

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 6074**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 21502, 21504, 21505, 21506, 21508, 21546,  
21548, and 21550 (MCL 324.21502, 324.21504, 324.21505, 324.21506,  
324.21508, 324.21546, 324.21548, and 324.21550), sections 21506  
and 21508 as amended by 1995 PA 269, sections 21546 and 21548 as  
amended by 1996 PA 181, and section 21550 as amended by 1995 PA  
252, by amending the part heading of part 215, and by adding  
sections 21506a and 21552; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       PART 215 ~~UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE~~

2                               **REFINED PETROLEUM FUND**

3       Sec. 21502. As used in this part:

4       (a) "Administrator" means the fund administrator provided for  
5 in section 21513.

1 (b) "Approved claim" means a claim that is approved pursuant  
2 to section 21515.

3 (c) "Authority" means the Michigan underground storage tank  
4 financial assurance authority created in section 21523.

5 (d) "Board" means the Michigan underground storage tank  
6 financial assurance policy board created in section 21541.

7 (e) "Board of directors" means the board of directors of the  
8 authority.

9 (f) "Bond proceeds account" means the account or fund to  
10 which proceeds of bonds or notes issued under this part have been  
11 credited.

12 (g) "Bonds or notes" means the bonds, notes, commercial  
13 paper, other obligations of indebtedness, or any combination of  
14 these, issued by the authority pursuant to this part.

15 (h) "Claim" means the submission by the owner or operator or  
16 his or her representative of documentation on an application  
17 requesting payment from the fund. A claim shall include, at a  
18 minimum, a completed and signed claim form and the name, address,  
19 telephone number, and federal tax identification number of the  
20 consultant retained by the owner or operator to carry out  
21 responsibilities pursuant to part 213.

22 (i) "Consultant" means a person on the list of qualified  
23 underground storage tank consultants prepared pursuant to  
24 section 21542.

25 (j) "Co-pay amount" means the co-pay amount provided for in  
26 section 21514.

27 (k) "Corrective action" means the investigation, assessment,

1 cleanup, removal, containment, isolation, treatment, or  
2 monitoring of regulated substances released into the environment  
3 or the taking of such other actions as may be necessary to  
4 prevent, minimize, or mitigate injury to the public health,  
5 safety, or welfare, the environment, or natural resources.

6 **(l) "Department" means the department of environmental**  
7 **quality.**

8 **(m) —(l)—** "Financial responsibility requirements" means the  
9 financial responsibility for taking corrective action and for  
10 compensating third parties for bodily injury and property damage  
11 caused by a release from an underground storage tank system that  
12 the owner or operator of an underground storage tank system must  
13 demonstrate under part 211 and the rules promulgated under that  
14 part.

15 **(n) —(m)—** "Fund" means the Michigan underground storage tank  
16 financial assurance fund created in section 21506.

17 **(o) —(n)—** "Heating oil" means petroleum that is No. 1, No. 2,  
18 No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6  
19 technical grades of fuel oil; other residual fuel oils including  
20 navy special fuel oil and bunker C; and other fuels when used as  
21 substitutes for 1 of these fuel oils.

22 **(p) —(o)—** "Indemnification" means indemnification of an owner  
23 or operator for a legally enforceable judgment entered against  
24 the owner or operator by a third party, or a legally enforceable  
25 settlement entered between the owner or operator and a third  
26 party, compensating that third party for bodily injury or  
27 property damage, or both, caused by an accidental release as

1 those terms are defined in R 29.2163 of the Michigan  
2 administrative code.

3       **(q)** ~~—(p)—~~ "Location" means a facility or parcel of property  
4 where petroleum underground storage tank systems are registered  
5 pursuant to part 211.

6       **(r)** ~~—(q)—~~ "Operator" means a person who was, at the time of  
7 discovery of a release, in control of or responsible for the  
8 operation of a petroleum underground storage tank system or a  
9 person to whom an approved claim has been assigned or  
10 transferred.

