significant by  
29 the commissioner but must include

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

3 (2) the amount of money expended during the preceding  
4 fiscal year for each type of expense authorized under (b) of this  
5 section;

6 (3) a detailed summary of department activities paid for  
7 from the fund during the preceding fiscal year, including how many  
8 requests for assistance have been made to the department to use the  
9 fund for grants or loans for testing, site assessment, upgrading,  
10 closure, containment and cleanup costs, and the number of requests  
11 funded in each activity area;

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

16 (5) the priority list of tank system sites for which the  
17 department expects to provide financial assistance in the next fiscal  
18 year.

19 Sec. 46.03.415. TANK TIGHTNESS AND SITE ASSESSMENT INCENTIVE  
20 PROGRAM. (a) The owner or operator of an underground petroleum  
21 storage tank or tank system that was installed before the effective  
22 date of this Act and is operating on the effective date of this Act,  
23 other than the state or federal government, may request the department  
24 to use money from the storage tank assistance fund to reimburse the  
25 owner or operator for eligible costs of a tank tightness test or site  
26 assessment in order to determine if there has been a release of petro-  
27 leum from the owner's or operator's tank system. The department shall  
28 reimburse up to 50 percent of the cost, not to exceed \$300 per tank  
29 for tightness tests up to a maximum of \$1,200 per facility, or \$800

1 per tank for site assessment up to a maximum of \$3,200 per facility.

2 (b) Under regulations adopted by the board, the department shall  
3 determine which costs of tightness testing and site assessment are  
4 eligible costs under this section.

5 (c) Notification of intent to request reimbursement under this  
6 section must be submitted to the department at the time of registra-  
7 tion under AS 46.03.380(b). The activities for which reimbursement is  
8 requested must be completed within 12 months after registration is due  
9 under AS 46.03.380 unless the owner or operator demonstrates to the  
10 department's satisfaction that there is good cause for extending the  
11 deadline. Good cause may be demonstrated by a showing that a qual-  
12 ified site assessor or tank system tester was not available, seasonal  
13 climatic conditions render the appropriate activities unsafe or im-  
14 practicable, or other justification acceptable to the department. If  
15 the department finds good cause for extending the deadline, the de-  
16 partment may extend the deadline for completion of activities for  
17 which reimbursement is requested for a period of time specified by the  
18 department.

19 (d) The department shall make available, on request, lists of  
20 persons who have notified the department that they are available as  
21 site assessors and tank testers for purposes of this section.

22 Sec. 46.03.420. TANK CLEANUP PROGRAM. (a) Subject to (b) - (j)  
23 of this section, application may be made to the department by the  
24 owner or operator of an underground petroleum storage tank system,  
25 other than the state or federal government, for grants and loans from  
26 the storage tank assistance fund to pay for the costs of risk assess-  
27 ment, containment, and cleanup resulting from a release of petroleum  
28 from or associated with an underground petroleum storage tank system.  
29 Applications for assistance under this section must be submitted to

1 the department before July 1, 1994. The department shall rank re-  
2 quests under this section in order of priority, giving greatest prior-  
3 ity to those tank systems that present the greatest threat or poten-  
4 tial threat to human health. The board shall review the priority list  
5 developed by the department.

6 (b) Grants made by the department under this section shall  
7 exclude a portion of the risk assessment, containment, and cleanup  
8 costs. The portion of these costs not payable as a grant by the  
9 department under this section is 10 percent of total costs, up to a  
10 maximum of \$25,000 not payable by the department; this portion of the  
11 costs shall be loaned at no interest by the department to the owner or  
12 operator on request with repayment to be made according to a schedule  
13 agreed to by the parties. The department may require security or  
14 collateral for a loan made under this subsection and may charge a fee  
15 for a late loan repayment equal to five percent of the amount of the  
16 late payment. At the department's discretion, a loan or grant under  
17 this section may be disbursed in partial payments according to a  
18 schedule related to costs anticipated to be incurred during specified  
19 time periods.

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

24 (1) establishes the following to the department's reason-  
25 able satisfaction:

26 (A) the owner or operator reported the release to the  
27 department in compliance with state and federal law before  
28 July 1, 1994, for a release that the owner or operator estab-  
29 lishes first occurred on or after the effective date of this

1 section and before December 22, 1993;

2 (B) the owner or operator reported the release to the  
3 department at the time of registration or notification or within  
4 15 days after receiving the results of testing or site assess-  
5 ment, whichever is later, for a release that the owner or opera-  
6 tor establishes first occurred before the effective date of this  
7 section;

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

10 (D) the owner and operator have, within six months  
11 after the effective date of this section, been in compliance with  
12 all state and federal laws applicable to underground petroleum  
13 storage tank systems and releases from them, including notifica-  
14 tion and registration laws, but excluding financial responsibil-  
15 ity requirements;

16 (E) the release was not a result of the owner's or  
17 operator's gross negligence, recklessness, or intentional con-  
18 duct;

19 (2) agrees to

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

28 (B) remove and properly dispose of all liquids and  
29 sludges from the underground petroleum storage tanks located at

1 the facility from which the release occurred, conduct a site  
2 assessment, and either fill the tanks with inert solid material  
3 or properly dismantle, remove, and dispose of the tanks in accor-  
4 dance with applicable state and federal regulations; and

5 (3) agrees to submit a plan for risk assessment, contain-  
6 ment, and cleanup to the department for its review and approval; if  
7 the department and the owner or operator cannot reach agreement on a  
8 plan or on later changes in the plan, the owner or operator may apply  
9 to the board to decide the dispute; the board may issue a decision in  
10 a dispute brought to it under this paragraph; the decision is binding  
11 on the owner, operator, and department if the owner or operator con-  
12 tinues to request assistance under this section.

13 (d) The department may deny a request for a grant or loan under  
14 this section if the department determines that one or more of the  
15 following conditions exists:

16 (1) the fund established under AS 46.03.410 lacks suffi-  
17 cient money; if a request for a grant or loan is denied under this  
18 paragraph, it shall be granted, without the requirement of a new  
19 application, when money is next available, subject to the existence of  
20 higher-priority requests;

21 (2) other risk assessment, containment, and cleanup activi-  
22 ties for which money may be used under AS 46.03.410 constitute a  
23 higher priority for fund expenditures; if a request is initially  
24 denied under this paragraph, it shall be granted later without the  
25 necessity of a new application, subject to available funding and other  
26 higher priorities; or

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

29 (e) A request for a grant under this section, and a grant

1 payment made under this section, may not exceed \$1,000,000 per occur-  
2 rence, less the amount not payable as a grant under (b) of this sec-  
3 tion.

4 (f) Under regulations adopted by the board, the department shall  
5 determine which costs of risk assessment, containment, and cleanup are  
6 eligible for payment under this section.

7 (g) The board shall adopt regulations reasonably necessary to  
8 enable the department to implement this section. The regulations must  
9 be consistent with federal law except as provided in (c)(2)(A) of this  
10 section.

11 (h) This section does not affect the liability under state or  
12 federal law of any person for the costs of risk management, contain-  
13 ment, and cleanup resulting from a release of petroleum. However,  
14 notwithstanding the provisions of AS 46.08.070(a), the department may  
15 not seek reimbursement of a grant made under this section unless the  
16 department determines that the grant was requested under false pre-  
17 tenses or that other circumstances render the grant inconsistent with  
18 this section or with applicable regulations. This section does not  
19 affect the authority of the department to seek recovery from the owner  
20 or operator of costs other than grants and loans actually made to an  
21 owner or operator under this section.

22 (i) The commissioner of administration shall separately account  
23 for money deposited by the department under this section. The legis-  
24 lature may appropriate the annual estimated balance of the account to  
25 the fund established under AS 46.03.410.

26 Sec. 46.03.430. TANK UPGRADING AND CLOSURE PROGRAM. (a) The  
27 board shall, by regulation, establish a grant program to be adminis-  
28 tered by the department under which the owner or operator of an under-  
29 ground petroleum storage tank may, upon application, receive a grant

1 for 60 percent of the eligible costs of tank upgrading or closure,  
2 subject to a maximum total grant of \$60,000 per facility.

3 (b) The regulations adopted under (a) of this section

4 (1) may limit the number of grants that may be awarded to  
5 an owner or operator during a calendar year;

6 (2) must include criteria for determining eligible costs  
7 under this section.

8 (c) A grant may not be awarded under this section for upgrading  
9 or closure activities that do not meet the requirements of state and  
10 federal law.

11 (d) In this section,

12 (1) "closure" means to remove all petroleum and sludges  
13 from an underground petroleum storage tank and either fill the tank  
14 with inert solid material or properly dismantle, remove, and dispose  
15 of the tank;

16 (2) "upgrading" means to add or retrofit cathodic protec-  
17 tion systems, lining, spill and overflow controls, or similar systems  
18 to improve the ability of an underground petroleum storage tank system  
19 to prevent a release.

20 Sec. 46.03.440. CONFIDENTIALITY OF FINANCIAL RECORDS. (a)  
21 Financial records submitted to the department or the board by the  
22 owner or operator of an underground petroleum storage tank system are  
23 confidential and not subject to inspection or copying under AS 09.25.-  
24 110 - 09.25.120. The department, in consultation with the affected  
25 owner or operator, shall determine which information is confidential  
26 under this subsection.

27 (b) The confidentiality conferred by (a) of this section does  
28 not apply to statistical information compiled by the department about  
29 the number, capacity, and location of underground petroleum storage

1 tank systems in the state.

