

FIRST REGULAR SESSION

# SENATE BILL NO. 546

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

2614S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 319.123, 319.129, 319.131, and 319.132, RSMo, and to enact in lieu thereof four new sections relating to underground petroleum storage tanks.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 319.123, 319.129, 319.131, and  
2 319.132, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 319.123, 319.129, 319.131,  
4 and 319.132, to read as follows:

319.123. Application for a certificate of registration  
2 shall be accompanied by a fee. The fee shall be fifteen  
3 dollars per tank per year assessed on a rotating basis  
4 during a five-year period. All fees collected under this  
5 subsection [shall be placed in the] **including any general**  
6 **revenue, federal funds, gifts, bequests, transfers, moneys**  
7 **appropriated by the general assembly or any other moneys so**  
8 **designated, shall be paid into the** "Underground Storage Tank  
9 Regulation Program Fund" which is hereby established in the  
10 state treasury. All moneys in the fund shall be used solely  
11 for expenses related to the administration of sections  
12 319.100 to 319.137 **and 319.139. The underground storage**  
13 **tank regulation program fund shall be administered by the**  
14 **department of natural resources. All interest earned by**  
15 **moneys in the fund shall accrue to the fund. Except as**  
16 **described in subdivision (2) of subsection 1 of section**  
17 **319.132, any balance in the fund at the end of the biennium**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 **shall remain in the fund and notwithstanding the provisions**  
19 **of section 33.080 to the contrary, moneys in the fund shall**  
20 **not be transferred to general revenue at the end of each**  
21 **biennium.**

319.129. 1. There is hereby created a special trust  
2 fund to be known as the "Petroleum Storage Tank Insurance  
3 Fund" within the state treasury which shall be the successor  
4 to the underground storage tank insurance fund. Moneys in  
5 such special trust fund shall not be deemed to be state  
6 funds. Notwithstanding the provisions of section 33.080 to  
7 the contrary, moneys in the fund shall not be transferred to  
8 general revenue at the end of each biennium.

9 2. The owner or operator of any underground storage  
10 tank, including the state of Missouri and its political  
11 subdivisions and public transportation systems, in service  
12 on August 28, 1989, shall submit to the department a fee of  
13 one hundred dollars per tank on or before December 31,  
14 1989. The owner or operator of any underground storage tank  
15 who seeks to participate in the petroleum storage tank  
16 insurance fund, including the state of Missouri and its  
17 political subdivisions and public transportation systems,  
18 and whose underground storage tank is brought into service  
19 after August 28, 1998, shall transmit one hundred dollars  
20 per tank to the board with his or her initial application.  
21 Such amount shall be a one-time payment, and shall be in  
22 addition to the payment required by section 319.133. The  
23 owner or operator of any aboveground storage tank regulated  
24 by this chapter, including the state of Missouri and its  
25 political subdivisions and public transportation systems,  
26 who seeks to participate in the petroleum storage tank  
27 insurance fund, shall transmit one hundred dollars per tank  
28 to the board with his or her initial application. Such

29 amount shall be a one-time payment and shall be in addition  
30 to the payment required by section 319.133. Moneys received  
31 pursuant to this section shall be transmitted to the  
32 director of revenue for deposit in the petroleum storage  
33 tank insurance fund.

34 3. The state treasurer may deposit moneys in the fund  
35 in any of the qualified depositories of the state. All such  
36 deposits shall be secured in a manner and upon the terms as  
37 are provided by law relative to state deposits. Interest  
38 earned shall be credited to the petroleum storage tank  
39 insurance fund.

40 4. The general administration of the fund and the  
41 responsibility for the proper operation of the fund,  
42 including all decisions relating to payments from the fund,  
43 are hereby vested in a board of trustees. The board of  
44 trustees shall consist of the commissioner of administration  
45 or the commissioner's designee, the director of the  
46 department of natural resources or the director's designee,  
47 the director of the department of agriculture or the  
48 director's designee, and eight citizens appointed by the  
49 governor with the advice and consent of the senate. Three  
50 of the appointed members shall be owners or operators of  
51 retail petroleum storage tanks, including one tank owner or  
52 operator of greater than one hundred tanks; one tank owner  
53 or operator of less than one hundred tanks; and one  
54 aboveground storage tank owner or operator. One appointed  
55 trustee shall represent a financial lending institution, and  
56 one appointed trustee shall represent the insurance  
57 underwriting industry. One appointed trustee shall  
58 represent industrial or commercial users of petroleum. The  
59 two remaining appointed citizens shall have no petroleum-  
60 related business interest, and shall represent the

61 nonregulated public at large. The members appointed by the  
62 governor shall serve four-year terms except that the  
63 governor shall designate two of the original appointees to  
64 be appointed for one year, two to be appointed for two  
65 years, two to be appointed for three years and two to be  
66 appointed for four years. Any vacancies occurring on the  
67 board shall be filled in the same manner as provided in this  
68 section.

