

HOUSE BILL No. 5559

October 28, 2009, Introduced by Reps. Roberts, Scripps, Kennedy, Miller, Haase, Haugh, Liss, Smith, Roy Schmidt, Warren and Byrum and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 11502, 11503, 11504, 11505, and 11506 (MCL 324.11502, 324.11503, 324.11504, 324.11505, and 324.11506), sections 11502, 11503, 11505, and 11506 as amended by 2007 PA 212 and section 11504 as amended by 1996 PA 359, and by adding sections 11532c, 11532d, 11532e, 11532f, and 11532h; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 11502. (1) "Applicant" includes any person.
- 2 (2) "Ashes" means the residue from the burning of wood, coal,
- 3 coke, refuse, wastewater sludge, or other combustible materials.
- 4 (3) **"BENCHMARK RECYCLING PROGRAM" MEANS A RECYCLING PROGRAM AS**

1 DESCRIBED IN SECTION 11532F.

2 (4) ~~(3)~~—"Beverage container" means an airtight **CONTAINER**
3 **COMPOSED OF** metal, glass, paper, or plastic, ~~container,~~ or a
4 ~~container composed of a combination of these materials, which~~ **THAT**,
5 at the time of sale, contains 1 gallon or less of any of the
6 following:

7 (a) A soft drink, soda water, carbonated natural or mineral
8 water, or other nonalcoholic carbonated drink.

9 (b) A beer, ale, or other malt drink of whatever alcoholic
10 content.

11 (c) A mixed wine drink or a mixed spirit drink.

12 (5) ~~(4)~~—"Bond" means a financial instrument executed on a form
13 approved by the department, including a surety bond from a surety
14 company authorized to transact business in this state, a
15 certificate of deposit, a cash bond, an irrevocable letter of
16 credit, insurance, a trust fund, an escrow account, or a
17 combination of any of these instruments in favor of the department.
18 The owner or operator of a disposal area who is required to
19 establish a bond under ~~other state or~~ **ANOTHER STATE STATUTE OR A**
20 federal statute may petition the department to allow such a bond to
21 meet the requirements of this part. The department shall approve a
22 bond established under ~~other state or~~ **ANOTHER STATE STATUTE OR A**
23 federal statute if the bond provides equivalent funds and access by
24 the department as other financial instruments allowed by this
25 subsection.

26 (6) ~~(5)~~—"Certificate of deposit" means a negotiable
27 certificate of deposit held by a bank or other financial

1 institution regulated and examined by a state or federal agency,
2 the value of which is fully insured by an agency of the United
3 States government. A certificate of deposit used to fulfill the
4 requirements of this part shall be in the sole name of the
5 department with a maturity date of not less than 1 year and shall
6 be renewed not less than 60 days before the maturity date. An
7 applicant who uses a certificate of deposit as a bond shall receive
8 any accrued interest on that certificate of deposit upon release of
9 the bond by the department.

10 (7) ~~(6)~~—"Certified health department" means a city, county, or
11 district department of health that is specifically delegated
12 authority by the department to perform designated activities as
13 prescribed by this part.

14 (8) ~~(7)~~—"Coal or wood ash" means either or both of the
15 following:

16 (a) The residue remaining after the ignition of coal or wood,
17 or both, and may include noncombustible materials, otherwise
18 referred to as bottom ash.

19 (b) The airborne residues from burning coal or wood, or both,
20 that are finely divided particles entrained in flue gases arising
21 from a combustion chamber, otherwise referred to as fly ash.

22 (9) ~~(8)~~—"Collection center" means a tract of land, building,
23 unit, or appurtenance or **A combination thereof—OF LAND, BUILDINGS,**
24 **UNITS, OR APPURTENANCES** that is used to collect junk motor vehicles
25 and farm implements under section 11530.

26 (10) ~~(9)~~—"Composting facility" means a facility where
27 composting of yard clippings or other organic materials occurs

1 using mechanical handling techniques such as physical turning,
2 windrowing, or aeration or using other management techniques
3 approved by the director.