2 Sec. 46.03.450. DEFINITIONS. In AS 46.03.360 - 46.03.450

3 (1) "board" means the Board of Storage Tank Assistance  
4 established under AS 46.03.360;

5 (2) "chemical" means any substance defined in 42 U.S.C.  
6 9601(14) (sec. 101(14) of the Comprehensive Environmental Response,  
7 Compensation, and Liability Act of 1980), as amended, and any sub-  
8 stance having the characteristics identified or listed under 42 U.S.C.  
9 6921 (sec. 3001 of the Solid Waste Disposal Act), regardless of wheth-  
10 er the substance is a solid waste;

11 (3) "containment and cleanup" has the meaning given in  
12 AS 46.08.900;

13 (4) "facility" means contiguous land and structures on or  
14 in the land containing underground petroleum storage tanks owned by  
15 the same person;

16 (5) "farm" means a tract of land devoted to the production  
17 of crops or raising animals, including fish, and associated residences  
18 and improvements; "farm" includes fish hatcheries, rangelands, and  
19 nurseries with growing operations;

20 (6) "petroleum" means crude oil or any fraction of crude  
21 oil that is liquid at 60 degrees Fahrenheit and pressure of 14.7  
22 pounds per square inch absolute; "petroleum" includes petroleum-based  
23 substances comprised of a complex blend of hydrocarbons derived from  
24 crude oil through processes of separation, conversion, upgrading, and  
25 finishing, such as motor fuels, jet fuels, distillate fuel oils,  
26 residual fuel oils, lubricants, petroleum solvents, and used oils;

27 (7) "release" has the meaning given in AS 46.08.900;

28 (8) "risk assessment" means investigation of suspected  
29 underground petroleum storage tank system leaks and source

1 identification, a determination of potential health effects including  
2 effects of containment exposure through inhalation, ingestion, dermal  
3 absorption, and other means, and the assessment of risk to human  
4 health and the environment from contaminants remaining in the land,  
5 air, or water as a result of the release;

6 (9) "tank system" means an underground petroleum storage  
7 tank system;

8 (10) "underground storage tank" means one or a combination  
9 of stationary devices, including underground pipes connected to the  
10 devices, that is designed to contain an accumulation of petroleum, the  
11 volume of which, including the volume of underground pipes, is 10  
12 percent or more beneath the surface of the ground, except that the  
13 term does not include a

14 (A) farm or residential tank of 1,100 gallons or less  
15 capacity used for storing motor fuel for noncommercial purposes;

16 (B) tank used for storing heating oil for consumptive  
17 use on the premises where stored;

18 (C) septic tank;

19 (D) pipeline facility, including gathering lines,

20 (i) regulated under 49 U.S.C. 1671, et seq.,  
21 (Natural Gas Pipeline Safety Act of 1968);

22 (ii) regulated under 49 U.S.C. 2001, et seq.,  
23 (Hazardous Liquid Pipeline Safety Act of 1979); or

24 (iii) that is an intrastate pipeline facility  
25 regulated under state laws comparable to the provisions of  
26 law referred to in (i) or (ii) of this subparagraph;

27 (E) surface impoundment, pit, pond, or lagoon;

28 (F) storm water or waste water collection system;

29 (G) flow-through process tank;

1 (H) liquid trap or associated gathering lines directly  
2 related to oil or gas production and gathering operations;

3 (I) storage tank situated in an underground area such  
4 as a basement, cellar, mineworking, drift, shaft, or tunnel, if  
5 the storage tank is situated upon or above the surface of the  
6 floor;

7 (J) tank with a capacity of 110 gallons or less;

8 (K) tank containing hazardous wastes regulated under  
9 42 U.S.C. 6921 - 6939b; or

10 (L) tank system that the board or the department has  
11 exempted by regulations adopted under AS 46.03.365;

12 (11) "underground petroleum storage tank system" means an  
13 underground storage tank containing petroleum together with its under-  
14 ground ancillary equipment and related containment system, if any; in  
15 this paragraph, "ancillary equipment" means devices used to distrib-  
16 ute, meter, or control the flow of petroleum to and from the system,  
17 including piping, fittings, flanges, valves, and pumps.

18 \* Sec. 3. LIMITED IMMUNITY FROM LIABILITY. Notwithstanding AS 46.03.-  
19 420(h), 46.03.758, 46.03.760, 46.03.780, 46.03.790, and 46.03.822, a person  
20 is not civilly or criminally liable to the state under those sections for a  
21 discharge covered by those sections if the person demonstrates by a prepon-  
22 derance of the evidence that the person

23 (1) is the owner or operator of an underground petroleum storage  
24 tank or tank system, as defined in AS 46.03.450, enacted by sec. 2 of this  
25 Act, that was installed before December 22, 1988, and the discharge oc-  
26 curred from that tank or tank system before December 22, 1993;

27 (2) acted in good faith to report and mitigate damage from the  
28 discharge in accordance with applicable state and federal law before  
29 January 15, 1994, and was in compliance with all applicable state and

1 federal law before the discharge occurred;

2 (3) is receiving or has been approved for state funds under  
3 AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act; and

4 (4) did not intentionally cause the discharge.

5 \* Sec. 4. NOTIFICATION FOR TANK SYSTEMS NOT IN USE. The owner or  
6 operator of an underground petroleum storage tank or tank system whose tank  
7 or tank system was installed after January 1, 1974, but was taken out of  
8 use before the effective date of AS 46.03.380, enacted by sec. 2 of this  
9 Act, shall notify the department about the tank or tank system within six  
10 months after the effective date of this section by completing and returning  
11 to the department a form obtained from the department. The form must  
12 comply with AS 46.03.400, enacted by sec. 2 of this Act, and be similar to  
13 the notification form required under AS 46.03.395, enacted by sec. 2 of  
14 this Act.

15 \* Sec. 5. The initial registration and information required under  
16 AS 46.03.380(b), enacted by sec. 2 of this Act, is due within six months  
17 after the effective date of AS 46.03.380, enacted by sec. 2 of this Act.

18 \* Sec. 6. REIMBURSEMENT PROGRAM. (a) An owner or operator of an  
19 underground petroleum storage tank system who began risk assessment, con-  
20 tainment, cleanup, upgrading, or closure activities related to the tank  
21 system on or after December 22, 1988, but before the effective date of this  
22 section, may apply to the department for reimbursement of a portion of the  
23 eligible costs incurred by the person for those activities, as determined  
24 under (b) of this section. Application under this section must be submit-  
25 ted within six months after the effective date of this section. Payments  
26 made by the department shall be from the fund established under AS 46.03.-  
27 410, enacted by sec. 2 of this Act.

28 (b) An applicant for reimbursement under this section shall submit  
29 evidence satisfactory to the department of the costs that are eligible for  
SCS CSHB 220(Fin)

1 reimbursement under this section, as determined by the department under  
2 regulations of the board. The department shall, subject to the availabil-  
3 ity of funds, reimburse the applicant for 90 percent of the eligible costs  
4 of containment, cleanup, and risk assessment and 60 percent of the eligible  
5 costs of upgrading or closure, subject to the following limitations:

6 (1) the department shall calculate the amount of costs reimburs-  
7 able under this section after subtracting amounts the department determines  
8 are recoverable by the owner or operator from related insurance or other  
9 persons who are liable for the costs;

10 (2) total costs reimbursed under this section to an owner or  
11 operator may not exceed \$200,000.

12 (c) In addition to other requirements of this section, an owner or  
13 operator is not eligible for reimbursement under this section for costs of  
14 containment, cleanup, risk assessment, upgrading or closure related to a  
15 release unless the owner or operator establishes the following to the  
16 department's satisfaction:

17 (1) the release was promptly reported to state and federal  
18 authorities as required by law;

19 (2) the tank or tank system from which the release occurred was  
20 installed before December 22, 1988;

21 (3) other than the release, the tank or tank system has been in  
22 compliance with state and federal laws applicable to underground petroleum  
23 storage tank systems since December 22, 1988, including notification and  
24 registration laws, but excluding financial responsibility requirements;

25 (4) the release was not a result of the owner's or operator's  
26 gross negligence, recklessness, or intentional conduct;

27 (5) all containment, cleanup, risk assessment, upgrading, and  
28 closure activities have been performed in compliance with state and federal  
29 law.

1 (d) In addition to other requirements of this section, an owner or  
2 operator is not eligible for costs of risk assessment, upgrading, or clo-  
3 sure unrelated to a release unless the owner or operator establishes the  
4 following to the department's satisfaction:

5 (1) the tank or tank system has been in compliance with state  
6 and federal laws applicable to underground petroleum storage tank systems  
7 since December 22, 1988, including notification and registration laws, but  
8 excluding financial responsibility requirements;

9 (2) all risk assessment, upgrading, and closure activities have  
10 been performed in compliance with state and federal laws.

11 (e) The department may deny all or a portion of a request for reim-  
12 bursement under this section if

13 (1) it disapproves of a method used for the risk assessment,  
14 containment, cleanup, upgrading, or closure; the owner or operator may  
15 appeal a denial of payment made under this paragraph to the Board of Stor-  
16 age Tank Assistance; the board may issue a decision on a dispute brought to  
17 it under this paragraph; the decision is binding on the owner, operator,  
18 and department;

19 (2) the fund established under AS 46.03.410, enacted by sec. 2  
20 of this Act, lacks sufficient money; if a request for reimbursement is  
21 denied under this paragraph, it shall be granted without the requirement of  
22 a new application, when money is next available, subject to the existence  
23 of a higher priority for use of money in the storage tank assistance fund;  
24 or

25 (3) requests under AS 46.03.415 - 46.03.430, enacted by sec. 2  
26 of this Act, remain unfunded; when all eligible requests for funding under  
27 AS 46.03.415 - 46.03.430, enacted by sec. 2 of this Act, have been sat-  
28 isfied in a given fiscal year and a balance remains in the storage tank  
29 assistance fund, eligible requests under this section may be satisfied on a

1 first-come, first-served basis without the requirement of a new applica-  
2 tion.