11       **(s)** ~~—(r)—~~ "Owner" means a person, other than a regulated  
12 financial institution, who, at the time of discovery of a  
13 release, held a legal, equitable, or possessory interest of any  
14 kind in an underground storage tank system or in the property on  
15 which an underground storage tank system is located, including,  
16 but not limited to, a trust, vendor, vendee, lessor, or lessee.  
17 Owner includes a person to whom an approved claim is assigned or  
18 transferred. Owner does not include a person or a regulated  
19 financial institution who, without participating in the  
20 management of an underground storage tank system and without  
21 being otherwise engaged in petroleum production, refining, or  
22 marketing relating to the underground storage tank system, is  
23 acting in a fiduciary capacity or who holds indicia of ownership  
24 primarily to protect the person's or the regulated financial  
25 institution's security interest in the underground storage tank  
26 system or the property on which it is located. This exclusion  
27 does not apply to a grantor, beneficiary, remainderman, or other

1 person who could directly or indirectly benefit financially from  
2 the exclusion other than by the receipt of payment for fees and  
3 expenses related to the administration of a trust.

4 (t) ~~(s)~~ "Oxygenate" means an organic compound containing  
5 oxygen and having properties as a fuel that are compatible with  
6 petroleum, including, but not limited to, ethanol, methanol, or  
7 methyl tertiary butyl ether (MTBE).

8 Sec. 21504. The objectives of this part are to ~~assist~~  
9 ~~persons in this state in meeting the financial responsibility~~  
10 ~~requirements provided for in subtitle I of the solid waste~~  
11 ~~disposal act, title II of Public Law 89-272, 42 U.S.C. 6991 to~~  
12 ~~6991i, to~~ address certain problems associated with releases from  
13 petroleum underground storage tank systems, ~~and~~ to promote  
14 compliance with parts 211 and 213, **and to fund environmental and**  
15 **consumer protection programs necessary to protect public health,**  
16 **safety, or welfare or the environment due to the sale, use, or**  
17 **release of refined petroleum products.**

18 Sec. 21505. The legislature finds that ~~leaking~~ **releases**  
19 **from** underground storage tanks are a significant cause of  
20 contamination of the natural resources, water resources, and  
21 groundwater in this state. It is hereby declared to be the  
22 purpose of this part and of the authority created by this part to  
23 preserve and protect the water resources of the state and to  
24 prevent, abate, or control the pollution of water resources and  
25 groundwater, to protect and preserve the public health, safety,  
26 and welfare, to assist in the financing of repair and replacement  
27 of petroleum underground storage tanks and to improve property

1 damaged by any petroleum releases from those tanks, ~~and~~ to  
 2 preserve jobs and employment opportunities or improve the  
 3 economic welfare of the people of the state, **and to fund**  
 4 **environmental and consumer protection programs necessary to**  
 5 **protect public health, safety, or welfare or the environment due**  
 6 **to the sale, use, or release of refined petroleum products.**

7 Sec. 21506. (1) The Michigan underground storage tank  
 8 financial assurance fund is created **in the state treasury.**

9 (2) The state treasurer shall direct the investment of the  
 10 fund. Interest and earnings from fund investments shall be  
 11 credited to the fund.

12 (3) Money in the fund at the close of the fiscal year shall  
 13 remain in the fund and shall not lapse to the general fund.

14 (4) Except as provided in ~~subsection (5)~~ **subsections (5)**  
 15 **and (6)**, money in the fund shall be expended only as follows and  
 16 in the following order of priority:

17 (a) To ~~pay off~~ **defease principal and interest due and owing**  
 18 **on bonds or notes issued by the authority** pursuant to this part  
 19 ~~plus any amount necessary to maintain a fully funded debt~~  
 20 ~~reserve or other reserve intended to secure the principal and~~  
 21 ~~interest on the bonds or notes as may be required by resolution~~  
 22 ~~indenture or other agreement of the authority that are~~  
 23 **outstanding on the effective date of the 2004 amendatory act that**  
 24 **amended this section.**

25 (b) For the reasonable administrative cost of implementing  
 26 this part by the department, the department of treasury, the  
 27 department of attorney general, and the authority as annually

1 appropriated by the legislature. Administrative costs include  
2 the actual and necessary expenses incurred by the board and its  
3 members in carrying out the duties imposed by this part. Total  
4 administrative costs expended under this subdivision shall not  
5 exceed 7% of the fund's projected revenues in any year. Costs  
6 incurred by the authority for the issuance of bonds or notes  
7 which may also be payable from the proceeds of the bonds or notes  
8 shall not be considered administrative costs. ~~in making such a~~  
9 ~~determination.~~

10 (c) For payment of rewards under section 21549.