4 (11) ~~(10)~~—"Consistency review" means evaluation of the
5 administrative and technical components of an application for a
6 permit or license or evaluation of operating conditions in the
7 course of inspection, for the purpose of determining consistency
8 with the requirements of this part, rules promulgated under this
9 part, and approved plans and specifications.

10 (12) ~~(11)~~—"Corrective action" means the investigation,
11 assessment, cleanup, removal, containment, isolation, treatment, or
12 monitoring of constituents, as defined in a facility's approved
13 hydrogeological monitoring plan, released into the environment from
14 a disposal area, or the taking of other actions related to the
15 release as may be necessary to prevent, minimize, or mitigate
16 injury to the public health, safety, or welfare, the environment,
17 or natural resources that is consistent with 42 USC 6941 to 6949a
18 and regulations promulgated thereunder.

19 Sec. 11503. (1) "De minimis" refers to a small amount of
20 material or number of items, as applicable, commingled and
21 incidentally disposed of with other solid waste.

22 (2) "Department" means the department of environmental
23 quality.

24 (3) "Director" means the director of the department.

25 (4) "Discharge" includes, but is not limited to, any spilling,
26 leaking, pumping, pouring, emitting, emptying, discharging,
27 injecting, escaping, leaching, dumping, or disposing of a substance

1 into the environment ~~which~~**THAT** is or may become injurious to the
2 public health, safety, or welfare, or to the environment.

3 (5) "Disposal area" means 1 or more of the following at a
4 location as defined by the boundary identified in its construction
5 permit or engineering plans approved by the department:

6 (a) A solid waste transfer facility.

7 (b) ~~Incinerator~~**AN INCINERATOR**.

8 (c) ~~Sanitary~~**A SANITARY** landfill.

9 (d) ~~Processing~~**A PROCESSING** plant.

10 (e) ~~Other~~**ANOTHER** solid waste handling or disposal facility
11 utilized in the disposal of solid waste.

12 (6) "Enforceable mechanism" means a legal method whereby the
13 state, a county, a municipality, or another person is authorized to
14 take action to guarantee compliance with an approved county solid
15 waste management plan. Enforceable mechanisms include contracts,
16 intergovernmental agreements, laws, ordinances, rules, and
17 regulations.

18 (7) "Escrow account" means an account **THAT IS** managed by a
19 bank or other financial institution whose account operations are
20 regulated and examined by a federal or state agency and ~~which~~**THAT**
21 complies with section 11523b.

22 (8) "Farm" means that term as defined in section 2 of the
23 Michigan right to farm act, 1981 PA 93, MCL 286.472.

24 (9) "Farm operation" means that term as defined in section 2
25 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

26 (10) "Financial assurance" means the mechanisms used to
27 demonstrate that the funds necessary to meet the cost of closure,

1 postclosure maintenance and monitoring, and corrective action will
2 be available whenever they are needed.

3 (11) "Financial test" means a corporate or local government
4 financial test or guarantee approved for type II landfills under 42
5 USC 6941 to 6949a. An owner or operator may use a single financial
6 test for more than 1 facility. Information submitted to the
7 department to document compliance with the test shall include a
8 list showing the name and address of each facility and the amount
9 of funds assured by the test for each facility. For purposes of the
10 financial test, the owner or operator shall aggregate the sum of
11 the closure, postclosure, and corrective action costs it seeks to
12 assure with any other environmental obligations assured by a
13 financial test under state or federal law.

14 (12) "Food processing residuals" means any of the following:

15 (a) Residuals of fruits, vegetables, aquatic plants, or field
16 crops.

17 (b) Otherwise unusable parts of fruits, vegetables, aquatic
18 plants, or field crops from the processing thereof.

19 (c) Otherwise unusable food products ~~which~~ **THAT** do not meet
20 size, quality, or other product specifications and ~~which~~ **THAT** were
21 intended for human or animal consumption.

22 (13) "Garbage" means rejected food wastes including waste
23 accumulation of animal, fruit, or vegetable matter used or intended
24 for food or that results from the preparation, use, cooking,
25 dealing in, or storing of meat, fish, fowl, fruit, or vegetable
26 matter.