3 (f) If an owner or operator of an underground petroleum storage tank  
4 system began risk assessment, containment, cleanup, upgrading, or closure  
5 activities related to the tank system on or after December 22, 1988, and  
6 before the effective date of this section, but those activities are not  
7 complete on the effective day of this section, the owner or operator may  
8 apply for reimbursement under this section for costs incurred before the  
9 effective date of this section; the owner or operator may apply for assis-  
10 tance under AS 46.03.420 - 46.03.430, enacted by sec. 2 of this Act, for  
11 costs incurred or anticipated after the effective date of this Act. A  
12 request for reimbursement under this subsection has the same low priority  
13 as other reimbursement requests under this section, but requests for assis-  
14 tance to complete activities begun before the effective date of this sec-  
15 tion shall be prioritized with other requests made under AS 46.03.420 -  
16 46.03.430, enacted by sec. 2 of this Act, and are subject to the same  
17 requirements and maximum amounts established under those sections.

18 (g) In this section,

19 (1) "board," "containment and cleanup," "release," "risk assess-  
20 ment," "tank system," and "underground petroleum storage tank system" have  
21 the meanings given in AS 46.03.450, enacted by sec. 2 of this Act;

22 (2) "closure" and "upgrading" have the meanings given in AS 46.-  
23 03.430, enacted by sec. 2 of this Act.

24 \* Sec. 7. NOTICE ABOUT REGULATIONS. The commissioner of environmental  
25 conservation shall notify the Alaska Legislative Council and the revisor of  
26 statutes in writing when regulations have been adopted under AS 46.03.-  
27 375(a), enacted by sec. 2 of this Act, for a specific activity for which  
28 certification is required under that section.

29 \* Sec. 8. INITIAL APPOINTMENTS TO BOARD. The governor shall make

1 initial appointments to the Board of Storage Tank Assistance required under  
2 AS 46.03.360, enacted by sec. 2 of this Act, within 45 days after the  
3 effective date of AS 46.03.360, enacted by sec. 2 of this Act.

4 \* Sec. 9. (a) AS 46.03.375(c) and (d), enacted by sec. 2 of this Act,  
5 take effect for a specific activity for which certification is required  
6 under that section, one year after the effective date of regulations adopt-  
7 ed under AS 46.03.375 governing certification for that activity.

8 (b) AS 46.03.405, enacted by sec. 2 of this Act, takes effect six  
9 months after the effective date of AS 46.03.380, enacted by sec. 2 of this  
10 Act.

11 \* Sec. 10. Except as provided in sec. 9 of this Act, this Act takes  
12 effect immediately under AS 01.10.070(c).

# Alaska State Legislature



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## Senate

Letter of Intent

for

SCS CS HB 220 (Res)

The Senate Resources Committee recognizes the serious threats posed by contamination of our groundwater by Leaking Storage Tanks.

The Senate Resources Committee considers the SCS CS HB 220 (Res) to be a temporary measure to assist owners of tanks to comply with the federal regulations for Underground Storage Tanks. It is the intent of the Senate Resources Committee that the Department of Environmental Conservation give priority for grants to owners of underground tanks based on need.

It is the intent of the Senate Resources Committee that the committee continue to work on the issues surrounding petroleum and chemical storage tanks during the interim.

# ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman  
Sen. Bettye Fahrenkamp, Vice Chairman  
Sen. John B. "Jack" Coghill  
Sen. Paul Fischer  
Sen. Pat Pouchot



P.O. Box V  
Juneau, AK 99811

907-465-4921

## Senate Transportation Committee

Letter of Intent

for

SCS CS HB 220 (Trsp)

It is the intent of the Senate that above ground tanks should be addressed in a separate piece of legislation.

Above ground storage tanks have a totally different configuration and regulations are already in place under the Clean Water Act.

Tanks utilized in the construction industry are much more mobile and must be treated differently than more permanently installed tanks.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1989

SUBJECT: Additional Change in the CS  
(SCS CSHB 220(Transportation))

TO: Senator Lloyd Jones, Chair  
Senate Transportation Committee

FROM: Terri Lauterbach *TL*  
Legislative Counsel

Enclosed is SCS CSHB 220(Transportation).

It includes one additional change not requested by the committee, but which is necessary to achieve the intent of one of the amendments adopted by the committee. The committee adopted an amendment that deleted a requirement that above-ground storage tank owners notify the Department of Environmental Conservation about their tanks. (Page 4, lines 9 - 14 of the Senate Resources CS.) Therefore, I have also deleted the provision in temporary law that related to notification requirements for aboveground tanks. The language I deleted can be found at page 8, lines 18 - 21 of the Senate Resources CS.

There is also a slight glitch in the CS which should be addressed at some point, either by your committee, a future committee, or floor amendment. That glitch appears at page 9, lines 25 - 26 of the Senate Transportation CS. These lines refer to tanks "registered" under sec. 6. If you wish to allow cleanup under this section for tanks not in use but which might be leaking because of previous use, then this language must be modified to include tanks for which notification was given to the department by January 1, 1990. (See sec. 6(b) of the CS.) This glitch has cropped up because tanks not in use were required to be registered under previous versions of the bill. This version and the Senate Resources version deleted the registration requirement and made a new notification requirement. The issue is whether you want the owners of leaking abandoned tanks to be able to

request funds for cleanup. If you do, page 9, lines 25 - 26 should be amended.

Please let me know if I can be of further assistance.

TL:kb  
wkk5/019

Enclosure



Official Business

# Alaska State Legislature

SENATE

Committee on Finance

5/2/90  
Janice  
Adair

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

May 2, 1990

TO: Members, Senate Finance Committee

FROM: Senator John Binkley  
Senator Steve Frank  
Subcommittee on HB 220

RE: SCSHB 220 (Finance), Underground Storage Tanks

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Following is an analysis of the above-referenced proposed CS, both technical and procedural.

Section One. Statement of purpose and intent. Emphasis is on technical assistance and financial assistance in order to meet the insurance requirements. It is also stated that the intent of the legislature to develop a program for UST's that will be approved by the EPA and ultimately take the place of the EPA's program.

Section Two is the heart of the bill.

Sec. 46.03.360 it establishes a Board of Storage Tank Assistance. The primary function of the board will be to write the regulations regarding underground storage tank systems. There are 7 board members who are the commissioners of DEC and DOT, a registered engineer and a registered general contractor, both of whom are knowledgeable about USTs, 2 people who own USTs, at least one of which must own no more than 10 tanks, and a representative of the insurance industry. We allow the board to hire two staff, one director and one support staff. DEC is to provide additional administrative support.

Sec. 46.03.363 charges the Board with making a report to the legislature. It may cover issues the board considers significant however, certain issues must be covered. They are listed on page 3.

Sec. 46.03.365 establishes the regulatory framework and is in compliance with the requirements of the federal regulations. The state's regulations may not be any more or less stringent than the federal regulations however, we have added one subject not covered by the federal government - certification of storage tank workers. It is dealt with in more detail in Sec. 46.03.375. DEC is given the authority to adopt emergency regulations only which may be in effect for no more than 120 days.

Sec. 46.03.370 directs the department to provide educational assistance on compliance with the state and federal regulations as well as public education on the effects associated with petroleum and chemical leaks.

Sec. 46.03.375 requires certification of people who install, test, close or significantly change the configuration of USTs. It will be administered by Occupational Licensing. Fees may be charged that will cover the cost of administration. There is a one year delayed effective date on this section. The clock will start ticking when the director of occupational licensing notifies the revisor of statutes that the certification program is available. In this way, we hope to allow time to develop a pool of certified people prior to the time that certified workers are required. Subsection (c) attaches a Class B misdemeanor charge to violations of the certification requirement. Subsection (d) clarifies that a supervisor who is certified and who inspects the work and signs off on it satisfies the requirement.

Section 46.03.380 requires all tanks to be registered within 30 days of operation. If the tank is already installed when this bill goes into effect, it must be registered within 6 months of the effective date.

For tanks that are in operation on the effective date of this bill and were installed before December 22, 1988, they are required to submit with that initial registration proof that in the last 12 months a test was conducted to determine whether or not the tanks were leaking and the results of those tests. If the site does show contamination, then they have to submit a summary of what has or will be done to correct the problem.

If the tanks haven't tested in the past 12 months, then the owner must provide proof that they intend to do so and may ask that the state reimburse part of those costs as provided in Sec. 46.03.415. In both cases, the owner may at that time apply for financial assistance for containment and cleanup under the tank cleanup program in Sec. 46.03.420.

Sec. 46.03.385 is the annual registration fee. It is \$150 per tank for tanks under 1,000 gallons; \$300 for tanks between 1,000 and 5,000 gallons and \$500 for tanks over 5,000 gallons. Tanks that meet all of the technical standards for leak detection, corrosion protection and spill and overflow protection will pay a \$50 annual fee. This money may be deposited in the tank cleanup fund. State and federally owned tanks are exempt from the fee as well as from participating in the tank cleanup program.

Sec. 46.03.390 requires that tank owners notify DEC when there is a change in the configuration of the tank system.

Sec. 46.03.395 requires that tank owners notify DEC when they close their tank systems. They must also submit proof that closure was done in accordance with state and federal law.

Sec. 46.03.400 sets out what information must be included on the registration forms required to be filed under 46.03.380. Please note that this information is given only once about the tank system. Unless and until notification is given to the department about a change or closure, the department will assume this information is correct. While registration is a one time event, payment of the registration fee is annual.

Sec. 46.03.405 sets out prohibitions. It states that a person may not operate a UST unless it is registered with the department and they have provided to the department proof of financial responsibility to the extent required under regulation. Compliance with the financial responsibility requirement is waived if and while a person is in "cleanup."

Sec. 46.03.410 sets up the Storage Tank Assistance Fund. It can be used for the tank testing, cleanup and upgrading or closing assistance established in this bill. The commissioner must submit an annual report to the legislature on the status of the fund which must include how and where the money has been spent as well as how and where it is intended to be spent in the following fiscal year.

Sec. 46.03.415 is the testing assistance program. At the time of initial registration for tanks that were installed prior to December 22, 1988, the bill proposes to assist with the cost of testing those tanks and/or assessing the tank sites for contamination. It will be a reimbursable program. The state would pay 50% up to a maximum of \$300 per tank/\$1,200 per facility for a tank tightness test and \$800 per tank/\$3,200 per facility for a site assessment.