69 5. The board shall meet in Jefferson City, Missouri,  
70 within thirty days following August 28, 1996. Thereafter,  
71 the board shall meet upon the written call of the chairman  
72 of the board or by the agreement of any six members of the  
73 board. Notice of each meeting shall be delivered to all  
74 other trustees in person or by registered mail not less than  
75 six days prior to the date fixed for the meeting. The board  
76 may meet at any time by unanimous mutual consent. There  
77 shall be at least one meeting in each quarter.

78 6. Six trustees shall constitute a quorum for the  
79 transaction of business, and any official action of the  
80 board shall be based on a majority vote of the trustees  
81 present.

82 7. The trustees shall serve without compensation but  
83 shall receive from the fund their actual and necessary  
84 expenses incurred in the performance of their duties for the  
85 board.

86 8. The board of trustees shall be a type III agency  
87 and shall appoint an executive director and other employees  
88 as needed, who shall be state employees and be eligible for  
89 all corresponding benefits. The executive director shall  
90 have charge of the offices, operations, records, and other  
91 employees of the board, subject to the direction of the

92 board. Employees of the board shall receive such salaries  
93 and necessary expenses as shall be fixed by the board.

94 9. Staff resources for the Missouri petroleum storage  
95 tank insurance fund may be provided by the department of  
96 natural resources or another state agency as otherwise  
97 specifically determined by the board. The fund shall  
98 compensate the department of natural resources or other  
99 state agency for all costs of providing staff required by  
100 this subsection. Such compensation shall be made pursuant  
101 to contracts negotiated between the board and the department  
102 of natural resources or other state agency.

103 10. In order to carry out the fiduciary management of  
104 the fund, the board may select and employ, or may contract  
105 with, persons experienced in insurance underwriting,  
106 accounting, the servicing of claims and rate making, and  
107 legal counsel to defend third-party claims, who shall serve  
108 at the board's pleasure. Invoices for such services shall  
109 be presented to the board in sufficient detail to allow a  
110 thorough review of the costs of such services.

111 11. At the first meeting of the board, the board shall  
112 elect one of its members as chairman. The chairman shall  
113 preside over meetings of the board and perform such other  
114 duties as shall be required by action of the board.

115 12. The board shall elect one of its members as vice  
116 chairman, and the vice chairman shall perform the duties of  
117 the chairman in the absence of the latter or upon the  
118 chairman's inability or refusal to act.

119 13. The board shall determine and prescribe all rules  
120 and regulations as they relate to fiduciary management of  
121 the fund, pursuant to the purposes of sections 319.100 to  
122 319.137. In no case shall the board have oversight

123 regarding environmental cleanup standards for petroleum  
124 storage tanks.

125       14. No trustee or staff member of the fund shall  
126 receive any gain or profit from any moneys or transactions  
127 of the fund. This shall not preclude any eligible trustee  
128 from making a claim or receiving benefits from the petroleum  
129 storage tank insurance fund as provided by sections 319.100  
130 to 319.137.

131       15. The board may reinsure all or a portion of the  
132 fund's liability. Any insurer who sells environmental  
133 liability insurance in this state may, at the option of the  
134 board, reinsure some portion of the fund's liability.

135       16. The petroleum storage tank insurance fund shall  
136 expire on December 31, **[2025] 2030**, unless extended by  
137 action of the general assembly. After December 31, **[2025]**  
138 **2030**, the board of trustees may continue to function for the  
139 sole purpose of completing payment of claims made prior to  
140 December 31, **[2025] 2030**.

141       17. The board shall annually commission an independent  
142 financial audit of the petroleum storage tank insurance  
143 fund. The board shall biennially commission an actuarial  
144 analysis of the petroleum storage tank insurance fund. The  
145 results of the financial audit and the actuarial analysis  
146 shall be made available to the public. The board may  
147 contract with third parties to carry out the requirements of  
148 this subsection.