27 ~~(14) "Scrap wood" means wood or wood product that is 1 or more~~

1 of the following:

2 ~~—— (a) Plywood, pressed board, oriented strand board, or any~~
3 ~~other wood or wood product mixed with glue or filler.~~

4 ~~—— (b) Wood or wood product treated with creosote or~~
5 ~~pentachlorophenol.~~

6 ~~—— (c) Any other wood or wood product designated as scrap wood in~~
7 ~~rules promulgated by the department.~~

8 ~~—— (15) "Treated wood" means wood or wood product that has been~~
9 ~~treated with 1 or more of the following:~~

10 ~~—— (a) Chromated copper arsenate (CCA).~~

11 ~~—— (b) Ammoniacal copper quat (ACQ).~~

12 ~~—— (c) Ammoniacal copper zinc arsenate (ACZA).~~

13 ~~—— (d) Any other chemical designated in rules promulgated by the~~
14 ~~department.~~

15 ~~—— (16) "Wood" means trees, branches, bark, lumber, pallets, wood~~
16 ~~chips, sawdust, or other wood or wood product but does not include~~
17 ~~scrap wood, treated wood, painted wood or painted wood product, or~~
18 ~~any wood or wood product that has been contaminated during~~
19 ~~manufacture or use.~~

20 Sec. 11504. (1) **"HDPE" MEANS THAT TERM AS DEFINED IN SECTION**
21 **16101.**

22 (2) ~~(1)~~ "Health officer" means a full-time administrative
23 officer of a certified city, county, or district department of
24 health.

25 (3) ~~(2)~~ "Inert material" means a substance that will not
26 decompose, dissolve, or in any other way form a contaminated
27 leachate upon contact with water, or other liquids determined by

1 the department as likely to be found at the disposal area,
2 percolating through the substance.

3 (4) ~~(3)~~—"Insurance" means insurance that conforms to the
4 requirements of 40 C.F.R.—CFR 258.74(d) provided by an insurer who
5 has a certificate of authority from the Michigan commissioner of
6 insurance to sell this line of coverage. An applicant for an
7 operating license shall submit evidence of the required coverage by
8 submitting both of the following to the department:

9 (a) A certificate of insurance that uses wording approved by
10 the department.

11 (b) A certified true and complete copy of the insurance
12 policy.

13 (5) ~~(4)~~—"Landfill" means a disposal area that is a sanitary
14 landfill. **HOWEVER, AS USED IN SECTION 11532A, LANDFILL DOES NOT**
15 **INCLUDE A CAPTIVE FACILITY AS DEFINED IN SECTION 11525A.**

16 (6) ~~(5)~~—"Letter of credit" means an irrevocable letter of
17 credit that complies with 40 C.F.R.—CFR 258.74(c).

18 (7) **"LOCAL UNIT OF GOVERNMENT" MEANS A MUNICIPALITY OR COUNTY.**

19 (8) **"MARKET DEVELOPMENT FUND" MEANS THE RECYCLING INNOVATION**
20 **AND MARKET DEVELOPMENT FUND CREATED IN SECTION 11532C.**

21 (9) ~~(6)~~—"Medical waste" means that term as it is defined in
22 ~~part 138—SECTION 13805~~ of the public health code, ~~Act No. 378 of~~
23 ~~the Public Acts of 1978, being sections 333.13801 to 333.13831 of~~
24 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.13805.~~

25 (10) ~~(7)~~—"Municipal solid waste incinerator" means an
26 incinerator, ~~that is owned or operated by any person, and~~ **THAT**
27 meets all of the following requirements:

1 (a) The incinerator receives solid waste from off site and
2 burns only household waste from single and multiple dwellings,
3 hotels, motels, and other residential sources, or this household
4 waste together with solid waste from commercial, institutional,
5 municipal, county, or industrial sources that, if disposed of,
6 ~~would~~ **IS** not ~~be~~ required to be placed in a disposal facility
7 licensed under part 111.

8 (b) The **PERSON WHO OPERATES THE** incinerator has established
9 contractual requirements or other notification or inspection
10 procedures sufficient to assure that the incinerator receives and
11 burns only waste referred to in subdivision (a).

12 (c) The incinerator meets the requirements of this part and
13 the rules promulgated under this part.

14 (d) The incinerator is not an industrial furnace as defined in
15 40 C.F.R. ~~CFR~~ 260.10.