The testing must be completed within 12 months after initial registration unless the owner demonstrates to DEC's satisfaction that good cause exists for extending the deadline. Good cause could be the weather or the fact that a qualified site assessor or tank tester was not available.

Sec. 46.03.320 sets out the tank cleanup program. An owner may apply to the department by July 1, 1994 for assistance in assessing, containing or cleaning up a leak from a UST. This does not mean the work must be completed by then, the application must be submitted by that date. The department is to give a priority to those leaks which pose the greatest threat to human health.

The amount of assistance that is available is \$1 million per occurrence. The owner is responsible to repay 10% of the amount spent, up to a maximum of \$25,000. After \$1 million, the state may access a federal LUST Trust fund for this kind of contamination.

There are conditions placed on the owner before he may receive state assistance. The leak must have occurred before December 22, 1993 from a UST that was installed before December 22, 1988. The owner must be in compliance with all applicable state and federal laws applicable to USTs except those dealing with financial responsibility. This is in recognition of the fact that sites which have contamination cannot obtain insurance.

The owner and DEC must agree to a cleanup plan. If they cannot agree, they may go before the board for resolution of the dispute. The board's decision will be final and the owner must agree to it in order to continue participating in the state's financial assistance program.

The owner must also agree to either upgrade his facility to the 1998 EPA standard or close it. For both of these activities, there are grants available up to \$60,000 per facility. Any upgrading or closing must meet the state and federal requirements. The state's regulations may limit the number of grants awarded to a single owner in any calendar year. This program may be found in Sec. 46.03.430.

Sec. 46.03.440 allows financial records submitted to either the department or the board to be kept confidential. These records may include documents related to financial responsibility, cleanup activities or reimbursement requests. The department and the affected owner are to determine which information is confidential.

Sec. 46.03.450 is the definition section.

Sec. 3, on page 21 gives limited immunity from liability for state action against an owner of a leaking underground storage tank provided the tank was installed before December 22, 1988, the owner acted in good faith to report and mitigate the damage, is in compliance with state and federal laws, did not intentionally cause the discharge and is receiving state financial assistance. This act mandates that people come forward and register their tanks and sets up a mechanism for the state to pay for the cleanup of those tanks. It does not seem appropriate for the state to then turn around and sue tank owners under our pollution laws. However, this does not preclude third party suits.

Sec. 4 is required by federal law. It mandates notification of a UST which was installed after January 1, 1974 but is no longer in use.

Sec. 5 set out that the initial registration of USTs is due within 6 months of the effective date of this bill.

Sec. 6 is a reimbursement program. Many UST owners began to clean up and upgrade or close their tanks as soon as the federal regulations went into effect. This section allows those owners to be reimbursed for at least a part of the costs they incurred, whether they have completed their work or are still in the process.

The owner would submit all of the receipts associated with cleanup activities and with upgrading or closing to the department. The department would subtract amounts it determines are recoverable by insurance or other persons who are liable for the costs - such as an agreement between a buyer and seller that the seller would cover a part of the cleanup costs. 90% of the amount related to cleanup and 60% of the amount related to upgrading or closing would then be repaid to the owner, up to a maximum of \$200,000 per company.

There are conditions placed on this reimbursement. The release had to have been promptly reported, the UST must be in compliance with all state and federal laws, except financial responsibility, the release wasn't intentionally caused by the owner, and the department approves of the methods used for cleanup and upgrading or closing. Requests for reimbursement have a low priority for payment.

Sec. 7 directs DEC to notify the revisor of statutes as to when the certification of tank workers program is available so that the one year may start running.

Sec. 8 directs the governor to appoint the board within 45 after the effective date of the bill.

Sec. 9 and Sec. 10 are the effective dates.



# ALASKA STATE LEGISLATURE

## REPRESENTATIVE CURT MENARD

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P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2679



### MEMORANDUM

To: Senate Finance Committee

From: Rep. Menard

Date: May 8, 1989

Re: HB 220, Petroleum and Chemical Storage Tanks

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HB 220 addresses the serious problem of contamination of soils and groundwater due to leaking underground petroleum and chemical storage tanks. In Alaska, there are already 72 occurrences of ground water contamination caused by petroleum products. According to national statistics 25% of underground storage tanks may now be leaking.

The U.S. Environmental Protection Agency recently adopted regulations which require underground tank owners to upgrade tanks to meet specific engineering standards including leak detection and monitoring, spill overfill prevention and tank corrosion protection. The regulations also require tank owners to obtain \$1 million worth of pollution liability insurance.

HB 220 gives the Department of Environmental Conservation the authority to prevent contamination associated with underground storage tanks through a regulatory, educational, and financial assistance program. The bill provides educational assistance to tank owners to help them understand and comply with the EPA regulations. It provides grants for tank owners to upgrade their tanks to the EPA specifications. HB 220 also creates an account within the Hazardous Substance Release Response Fund to provide funds for clean up of petroleum and chemical storage tank releases. The bill is designed to make insurance companies more willing to insure tank owners by providing that tank owners who report spills by July 1, 1994 and meet certain criteria will be eligible for partial reimbursement of clean up costs and grants to upgrade underground storage tanks.

A one time storage tank registration fee of 1 cent per gallon based on the capacity of the tank or \$100, whichever is less, is imposed on tank owners to pay some of the costs of the program.

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Representing the  
Matanuska-Susitna Borough



Co-Chair  
House Resources Committee  
Memoer  
State Affair Committee  
Budget Subcommittee

SECTIONAL ANALYSIS FOR SENATE CSHB 220 (RESOURCES)  
PETROLEUM AND CHEMICAL STORAGE TANKS

Prepared by House Resources Committee staff

**Section 1. PURPOSE.**

Authorizes the Department of Environmental Conservation to prevent contamination of groundwater due to leaks and spillage from underground petroleum and chemical storage tanks and to assist the owners of underground petroleum storage tanks to comply with federal regulations. The intent is to assist tank owners who may have difficulty obtaining liability insurance and upgrading or replacing tanks through educational assistance, grants and partial reimbursement for clean up costs.

**Sections 2. 46.03 REGULATION OF PETROLEUM AND CHEMICAL STORAGE TANKS**

Requires the Department of Environmental Conservation to prevent and abate pollution from underground chemical and petroleum storage tanks. The program would include notification, inspections, engineering standards, enforcement, corrective action and damage and cost recovery. A volunteer advisory panel is appointed to assist in the development of regulations pertaining to the program.

**46.03.380 Educational Assistance**

Provides assistance to tank owners in complying with and understanding the EPA regulations.

**46.03.390 Grants**

Establishes a grants for retrofitting, repairing or replacing or closing an underground petroleum storage tank to EPA's standards. Grants for closure would be for 75% of the costs and 60% for upgrade and retrofitting. Grants are capped at \$100,000 per facility.

**46.03.390 Notification Requirements**

Requires a tank owner to notify the Department of Environmental Conservation 30 days before they intend to install the tank. Requires tank owners who take a tank out of operation to provide evidence that the contents of the tank have been removed and that the tank has been properly closed.

#### **46.03.400 Registration Requirements**

Requires a one time registration of underground storage tanks including information on the location, size, type and age of the tank.

#### **46.03.410 Registration Fee**

Requires tank owners to pay a biennial fee of 1 cent per gallon based on the capacity of the tank or \$100, whichever is less. These funds may be appropriated to the Petroleum and Chemical Storage Tank Account. The registration fee is waived for tanks owned by the state of Alaska.

#### **46.03.410 Exemptions**

These requirements do not apply to a tank with a capacity of 1,100 gallons or less at a farm or at a single family dwelling or duplex residence if the tank is used for storing motor fuel, marine or aviation fuel not intended for resale. These requirements do not apply to a storage tank used for storing heating oil held for consumptive use on the premises where it is stored if the tank is smaller than 1,100 gallons.

#### **46.03.450 Definitions**

##### **Section 3. AS 46.08.015**

Allows funds to be used out of the Petroleum and Chemical Storage Tank Account for capital improvements. Use of funds for capital improvements is presently prohibited in the Oil and Hazardous Substance Release Response Fund. Capital improvements which would be covered by the fund include grants for leak detection and monitoring, spill overfill prevention and corrosion prevention.

##### **Section 4. 46.08.015 PETROLEUM AND CHEMICAL STORAGE TANK ACCOUNT**

Establishes an account within the Oil and Hazardous Substance Release Response Fund called the Petroleum and Chemical Storage Tank Account. The Account can be used for costs of investigation, containment and clean up of a release from a petroleum or chemical storage tank and grants.

##### **Section 5. Amends AS 46.08.060 (a)**

Requires the Department of Environmental Conservation to report to the legislature regarding the number of requests for assistance from the Petroleum and Chemical Storage Tank Account and the estimated cost of containment and clean up related to those requests.

**Section 6.**

Gives storage tank owners 6 months from the effective date of this act to register petroleum and chemical storage tanks with the Department of Environmental Conservation. requires owners of tanks who have taken the tank out of operation to notify the Department of the location of the tank by January 1, 1990.

**Section 7.**

Repeals the grant program on September 30, 1994

**Section 8.**

Under this section, the owner of a qualifying underground petroleum storage tank may request partial funding from the Petroleum and Chemical Storage Tank Account to pay the costs of investigation, containment and clean up resulting from a release from or associated with an underground tank.

Payments for clean up will be based on the total number of gallons stored by the owner during the last 12 months.

The owner would have to meet the following criteria to qualify for use of funds: 1) the release was reported before July 1, 1994, 2) the tank from which the release occurred was installed before July 1, 1989, 3) the tank from which the release occurred was registered with the Department of Environmental Conservation, 4) the owner is in compliance with all state and federal laws after the effective date of the act, 5) the owner pays the full amount of the deductible to the Department, and 6) the petroleum release was not a result of gross negligence, or intentional misconduct.

The maximum payment under this section may not exceed \$1 million.

The department shall adopt criteria for determining priorities for responding to a release.

