

HOUSE BILL No. 4528

April 4, 1989. Introduced by Rep. Brown and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 23, 25, and 26 of Act No. 518 of the Public Acts of 1988, entitled "Michigan underground storage tank financial assurance act," being sections 299.804, 299.805, 299.806, 299.807, 299.808, 299.809, 299.810, 299.811, 299.812, 299.813, 299.815, 299.816, 299.817, 299.818, 299.819, 299.823, 299.825, and 299.826 of the Michigan Compiled Laws; and to repeal certain parts of the act on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 4, 5, 6, 7, 8, 9, 10, 11,
2 12, 13, 15, 16, 17, 18, 19, 23, 25, and 26 of Act No. 518 of the
3 Public Acts of 1988, being sections 299.804, 299.805, 299.806,
4 299.807, 299.808, 299.809, 299.810, 299.811, 299.812, 299.813,
5 299.815, 299.816, 299.817, 299.818, 299.819, 299.823, 299.825,

1 and 299.826 of the Michigan Compiled Laws, are amended to read as
2 follows:

3 TITLE

4 An act to assist certain OWNERS AND operators of certain
5 underground storage tank systems in meeting their financial
6 responsibility requirements; to create certain funds to address
7 certain problems associated with releases from certain under-
8 ground storage tank systems; to promote compliance with certain
9 regulatory programs; to provide for the use of these funds; to
10 create a Michigan underground storage tank financial assurance
11 policy board; to prescribe the powers and duties of certain state
12 agencies and officials; to provide for certain regulatory fees;
13 and to repeal CERTAIN PARTS OF this act on a specific date.

14 Sec. 4. As used in this act:

15 (1) "Administrator" means the fund administrator provided
16 for in section 12.

17 (2) "BID" MEANS A PROPOSAL SIGNED BY A CONTRACTOR LISTED ON
18 THE APPROVED CONTRACTOR LIST PROVIDED FOR IN SECTION 21 STATING
19 THE NAME AND ADDRESS OF THE CONTRACTOR, A SPECIFIC ITEMIZED LIST
20 OF THE WORK PROPOSED TO BE COMPLETED BY THE CONTRACTOR, AND THE
21 ITEMIZED COST OF THE WORK PROPOSED TO BE COMPLETED.

22 (3) ~~-(2)-~~ "Board" means the Michigan underground storage
23 tank financial assurance policy board created in section 20.

24 (4) ~~-(3)-~~ "Corrective action" means an action to stop, mini-
25 mize, eliminate, or clean up a release or its effects, as may be
26 necessary to protect the public health, safety, welfare, or the
27 environment. This includes, but is not limited to, release

1 investigation, mitigation of fire and safety hazards, tank repair
2 or removal, soil remediation, hydrogeological investigations,
3 free product removal, groundwater remediation and monitoring,
4 exposure assessments, the temporary or permanent relocation of
5 residents, and the provision of alternate water supplies.

6 (5) ~~(4)~~ "Corrective action plan" means a corrective action
7 plan submitted under section 8 of the leaking underground storage
8 tank act, ACT NO. 478 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS
9 299.831 TO 299.850 OF THE MICHIGAN COMPILED LAWS.

10 (6) ~~(5)~~ "Deductible" means the deductible provided for in
11 section 13.

12 (7) ~~(6)~~ "Department" means the department of management
13 and budget.

14 (8) ~~(7)~~ "Financial responsibility requirements" means the
15 financial responsibility for taking corrective action and for
16 compensating third parties for bodily injury and property damage
17 caused by a release from an underground storage tank system that
18 the owner or operator of an underground storage tank system must
19 demonstrate under subtitle I of title II of the solid waste dis-
20 posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i.

21 (9) ~~(8)~~ "Fund" means the Michigan underground storage tank
22 financial assurance fund created in section 6.

23 (10) ~~(9)~~ "Heating oil" means petroleum that is No. 1,
24 No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy,
25 and No. 6 technical grades of fuel oil; other residual fuel oils
26 including navy special fuel oil and bunker C; and other fuels
27 when used as substitutes for 1 of these fuel oils.

1 (11) ~~(10)~~ "Indemnification" means indemnification of a
2 person for a judgment entered against that person in a court of
3 law or for a settlement entered into by that person and approved
4 by the attorney general, if the judgment or settlement arises out
5 of an injury suffered because of a release from a petroleum
6 underground storage tank system operated by that person.