11 (d) For the interest subsidy program established in  
12 section 21522. The money expended under this subdivision shall  
13 not exceed 10% of the fund's projected revenues in any year.  
14 However, 10% of the revenue of the fund during the first year of  
15 the fund's operation shall be expended on the interest subsidy  
16 program. If this money is not expended during the first year,  
17 this money shall be carried over for expenditure in the  
18 succeeding years of the fund's operation. Additional fund  
19 revenue shall not be set aside for the interest subsidy program  
20 until all of the first year revenue is expended.

21 (e) For corrective action and indemnification including all  
22 of the following:

23 (i) Payments for work invoices submitted prior to 5 p.m. on  
24 June 29, 1995 and approved by the department pursuant to this  
25 part.

26 (ii) Payments for requests for indemnification submitted  
27 prior to 5 p.m. on June 29, 1995 and approved by the department

1 pursuant to this part.

2 (iii) Payments for work invoices or requests for  
3 indemnification that were submitted prior to 5 p.m. on June 29,  
4 1995 and denied by the department pursuant to this part but which  
5 denials were subsequently reversed on appeal.

6 (5) All revenue collected during the state fiscal years  
7 ending September 30, 2003 and September 30, 2004 from the  
8 environmental protection regulatory fee imposed under section  
9 21508 shall be allocated and expended by the state treasurer for  
10 the purchase of United States treasury obligations in an amount  
11 sufficient, together with interest on the obligations, to  
12 implement subsection (4)(a).

13 (6) ~~—(5)—~~ Upon ~~payment in full~~ determination by the state  
14 treasurer of the amount of money need to satisfy all obligations  
15 listed in subsection (4), the state treasurer shall ~~file with~~  
16 ~~the secretary of state a notice of final payment of all~~  
17 ~~obligations lawfully payable from the fund~~ transfer all  
18 remaining money in the fund to the refined petroleum fund created  
19 in section 21506a.

20 (7) ~~—(6)—~~ The board shall make recommendations to the  
21 appropriations committees in the senate and house of  
22 representatives on the distribution and amount of administrative  
23 costs under subsection (4)(b). The board shall provide a copy of  
24 these recommendations to each affected department.

25 Sec. 21506a. (1) The refined petroleum fund is created  
26 within the state treasury.

27 (2) The state treasurer may receive money or other assets

1 from any source for deposit into the refined petroleum fund. The  
2 state treasurer shall direct the investment of the refined  
3 petroleum fund. The state treasurer shall credit to the refined  
4 petroleum fund interest and earnings from refined petroleum fund  
5 investments.

6 (3) Money in the refined petroleum fund at the close of the  
7 fiscal year shall remain in the refined petroleum fund and shall  
8 not lapse to the general fund.

9 (4) Money from the refined petroleum fund shall be expended,  
10 upon appropriation, only for 1 or more of the following  
11 purposes:

12 (a) For gasoline inspection programs under both of the  
13 following:

14 (i) The weights and measures act, 1964 PA 283, MCL 290.601 to  
15 290.634.

16 (ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to  
17 290.650d.

18 (b) For corrective actions necessary to address releases of  
19 refined petroleum products under a refined petroleum product  
20 cleanup program established by law following the issuance of  
21 recommendations from the refined petroleum cleanup advisory  
22 council created in section 21552.

23 (c) For the reasonable administrative costs of the  
24 department, the department of agriculture, the department of  
25 attorney general, and the department of treasury in administering  
26 the refined petroleum fund and in implementing the programs  
27 receiving revenue from the refined petroleum fund.

1       Sec. 21508. (1) An environmental protection regulatory fee  
2 is imposed on all refined petroleum products sold for resale in  
3 this state or consumption in this state. ~~The regulatory fee~~  
4 ~~shall be used pursuant to section 21506(4) for the cleanup and~~  
5 ~~prevention of environmental contamination resulting from releases~~  
6 ~~of refined petroleum products from underground storage tank~~  
7 ~~systems and to pay off bonds or notes pursuant to this part.~~ The  
8 regulatory fee shall be charged for capacity utilization of  
9 underground storage tanks measured on a per gallon basis. The  
10 regulatory fee shall be charged against all refined petroleum  
11 products sold for resale in this state or consumption in this  
12 state so as to not exclude any products that may be stored in an  
13 underground tank at any point after the petroleum is refined.  
14 The regulatory fee shall be 7/8 cent per gallon for each gallon  
15 of refined petroleum sold for resale in this state or consumption  
16 in this state, with the per gallon charge being a direct measure  
17 of capacity utilization of an underground storage tank system.