319.131. 1. Any owner or operator of one or more  
2 petroleum storage tanks may elect to participate in the  
3 petroleum storage tank insurance fund to meet the financial  
4 responsibility requirements of sections 319.114 and  
5 414.036. Subject to regulations of the board of trustees,  
6 owners or operators may elect to continue their

7 participation in the fund subsequent to the transfer of  
8 their property to another party. Current or former refinery  
9 sites or petroleum pipeline or marine terminals are not  
10 eligible for participation in the fund.

11 2. The board shall establish an advisory committee  
12 which shall be composed of insurers, owners and operators of  
13 petroleum storage tanks, and other interested parties. The  
14 advisory committee established pursuant to this subsection  
15 shall report to the board. The committee shall monitor the  
16 fund and recommend statutory and administrative changes as  
17 may be necessary to assure efficient operation of the fund.  
18 The committee, in consultation with the board and the  
19 department of commerce and insurance, shall report every two  
20 years to the general assembly on the availability and  
21 affordability of the private insurance market as a viable  
22 method of meeting the financial responsibilities required by  
23 state and federal law in lieu of the petroleum storage tank  
24 insurance fund.

25 3. (1) Except as otherwise provided by this section,  
26 any person seeking to participate in the insurance fund  
27 shall submit an application to the board of trustees and  
28 shall certify that the petroleum tanks meet or exceed and  
29 are in compliance with all technical standards established  
30 by the United States Environmental Protection Agency, except  
31 those standards and regulations pertaining to spill  
32 prevention control and counter-measure plans, and rules  
33 established by the Missouri department of natural resources  
34 and the Missouri department of agriculture. The applicant  
35 shall submit proof that the applicant has a reasonable  
36 assurance of the tank's integrity. Proof of tank integrity  
37 may include but not be limited to any one of the following:  
38 tank tightness test, electronic leak detection, monitoring

39 wells, daily inventory reconciliation, vapor test or any  
40 other test that may be approved by the director of the  
41 department of natural resources or the director of the  
42 department of agriculture. The applicant shall submit  
43 evidence that the applicant can meet all applicable  
44 financial responsibility requirements of this section.

45 (2) A creditor, specifically a person who, without  
46 participating in and not otherwise primarily engaged in  
47 petroleum production, refining, and marketing, holds indicia  
48 of ownership primarily for the purpose of, or in connection  
49 with, securing payment or performance of a loan or to  
50 protect a security interest in or lien on the tank or the  
51 property where the tank is located, or serves as trustee or  
52 fiduciary upon transfer or receipt of the property, may be a  
53 successor in interest to a debtor pursuant to this section,  
54 provided that the creditor gives notice of the interest to  
55 the insurance fund by certified mail, return receipt  
56 requested. Part of such notice shall include a copy of the  
57 lien, including but not limited to a security agreement or a  
58 deed of trust as appropriate to the property. The term  
59 "successor in interest" as provided in this section means a  
60 creditor to the debtor who had qualified real property in  
61 the insurance fund prior to the transfer of title to the  
62 creditor, and the term is limited to access to the insurance  
63 fund. The creditor may cure any of the debtor's defaults in  
64 payments required by the insurance fund, provided the  
65 specific real property originally qualified pursuant to this  
66 section. The creditor, or the creditor's subsidiary or  
67 affiliate, who forecloses or otherwise obtains legal title  
68 to such specific real property held as collateral for loans,  
69 guarantees or other credit, and which includes the debtor's  
70 aboveground storage tanks or underground storage tanks, or



71 both such tanks shall provide notice to the fund of any  
72 transfer of creditor to subsidiary or affiliate. Liability  
73 pursuant to sections 319.100 to 319.137 shall be confined to  
74 such creditor or such creditor's subsidiary or affiliate. A  
75 creditor shall apply for a transfer of coverage and shall  
76 present evidence indicating a lien, contractual right, or  
77 operation of law permitting such transfer, and may utilize  
78 the creditor's affiliate or subsidiary to hold legal title  
79 to the specific real property taken in satisfaction of  
80 debts. Creditors may be listed as insured or additional  
81 insured on the insurance fund, and not merely as mortgagees,  
82 and may assign or otherwise transfer the debtor's rights in  
83 the insurance fund to the creditor's affiliate or  
84 subsidiary, notwithstanding any limitations in the insurance  
85 fund on assignments or transfer of the debtor's rights.