7 (12) "OCCURRENCE" MEANS AN ACCIDENT, INCLUDING CONTINUOUS OR
8 REPEATED EXPOSURE TO CONDITIONS, THAT RESULTS IN A RELEASE FROM
9 AN UNDERGROUND STORAGE TANK SYSTEM.

10 (13) ~~(11)~~ "Operator" means a person who is presently, or
11 was at the time of a release, in control of, or responsible for,
12 the operation of a petroleum underground storage tank system.

13 (14) "OWNER" MEANS A PERSON WHO HOLDS, OR AT THE TIME OF A
14 RELEASE HELD, A LEGAL, EQUITABLE, OR POSSESSORY INTEREST OF ANY
15 KIND IN AN UNDERGROUND STORAGE TANK SYSTEM, OR IN THE PROPERTY ON
16 WHICH AN UNDERGROUND STORAGE TANK SYSTEM IS LOCATED, INCLUDING,
17 BUT NOT LIMITED TO, A TRUST, VENDOR, VENDEE, LESSOR, OR LESSEE.
18 HOWEVER, OWNER DOES NOT INCLUDE A PERSON OR A REGULATED FINANCIAL
19 INSTITUTION ACTING IN A FIDUCIARY CAPACITY WHO, WITHOUT PARTICI-
20 PATING IN THE MANAGEMENT OF AN UNDERGROUND STORAGE TANK SYSTEM
21 AND WHO IS NOT OTHERWISE ENGAGED IN PETROLEUM PRODUCTION, REFIN-
22 ING, OR MARKETING RELATING TO THE UNDERGROUND STORAGE TANK
23 SYSTEM, HOLDS INDICIA OF OWNERSHIP PRIMARILY TO PROTECT THE
24 PERSON'S SECURITY INTEREST IN THE UNDERGROUND STORAGE TANK SYSTEM
25 OR THE PROPERTY ON WHICH IT IS LOCATED.

26 Sec. 5. (1) "Person" means an individual, partnership,
27 joint venture, trust, firm, joint stock company, corporation,

1 including a government corporation, association, local unit of
2 government, commission, the state, a political subdivision of the
3 state, an interstate body, the federal government, a political
4 subdivision of the federal government, or any other legal
5 entity.

6 (2) "Petroleum" means crude oil, crude oil fractions, and
7 refined petroleum fractions including gasoline, kerosene, heating
8 oils, and diesel fuels.

9 (3) "Petroleum underground storage tank system" means an
10 underground storage tank system used for the storage of
11 petroleum.

12 (4) "REFINED PETROLEUM" MEANS AVIATION GASOLINE, MIDDLE DIS-
13 TILLATES, JET FUEL, KEROSENE, GASOLINE, AND RESIDUAL OILS.

14 (5) "REGULATORY FEE" MEANS THE ENVIRONMENTAL CLEANUP REGULA-
15 TORY FEE IMPOSED UNDER SECTION 8.

16 (6) ~~-(4)-~~ "Release" means any spilling, leaking, emitting,
17 discharging, escaping, leaching, or disposing from a petroleum
18 underground storage tank system into groundwater, surface water,
19 or subsurface soils.

20 (7) ~~-(5)-~~ "Rule" means a rule promulgated pursuant to the
21 administrative procedures act of 1969, Act No. 306 of the Public
22 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
23 Compiled Laws.

24 (8) ~~-(6)-~~ "Underground storage tank system" means a tank or
25 combination of tanks, including underground pipes connected to
26 the tank or tanks, which is or was used to contain an
27 accumulation of regulated substances, and is not currently being

1 used for any other purpose, and the volume of which, including
2 the volume of the underground pipes connected to the tank or
3 tanks, is 10% or more beneath the surface of the ground. An
4 underground storage tank system does not include any of the
5 following:

6 (a) A farm or residential tank of 1,100 gallons or less
7 capacity used for storing motor fuel for noncommercial purposes.

8 (b) A tank used for storing heating oil for consumptive use
9 on the premises where the tank is stored.

10 (c) A septic tank.

11 (d) A pipeline facility, including gathering lines regulated
12 under either of the following:

13 (i) The natural gas pipeline safety act of 1968, Public Law
14 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
15 1686.