18       (2) The department of treasury shall precollect regulatory  
19 fees from persons who refine petroleum in this state for resale  
20 in this state or consumption in this state and persons who import  
21 refined petroleum into this state for resale in this state or  
22 consumption in this state. The department of treasury shall  
23 collect regulatory fees that can be collected at the same time as  
24 the sales tax under section 6a of the general sales tax act, ~~Act~~  
25 ~~No. 167 of the Public Acts of 1933, being section 205.56a of the~~  
26 ~~Michigan Compiled Laws 1933 PA 167, MCL 205.56a,~~ at that time.  
27 The remainder of the regulatory fees shall be collected in the

1 manner determined by the state treasurer. ~~Notwithstanding any~~  
2 ~~other provision of this part, the department of treasury shall~~  
3 ~~stop collecting regulatory fees under this part when it has~~  
4 ~~received sufficient revenues to pay in full all obligations~~  
5 ~~listed in section 21506(4).~~

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

10 (4) ~~All~~ **Beginning on the effective date of the 2004**  
11 **amendatory act that amended this section, all** regulatory fees  
12 collected pursuant to this part shall be deposited into the  
13 ~~emergency response~~ **refined petroleum** fund created in section  
14 ~~21507 until the emergency response fund reaches \$3,000,000.00~~  
15 **21506a.** ~~When the emergency response fund is at \$3,000,000.00,~~  
16 ~~all regulatory fees shall be deposited into the fund.~~

17 (5) Consistent with the March 31, 1995 determination by the  
18 state treasurer that revenue will not be sufficient to pay  
19 expected expenditures, and consistent with the April 3, 1995  
20 notice of the fund administrator pursuant to subsection (6),  
21 funding is no longer available under this part for new claims,  
22 work invoices, and requests for indemnification received after 5  
23 p.m. on June 29, 1995. Claims, work invoices, and requests for  
24 indemnification received after 5 p.m. on June 29, 1995 are not  
25 eligible for funding under this part. Work invoices and requests  
26 for indemnification received prior to 5 p.m. on June 29, 1995 may  
27 be paid to the extent money is available in the fund as provided

1 in this part.

2 (6) If the state treasurer determines that fund revenues will  
3 not be sufficient to pay expected expenditures from the fund, the  
4 state treasurer shall notify the administrator, and 90 days after  
5 this notification has been given the administrator shall not  
6 accept any new work invoices or requests for indemnification.  
7 Upon receiving this notification from the state treasurer, the  
8 administrator shall notify by certified mail the owners and  
9 operators of petroleum underground storage tank systems  
10 registered under part 211 that funding under this part will no  
11 longer be available for new claims after the 90-day period has  
12 expired. However, work invoices and requests for indemnification  
13 that were submitted to the administrator prior to or during this  
14 90-day period may be paid to the extent money is available in the  
15 fund as provided in this part.

16 (7) The department of treasury may audit, enforce, collect,  
17 and assess the fee imposed by this part in the same manner and  
18 subject to the same requirements as revenues collected pursuant  
19 to ~~Act No. 122 of the Public Acts of 1941, being sections 205.1~~  
20 ~~to 205.31 of the Michigan Compiled Laws~~ **1941 PA 122, MCL 205.1**  
21 **to 205.31.**

22 Sec. 21546. (1) This part does not create any liability on  
23 behalf of the state. This part shall not be construed as making  
24 the state the guarantor of the fund.

25 (2) This part does not relieve any person who may be eligible  
26 to receive money from the fund or the **former** emergency response  
27 fund from any liability that he or she may incur as the owner or

1 operator of an underground storage tank system. The state is not  
2 assuming the liability of an owner or operator eligible for  
3 funding under this part; it is only providing assistance to such  
4 owners or operators in meeting the financial responsibility  
5 requirements.

