

1999

Nonstat File Sequence: **E E E**

LRB 60344 13

INITIAL APPLICABILITY

Invert, 24-10, 1/2/94

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "___" or "()" only if a "frozen" number is needed.

SECTION # [93] . Initial applicability;

(CS)
(#1) (3) yvf Rebate on storage remedial action fee reimbursement.

..... The treatment of section# ..
101.143 (4) (c) 11. ✓

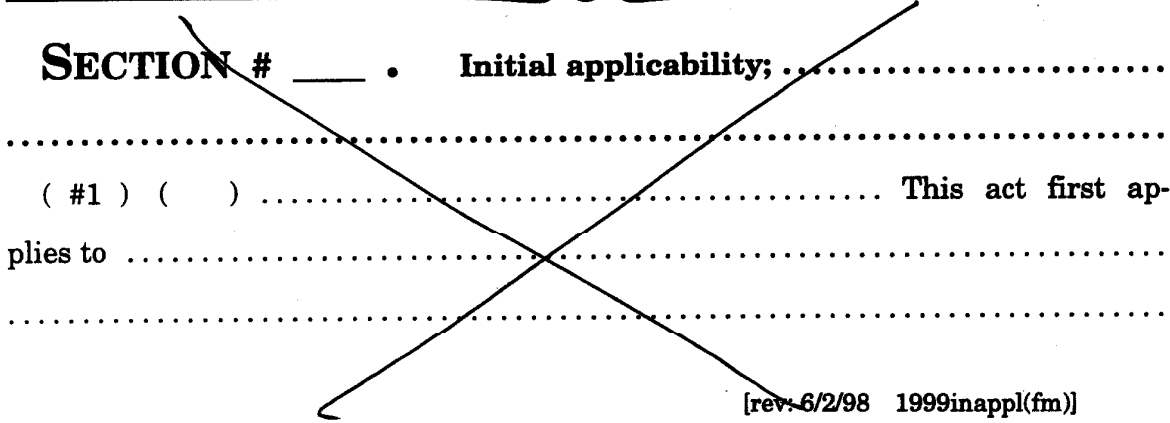
..... of the statutes
first applies to *Fees that the department of natural resources
or the department of commerce charges on the effective
date of this subsection.* ✓

End of insert

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "___" or "()" only if a "frozen" number is needed.

SECTION # _____ . Initial applicability;

(#1) () This act first applies to





State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0344/3
RCT&KSH:kg&jlg:kjf

LFB:.....Bonderud - PECFA changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 122, line 10: after that line insert:

3 **"SECTION 3m.** 13.485 (2) of the statutes is amended to read:

4 13.485 (2) The building commission may, under s. ~~18.56~~ 18.561 (5) and (9) (j)
5 or 18.562 (3) and (5) (e), deposit in a separate and distinct fund, outside the state
6 treasury, in an account maintained by a trustee, fees and charges derived from the
7 facilities or from agreements entered into under sub. (4). The fees and charges
8 deposited are the trustee's moneys in accordance with the agreement between this
9 state and the trustee or in accordance with the resolution pledging the fees and
10 charges to the repayment of revenue obligations issued under this section."

11 **2.** Page 160, line 6: delete "which" and substitute "that".

- 1 **3.** Page 165, line 10: delete lines 10 and 11 and substitute:
2 “**SECTION 136b.** 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a)
3 to (j), and 18.561 (9) (i) and (j), as renumbered, are amended to read:
4 18.561 (9) (i) Issuance of additional ~~bonds~~ enterprise obligations.
5 (j) Deposit of the proceeds of the sale of the ~~bonds~~ enterprise obligations or
6 revenues of the revenue-producing enterprise or program in trust, including the
7 appointment of depositories or trustees.”
- 8 **4.** Page 168, line 8: delete “security” and substitute “secured”.
- 9 **5.** Page 172, line 23: delete “owner” and substitute “owners”.
- 10 **6.** Page 382, line 2: after that line insert:
11 “**SECTION 216m.** 20.143 (3) (Lm) of the statutes is created to read:
12 20.143 (3) (Lm) *Petroleum storage remedial action fees.* The amounts in the
13 schedule for the administration of ss. 101.143 and 101.144. All moneys received
14 under s. 101.143 (2) (L) shall be credited to this appropriation account.”
- 15 **7.** Page 382, line 15: after “(1)” insert “, or the separate and distinct fund
16 outside the state treasury under s. 18.562 (3) and (5) (e).”
- 17 **8.** Page 383, line 14: after “awards under s. 101.143” insert “(4)”.
- 18 **9.** Page 500, line 23: delete lines 23 and 24 and substitute:
19 “**SECTION 714c.** 25.47 (1m) of the statutes is created to read:
20 25.47 (1m) Any fees imposed under s. 101.143 (2) (em) 1.”
- 21 **10.** Page 501, line 2: after that line insert:
22 “**SECTION 715e.** 25.47 (6) of the statutes is created to read:

1 25.47 (6) The net proceeds of revenue obligations issued under s. 101.143 (9m)
2 that are transferred from a separate and distinct fund outside the state treasury, in
3 an account maintained by a trustee, under s. 18.562 (3) and (5) (e).”