86 (3) Any person participating in the fund shall  
87 annually submit an amount established pursuant to subsection  
88 1 of section 319.133 which shall be deposited to the credit  
89 of the petroleum storage tank insurance fund.

90 4. Any person making a claim pursuant to this section  
91 and sections 319.129 and 319.133 shall be liable for the  
92 first ten thousand dollars of the cost of cleanup associated  
93 with a release from a petroleum storage tank without  
94 reimbursement from the fund. The petroleum storage tank  
95 insurance fund shall assume all costs, except as provided in  
96 subsection 5 of this section, which are greater than ten  
97 thousand dollars but less than one million dollars per  
98 occurrence or two million dollars aggregate per year. The  
99 liability of the petroleum storage tank insurance fund is  
100 not the liability of the state of Missouri. The provisions  
101 of sections 319.100 to 319.137 shall not be construed to  
102 broaden the liability of the state of Missouri beyond the

103 provisions of sections 537.600 to 537.610 nor to abolish or  
104 waive any defense which might otherwise be available to the  
105 state or to any person. The presence of existing  
106 contamination at a site where a person is seeking insurance  
107 in accordance with this section shall not affect that  
108 person's ability to participate in this program, provided  
109 the person meets all other requirements of this section.  
110 Any person who qualifies pursuant to sections 319.100 to  
111 319.137 and who has requested approval of a project for  
112 remediation from the fund, which request has not yet been  
113 decided upon shall annually be sent a status report  
114 including an estimate of when the project may expect to be  
115 funded and other pertinent information regarding the request.

116 5. The fund shall provide coverage for third-party  
117 claims involving property damage or bodily injury caused by  
118 leaking petroleum storage tanks whose owner or operator is  
119 participating in the fund at the time the release occurs or  
120 is discovered. Coverage for third-party property damage or  
121 bodily injury shall be in addition to the coverage described  
122 in subsection 4 of this section but the total liability of  
123 the petroleum storage tank insurance fund for all cleanup  
124 costs, property damage, and bodily injury shall not exceed  
125 one million dollars per occurrence or two million dollars  
126 aggregate per year. The fund shall not compensate an owner  
127 or operator for repair of damages to property beyond that  
128 required to contain and clean up a release of a regulated  
129 substance or compensate an owner or operator or any third  
130 party for loss or damage to other property owned or  
131 belonging to the owner or operator, or for any loss or  
132 damage of an intangible nature, including, but not limited  
133 to, loss or interruption of business, pain and suffering of

134 any person, lost income, mental distress, loss of use of any  
135 benefit, or punitive damages.

136 6. [The fund shall, within limits specified in this  
137 section, assume costs of third-party claims and cleanup of  
138 contamination caused by releases from petroleum storage  
139 tanks.] **In addition to the other coverage limits in this**  
140 **section,** the fund shall provide the defense of eligible  
141 third-party claims including the negotiations of any  
142 settlement **and may specify a legal defense cost coverage**  
143 **limit.**

144 7. Nothing contained in sections 319.100 to 319.137  
145 shall be construed to abrogate or limit any right, remedy,  
146 causes of action, or claim by any person sustaining personal  
147 injury or property damage as a result of any release from  
148 any type of petroleum storage tank, nor shall anything  
149 contained in sections 319.100 to 319.137 be construed to  
150 abrogate or limit any liability of any person in any way  
151 responsible for any release from a petroleum storage tank or  
152 any damages for personal injury or property damages caused  
153 by such a release.

154 8. (1) The fund shall provide moneys for cleanup of  
155 contamination caused by releases from petroleum storage  
156 tanks, the owner or operator of which is participating in  
157 the fund or the owner or operator of which has made  
158 application for participation in the fund by December 31,  
159 1997, regardless of when such release occurred, provided  
160 that those persons who have made application are ultimately  
161 accepted into the fund. Applicants shall not be eligible  
162 for fund benefits until they are accepted into the fund.  
163 This section shall not preclude the owner or operator of  
164 petroleum storage tanks coming into service after December

165 31, 1997, from making application to and participating in  
166 the petroleum storage tank insurance fund.

167 (2) Notwithstanding the provisions of section 319.100  
168 and the provisions of subdivision (1) of this section, the  
169 fund shall provide moneys for cleanup of contamination  
170 caused by releases from petroleum storage tanks owned by  
171 school districts all or part of which are located in a  
172 county of the third classification without a township form  
173 of government and having a population of more than ten  
174 thousand seven hundred but less than eleven thousand  
175 inhabitants, and which make application for participation in  
176 the fund by August 28, 1999, regardless of when such release  
177 occurred. Applicants shall not be eligible for fund  
178 benefits until they are accepted into the fund, and costs  
179 incurred prior to that date shall not be eligible expenses.