**Section 9. Effective date of the Act.**

July 1, 1989

STEVE COWPER  
GOVERNOR

5/2/90  
Amy Kyle

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

May 1, 1990

The Honorable John Binkley  
Alaska State Senator  
P.O. Box V  
Juneau, AK 99811

Dear Senator Binkley:

I understand that you are planning to hear the underground storage tank bill (HB 220) soon. I am writing to alert you to two concerns I have with the bill as it has been proposed in the Senate.

First, I believe that it is essential that the state have credible and sound regulatory programs for all environmental issues. Standards for underground storage tanks and levels and methods for cleanups of spills represent extremely important decisions with wide-ranging implications for the health and welfare of Alaskans.

Because of the significance of these issues and the necessity for scientifically sound standards and decisions that protect the public, I cannot accept a proposal that places these authorities in an appointed board. Our regulatory decisions must have sound bases and be consistent for different kinds of facilities. I do not believe this can be accomplished with a board as proposed in the current draft of the bill.

Second, I am extremely concerned about the prospects of using scarce state dollars to subsidize cleanups for facilities and entities that have the capability to pay their own way. The proposed Senate CS would provide for up to \$1 million in cleanup assistance for any leaking tank, with priority being set solely according to the potential for impacts to human health or the environment. The outcome of this approach would likely be to provide the most assistance to the largest operators, as they generally have the biggest problems. I cannot favor this approach as an appropriate allocation of state dollars.

To address this, I would support placing a cap of \$250,000 on the amount provided to any single company for cleanup.

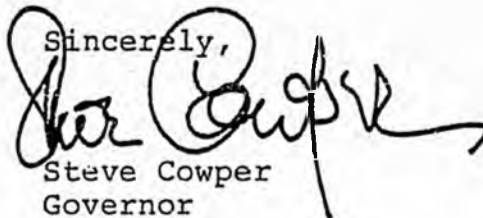
The Honorable John Binkley -2-

May 1, 1990

Most gas station cleanups can be completed for this amount. Proportionate caps for companies should also be set for other forms of assistance in the bill.

I urge you to amend HB 220 to address these concerns. Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written in a cursive style.

Steve Cowper  
Governor

cc: The Honorable Rick Uehling  
The Honorable Steve Frank  
The Honorable Jim Duncan  
The Honorable Paul Fischer  
The Honorable Drue Pearce  
The Honorable Fred Zharoff  
The Honorable Curt Menard

# Alaska MUNICIPAL League

TELEPHONE  
(907) 586-1325  
FAX 463-5480

217 SECOND STREET, SUITE 200  
JUNEAU, ALASKA 99801

April 24, 1990

## MEMORANDUM

TO: Senator John Binkley  
Senator Steve Frank

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 220 - Underground Storage Tanks

I am aware that you are considering excluding municipalities from eligibility under HB 220, relating to the investigation, containment, and cleanup of leaking underground storage tanks (UST's). The Alaska Municipal League (AML) supports UST legislation but opposes such an amendment to HB 220 as bad public policy and expenditure of public funds. I would also like to offer additional comments on the "3/12/90 work draft".

The AML made legislation "providing education, technical assistance, and grants for municipalities to replace outdated and nonconforming underground storage tanks, to clean up soils in order to protect groundwater, and to meet EPA and state mandates" a 1990 legislative priority (see Municipal Platform 1990, page 32). The U.S. Environmental Protection Agency (EPA) UST regulations, which went into effect December 1988, affect private tank owners and municipalities.

Any state assistance in the form of legislation and funding to help owners to meet these federal mandates is appreciated and should include municipalities. While the AML supports assistance for private owners also, especially small businesses, the AML believes public funds should first be spent to assist the public. Municipalities do not have tanks to sell fuel but to store gasoline and diesel fuel for government operations. The tanks were purchased and installed with public funds and, if the tanks have to be replaced, local tax dollars will have to be spent to do so.

I have been told that the Senate Subcommittee on HB 220 is considering excluding municipalities from eligibility for the financial assistance for tank testing, site assessment, and site cleanup or closure proposed in the legislation. The reasons stated to me have been 1) there is not enough money; 2) municipalities, especially Anchorage, will use up all the money; and, 3) municipalities have other means of financing the costs of the federal mandate being adopted by the State under this legislation. How can the expenditure of public dollars be justified in the name of protecting the public health and the environment when public entities are not eligible for those funds and Alaska's citizens will have to pay more taxes to fix their tanks locally?

Senator John Binkley  
Senator Steve Frank  
April 24, 1990  
page 2

As for the argument that there is not enough money to address the problem and the federal mandate, I tend to agree, but that is not a reason to pass bad and inequitable legislation. The bill as originally introduced put a tax on fuel to finance the assistance proposed under the bill but that has proven so far to be politically unacceptable. The latest Senate work draft would make grants and loans available from direct appropriations to the Storage Tank Assistance Fund plus any registration fees collected. The Senate leadership has proposed appropriating \$10 million to the fund in FY 91. If this amount is inadequate to address the problem, then additional funds can and should be made available.

One option would be to incorporate the program under the "470 fund" in AS 46.08 and save the \$10 million for other needs. Another option would be to prioritize any assistance given based on the impacts on the public and the environment; another would be to further limit eligibility; another, to provide loans rather than grants; and, another be to pass the legislation without an appropriation (This would not be the first time this happened, e.g. the State's Clean Water Fund).

As to the argument that Anchorage will use up all the money, I have several comments. The first is, "Who is Anchorage?" Anchorage is a political subdivision of the State providing public services to half the State's population, Alaskan citizens who pay taxes and who are at potential risk from UST's. In addition, if the size of the owner is a concern, why is it that there is no preference for small private tank owners contained in the proposed CS? What about all the other municipalities that are forced to have UST's in order to provide public services who would not be eligible if municipalities are excluded?

Finally, municipalities do not have a lot of financial resources and they have to provide public services other than fuel storage with limited public funds. Municipalities are financially strapped because of less oil revenue being passed on to them by the State, declines in the economy, and additional state and federal mandates. These are the same justifications given for providing assistance to other tank owners. Just as the private businesses, such as gas stations, will have difficulty in meeting the EPA regulations because they may not be able to raise their fees to cover the extra cost because the public will object, municipalities are meeting resistance from their taxpayers as they increase taxes to cover the costs of mandates, lower property values, and major cutbacks in funding from the State.

Senator Frank has asked me to try to get numbers of municipalities and affected storage tanks, which I am doing; however, does it matter? Even if Anchorage is the only municipality which has UST's (which it isn't) and if Anchorage has one or 100 (more likely) tanks, shouldn't Anchorage be eligible to receive state assistance?

Again, excluding municipalities which own tanks on behalf of the public from eligibility for public assistance under HB 220 is bad public policy, and the AML requests that legislation be passed that will assist municipalities and small and large private owners (in that order) to meet the EPA regulations and to protect the public and the environment.

Senator John Binkley  
Senator Steve Frank  
April 24, 1990  
page 3

My other comments on the "3/12/90 work draft" are as follows:

Insurance - The EPA regulations require private tank owners and municipalities to meet financial stability requirements or provide insurance. The Legislature should know that this bill will not improve the availability of insurance. In Section 1, Purpose and Intent, page 1, line 23 the bill states "owners and operators will be faced with insurance requirements that they will not be able to satisfy...". In Section 46.03.405 PROHIBITIONS, the bill adopts the federal financial stability requirements into state law six months after the effective date of the legislation. Liability for a release is not waived under this legislation [Section 46.03.420 (h)]. While the proposed legislation provides financial assistance in the form of grants or loans of up to \$1 million for cleanup, this may be woefully inadequate if an aquifer is contaminated, for example, or to pay third-party damages.

While the federal government has extended the date by which the insurance was to have been in place for a year (from October 1990 to October 1991), the issue is that neither commercial insurance nor the capability to self-insure for UST liability is available, and HB 220 does not address this. At best the legislation, if adequately funded, could speed up the process by which owners could test their tanks, clean up spills, and replace (not currently provided for) or close their tanks and, thereby, qualify for insurance. Currently, most, if not all, commercial liability insurance has a specific exclusion for pollution. Insurers will not insure UST's if they have not been tested and until the tanks meet the federal EPA design criteria.

Replacement Assistance - I would recommend that the legislation be amended to allow grants or loans for replacing tanks to meet EPA design criteria. DEC estimates that there are over 5,000 tanks in Alaska, the average age of which is 12.2 years. Data suggest that the majority of tank failures occur after 13 years; therefore, it is only a matter of time before leaks do develop even if a test of a tank eligible for financial assistance under the proposed legislation does not detect a leak. In any event, the EPA regulations require that all tanks meet specified criteria by a time certain. This will also make insurance available sooner to owners who replace their tanks.

Board of Storage Tank Assistance - First of all if municipal owners are to be regulated and if assistance is to be evaluated, I would suggest that one Board member be a municipal official. Secondly, why set up a separate staff of up to two people for the Board, especially if cost is a concern? Why not have the DEC, which is authorized to enforce the Board policy and regulations, staff the Board?

Thank you for your consideration and the opportunity to comment. AML looks forward to UST legislation which it can support.

cc: AML Board  
AML Legislative Committee  
Representative Curt Menard  
Senate Finance Committee  
Terry Renner

5/2/90

## **SUMMARY OF EPA REQUIREMENTS FOR FINANCIAL RESPONSIBILITY**

Required to cover corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum UST.

### ***Per occurrence requirements:***

\$500,000 per occurrence for non-marketers with a monthly through-put of 10,000 gallons or less.

\$1 million per occurrence for non-marketers with a monthly through-put of more than 10,000 gallons.

\$1 million per occurrence for all marketers.

### ***Aggregate requirements:***

\$1 million for all those with 100 tanks or less.

\$2 million for all those with more than 100 tanks.

Must provide first dollar coverage. The required amounts do not cover legal defense costs nor does this requirement in any way limit the liability of the owner or operator.

Must in in place by:

**January 24, 1989** for marketers with 1000 tanks AND non-marketers with a net worth of more than \$20 million (as reported to SEC, Dun & Bradstreet, Energy Information Administration or the Rural Electrification Administration).