4 **11.** Page 962, line 11: delete the material beginning with that line and ending
5 with page 967, line 3, and substitute:

6 **“SECTION 1979p.** 101.143 (1) (bm) of the statutes is created to read:

7 101.143 (1) (bm) “Enforcement standard” has the meaning given in s. 160.01
8 (2).

9 **SECTION 1979r.** 101.143 (1) (cq) of the statutes is created to read:

10 101.143 (1) (cq) “Natural attenuation” means the reduction in the
11 concentration and mass of a substance, and the products into which the substance
12 breaks down, due to naturally occurring physical, chemical and biological processes.

13 **SECTION 1979v.** 101.143 (2) (em) of the statutes is created to read:

14 101.143 (2) (em) 1. The department may promulgate rules that specify a fee
15 that must be paid by a service provider as a condition of submitting a bid to conduct
16 an activity under sub. (3) (c) for which a claim for reimbursement under this section
17 will be submitted. Any fees collected under the rules shall be deposited into the
18 petroleum inspection fund.

19 2. If the department promulgates rules under subd. 1., the department may
20 purchase, or provide funding for the purchase of, insurance to cover the amount by
21 which the costs of conducting activities under sub. (3) (c) exceed the amount bid to
22 conduct those activities.

23 **SECTION 1980c.** 101.143 (2) (h) of the statutes is created to read:

1 101.143 (2) (h) The department of commerce and the department of natural
2 resources, jointly, shall promulgate rules designed to facilitate effective and
3 cost-efficient administration of the program under this section that specify all of the
4 following:

5 1. Information that must be submitted under this section, including quarterly
6 summaries of costs incurred with respect to a discharge for which a claim is intended
7 to be submitted under sub. (3) but for which a final claim has not been submitted.

8 2. Formats for submitting the information under subd. 1.

9 3. Review procedures that must be followed by employees of the department of
10 natural resources and the department of commerce in reviewing the information
11 submitted under subd. 1.

12 **SECTION 1981c.** 101.143 (2) (i) of the statutes is created to read:

13 101.143 (2) (i) The department of commerce and the department of natural
14 resources, jointly, shall promulgate rules specifying procedures for evaluating
15 remedial action plans and procedures to be used by employees of the department of
16 commerce and the department of natural resources while remedial actions are being
17 conducted. The departments shall specify procedures that include all of the
18 following:

19 1. Annual reviews that include application of the method in the rules
20 promulgated under sub. (2e) (b) to determine the risk posed by discharges that are
21 the subject of the remedial actions.

22 2. Annual reports by consultants estimating the additional costs that must be
23 incurred to comply with sub. (3) (c) 3. and with enforcement standards.

24 3. A definition of “reasonable time” for the purpose of determining whether
25 natural attenuation may be used to achieve enforcement standards.

1 4. Procedures to be used to measure concentrations of contaminants.

2 **SECTION 1981e.** 101.143 (2) (j) of the statutes is created to read:

3 101.143 (2) (j) The department of commerce and the department of natural
4 resources, jointly, shall promulgate rules specifying all of the following:

5 1. The conditions under which employes of the department of commerce and
6 the department of natural resources must issue approvals under sub. (3) (c) 4.

7 2. Training and management procedures to ensure that employes comply with
8 the requirements under subd. 1.

9 **SECTION 1981g.** 101.143 (2) (k) of the statutes is created to read:

10 101.143 (2) (k) In promulgating rules under pars. (h) to (j), the department of
11 commerce and the department of natural resources shall attempt to reach an
12 agreement that is consistent with those provisions. If the department of commerce
13 and the department of natural resources are unable to reach an agreement, they
14 shall refer the matters on which they are unable to agree to the secretary of
15 administration for resolution. The secretary of administration shall resolve any
16 matters on which the departments disagree in a manner that is consistent with pars.
17 (h) to (j). The department of commerce and the department of natural resources,
18 jointly, shall promulgate rules incorporating any agreement between the
19 department of commerce and the department of natural resources under this
20 paragraph and any resolution of disagreements between the departments by the
21 secretary of administration under this paragraph.

22 **SECTION 1981i.** 101.143 (2) (L) of the statutes is created to read:

23 101.143 (2) (L) The department may promulgate rules for the assessment
24 and collection of fees to recover its costs for providing approval under sub. (3) (c)
25 4. and for providing other assistance requested by applicants under this section.

1 Any moneys collected under this paragraph shall be credited to the appropriation
2 account under s. 20.143 (3) (Lm).

3 **SECTION 1982c.** 101.143 (2e) of the statutes is created to read:

4 101.143 (2e) RISK-BASED ANALYSIS. (a) The department of commerce and the
5 department of natural resources shall attempt to agree on a method, which shall
6 include consideration of the routes for migration of petroleum product
7 contamination, for determining the risk to public health, safety and welfare and to
8 the environment posed by discharges for which the department of commerce receives
9 notification under sub. (3) (a) 3.