16 (ii) Sections 201 to 215 and 217 of the hazardous liquid
17 pipeline safety act of 1979, title II of Public Law 96-129, 49
18 U.S.C. Appx 2001 to 2014.

19 (e) A surface impoundment, pit, pond, or lagoon.

20 (f) A storm water or wastewater collection system.

21 (g) A flow-through process tank.

22 (h) A liquid trap or associated gathering lines directly
23 related to oil or gas production and gathering operations.

24 (i) A storage tank situated in an underground area, such as
25 a basement, cellar, mineworking, drift, shaft, or tunnel if the
26 storage tank is situated upon or above the surface of the floor.

1 (j) Any pipes connected to a tank that is described in
2 subdivisions (a) to (i).

3 (k) An underground storage tank system holding hazardous
4 wastes listed or identified under subtitle c of the solid waste
5 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
6 6931 and 6933 to 6939b or a mixture of such hazardous waste and
7 other regulated substances.

8 (l) A wastewater treatment tank system that is part of a
9 wastewater treatment facility regulated under section 307(b) of
10 title III or section 402 of title IV of the federal water pollu-
11 tion control act, 33 U.S.C. 1317 and 1342.

12 (m) Equipment or machinery that contains regulated sub-
13 stances for operational purposes such as hydraulic lift tanks and
14 electrical equipment tanks.

15 (n) An underground storage tank system with a capacity of
16 110 gallons or less.

17 (o) An underground storage tank system that contains a de
18 minimis concentration of regulated substances.

19 (p) An emergency spill or overflow containment underground
20 storage tank system that is expeditiously emptied after use.

21 (q) A wastewater treatment tank system.

22 (r) An underground storage tank system containing radioac-
23 tive material that is regulated under the atomic energy act of
24 1954, chapter 1073, 68 Stat. 919.

25 (s) An underground storage tank system that is part of an
26 emergency generator system at nuclear power generation facilities
27 regulated by the nuclear regulatory commission under

1 10 C.F.R. part 50, appendix A to part 50 of title 10 of the code
2 of federal regulations.

3 (t) Airport hydrant fuel distribution systems.

4 (u) Underground storage tank systems with field-constructed
5 tanks.

6 ~~(7) "Work invoice" means a proposal signed by a contractor~~
7 ~~listed on the approved contractor list provided for in section 21~~
8 ~~stating the name and address of the contractor, a specific item-~~
9 ~~ized list of the work proposed to be completed by the contractor,~~
10 ~~and the itemized cost of the work proposed to be completed.~~

11 (9) ~~(8)~~ "Work ~~receipt~~ INVOICE" means a receipt signed by
12 a contractor listed on the approved contractor list provided for
13 in section 21 stating the name and address of the contractor, a
14 specific itemized list of the work performed by the contractor,
15 and an itemized list of the cost of each of these items paid for
16 by the OWNER OR operator.

17 Sec. 6. (1) The Michigan underground storage tank financial
18 assurance fund is created.

19 (2) The state treasurer shall direct the investment of the
20 fund. Interest and earnings from fund investments shall be cred-
21 ited to the fund.

22 (3) Money in the fund at the close of the fiscal year shall
23 remain in the fund and shall not revert to the general fund.

24 (4) Money in the fund shall be expended only as follows:

25 (A) FOR APPROVED BIDS PURSUANT TO THIS ACT.

26 (B) ~~(a)~~ For approved work invoices pursuant to this act.

1 (C) ~~(b)~~ For approved requests for indemnification pursuant
2 to this act.

3 (D) ~~(c)~~ For the actual and necessary expenses incurred by
4 the board or its members in carrying out the duties imposed by
5 this act.

6 (E) ~~(d)~~ For the loan and interest subsidy program estab-
7 lished pursuant to section 19.

8 (F) ~~(e)~~ For the reasonable administrative costs of imple-
9 menting this act by the department, the department of natural
10 resources, the department of state police, the department of
11 treasury, and the department of attorney general. Administrative
12 costs expended under this subdivision shall not exceed 10% of the
13 ~~expenditures from the fund in any year~~ FUND'S PROJECTED REVE-
14 NUES IN ANY YEAR.

15 (G) ~~(f)~~ For the cost of conducting the study provided for
16 in section 24.