180 9. (1) The fund shall provide moneys for cleanup of  
181 contamination caused by releases from underground storage  
182 tanks which contained petroleum and which have been taken  
183 out of use prior to December 31, 1997, provided such sites  
184 have been documented by or reported to the department of  
185 natural resources prior to December 31, 1997, and provided  
186 further that the fund shall make no reimbursements for  
187 expenses incurred prior to August 28, 1995. The fund shall  
188 also provide moneys for cleanup of contamination caused by  
189 releases from underground storage tanks which contained  
190 petroleum and which have been taken out of use prior to  
191 December 31, 1985, if the current owner of the real property  
192 where the tanks are located purchased such property before  
193 December 31, 1985, provided such sites are reported to the  
194 fund on or before June 30, 2000. The fund shall make no  
195 payment for expenses incurred at such sites prior to August  
196 28, 1999. Nothing in sections 319.100 to 319.137 shall

197 affect the validity of any underground storage tank fund  
198 insurance policy in effect on August 28, 1996.

199 (2) An owner or operator who submits a request as  
200 provided in this subsection is not required to bid the costs  
201 and expenses associated with professional environmental  
202 engineering services. The board may disapprove all or part  
203 of the costs and expenses associated with the environmental  
204 engineering services if the costs are excessive based upon  
205 comparable service costs or current market value of similar  
206 services. The owner or operator shall solicit bids for  
207 actual remediation and cleanup work as provided by rules of  
208 the board.

209 (3) After December 31, 2017, the current legal owner  
210 of the site shall be the responsible party for corrective  
211 action, pursuant to section 319.109, of any releases from  
212 underground storage tanks described in this subsection,  
213 provided the creditor, who is a successor in interest as  
214 provided in subdivision (2) of subsection 3 of this section,  
215 is subject to no greater or lesser responsibility for  
216 corrective action than such successor in interest would have  
217 on or before December 31, 2017. Nothing in this subdivision  
218 shall in any way be construed to alter, alleviate, or modify  
219 in any manner any liabilities that the fund has to pay for  
220 in cleaning up the site.

221 10. (1) The fund shall provide moneys for cleanup of  
222 contamination caused by releases from aboveground storage  
223 tanks utilized for the sale of products regulated by chapter  
224 414 which have been taken out of use prior to December 31,  
225 1997, provided such sites have been documented by or  
226 reported to the department of natural resources prior to  
227 December 31, 1997, and provided further that the fund shall

228 make no reimbursements for expenses incurred prior to July  
229 1, 1997.

230 (2) After December 31, 2017, the current legal owner  
231 of the site shall be the responsible party for corrective  
232 action of any releases from aboveground storage tanks  
233 described in this subsection, provided the creditor, who is  
234 a successor in interest as provided in subdivision (2) of  
235 subsection 3 of this section, is subject to no greater or  
236 lesser responsibility for corrective action than such  
237 successor in interest would have on or before December 31,  
238 2017. Nothing in this subdivision shall in any way be  
239 construed to alter, alleviate, or modify in any manner any  
240 liabilities that the fund has to pay for in cleaning up the  
241 site.

319.132. 1. **(1)** The board shall assess a surcharge  
2 on all petroleum products within this state which are  
3 enumerated by section 414.032. Except as specified by this  
4 section, such surcharge shall be administered pursuant to  
5 the provisions of subsections 1 to 5 of section 414.102 and  
6 subsections 1 and 2 of section 414.152. Such surcharge  
7 shall be imposed upon such petroleum products within this  
8 state and shall be assessed on each transport load, or the  
9 equivalent of an average transport load if moved by other  
10 means. **Except as outlined in subdivision (2) of this**  
11 **subsection**, all revenue generated by the assessment of such  
12 surcharges shall be deposited to the credit of the special  
13 trust fund known as the petroleum storage tank insurance  
14 fund.