10 (b) If the department of commerce and the department of natural resources are
11 unable to reach an agreement under par. (a), they shall refer the matters on which
12 they are unable to agree to the secretary of administration for resolution. The
13 secretary of administration shall resolve any matters on which the departments
14 disagree in a manner that is consistent with par. (a). The department of commerce
15 and the department of natural resources, jointly, shall promulgate rules
16 incorporating any agreement between the department of commerce and the
17 department of natural resources under par. (a) and any resolution of disagreements
18 between the departments by the secretary of administration under this paragraph.

19 (c) The department of natural resources or, if the discharge is covered under
20 s. 101.144 (2) (b), the department of commerce shall apply the method in the rules
21 promulgated under par. (b) to determine the risk posed by a discharge for which the
22 department of commerce receives notification under sub. (3) (a) 3.

23 **SECTION 1983b.** 101.143 (3) (c) 2. of the statutes is amended to read:

1 101.143 (3) (c) 2. Prepare a remedial action plan that identifies specific
2 remedial action activities proposed to be conducted under subd. 3. and submit the
3 remedial action plan to the department.

4 **SECTION 1983m.** 101.143 (3) (cm) of the statutes is amended to read:

5 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
6 owning a home oil tank system may, with the approval of the department of natural
7 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
8 commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
9 implementing monitoring to ensure the effectiveness of ~~the natural process of~~
10 ~~degradation~~ attenuation of petroleum product contamination.

11 **SECTION 1983p.** 101.143 (3) (cn) of the statutes is created to read:

12 101.143 (3) (cn) *Review of remedial action plans.* The department of natural
13 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
14 commerce shall review and approve or disapprove a remedial action plan submitted
15 under par. (c) 2.

16 **SECTION 1983t.** 101.143 (3) (cp) of the statutes is created to read:

17 101.143 (3) (cp) *Bidding process.* 1. Except as provided in subds. 2. to 5., if the
18 department of natural resources or, if the site is covered under s. 101.144 (2) (b), the
19 department of commerce estimates that the cost to complete a site investigation,
20 remedial action plan and remedial action for an occurrence exceeds \$80,000, the
21 department of commerce shall implement a competitive public bidding process to
22 obtain information to assist in making the determination under par. (cs).

23 2. The department of commerce or the department of natural resources may
24 waive the requirement under subd. 1. if an enforcement standard is exceeded in
25 groundwater within 1,000 feet of a well operated by a public utility, as defined in s.

1 196.01 (5), or within 100 feet of any other well used to provide water for human
2 consumption.

3 3. The department of commerce may waive the requirement under subd. 1. if
4 it determines that the remedial action plan identifies the least costly method of
5 complying with par. (c) 3. and with enforcement standards.

6 4. The department of commerce or the department of natural resources may
7 waive the requirement under subd. 1. on the grounds that waiver is necessary in an
8 emergency to prevent or mitigate an imminent hazard to public health, safety or
9 welfare or to the environment.

10 5. The department of commerce or the department of natural resources may
11 waive the requirement under subd. 1. after providing notice to the other department.

12 6. The department of commerce may disqualify a bid received under subd. 1.
13 if, based on information available to the department and experience with remedial
14 action at other sites, the bid is unlikely to establish an amount to sufficiently fund
15 remedial action that will comply with par. (c) 3. and with enforcement standards.

16 7. The department of commerce may disqualify a person from submitting bids
17 under subd. 1. if, based on past performance of the bidder, the department
18 determines that the person has demonstrated an inability to complete remedial
19 action within established cost limits.

20 **SECTION 1984c.** 101.143 (3) (cs) of the statutes is created to read:

21 101.143 (3) (cs) *Determination of least costly method of remedial action.* 1. The
22 department of commerce shall review the remedial action plan for a site that is
23 classified as low or medium risk under s. 101.144 and shall determine the least costly
24 method of complying with par. (c) 3. and with enforcement standards. The
25 department shall notify the owner or operator of its determination of the least costly

1 method and shall notify the owner or operator that reimbursement for remedial
2 action under this section is limited to the amount necessary to implement that
3 method.

4 2. The department of natural resources and the department of commerce shall
5 review the remedial action plan for a site that is classified as high risk under s.
6 101.144 and shall jointly determine the least costly method of complying with par.
7 (c) 3. and with enforcement standards. The departments shall notify the owner or
8 operator of their determination of the least costly method.

9 3. In making determinations under subd. 1., the department of commerce shall
10 determine whether natural attenuation will achieve compliance with par. (c) 3. and
11 with enforcement standards.

12 4. The department of commerce may review and modify an amount established
13 under subd. 1. if the department determines that new circumstances, including
14 newly discovered contamination at a site, warrant those actions.

15 **SECTION 1984m.** 101.143 (3) (cw) of the statutes is created to read:

16 101.143 (3) (cw) *Annual reviews.* 1. The department of commerce shall conduct
17 the annual review required under sub. (2) (i) 1. for a site that is classified as low or
18 medium risk under s. 101.144 and shall determine the least costly method of
19 completing remedial action at the site in order to comply with par. (c) 3. and with
20 enforcement standards. The department shall notify the owner or operator of its
21 determination of the least costly method and shall notify the owner or operator that
22 reimbursement under this section for any remedial action conducted after the date
23 of the notice is limited to the amount necessary to implement that method.