17 (5) The board shall make recommendations to the appropria-
18 tions committees in the senate and house of representatives on
19 the distribution and amount of administrative ~~cost~~ COSTS under
20 subsection ~~(3)(e)~~ (4)(F). The board shall provide a copy of
21 these recommendations to each affected department.

22 Sec. 7. (1) The emergency response fund is created.

23 (2) The state treasurer shall direct the investment of the
24 emergency response fund. Interest and earnings of the emergency
25 response fund shall remain in the emergency response fund.

1 (3) Money in the emergency response fund at the close of the
2 fiscal year shall remain in the emergency response fund and shall
3 not revert to the general fund.

4 (4) Except as provided in section 27, money in the emergency
5 response fund shall not exceed \$1,000,000.00.

6 (5) Except as provided in section 26, money in the emergency
7 response fund shall be expended by the director OF THE DEPARTMENT
8 OF NATURAL RESOURCES to undertake corrective actions pursuant to
9 the leaking underground storage tank act.

10 (6) If money in the emergency response fund is expended
11 under subsection (5), the person or persons responsible for the
12 corrective action shall be liable to the state for all such
13 expenditures.

14 Sec. 8. (1) ~~Before June 1, 1989, the legislature shall~~
15 ~~provide a source of revenue to implement this act.~~ THE OWNER OR
16 OPERATOR OF A PETROLEUM UNDERGROUND STORAGE TANK SYSTEM IS
17 SUBJECT TO AN ENVIRONMENTAL CLEANUP REGULATORY FEE OF \$.009 PER
18 GALLON FOR EACH GALLON OF REFINED PETROLEUM THAT IS STORED IN A
19 PETROLEUM UNDERGROUND STORAGE TANK SYSTEM FOR CONSUMPTION IN THIS
20 STATE.

21 (2) THE DEPARTMENT OF TREASURY SHALL PRECOLLECT REGULATORY
22 FEES FROM PERSONS WHO REFINE PETROLEUM IN THIS STATE FOR STORAGE
23 AND CONSUMPTION IN THIS STATE AND PERSONS WHO IMPORT REFINED
24 PETROLEUM INTO THIS STATE FOR STORAGE AND CONSUMPTION IN THIS
25 STATE. THE DEPARTMENT OF TREASURY SHALL COLLECT REGULATORY FEES
26 THAT CAN BE COLLECTED AT THE SAME TIME AS THE SALES TAX UNDER
27 SECTION 6A OF THE GENERAL SALES TAX ACT, ACT NO. 167 OF THE

1 PUBLIC ACTS OF 1933, BEING SECTION 205.56A OF THE MICHIGAN
2 COMPILED LAWS, AT THAT TIME. THE REMAINDER OF THE REGULATORY
3 FEES SHALL BE COLLECTED IN THE MANNER DETERMINED BY THE STATE
4 TREASURER.

5 (3) ~~-(2)-~~ A public utility with more than 500,000 customers
6 in this state is exempt from any fee or assessment imposed under
7 this act if that fee or assessment is imposed on petroleum used
8 by that public utility for the generation of steam or
9 electricity.

10 (4) ~~-(3)-~~ All ~~revenues~~ REGULATORY FEES collected pursuant
11 to this act shall be deposited as follows:

12 (a) Eighty percent of the money collected shall be deposited
13 into the fund.

14 (b) Twenty percent of the money collected shall be deposited
15 into the emergency response fund created in section 7. However,
16 if the emergency response fund is at its prescribed limit as pro-
17 vided in section 7(4), the money shall be deposited into the
18 fund.

19 Sec. 9. (1) An OWNER OR operator may receive money from the
20 fund for corrective action or indemnification only if all of the
21 following requirements are satisfied:

22 (a) The petroleum underground storage tank from which the
23 release occurred was, at the time of discovery of the release, in
24 compliance with the registration requirements of the underground
25 storage tank regulatory act, Act No. 423 of the Public Acts of
26 1984, BEING SECTIONS 299.701 TO 299.711 OF THE MICHIGAN COMPILED
27 LAWS.