**October 26, 1989** for marketers with 100-999 tanks.

**April 26, 1991** for marketers with 13-99 tanks at more than one facility.

**October, 1991** for marketers with 1-12 tanks at more than one facility, non-marketers with a net worth of less than \$20 million and all local government entities.

Ways in which the financial responsibility requirement may be met:

- self-insurance (requires a financial test by EPA)
- guarantee from a third party that meets EPA requirements
- insurance/risk retention group
- surety bond
- letter of credit
- use of state required mechanism
- state fund or other state assurance\*
- trust fund

However, if an owner/operator uses different mechanisms to meet the financial responsibility requirements for clean up and for third party liability, the amount of assurance provided by each mechanism must be the full amount required. In other words, if you are required to have \$500,000 per occurrence and you have one assurance mechanism to cover corrective action and a different one to cover third parties, then each one has to be \$500,000. They cannot be combined to reach \$500,000 in coverage.

\*The EPA will look at four elements of a State Assurance Program before it signs off on it.

- reasonably certain and available FUNDING SOURCE
- the AMOUNT of the FUND must be sufficient to keep pace with the demand
- full or partial COVERAGE
- ELIGIBILITY requirements

*Prepared by the office of Senator John Binkley*

## **SUMMARY OF EPA REQUIREMENTS FOR THE REGULATORY PROGRAM**

1) Technical standards for all existing and new\* underground storage tanks, including:

- design, construction, installation and notification requirements for new UST systems;
- upgrading of existing UST systems;
- general operating requirements;
- release detection
- release reporting, investigation, and confirmation;
- out of service UST's and closure methods;
- release response and corrective action

2) Financial responsibility for UST systems containing petroleum

3) Provisions for adequate enforcement of compliance

*(\*new UST system is defined as any system installed after 12/22/88)*

EPA may approve state programs to operate in place of the federal UST requirements if the state programs have standards no less stringent than the federal requirements, and provide adequate enforcement of compliance with those standards

Many classes of tanks are exempt from the technical and financial responsibility rules:

- farm or residential tanks of 1,100 gallons or less storing motor fuel for noncommercial purposes;
- tanks storing heating oil for consumptive use on the premises where stored;
- septic tanks
- certain pipeline facilities
- surface impoundments, pits, ponds and lagoons
- storm water or wastewater collection systems
- flow-through process tanks
- liquid traps or associated gathering lines directly related to oil or gas production and gathering operations
- storage tanks situated on or above the floor of underground areas such as a basement or cellar if the storage tank is situated on or above the surface of the floor
- tanks holding 110 gallons or less
- emergency spill and overfill tanks that are emptied as soon as possible after use
- tanks containing hazardous wastes and regulated under Subtitle C of RCRA.

Federal and state government agencies whose debts of those of the federal or state governments are exempt from the financial responsibility requirements only.

*Prepared by the office of Senator John Binkley*

## TECHNICAL STANDARDS FOR ALL UST SYSTEMS

For new tank systems (installed after December 22, 1988):

- monthly leak detection
- corrosion protection
- spill and overfill prevention

Must be in place at the time of installation

For existing tank systems (see following chart for more detail):

- leak detection phased in over a five year period depending on the age of the tank
- corrosion protection required by December 22, 1998
- spill and overfill prevention required by December 22, 1998

TYPE OF TANK & PIPING	LEAK DETECTION	CORROSION PROTECTION	SPILL/OVERFILL PREVENTION
New Tanks and Piping*	At installation	At installation	At installation
Existing Tanks** Installed: Before 1965 or unknown 1965 - 1969 1970 - 1974 1975 - 1979 1980 - December 1988	By No Later Than: December 1989 December 1990 December 1991 December 1992 December 1993	} December 1998	} December 1998
Existing Piping** Pressurized Suction	December 1990 Same as existing tank:	December 1998 December 1998	Does not apply Does not apply
<p>* New tanks and piping are those installed after December 1988                      ** Existing tanks and piping are those installed before December 1988</p>			

**SUMMARY OF  
CLEAN UP ASSISTANCE**

**FEDERAL:**

LUST Trust Fund. Available *only* to federal government and states that have signed a cooperative agreement with the EPA. (Alaska has done so)

It can be accessed only when:

- prompt action is necessary to protect human health and the environment;
- a solvent owner or operator cannot be found;
- the owner or operator refuses to undertake a cleanup, OR
- clean up costs exceed the required amount of financial assurance.

States must match 10% of the costs of clean up action paid by the LUST Trust Fund. States must include in their cooperative agreement a cost recovery policy. However, the EPA allows the state to determine the conditions under which recovery will be attempted and the amount to be recovered.

This trust fund is funded from a 1/10 of a cent per gallon tax on motor fuels, including gasoline, diesel and aviation fuels. It went into effect in January, 1987 and has a 5 year life. It is estimated \$500 million will be raised in that five year period.

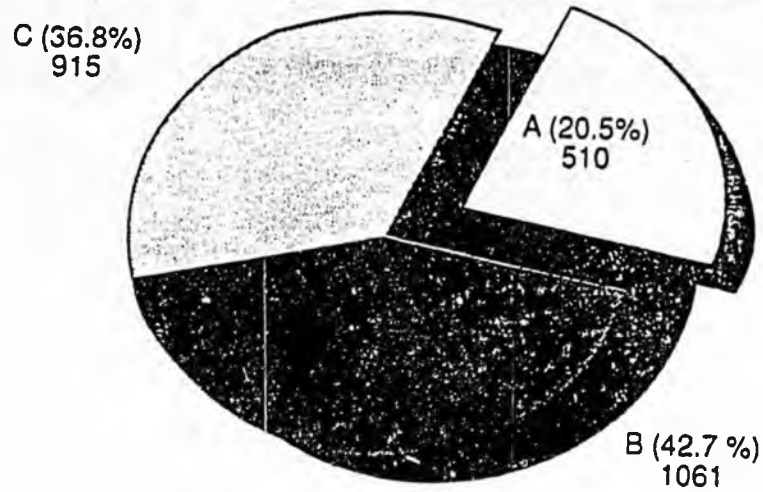
At a minimum, DEC must:

- make reasonable efforts to contact owners and operators who are liable for releases;
- notify owners/operators of their liability for enforcement and corrective action costs; and
- demand payment

**STATE:**

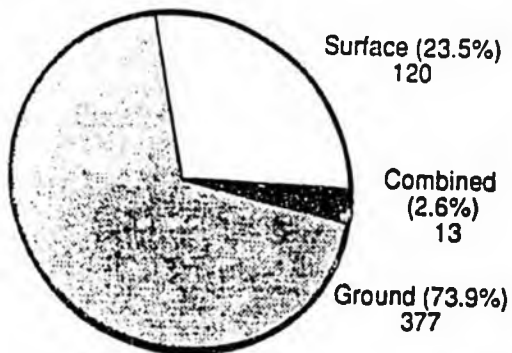
DEC may currently use the Oil and Hazardous Substance Release Response Fund (Response Fund) to clean up pollution caused by leaking underground storage tanks if the responsible party either cannot or will not undertake remediation. However, the Department is required by law to seek reimbursement from the parties responsible for the pollution.

## Number of Public Drinking Water Systems by Class

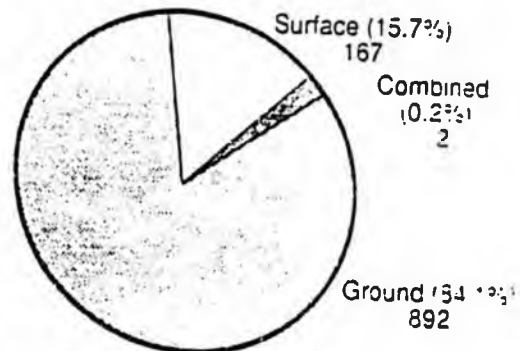


## Number of Public Drinking Water Systems by Class, by Source

CLASS A - By Source



CLASS B - By Source



CLASS C - By Source

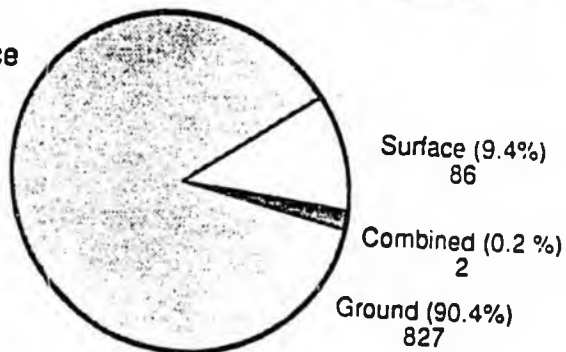


Figure 3. Pie diagram showing number of public water systems by class, by source.