24 2. The department of natural resources and the department of commerce shall
25 conduct the annual review required under sub. (2) (i) 1. for a site that is classified as

1 high risk under s. 101.144 and shall jointly determine the least costly method of
2 completing remedial action at the site in order to comply with par. (c) 3. and with
3 enforcement standards. The departments shall notify the owner or operator of their
4 determination of the least costly method.

5 3. In making determinations under subds. 1. and 2., the department of natural
6 resources and the department of commerce shall determine whether natural
7 attenuation will achieve compliance with par. (c) 3. and with enforcement standards.

8 4. The department of commerce may review and modify an amount established
9 under subd. 1. if the department determines that new circumstances, including
10 newly discovered contamination at a site, warrant those actions.

11 **SECTION 1985b.** 101.143 (3) (d) of the statutes is amended to read:

12 101.143 (3) (d) ~~Review of site investigations, remedial action plans and Final~~
13 ~~review of remedial action activities. The department of natural resources or, if the~~
14 ~~discharge is covered under s. 101.144 (2) (b), the department of commerce shall, at~~
15 ~~the request of the claimant, review the site investigation and the remedial action~~
16 ~~plan and advise the claimant on the adequacy of proposed remedial action activities~~
17 ~~in meeting the requirements of s. 292.11. The advice is not an approval of the~~
18 ~~remedial action activities. The department of natural resources or, if the discharge~~
19 ~~is covered under s. 101.144 (2) (b), the department of commerce shall complete a final~~
20 ~~review of the remedial action activities within 60 days after the claimant notifies the~~
21 ~~appropriate department that the remedial action activities are completed.~~

22 **SECTION 1985e.** 101.143 (3) (g) (intro.) and 1. of the statutes are consolidated,
23 renumbered 101.143 (3) (g) and amended to read:

24 101.143 (3) (g) *Emergency situations.* Notwithstanding pars. (a) 3. and (c) 1.
25 and 2., an owner or operator or the person may submit a claim for an award under

1 sub. (4) after notifying the department under par. (a) 3., without completing an
2 investigation under par. (c) 1. and without preparing a remedial action plan under
3 par. (c) 2. if ~~any of the following apply: 1. An an~~ emergency existed which made the
4 investigation under par. (c) 1. and the remedial action plan under par. (c) 2.
5 inappropriate and, before conducting remedial action, the owner or operator or
6 person notified the department of commerce and the department of natural
7 resources of the emergency and the department of commerce and the department of
8 natural resources authorized emergency action.

9 **SECTION 1985f.** 101.143 (3) (g) 2. of the statutes is repealed.

10 **SECTION 1985m.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

11 101.143 (4) (b) *Eligible costs.* (intro.) ~~Eligible~~ Except as provided in par. (c),
12 eligible costs for an award under par. (a) include actual costs or, if the department
13 establishes a schedule usual and customary cost under par. (cm) for an item, usual
14 and customary costs for the following items only:

15 **SECTION 1985r.** 101.143 (4) (b) 16. of the statutes is created to read:

16 101.143 (4) (b) 16. Compliance using the least costly method, with an order of
17 the department of commerce or the department of natural resources to conduct
18 remedial action activities in response to a discharge from a petroleum product
19 storage system or home oil tank system.

20 **SECTION 1985w.** 101.143 (4) (c) (intro.) of the statutes is amended to read:

21 101.143 (4) (c) *Exclusions from eligible costs.* (intro.) Eligible costs for an
22 award under par. (a) do not include the following, regardless of whether a competitive
23 bidding process is used:

24 **SECTION 1986c.** 101.143 (4) (c) 8. of the statutes is renumbered 101.143 (4) (c)
25 8. (intro.) and amended to read:

1 101.143 (4) (c) 8. (intro.) Interest costs incurred by an applicant that exceed
2 interest at ~~1% over the prime rate, as determined under rules promulgated by the~~
3 ~~department. the following rate:~~

4 **SECTION 1986e.** 101.143 (4) (c) 8. a. to f. of the statutes are created to read:

5 101.143 (4) (c) 8. a. If the applicant has gross revenues of not more than
6 \$5,000,000 in the most recent tax year before the applicant submits a claim, 1% over
7 the prime rate.

8 b. If the applicant has gross revenues of more than \$5,000,000 but not more
9 than \$15,000,000 in the most recent tax year before the applicant submits a claim,
10 the prime rate.

11 c. If the applicant has gross revenues of more than \$15,000,000 but not more
12 than \$25,000,000 in the most recent tax year before the applicant submits a claim,
13 1% under the prime rate.

14 d. If the applicant has gross revenues of more than \$25,000,000 but not more
15 than \$35,000,000 in the most recent tax year before the applicant submits a claim,
16 2% under the prime rate.

17 e. If the applicant has gross revenues of more than \$35,000,000 but not more
18 than \$45,000,000 in the most recent tax year before the applicant submits a claim,
19 3% under the prime rate.