6 (3) If all bonds or notes of the authority payable from the  
7 fund have been fully paid or provided for and if any provision of  
8 this part is found to be unconstitutional by a court of competent  
9 jurisdiction and the allowable time for filing an appeal has  
10 expired or the appellant has exhausted all of his or her avenues  
11 of appeal, this whole part shall be considered unconstitutional  
12 and invalid.

13 Sec. 21548. (1) ~~Beginning August 8, 1993, a~~ A person who  
14 makes or submits or causes to be made or submitted either  
15 directly or indirectly any statement, report, affidavit,  
16 application, claim, bid, work invoice, or other request for  
17 payment or indemnification under this part knowing that the  
18 statement, report, application, claim, bid, work invoice, or  
19 other request for payment or indemnification is false or  
20 misleading is guilty of a felony punishable by imprisonment for  
21 not more than 5 years or a fine of not more than \$50,000.00, or  
22 both. In addition to any penalty imposed under this subsection,  
23 a person convicted under this subsection shall pay restitution to  
24 the fund for the amount received in violation of this  
25 subsection.

26 (2) A person who makes or submits or causes to be made or  
27 submitted either directly or indirectly any statement, report,

1 application, claim, bid, work invoice, or other request for  
2 payment or indemnification under this part knowing that the  
3 statement, report, affidavit, application, claim, bid, work  
4 invoice, or other request for payment or indemnification is  
5 false, misleading, or fraudulent, or who commits a fraudulent  
6 practice, is subject to a civil fine of not more than \$50,000.00  
7 or twice the amount submitted, whichever is greater. In addition  
8 to any civil fine imposed under this subsection, a person found  
9 responsible under this subsection shall pay restitution to the  
10 fund for the amount received in violation of this subsection.  
11 The legislature intends that this subsection be given retroactive  
12 application.

13 (3) As used in subsection (2), "fraudulent" or "fraudulent  
14 practice" includes, but is not limited to, the following:

15 (a) Submitting a work invoice for the excavation, hauling,  
16 disposal, or provision of soil, sand, or backfill for an amount  
17 greater than the legal capacity of the carrying vehicle or  
18 greater than was actually carried, excavated, disposed, or  
19 provided.

20 (b) Submitting paperwork for services done or work provided  
21 that was not in fact provided or that was not directly provided  
22 by the individual indicated on the paperwork.

23 (c) Contaminating an otherwise clean resource or site with  
24 contaminated soil or product from a contaminated resource or  
25 site.

26 (d) Returning any load of contaminated soil to its original  
27 site for reasons other than remediation of the soil.

1 (e) Causing damage intentionally or as the result of gross  
2 negligence to an underground storage tank system, which damage  
3 results in a release at a site.

4 (f) Placing an underground storage tank system at a  
5 contaminated site where no underground storage tank system  
6 previously existed for purposes of disguising the source of  
7 contamination or to obtain funding under this part.

8 (g) Submitting a work invoice for the excavation of soil from  
9 a site that was removed for reasons other than removal of the  
10 underground storage tank system or remediation.

11 (h) Any intentional act or act of gross negligence that  
12 causes or allows contamination to spread at a site.

13 (i) Registration of a nonexistent underground storage tank  
14 system with the department.

15 (j) Loaning to an owner or operator the co-pay amount  
16 required under section 21514 and then submitting or causing to be  
17 submitted inflated claims or invoices designed to recoup the  
18 co-pay amount.

19 (k) Confirming a release without simultaneously providing  
20 notice to the owner or operator.

21 (l) Inflating bills or work invoices, or both, by adding  
22 charges for work that was not performed.

23 (m) Submitting a false or misleading laboratory report.

24 (n) Submitting bills or work invoices, or both, for sampling,  
25 testing, monitoring, or excavation that are not justified by the  
26 site condition.

27 (o) Falsely characterizing the contents of an underground

1 storage tank system for purposes of obtaining funding under this  
2 part.

3 (p) Submitting or causing to be submitted bills or work  
4 invoices by or from a person who did not directly provide the  
5 service.

6 (q) Characterizing legal services as consulting services for  
7 purposes of obtaining funding under this part.

8 (r) Misrepresenting or concealing the identity, credentials,  
9 affiliation, or qualifications of principals or persons seeking,  
10 either directly or indirectly, funding or approval for  
11 participation under this part.