1 (b) The OWNER OR operator was at the time of discovery of
2 the release in compliance with all record-keeping and reporting
3 requirements of the underground storage tank regulatory act, Act
4 No. 423 of the Public Acts of 1984, the leaking underground stor-
5 age tank act, ACT NO. 478 OF THE PUBLIC ACTS OF 1988, BEING
6 SECTIONS 299.831 TO 299.850 OF THE MICHIGAN COMPILED LAWS, rules
7 promulgated under either of these acts, or subtitle I of title II
8 of the solid waste disposal act, Public Law 89-272,
9 42 U.S.C. 6991 to 6991i or rules promulgated under that act.
10 Records kept under these acts shall be valid and verifiable.

11 (c) The OWNER OR operator has provided the administrator
12 with proof of financial responsibility for the deductible amount
13 that will satisfy the requirements for financial responsibility
14 instruments under subtitle I of title II of the solid waste dis-
15 posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i.

16 (d) The OWNER OR operator has not defaulted on a loan subsi-
17 dized through the loan and interest subsidy program established
18 in section 19.

19 (e) The OWNER OR operator is not the United States
20 government.

21 (2) EITHER THE OWNER OR THE OPERATOR MAY RECEIVE MONEY FROM
22 THE FUND UNDER THIS ACT FOR AN OCCURRENCE BUT NOT BOTH.

23 (3) ~~-(2)-~~ An OWNER OR operator who is a public utility with
24 more than 500,000 customers in this state is ineligible to
25 receive money from the fund for corrective action or indemnifica-
26 tion associated with a release from a petroleum underground

1 storage tank system used to supply petroleum for the generation
2 of steam electricity.

3 Sec. 10. ~~(1)~~ Except as provided in subsection (2), for
4 corrective action and indemnification, the administrator shall
5 approve expenditures on behalf of an OWNER OR operator, of not
6 more than \$1,000,000.00 of approved work ~~receipts~~ INVOICES,
7 approved ~~work invoices~~ BIDS, and approved requests for indemni-
8 fication per petroleum underground storage tank system per
9 ~~release~~ OCCURRENCE provided that the OWNER OR operator has met
10 the requirements of this act.

11 ~~(2) The administrator shall not annually expend from the~~
12 ~~fund on behalf of an operator more than the following aggregate~~
13 ~~amounts based on the number of petroleum underground storage~~
14 ~~tanks operated:~~

15 Amount	<u>Number of tanks</u>
16 \$1,000,000.00	1 — 100
17 \$2,000,000.00	101 or more

18 Sec. 11. Notwithstanding any other provision of this act,
19 effective 3 years after the date the fund begins operating as
20 provided in section 12, an OWNER OR operator of a petroleum
21 underground storage tank system that has not met the standards
22 provided in subtitle I of title II of the solid waste disposal
23 act, Public Law 89-272, 42 U.S.C. 6991 to 6991i for a new under-
24 ground storage tank system installed after January 1, 1989, and
25 who has not submitted a complete application and satisfied all
26 other requirements of the department for a loan under section 19
27 that would bring the petroleum underground storage tank system

1 into compliance with the standards provided in subtitle I of
2 title II of the solid waste disposal act, Public Law 89-272, 42
3 U.S.C. 6991 to 6991i for a new underground storage tank system
4 installed after January 1, 1989, is ineligible to receive money
5 from the fund for indemnification associated with a release from
6 that petroleum underground storage tank system.

7 Sec. 12. The department shall employ a person to serve as
8 the fund administrator. The administrator shall be responsible
9 for processing requests for payments from the fund and approving
10 those requests as provided in this act. Beginning 6 months after
11 the effective date of this AMENDATORY act, the fund shall begin
12 operating and the administrator shall begin to accept work
13 invoices, work receipts, and requests for indemnification.

14 Sec. 13. Prior to being eligible to receive money from the
15 fund in the event of ~~a release~~ AN OCCURRENCE, the OWNER OR
16 operator shall be responsible for the payment of the first
17 \$10,000.00 of necessary expenditures associated with the
18 ~~release~~ OCCURRENCE per underground storage tank system per
19 ~~release~~ OCCURRENCE. This amount may be referred to as the
20 deductible amount.

21 Sec. 15. (1) To access the fund for corrective action, the
22 OWNER OR operator shall follow the procedures outlined in this
23 section. The OWNER OR operator shall prepare a corrective action
24 plan pursuant to the leaking underground storage tank act, ACT
25 NO. 478 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 299.831 TO
26 299.850 OF THE MICHIGAN COMPILED LAWS. After preparing a

1 corrective action plan, the OWNER OR operator may submit ~~work~~
2 ~~invoices~~ BIDS or work ~~receipts~~ INVOICES to the administrator.