20 f. If the applicant has gross revenues of more than \$45,000,000 in the most
21 recent tax year before the applicant submits a claim, 4% under the prime rate.

22 **SECTION 1986g.** 101.143 (4) (c) 10. of the statutes is created to read:

23 101.143 (4) (c) 10. Fees charged under sub. (2) (L) or s. 292.55 (2).

24 **SECTION 1986i.** 101.143 (4) (c) 11. of the statutes is created to read:

1 101.143 (4) (c) 11. For a site that is classified as low or medium risk under s.
2 101.144, costs that exceed the amount necessary to comply with sub. (3) (c) 3. and
3 with enforcement standards using the least costly method, subject to par. (b) 16.

4 **SECTION 1986k.** 101.143 (4) (c) 12. of the statutes is created to read:

5 101.143 (4) (c) 12. Costs that are incurred after the date of a notice under sub.
6 (3) (cw) 1. and that exceed the amount necessary to comply with sub. (3) (c) 3. and
7 with enforcement standards using the method specified in the notice, subject to par.
8 (b) 16.

9 **SECTION 1986m.** 101.143 (4) (cm) of the statutes is renumbered 101.143 (4)
10 (cm) 1. and amended to read:

11 101.143 (4) (cm) 1. The department ~~may shall~~ establish a schedule of usual and
12 customary costs for any items under par. (b) ~~and may~~ that are commonly associated
13 with claims under this section. The department shall use that schedule to determine
14 the amount of a claimant's eligible costs for an occurrence for which a competitive
15 bidding process is not used, except in circumstances under which higher costs must
16 be incurred to comply with sub. (3) (c) 3. and with enforcement standards. For an
17 occurrence for which a competitive bidding process is used, the department may not
18 use the schedule. In the schedule, the department shall specify the maximum
19 number of reimbursable hours for particular tasks and the maximum reimbursable
20 hourly rates for those tasks. The department shall use methods of data collection and
21 analysis that enable the schedule to be revised to reflect changes in actual costs. This
22 subdivision does not apply after June 30, 2001.

23 **SECTION 1986p.** 101.143 (4) (cm) 2. of the statutes is created to read:

24 101.143 (4) (cm) 2. The department may establish a schedule of usual and
25 customary costs for any items under par. (b) and may use that schedule to determine

1 the amount of a claimant's eligible costs. This subdivision applies after June 30,
2 2001.

3 **SECTION 1987b.** 101.143 (4) (d) 2. (intro.) of the statutes is amended to read:

4 101.143 (4) (d) 2. (intro.) The department shall issue the award under this
5 paragraph without regard to fault in an amount equal to the amount of the eligible
6 costs that exceeds a ~~the~~ deductible amount of \$2,500 plus 5% of the eligible costs, but
7 not more than \$7,500 per occurrence, except that the deductible amount for a
8 petroleum product storage system that is owned by a school district or a technical
9 college district and that is used for storing heating oil for consumptive use on the
10 premises is 25% of eligible costs under par. (dg). An award issued under this
11 paragraph may not exceed the following for each occurrence:

12 **SECTION 1991c.** 101.143 (4) (dg) of the statutes is created to read:

13 101.143 (4) (dg) *Deductible; underground systems.* The amount of the
14 deductible for an award under par. (d) is as follows for each occurrence:

15 1. Except as provided under par. (di), for an owner or operator of an
16 underground petroleum product storage tank system that is located at a facility at
17 which petroleum is stored for resale or an owner or operator of an underground
18 petroleum product storage tank system that handles an annual average of more than
19 10,000 gallons of petroleum per month, \$5,000 plus 4% of the amount by which
20 eligible costs exceed \$100,000.

21 2. For a school district or a technical college district with respect to a discharge
22 from an underground petroleum product storage tank system that is used for storing
23 heating oil for consumptive use on the premises, 25% of eligible costs.

24 3. For the owner or operator of a petroleum product storage system that is
25 described in par. (ei) 1., \$5,000.

1 4. For an owner or operator other than an owner or operator described in subd.
2 1., 2. or 3., \$2,500, plus 5% of eligible costs, but not more than \$7,500.

3 **SECTION 1992c.** 101.143 (4) (di) of the statutes is created to read:

4 101.143 (4) (di) *Rules concerning deductible for underground systems.* The
5 department may promulgate rules describing a class of owners and operators of
6 underground petroleum product storage tank systems otherwise subject to par. (dg)
7 1. for whom the deductible is the amount under par. (dg) 4. rather than the amount
8 under par. (dg) 1. if the class is based on financial hardship or consists of local
9 governmental units that are conducting remedial action as part of projects to
10 redevelop brownfields, as defined in s. 234.88 (1) (a).

11 **SECTION 1993c.** 101.143 (4) (dm) 2. a. of the statutes is amended to read:

12 101.143 (4) (dm) 2. a. For the owner or operator of a terminal, \$15,000 plus 5%
13 10% of the amount by which eligible costs exceed \$200,000.