15 **(2) Subject to appropriations and beginning in fiscal**  
16 **year 2023 and continuing each year until the expiration of**  
17 **the petroleum storage tank insurance fund pursuant to**  
18 **subsection 16 of section 319.129, an allocation of an amount**

19 not to exceed five dollars per transport load shall be  
20 deposited into the underground storage tank regulation  
21 program fund established in section 319.123. Funds  
22 deposited into the underground storage tank regulation  
23 program fund according to this subsection shall be deposited  
24 up to the appropriated budgetary amount set by the general  
25 assembly, adjusted for actual fringe, for the department's  
26 petroleum related activities, for the fiscal year in which  
27 funds are being deposited. If any of the allocation per  
28 fiscal year deposited to the fund is not spent in that  
29 fiscal year, the remaining funds shall be transferred to the  
30 petroleum storage tank insurance fund no later than August  
31 31 of the subsequent fiscal year. No later than October 1  
32 each year, the department shall provide a written accounting  
33 of all moneys spent from the allocation authorized by this  
34 subdivision for the prior fiscal year to the petroleum  
35 storage tank insurance fund board of trustees.

36 2. Any person who claims to have paid the surcharge in  
37 error may file a claim for a refund with the board within  
38 three years of the payment. The claim shall be in writing  
39 and signed by the person or the person's legal  
40 representative. The board's decision on the claim shall be  
41 in writing and may be delivered to the person by first class  
42 mail. Any person aggrieved by the board's decision may seek  
43 judicial review by bringing an action against the board in  
44 the circuit court of Cole County pursuant to section 536.150  
45 no later than sixty days following the date the board's  
46 decision was mailed. The department of revenue shall not be  
47 a party to such proceeding.

48 3. The board shall assess and annually reassess the  
49 financial soundness of the petroleum storage tank insurance  
50 fund.

51           4. (1) The board shall set, in a public meeting with  
52 an opportunity for public comment, the rate of the surcharge  
53 that is to be assessed on each such transport load or  
54 equivalent but such rate shall be no more than sixty dollars  
55 per transport load or an equivalent thereof. A transport  
56 load shall be deemed to be eight thousand gallons.

57           (2) The board may increase or decrease the surcharge,  
58 up to a maximum of sixty dollars, only after giving at least  
59 sixty days' notice of its intention to alter the surcharge;  
60 provided however, the board shall not increase the surcharge  
61 by more than fifteen dollars in any year. The board must  
62 coordinate its actions with the department of revenue to  
63 allow adequate time for implementation of the surcharge  
64 change.

65           (3) If the fund's cash balance on the first day of any  
66 month exceeds the sum of its liabilities, plus ten percent,  
67 the transport load fee shall automatically revert to twenty-  
68 five dollars per transport load on the first day of the  
69 second month following this event.

70           (4) **Except as authorized in subdivision (2) of**  
71 **subsection 1 of this section,** moneys generated by this  
72 surcharge shall not be used for any purposes other than  
73 those outlined in sections 319.129 through 319.133 and  
74 section 319.138. Nothing in this subdivision shall limit  
75 the board's authority to contract with the department of  
76 natural resources pursuant to section 319.129 to carry out  
77 the purposes of the fund as determined by the board.

78           5. The board shall ensure that the fund retain a  
79 balance of at least twelve million dollars but not more than  
80 one hundred million dollars. If, at the end of any quarter,  
81 the fund balance is above one hundred million dollars, the  
82 treasurer shall notify the board thereof. The board shall



83 suspend the collection of fees pursuant to this section  
84 beginning on the first day of the first quarter following  
85 the receipt of notice. **In the event the board has suspended**  
86 **the collection of the fee pursuant to this section, the**  
87 **board shall make payments in equal monthly installments, in**  
88 **accordance with the provision outlined in section 319.132,**  
89 **into the underground storage tank regulation program fund**  
90 **established in section 319.123, up to the appropriated**  
91 **budgetary amount set by the general assembly, adjusted for**  
92 **actual fringe, for the department's petroleum related**  
93 **activities, for the fiscal year in which funds are being**  
94 **deposited until such time as the board has reinstated the**  
95 **fee.** If, at the end of any quarter, the fund balance is  
96 below twenty million dollars, the treasurer shall notify the  
97 board thereof. The board shall reinstate the collection of  
98 fees pursuant to this section beginning on the first day of  
99 the first quarter following the receipt of notice.

100 6. Railroad corporations as defined in section 388.010  
101 and airline companies as defined in section 155.010 shall  
102 not be subject to the load fee described in this chapter nor  
103 permitted to participate in or make claims against the  
104 petroleum storage tank insurance fund created in section  
105 319.129.

✓