3 (2) Upon receipt of a ~~work invoice~~ BID or work ~~receipt~~
4 INVOICE under subsection (1), the administrator shall make all of
5 the following determinations:

6 (a) Whether the department of natural resources has deter-
7 mined that work performed or proposed to be performed is consis-
8 tent with the corrective action plan.

9 (b) Whether the cost of performing the work is reasonable.

10 (c) Whether the OWNER OR operator is eligible to receive
11 funding under this act.

12 (3) If the administrator determines under subsection (2)
13 that the ~~work receipt~~ BID or work invoice is both reasonable in
14 terms of cost and consistent with the corrective action plan and
15 the OWNER OR operator is eligible for funding under this act, the
16 administrator shall approve the ~~work receipt~~ BID or work
17 invoice. If the administrator determines that the cost of the
18 ~~work receipt~~ BID or work invoice is not reasonable, that the
19 work is not consistent with the corrective action plan, or that
20 the OWNER OR operator is not eligible for funding under this act,
21 the administrator shall deny the ~~work receipt~~ BID or work
22 invoice and give notice of the denial to the OWNER OR operator
23 WHO SUBMITTED THE BID OR WORK INVOICE.

24 (4) The administrator shall keep records of approved ~~work~~
25 ~~receipts~~ BIDS and approved work invoices. If the OWNER OR oper-
26 ator has submitted approved work ~~receipts~~ INVOICES totaling the
27 deductible amount, then the administrator shall forward approved

1 ~~work invoices~~ BIDS or additionally submitted approved work
2 ~~receipts~~ INVOICES to the state treasurer, as long as the OWNER
3 OR operator has not exceeded the allowable amount of expenditure
4 provided in section 10.

5 (5) The department of natural resources shall ~~provide for~~
6 ~~the oversight of work performed on corrective actions to deter-~~
7 mine whether the work performed is ~~acceptable and~~ consistent
8 with the approved corrective action plan.

9 (6) Except as provided in subsection (7), upon receipt of an
10 approved ~~work invoice~~ BID, the state treasurer shall make a
11 payment to the contractor listed on the approved ~~work invoice~~
12 BID within 30 days if sufficient money exists in the fund.

13 (7) Upon direction of the administrator, the state treasurer
14 may withhold partial payment of money on approved ~~work invoices~~
15 BIDS to assure acceptable completion of the proposed work.

16 (8) Upon receipt of an approved work ~~receipt~~ INVOICE, the
17 state treasurer shall make a payment to the OWNER OR operator
18 within 30 days if sufficient money exists in the fund.

19 Sec. 16. (1) To access the fund for indemnification, the
20 OWNER OR operator shall submit to the administrator a request for
21 indemnification containing the information required by the
22 administrator. If the OWNER OR operator is eligible for funding
23 under this act, the administrator shall forward a copy of the
24 request for indemnification to the attorney general. The attor-
25 ney general shall approve the request for indemnification if
26 there is a legally enforceable judgment against the OWNER OR
27 operator caused by a release or if a settlement with a third

1 party due to a release is reasonable. If a request for
2 indemnification is approved by the attorney general, the adminis-
3 trator shall review whether the OWNER OR operator has met the
4 deductible requirements as provided in this act, has not exceeded
5 the allowable amount of expenditure provided in section 10, and
6 is eligible under section 11. If, upon review, the OWNER OR
7 operator is eligible to receive funding for the indemnification
8 under this act FOR THE AMOUNT REQUESTED, the administrator shall
9 forward the approved request for indemnification to the depart-
10 ment of treasury.

11 (2) The administrator shall keep records of all approved
12 requests for indemnifications.

13 (3) The state treasurer shall make a payment to an OWNER OR
14 operator for an approved indemnification request within 30 days
15 if sufficient money exists in the fund.

16 Sec. 17. (1) The state treasurer shall pay approved ~~work~~
17 ~~invoices~~ BIDS, approved work ~~receipts~~ INVOICES, and approved
18 requests for indemnification in the order in which they are
19 received. If there is insufficient money in the fund to make a
20 payment, then a payment shall not be made. However, approved
21 ~~work invoices~~ BIDS, approved work ~~receipts~~ INVOICES, and
22 approved requests for indemnification that are not funded may be
23 paid if revenues of the fund become available.