14 **SECTION 1993f.** 101.143 (4) (dm) 2. c. of the statutes is amended to read:

15 101.143 (4) (dm) 2. c. For the owner or operator of a petroleum product storage
16 system that is described in par. (ei) 1., ~~\$2,500 plus 5% of eligible costs but not more~~
17 ~~than \$7,500~~ \$5,000 per occurrence.

18 **SECTION 1993m.** 101.143 (4) (ei) 2. of the statutes is repealed and recreated to
19 read:

20 101.143 (4) (ei) 2. The department shall review claims related to discharges
21 from farm tanks described in subd. 1. as soon as the claims are received. The
22 department shall issue an award for an eligible discharge from a farm tank described
23 in subd. 1. as soon as it completes the review of the claim.”.

24 **12.** Page 968, line 5: delete “\$450,000,000” and substitute “\$270,000,000”.

1 **13.** Page 968, line 9: after that line insert:

2 “(gm) Of the revenue obligations authorized under par. (g), no more than
3 \$170,000,000 may be issued until all of the following conditions have been met:

4 1. The joint committee on finance has approved, at a regular quarterly meeting
5 under s. 13.10, a report jointly submitted by the departments of administration,
6 commerce and natural resources. The report shall include information regarding all
7 of the following:

8 a. The proposed issuance of any revenue obligations in excess of \$170,000,000.

9 b. The amount of claims under sub. (3) received during the 2 calendar quarters
10 immediately preceding the date of the report.

11 c. The number and dollar amount of claims under sub. (3) that the department
12 of commerce has received but not paid.

13 d. The progress made by the departments of administration, commerce and
14 natural resources in implementing cost control strategies to reduce the costs of
15 cleanups at sites for which claims are submitted under sub. (3).

16 2. The departments of commerce and natural resources have jointly
17 promulgated permanent rules under sub. (2) (h) to (j).”.

18 **14.** Page 968, line 22: delete the material beginning with that line and ending
19 with page 970, line 12, and substitute:

20 “**SECTION 1994m.** 101.143 (11) of the statutes is created to read:

21 101.143 (11) **REPORTS.** No later than each January 1 and July 1, the department
22 of commerce and the department of natural resources shall submit the the governor,
23 to the joint legislative audit committee, to the joint committee on finance and to the
24 appropriate standing committees of the legislature, under s. 13.172 (3), a report on

1 the program under this section. The departments shall include all of the following
2 information in the report:

3 (a) All of the following information for each petroleum product storage system
4 and home oil tank system from which a discharge has occurred for which remedial
5 action activities are being conducted:

6 1. The date on which the record of the site investigation was received.

7 2. The environmental risk factors, as defined by the department of commerce
8 by rule, identified at the site.

9 3. The year in which the approval under sub. (3) (c) 4. is expected to be issued.

10 (am) The number of notices received under sub. (3) (a) 3. and the number of
11 approvals given under sub. (3) (c) 4.

12 (b) The percentage of sites classified as high risk under s. 101.144.

13 (c) The name of each person providing engineering consulting services to a
14 claimant under this section and the number of claimants to whom the person has
15 provided those services.

16 (d) The charges for engineering consulting services for sites for which
17 approvals are given under sub. (3) (c) 4. and for other sites.

18 (e) The charges by service providers other than engineering consultants for
19 services for which reimbursement is provided under this section, including
20 excavating, hauling, laboratory testing and landfill disposal.

21 (em) Whether disputes have arisen between the departments under sub. (3)
22 (cw) 2. and, if so, how those disputes have been resolved.

23 (f) Strategies for recording and monitoring complaints of fraud in the program
24 under this section and for the use of employes of the department of commerce who
25 conduct audits to identify questionable claims and investigate complaints.

1 **SECTION 1995p.** 101.144 (1) (ae) of the statutes is created to read:

2 101.144 (1) (ae) “Enforcement standard” has the meaning given in s. 160.01 (2).

3 **SECTION 1995r.** 101.144 (1) (aq) of the statutes is created to read:

4 101.144 (1) (aq) Except as provided under sub. (3g), “high-risk site” means the
5 site of a discharge of a petroleum product from a petroleum storage tank if the
6 discharge has resulted in a concentration of contaminants that exceeds an
7 enforcement standard in soil that has a hydraulic conductivity of 1×10^{-5} centimeters
8 per second or if at least one of the following applies:

9 1. Repeated tests show that the discharge has resulted in a concentration of
10 contaminants in a well used to provide water for human consumption that exceeds
11 a preventive action limit, as defined in s. 160.01 (6).

12 2. Petroleum product that is not in dissolved phase is present with a thickness
13 of 0.01 feet or more, as shown by repeated measurements.

14 3. An enforcement standard is exceeded in groundwater within 1,000 feet of a
15 well operated by a public utility, as defined in s. 196.01 (5), or within 100 feet of any
16 other well used to provide water for human consumption.

17 4. An enforcement standard is exceeded in bedrock.

18 **SECTION 1996c.** 101.144 (2) (b) 1. of the statutes is amended to read:

19 101.144 (2) (b) 1. The site of the discharge is classified, as provided under sub.
20 (3m) (a) 3., as medium ~~priority risk~~ or low ~~priority risk~~, based on the threat that the
21 discharge poses to public health, safety and welfare and to the environment.