# LOCATION OF GROUNDWATER CONTAMINATION SITES IN ALASKA

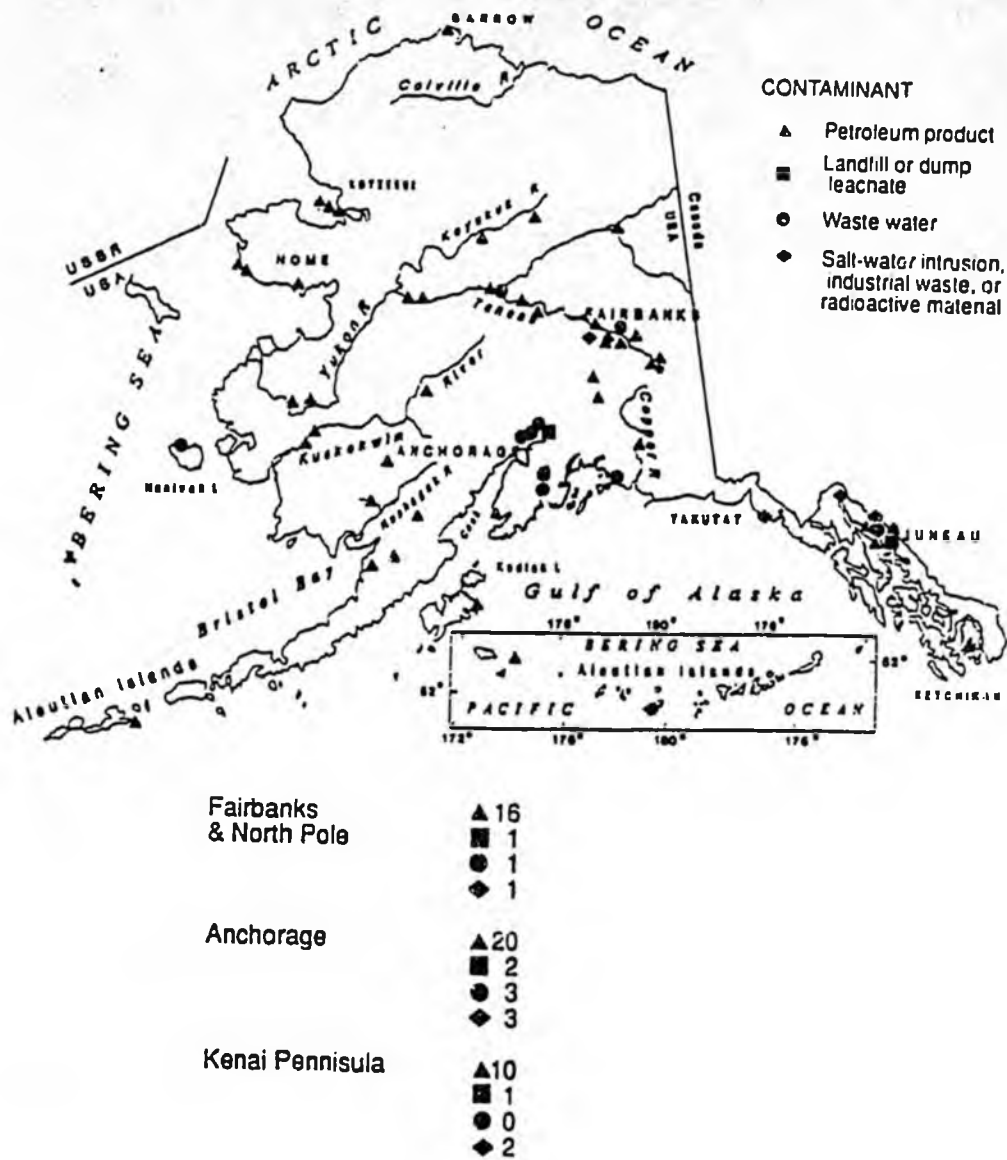


Figure 4. Map showing location of groundwater contamination sites in Alaska.

## SOURCES OF GROUNDWATER POLLUTION IN ALASKA

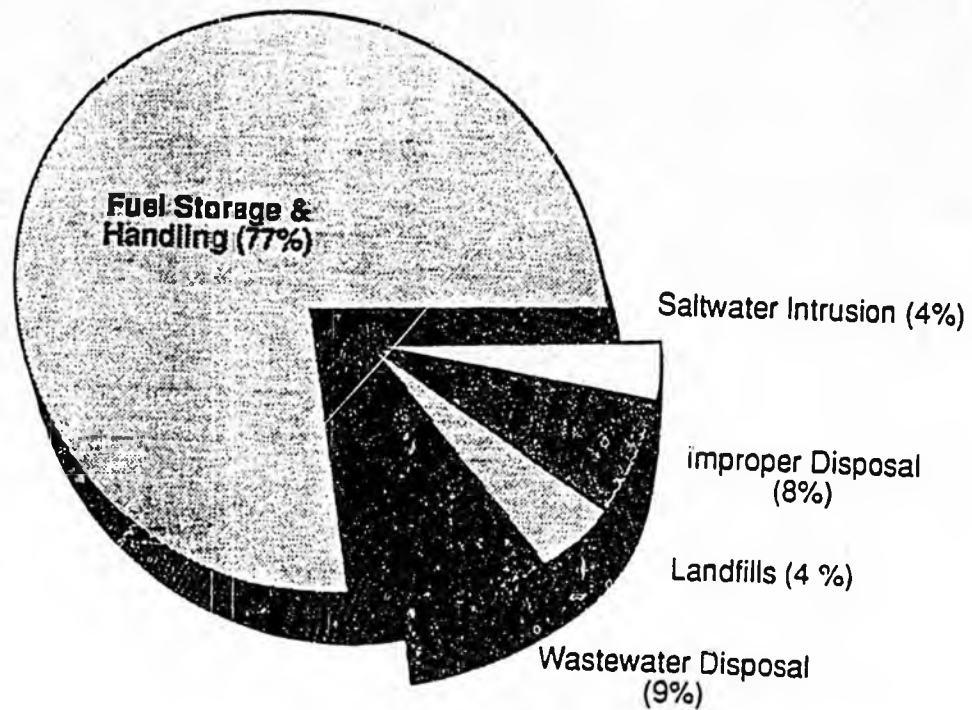


Figure 5. Pie diagram showing sources of groundwater pollution in Alaska.

# UNDERGROUND STORAGE TANKS IN ALASKA

## TYPES OF FACILITIES

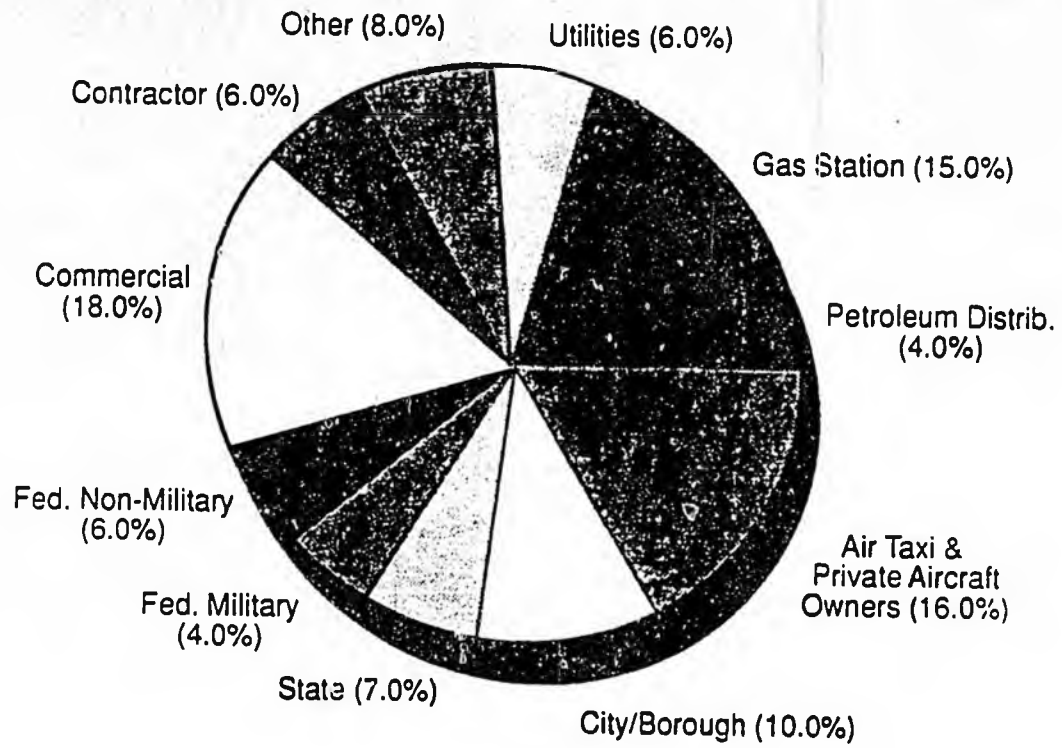


Figure 6. Pie diagram showing types of facilities in Alaska using federally regulated underground storage tanks.

# UNDERGROUND STORAGE TANKS IN ALASKA

## SUBSTANCES IN TANKS

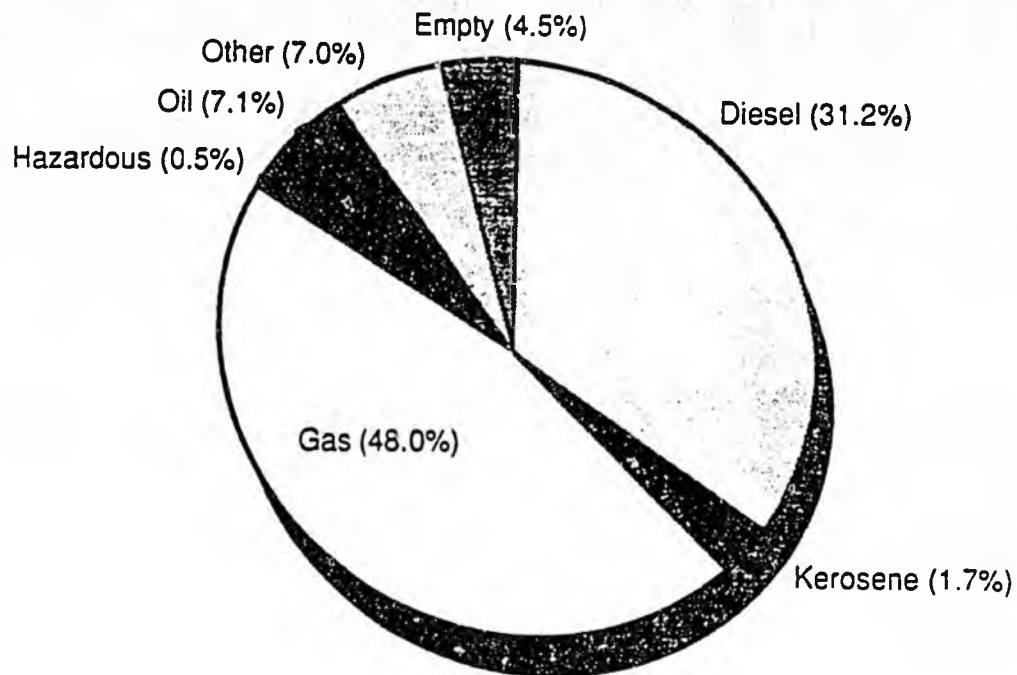


Figure 7. Pie diagram showing types of substances in federally regulated underground storage tanks in Alaska.