24 (2) In no case shall the fund or the state be considered
25 liable for approved ~~work invoices~~ BIDS, approved work
26 ~~receipts~~ INVOICES, or approved requests for indemnification if
27 money in the fund is insufficient to meet these claims.

1 Sec. 18. (1) If the administrator denies a ~~work receipt~~
2 BID OR work invoice, or request for indemnification, the OWNER OR
3 operator who submitted the claim may, within 14 days following
4 the denial, request review by the board. Upon review, if the
5 board determines that the ~~work invoice~~ BID, work ~~receipt~~
6 INVOICE, or request for indemnification should be approved, the
7 administrator shall approve it.

8 (2) A person who is denied approval by the board after
9 review under subsection (1) may request a contested case hearing
10 pursuant to the administrative procedures act of 1969, Act
11 No. 306 of the Public Acts of 1969, being sections 24.201 to
12 24.328 of the Michigan Compiled Laws.

13 Sec. 19. (1) The department of treasury shall establish a
14 loan and interest subsidy program through rules. This program
15 shall provide for loan subsidies and interest subsidies, upon
16 application, to the OWNER OR operator of a petroleum underground
17 storage tank system who meets the requirements of section 9(1).
18 Money in the fund shall not be used for loans but shall be used
19 to provide loan subsidies to lenders in the event of a default on
20 a loan for the replacement of a petroleum underground storage
21 tank system and to provide interest subsidies on these loans.

22 (2) The loan and interest subsidy program established in
23 this section shall be open for an application period of 3 years
24 beginning on the date the fund begins operating as provided in
25 section 12.

26 (3) Loan and interest subsidies shall be made under this
27 section, upon application, for the replacement of existing

1 petroleum underground storage tank systems with petroleum
2 underground storage tank systems that meet the requirements of
3 subtitle I of title II of the solid waste disposal act, Public
4 Law 89-272, 42 U.S.C. 6991 to 6991i for new underground storage
5 tank systems installed after January 1, 1989.

6 (4) The loan and interest subsidy provided in this section
7 shall be valid for the entire loan period. The department of
8 treasury shall structure the loan and interest subsidy to provide
9 for full payment of the subsidy to approved applicants or their
10 lending institution prior to the repeal of this section.

11 (5) Not more than 20% of the money in the fund expended in
12 any year shall be expended for the loan and interest subsidy pro-
13 gram provided in this section.

14 Sec. 23. (1) This act shall not be construed as creating
15 any liability on behalf of the state. This act shall not be con-
16 strued as making the state the guarantor of the fund.

17 (2) This act shall not be construed as to relieve any person
18 who may be eligible to receive money from the fund or the emer-
19 gency response fund from any liability that he or she may incur
20 as the OWNER OR operator of an underground storage tank system.
21 The state is not assuming the liability of an OWNER OR operator
22 eligible for funding under this act, it is only providing assist-
23 ance to such OWNERS OR operators in meeting the financial respon-
24 sibility requirements.

25 Sec. 25. ~~This~~ SECTIONS 6 AND 8 TO 24 OF THIS act, ~~is~~
26 BEING SECTIONS 299.806 AND 299.808 TO 299.824 OF THE MICHIGAN
27 COMPILED LAWS, ARE repealed ~~effective~~ UPON THE EXPIRATION OF 5

1 YEARS AND 6 months after ~~its~~ THE effective ~~day~~ DATE OF THIS
2 AMENDATORY ACT.

3 Sec. 26. Notwithstanding any provision of this act, prior
4 to the repeal of section 6, the state treasurer shall reserve
5 enough money in the fund to pay for ~~work-invoices~~ BIDS, work
6 ~~receipts~~ INVOICES, and requests for indemnification that were
7 denied by the administrator, if subsequent to the denial the
8 OWNER OR operator requested review by the board, requested a con-
9 tested case hearing, or filed a lawsuit related to the denial,
10 and the case is still pending. After this money that is reserved
11 reverts to the emergency response fund, it shall be used to pay
12 for ~~work-invoices~~ BIDS, work ~~receipts~~ INVOICES, and requests
13 for indemnification in cases where an OWNER OR operator is suc-
14 cessful in persuading the board, the department, or a court that
15 the administrator's denial was in error.