22 **SECTION 1996e.** 101.144 (2) (b) 2. of the statutes is amended to read:

23 101.144 (2) (b) 2. The site of the discharge is not contaminated by a hazardous
24 substance other than the petroleum product, including any additive, that was
25 discharged from the petroleum storage tank.

1 **SECTION 1997c.** 101.144 (3g) of the statutes is created to read:

2 101.144 (3g) (a) If, on December 1, 1999, more than 35% of sites classified
3 under this section, excluding sites that are contaminated by a hazardous substance
4 other than a petroleum product or an additive to a petroleum product, are classified
5 as high-risk sites, the department of commerce and the department of natural
6 resources shall attempt to reach an agreement that specifies standards for
7 determining whether the site of a discharge of a petroleum product from a petroleum
8 storage tank is classified as high risk. The standards shall be designed to classify
9 no more than 35% of those sites as high-risk sites and may not classify all sites at
10 which an enforcement standard is exceeded as high-risk sites. If the department of
11 commerce and the department of natural resources are unable to reach an
12 agreement, they shall refer the matters on which they are unable to agree to the
13 secretary of administration for resolution. The secretary of administration shall
14 resolve any matters on which the departments disagree in a manner that is
15 consistent with this paragraph. The department of commerce shall promulgate rules
16 incorporating any agreement between the department of commerce and the
17 department of natural resources under this paragraph and any resolution of
18 disagreements between the departments by the secretary of administration under
19 this paragraph.

20 (b) If, 6 months after rules under par. (a) are in effect, more than 35% of the sites
21 classified under this section, excluding sites that are contaminated by a hazardous
22 substance other than a petroleum product or an additive to a petroleum product, are
23 classified as high-risk sites, the department of commerce shall revise the rules using
24 the procedure for promulgating the rules in par. (a).

25 **SECTION 1998c.** 101.144 (3m) (a) 3. of the statutes is amended to read:

1 101.144 (3m) (a) 3. Establishes ~~procedures, standards and schedules~~ for
2 determining whether the site of a discharge of a petroleum product from a petroleum
3 storage tank is classified as ~~high priority, medium priority risk~~ or ~~low priority risk~~
4 and establishes procedures and schedules for classifying sites of discharges of
5 petroleum products from petroleum storage tanks.”

6 **15.** Page 1065, line 12: delete the material beginning with that line and
7 ending with page 1066, line 17.

8 **16.** Page 1397, line 2: after that line insert:

9 “(14yt) REPORT CONCERNING FEDERAL FUNDING FOR LEAKING UNDERGROUND
10 STORAGE TANKS. The secretary of administration shall report to the joint committee
11 on finance on how federal funds related to leaking underground storage tanks should
12 be allocated between the department of commerce and the department of natural
13 resources. The secretary shall submit the report for review and approval or
14 disapproval by the committee at its 4th quarterly meeting under section 13.10 of the
15 statutes in 1999.”

16 **17.** Page 1402, line 10: delete lines 10 to 21 and substitute:

17 “(3yt) FINANCIAL MANAGEMENT OF PETROLEUM STORAGE REMEDIAL ACTION PROGRAM.
18 No later than the first day of the 6th month beginning after the effective date of this
19 subsection, the department of commerce shall do all of the following:

20 (a) Update its financial data base for the program under section 101.143 of the
21 statutes to ensure that complete cost information related to each occurrence and to
22 the annual payment to each owner or operator is readily available.

23 (b) Investigate any variances between the amount of total payments indicated
24 by the department’s financial data base for the program under section 101.143 of the

1 statutes and the amount of total payments indicated by the accounts maintained by
2 the department of administration under section 16.52 of the statutes to identify
3 when the variances occurred and the reasons for the variances.

4 (c) Make any changes in the department's financial data base needed to ensure
5 that the data base is consistent with the accounts maintained by the department of
6 administration under section 16.52 of the statutes.

7 (3yu) RULE MAKING FOR PETROLEUM STORAGE REMEDIAL ACTION PROGRAM.

8 (a) The department of commerce and the department of natural resources shall
9 submit in proposed form the rules required under section 101.143 (2) (h), (i) and (j)
10 and (2e) of the statutes, as created by this act, to the legislature under section 227.19
11 of the statutes no later than June 1, 2000.

12 (b) Using the procedure under section 227.24 of the statutes, the department
13 of commerce and the department of natural resources shall promulgate the rules
14 required under section 101.143 (2) (h), (i) and (j) and (2e) of the statutes, as created
15 by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the
16 emergency rules may remain in effect until September 1, 2000, or the date on which
17 rules under paragraph (a) take effect, whichever is sooner. Notwithstanding section
18 227.24 (1) (a), (2) (b) and (3) of the statutes, the departments are not required to
19 provide evidence that promulgating rules under this paragraph is necessary for the
20 preservation of the public peace, health, safety or welfare and is not required to
21 provide a finding of emergency for rules promulgated under this paragraph. The
22 departments shall promulgate rules under this paragraph no later than the 30th day
23 after the effective date of this paragraph.