# SouthCentral Air, Inc.

RECEIVED  
APR 24 1989

April 20, 1989

Representative Mike Navarre  
P.O. Box V Room 216  
Juneau, Alaska 99811

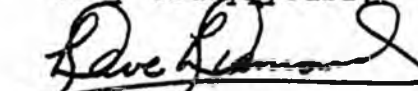
Dear Mike,

Pursuant to our telephone conversation of this afternoon, this letter is written to show support for HB 220.

As a major consumer of aviation fuels, and as a user of underground storage tanks, we at SouthCentral Air, Inc. support the creation of a clean-up fund, and feel that a per gallon tax is a fair method of funding. We believe it is unreasonable to expect a small business to shoulder the entire burden of liability on this issue.

In fairness to those operators who have never (or not within, say, the last ten years) utilized underground storage tanks, we would support an exemption from the funding method.

Very truly yours,



David L. Diamond  
General Manager

SOLDOTNA TESORO  
John T. Stubblefield  
P. O. Box 773  
Soldotna, Alaska 99669

February 9, 1989

To Alaskan Senators and Representatives:

Due to the E.P.A. regulations that are now enforce, the owners and lessors of gas stations are in a financial situation that will be impossible to absorb. Most owners cannot afford to replace and upgrade their tank systems. The insurance will run most of us out of business and if that doesn't the clean up of contaminated ground will.

By E.P.A. standards, there is probably no station in the state that can comply 100% with the new regulations. E.P.A. has put the burden of all liability on the current owners regardless of the consequences. Has no one taken the time to consider what the effects will be on small businesses and also the economy? If we go under it will also mean job losses for an average of three employees per station.

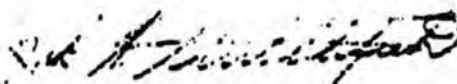
We find ourselves desperately in need of help. The regulations are necessary, as is the clean up and protection of our water and soil. But we cannot comply. We do not have the funds to do this. Where is it to come from? Are you just going to close us down? Sell our stations off to the oil companies for pennies on the dollar? The only ones that will come out on top of this are the large oil companies and corporations like Seven-Eleven. They will be the only ones able to afford the insurance and the upgrading.

The small independent service station owner is an endangered species. Do we as Americans and part of the human race have any less rights than any other endangered species?

I have been in Alaska for 30 years. I have all my lifes work tied up in my station. Along with many other station owners, I stand to loose it all if we cannot get some assistance from the State.

If ever there was a need for the representatives of the State to pull together and help a group of businesses and hard working people, this is the time to do it. Are we any less important than three whales trapped in the ice? Will someone come to our aid?

Sincerely,



John T. Stubblefield  
SOLDOTNA TESORO

4/13

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 220 (FIN)  
PUBLISH DATE: HOUSE 4/29/89

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to Motor Fuels

Agency Affected: Revenue  
BRU: Income & Excise Audit

Sponsor: Menard, etc.  
Requestor: Finance

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	25.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>5700</b>	<b>5700</b>	<b>5700</b>	<b>5700</b>	<b>5700</b>	<b>5700</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	25.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>25.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel  
Division: Income and Excise Audit

Phone: (907) 465-2320  
Date: April 29, 1989

Approved by Commissioner: Hugh Malone  
Agency: Department of Revenue

Date: April 29, 1989

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CS HB 220 (FIN)  
Prepared by: Steven E. Kettel  
April 29, 1989

REVENUE PROJECTION

Under Section 2 of this bill a surcharge of 2¢ per gallon is levied on all motor fuel except aviation and marine fuel subject to tax under AS 43.40.010. No increase or decrease in consumption was estimated for future use.

FISCAL IMPACT \$25.0 CONTRACTUAL

One time cost for forms design, development, publication, postage and industry training. Additional costs for accounting of the proceeds from the surcharge will include data processing system upgrade and related equipment acquisitions.

**STATE OF ALASKA  
1989 LEGISLATIVE SESSION**

**BILL VERSION: SCS CSHB 220 (Res)  
PUBLISH DATE: 5/6/89**

**REQUEST: FISCAL NOTE**

Revision Date: \_\_\_\_\_ Agency Affected: **DOT&PF**  
 Title: **An Act relating to motor fuels, petroleum and** BRU: **Engineering & Operations**  
**chemical storage tanks, and investigation, ...** Standards  
 Sponsor: **Menard, M. Davis, Brown, et al.** Components: \_\_\_\_\_  
 Requestor: **House Finance**

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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**FUNDING: (THOUSANDS OF DOLLARS)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** The bill would require registration of underground storage tanks and would exempt state owned tanks from the registration fee. We anticipate only nominal administrative costs and anticipate no direct new costs from this legislation..

Prepared by: **Jeffery C. Ottesen, Director**  
 Division: **Engineering and Operations Standards**

Phone: **465-2951**  
 Date: **May 7, 1989**

Approved by **Mark S. Hickey, Commissioner**  
 Agency: **Department of Transportation and Public Facilities**

Date: **5/8/89**

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

NO. 4  
BILL VERSION: CSHB 220 (FIN)  
PUBLISH DATE: HOUSE 4/29/89

REQUEST: FISCAL NOTE

Revision Date: Title: An Act relating to motor fuels, petroleum and chemical storage tanks, and investigation, ...  
Sponsor: Menard, M. Davis, Brown, et al.  
Requestor: House Finance  
Agency Affected: DOT&PF  
BRU: Engineering & Operations Standards  
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

.. CAPITAL	65.0	65.0	65.0	65.0	65.0	65.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	65.0	65.0	65.0	65.0	65.0	65.0
OTHER	0	0	0	0	0	0
TOTAL	65.0	65.0	65.0	65.0	65.0	65.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: The bill would require registration of storage tanks used by construction contractors and an increase of 2¢ per gallon on fuel used for construction activities of the department. This is estimated to cost \$40,000 in registration fees and \$25,000 in fuel surcharge fees. The majority of these construction related costs would occur on federal-aid construction. A breakdown of this estimate is attached.

Prepared by: Jeffery C. Ottesen, Director  
Division: Engineering and Operations Standards  
Phone: 465-2951  
Date: April 29, 1989

Approved by: Mark S. Hickey, Commissioner  
Agency: Department of Transportation and Public Facilities  
Date: 4/29/89

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

**Basis of Estimate**  
**Fiscal Note: CS HB 220**  
**Department of Transportation and Public Facilities**

**Construction Related Tank Registration**

Estimate 50 projects per year with 4 tanks per project at 10,000 gallons per tank (average) =

50 \* 4 \* 10,000 \* 2¢ per gallon storage = \$40,000

**Construction Fuel Surcharge**

Estimate 50 projects per year with 50,000 gallons average = 2,500,000 gallons fuel

At 2¢ per gallon = \$50,000

Less estimated allowance for fuel tax refunds (AS 43.40.030) @ 50% \$25,000

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An act relating to motor fuels, storage tanks, and investigation, containment, and cleanup of oil and hazardous etc.  
 Sponsor: Menard, Davis, Brown, et al  
 Requestor: \_\_\_\_\_

Agency Affected: Environmental Conservation  
 BRU: Environmental Quality  
 Components: Environmental Quality

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		458.5	694.25	694.25	694.25	694.25
TRAVEL		57.5	83.75	83.75	83.75	83.75
CONTRACTUAL		260.0	261.0	261.0	261.0	261.0
SUPPLIES		55.0	60.25	60.25	60.25	60.25
EQUIPMENT		74.5	83.75	83.75	83.75	83.75
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>905.5</b>	<b>1,183.0</b>	<b>1,183.0</b>	<b>1,183.0</b>	<b>1,183.0</b>

<b>CAPITAL</b>		<b>3,000.0</b>	<b>3,000.0</b>	<b>3,000.0</b>	<b>3,000.0</b>	<b>3,000.0</b>
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND		3,905.5	4,183.0	4,183.0	4,183.0	4,183.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>3,905.5</b>	<b>4,183.0</b>	<b>4,183.0</b>	<b>4,183.0</b>	<b>4,183.0</b>

**POSITIONS:**

FULL-TIME		10.5	15.75	15.75	15.75	15.75
PART-TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

Prepared by: Lynn Tomich Kent Phone: 465-2630  
 Division: Environmental Quality Date: 4/29/89

Approved by Commissioner: A.D. Kelly Date: 4/29/89 5/6/89  
 Agency: Alaska Department of Environmental Conservation

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : SCSHB220 (Finance)

PUBLISH DATE : 3/12/90

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to motor fuels,  
petroleum and chemical storage tanks...  
Sponsor: Rep. Menard, M. Davis, Brown, et al  
Requestor: Senate Finance

Agency Affected: Environ. Conservation  
BRU: Environmental Quality

Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	625.0	861.0	861.0	759.0	759.0	759.0
TRAVEL	91.1	90.1	90.1	80.1	80.1	80.1
CONTRACTUAL	524.0	199.0	199.0	183.0	183.0	183.0
SUPPLIES	18.0	23.0	23.0	21.0	21.0	21.0
EQUIPMENT	65.0	90.0	90.0	80.0	80.0	80.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	1,564.0	1,533.0	1,471.0	1,348.0	1,100.0	606.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	1,323.1	1,263.1	1,263.1	1,123.1	1,123.1	1,123.1

POSITIONS:

FULL-TIME	13.0	18.0	18.0	16.0	16.0	16.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Lynn Kent  
Division: Environmental Quality

Phone : 465-2630  
Date : 4/27/90

Approved by Commissioner: *A. D. Kyle*  
Agency: Environmental Conservation

Date: 4/30/90

Distribution (by preparer) :  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)