12 (s) Falsifying a signature on a claim application or a work  
13 invoice.

14 (t) Failing to accurately disclose the actual amount and  
15 carrier of unencumbered insurance coverage available for new  
16 environmental impairment or professional liability claims.

17 (u) Any other act or omission of a false, fraudulent, or  
18 misleading nature undertaken in order to obtain funding under  
19 this part.

20 (4) The attorney general or county prosecutor may conduct an  
21 investigation of an alleged violation of this section and bring  
22 an action for a violation of this section.

23 (5) If the attorney general or county prosecutor has  
24 reasonable cause to believe that a person has information or is  
25 in possession, custody, or control of any document or records,  
26 however stored or embodied, or tangible object which is relevant  
27 to an investigation of a violation or attempted violation of this

1 part or a crime or attempted crime against the fund, the attorney  
2 general or county prosecutor may, before bringing any action,  
3 make an ex parte request to a magistrate for issuance of a  
4 subpoena requiring that person to appear and be examined under  
5 oath or to produce the document, records, or object for  
6 inspection and copying, or both. Service may be accomplished by  
7 any means described in the Michigan court rules. Requests made  
8 by the attorney general may be brought in Ingham county.

9 (6) If a person objects to or otherwise fails to comply with  
10 a subpoena served under subsection (5), an action may be brought  
11 in district court to enforce the demand. Actions filed by the  
12 attorney general may be brought in Ingham county.

13 (7) The attorney general or county prosecutor may apply to  
14 the district court for an order granting immunity to any person  
15 who refuses to provide or objects to providing information,  
16 documents, records, or objects sought pursuant to this section.  
17 If the judge is satisfied that it is in the interest of justice  
18 that immunity be granted, he or she shall enter an order granting  
19 immunity to the person and requiring ~~them~~ **the person** to appear  
20 and be examined under oath or to produce the document, records,  
21 or object for inspection and copying, or both.

22 (8) A person who fails to comply with a subpoena issued  
23 pursuant to subsection (5) or a requirement to appear and be  
24 examined pursuant to subsection (7) is subject to a civil fine of  
25 not more than \$25,000.00 for each day of continued  
26 noncompliance.

27 (9) In addition to any civil fines or criminal penalties

1 imposed under this part or the criminal laws of this state, the  
2 person found responsible shall repay any money obtained directly  
3 or indirectly under this part. Money owed pursuant to this  
4 section constitutes a claim and lien by the fund upon any real or  
5 personal property owned either directly or indirectly by the  
6 person. This lien shall attach regardless of whether the person  
7 is insolvent and may not be extinguished or avoided by  
8 bankruptcy. The lien imposed by this section has the force and  
9 effect of a first in time and right judgment lien.

10 (10) Subsection (1) does not preclude prosecutions under  
11 other laws of the state including, but not limited to, section  
12 157a, 218, 248, 249, 280, or 422 of the Michigan penal code, ~~Act~~  
13 ~~No. 328 of the Public Acts of 1931, being sections 750.157a,~~  
14 ~~750.218, 750.248, 750.249, 750.280, and 750.422 of the Michigan~~  
15 ~~Compiled Laws~~ **1931 PA 328, MCL 750.157a, 750.218, 750.248,**  
16 **750.249, 750.280, and 750.422.**

17 (11) All civil fines collected pursuant to this section shall  
18 be apportioned in the following manner:

19 (a) Fifty percent shall be deposited in the general fund and  
20 shall be used by the department to fund fraud investigations  
21 under this part.

22 (b) Twenty-five percent shall be paid to the office of the  
23 county prosecutor or attorney general, whichever office brought  
24 the action.