24 (c) Using the procedure under section 227.24 of the statutes, the department
25 of commerce shall promulgate rules to implement section 101.143 (4) (cm) 1. of the

1 statutes, as affected by this act, for the period before the effective date of permanent
2 rules, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of
3 the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes,
4 the department is not required to provide evidence that promulgating rules under
5 this paragraph is necessary for the preservation of the public peace, health, safety
6 or welfare and is not required to provide a finding of emergency for rules promulgated
7 under this paragraph. The department shall promulgate rules under this paragraph
8 no later than November 1, 1999.

9 (d) The department of commerce shall submit in proposed form any rules under
10 section 101.143 (2) (h) of the statutes, as created by this act, to the legislature under
11 section 227.19 of the statutes no later than June 1, 2000.

12 (e) If the conditions under section 101.144 (3g) (a) of the statutes, as created
13 by this act, apply on December 1, 1999, using the procedure under section 227.24 of
14 the statutes, the department of commerce shall promulgate the rules required under
15 section 101.144 (3g) (a) of the statutes, as created by this act, for the period before
16 the effective date of permanent rules, but not to exceed the period authorized under
17 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
18 (2) (b) and (3) of the statutes, the department is not required to provide a finding of
19 emergency for rules promulgated under this paragraph. The department shall
20 promulgate rules under this paragraph no later than December 31, 1999.

21 (3yv) **TRANSFER OF SITES.** The department of natural resources and the
22 department of commerce shall identify sites the classification of which is changed
23 because of the changes made by this act in section 101.144 of the statutes and shall
24 transfer authority over those sites no later than December 1, 1999.

1 (3yw) REPORT CONCERNING INTEREST COSTS. No later than March 1, 2000, the
2 department of commerce shall submit a report to the joint committee on finance and
3 the joint committee for review of administrative rules containing recommendations
4 for actions that the department could take to reduce interest costs incurred by
5 claimants under the program under section 101.143 of the statutes, including a
6 review of schedules for making progress payments to claimants.

7 (3yx) EVALUATION OF USUAL AND CUSTOMARY COST SCHEDULE. The department of
8 commerce shall evaluate the operation of section 101.143 (4) (cm) 1. of the statutes,
9 as affected by this act, and shall report the results of the evaluation to the joint
10 legislative audit committee, to the joint committee on finance and to the appropriate
11 standing committees of the legislature, in the manner provided in s. 13.172 (3) of the
12 statutes, no later than the first day of the 14th month beginning after the effective
13 date of this subsection.”.

14 **18.** Page 1411, line 22: after that line insert:

15 “(3yt) RULES RELATED TO PETROLEUM STORAGE REMEDIAL ACTION PROGRAM. The
16 department of natural resources shall submit in proposed form any changes in its
17 rules necessary to conform to the rules under section 101.143 (2) (h), (i) and (j) of the
18 statutes, as created by this act, to the legislature under section 227.19 of the statutes
19 no later than June 1, 2000.”.

20 **19.** Page 1448, line 12: delete lines 12 to 23 and substitute:

21 “(3yt) RISK BASED ANALYSIS AND REIMBURSEMENT CHANGES TO PETROLEUM STORAGE
22 REMEDIAL ACTION PROGRAM. The treatment of section 101.143 (2e) (c), (3) (cn), (cp), (cs)
23 and (g) and (4) (c) 11. of the statutes first applies to a discharge with respect to which

1 activities under section 101.143 (3) (c) 3. or (g) of the statutes are begun on the
2 effective date of this subsection.

3 (3yu) PETROLEUM STORAGE REMEDIAL ACTION PROGRAM DEDUCTIBLES. The
4 treatment of section 101.143 (4) (d) 2. (intro.), (dg), (dm) 2. a. and c. and (ei) 2. of the
5 statutes first applies to a person who submits a remedial action plan, that is
6 acceptable to the department of commerce or the department of natural resources,
7 on November 1, 1999.

8 (3yv) PETROLEUM STORAGE REMEDIAL ACTION PROGRAM INTEREST REIMBURSEMENT.
9 The treatment of section 101.143 (4) (c) 8. of the statutes first applies to an applicant
10 whose loan is secured on November 1, 1999.

11 (3yvf) PETROLEUM STORAGE REMEDIAL ACTION FEE REIMBURSEMENT. The treatment
12 of section 101.143 (4) (c) 11. of the statutes first applies to fees that the department
13 of natural resources or the department of commerce charges on the effective date of
14 this subsection.”.

15 **20.** Page 1469, line 21: delete lines 21 to 23.

16 **21.** Page 1470, line 4: delete lines 4 to 6 and substitute:

17 “(9yt) RISK BASED ANALYSIS AND REIMBURSEMENT CHANGES TO PETROLEUM STORAGE
18 REMEDIAL ACTION PROGRAM. The treatment of section 101.143 (2e) (c), (3) (cn), (cp), (cs)
19 and (g) and (4) (c) 11. of the statutes and SECTION 9310 (3yt), (3yu) and (3yv) of this
20 act take effect on November 1, 1999.”.

21 (END)