25 (c) Twenty-five percent shall be paid to a local police  
26 department or sheriff's office, or a city or county health  
27 department, if investigation by that office or department led to

1 the bringing of the action. If more than 1 office or department  
2 is eligible for payment under this subsection, division of  
3 payment shall be on an equal basis. If there is not a local  
4 office or department that is entitled to payment under this  
5 subdivision, the money shall be forwarded to the state treasurer  
6 for deposit into the ~~emergency response fund created in section~~  
7 ~~21507~~ **refined petroleum fund.**

8 Sec. 21550. (1) Section ~~21507~~ **21508** is repealed effective  
9 ~~December 22, 1998~~ **December 31, 2010.**

10 ~~(2) Upon the repeal of section 21507, any unexpended money~~  
11 ~~in the emergency response fund reverts to the fund.~~

12 ~~—— (3) This part is repealed on the date on which the state~~  
13 ~~treasurer files with the secretary of state a notice of final~~  
14 ~~payment of all obligations lawfully payable from the fund~~  
15 ~~pursuant to section 21506(5).~~

16 ~~(4) Upon repeal of this part, any money in the fund or in~~  
17 ~~the possession of the authority reverts to the environmental~~  
18 ~~response fund created in part 201.~~

19 (2) ~~(5)~~ The authority's obligation to pay off any bonds or  
20 notes issued pursuant to this part shall survive the repeal of  
21 ~~this part~~ **section 21508.**

22 Sec. 21552. (1) **The refined petroleum cleanup advisory**  
23 **council is created.**

24 (2) **The council shall consist of all of the following:**

25 (a) **Two members appointed by the senate majority leader, 1 of**  
26 **whom shall be a representative of the petroleum industry.**

27 (b) **Two members appointed by the speaker of the house of**

1 representatives, 1 of whom shall be a representative of the  
2 petroleum industry.

3 (c) Three members appointed by the governor, 1 of whom shall  
4 be a representative of the petroleum industry.

5 (3) The members first appointed to the council shall be  
6 appointed not later than 60 days after the effective date of the  
7 amendatory act that added this section.

8 (4) Members of the council shall serve until a successor is  
9 appointed.

10 (5) If a vacancy occurs on the council, the unexpired term  
11 shall be filled in the same manner as the original appointment  
12 was made.

13 (6) The first meeting of the council shall be called by the  
14 director. At the first meeting, the council shall elect from  
15 among its members a chairperson and other officers as it  
16 considers necessary or appropriate. After the first meeting, the  
17 council shall meet at least quarterly, or more frequently at the  
18 call of the chairperson or if requested by 2 or more members.

19 (7) Five of the members of the council constitute a quorum  
20 for the transaction of business at a meeting of the council. An  
21 affirmative vote of a majority of the members of the council is  
22 required for official action of the council.

23 (8) Members of the council shall serve without compensation.  
24 However, members of the council may be reimbursed for their  
25 actual and necessary expenses incurred in the performance of  
26 their official duties as members of the council.

27 (9) As soon as practical, but not later than 60 days after

1 all members of the council have been appointed under subsection  
2 (2), the council shall make a recommendation to the governor and  
3 the legislature on how the money transferred under section  
4 21506(6), less any amounts appropriated for the fiscal year  
5 ending September 30, 2004, should be expended.

6 (10) By April 1, 2005, the council shall submit to the  
7 governor and the legislature a report that does all of the  
8 following:

9 (a) Evaluates and makes recommendations for a refined  
10 petroleum cleanup program that provides for corrective actions  
11 necessary to address releases of refined petroleum products. The  
12 recommended refined petroleum cleanup program shall be designed  
13 to benefit owners and operators and to provide for corrective  
14 actions at locations for which an owner or operator who is liable  
15 for corrective actions has not been identified or is insolvent.

16 (b) Makes recommendations on an appropriate limitation on  
17 administrative costs under section 21506a(4)(c).

18 (c) Makes recommendations to update obsolete provisions of  
19 this part.

20 (11) Effective 180 days after the council submits its report  
21 under subsection (10), the council is dissolved.

22 (12) This section is repealed August 1, 2006.

23 Enacting section 1. The provisions of this amendatory act  
24 relating to the extension and collection of the regulatory fee  
25 provided for under this part and the obligation to pay the fee  
26 shall be applied retroactively. The requirement to impose and  
27 collect the regulatory fee and the obligation to pay the fee

1 shall not be considered to have ceased at any time since the date  
2 the requirement and obligation were originally enacted into law.  
3 The requirement that this enacting section be applied  
4 retroactively extends to any regulatory fee imposed or collected  
5 even if it is alleged or determined that sufficient regulatory  
6 fees were collected to pay in full bonds or notes issued by the  
7 Michigan underground storage tank financial assurance authority.