16 (e) The incinerator is not an incinerator that receives and
17 burns only medical waste or only waste produced at 1 or more
18 hospitals.

19 **(11)** ~~(8)~~ "Municipal solid waste incinerator ash" means the
20 substances remaining after combustion in a municipal solid waste
21 incinerator.

22 **(12) "MUNICIPALITY" MEANS A CITY, VILLAGE, OR TOWNSHIP.**

23 **(13)** ~~(9)~~ "Perpetual care fund" means a perpetual care fund
24 provided for in section 11525.

25 ~~—— (10) "Trust fund" means a trust fund held by a trustee which~~
26 ~~has the authority to act as a trustee and whose trust operations~~
27 ~~are regulated and examined by a federal or state agency. A trust~~

1 ~~fund shall comply with section 11523b.~~

2 **(14) "PETE" MEANS THAT TERM AS DEFINED IN SECTION 16101.**

3 Sec. 11505. (1) "Recyclable materials" means source separated
4 materials, site separated materials, high grade paper, glass,
5 metal, plastic, aluminum, newspaper, corrugated paper, yard
6 clippings, and other materials that may be recycled or composted.

7 **(2) "RECYCLING FUND" MEANS THE RECYCLING AND WASTE DIVERSION**
8 **FUND CREATED IN SECTION 11532B.**

9 (3) ~~(2)~~—"Regional solid waste management planning agency"
10 means the regional solid waste planning agency designated by the
11 governor pursuant to 42 USC 6946.

12 (4) ~~(3)~~—"Resource recovery facility" means machinery,
13 equipment, structures, or any parts or accessories of machinery,
14 equipment, or structures, installed or acquired for the primary
15 purpose of recovering materials or energy from the waste stream.

16 (5) ~~(4)~~—"Response activity" means an activity that is
17 necessary to protect the public health, safety, welfare, or the
18 environment, and includes, but is not limited to, evaluation,
19 cleanup, removal, containment, isolation, treatment, monitoring,
20 maintenance, replacement of water supplies, and temporary
21 relocation of people.

22 (6) ~~(5)~~—"Rubbish" means nonputrescible solid waste, excluding
23 ashes, consisting of both combustible and noncombustible waste,
24 including paper, cardboard, metal containers, yard clippings, wood,
25 glass, bedding, crockery, demolished building materials, or litter
26 of any kind that may be a detriment to the public health and
27 safety.

1 (7) ~~(6)~~—"Salvaging" means the lawful and controlled removal of
2 reusable materials from solid waste.

3 (8) "SCRAP WOOD" MEANS WOOD OR WOOD PRODUCT THAT IS 1 OR MORE
4 OF THE FOLLOWING:

5 (A) PLYWOOD, PRESSED BOARD, ORIENTED STRAND BOARD, OR ANY
6 OTHER WOOD OR WOOD PRODUCT MIXED WITH GLUE OR FILLER.

7 (B) WOOD OR WOOD PRODUCT TREATED WITH CREOSOTE OR
8 PENTACHLOROPHENOL.

9 (C) ANY OTHER WOOD OR WOOD PRODUCT DESIGNATED AS SCRAP WOOD IN
10 RULES PROMULGATED BY THE DEPARTMENT.

11 (9) ~~(7)~~—"Site separated material" means glass, metal, wood,
12 paper products, plastics, rubber, textiles, garbage, or any other
13 material approved by the department that is separated from solid
14 waste for the purpose of conversion into raw materials or new
15 products. Site separated material does not include the residue
16 remaining after glass, metal, wood, paper products, plastics,
17 rubber, textiles, or any other material approved by the department
18 is separated from solid waste.

19 (10) ~~(8)~~—"Slag" means the nonmetallic product resulting from
20 melting or smelting operations for iron or steel.

21 Sec. 11506. (1) "Solid waste" means garbage, rubbish, ashes,
22 incinerator ash, incinerator residue, street cleanings, municipal
23 and industrial sludges, solid commercial and solid industrial
24 waste, and animal waste other than organic waste generated in the
25 production of livestock and poultry. However, solid waste does not
26 include the following:

27 (a) Human body waste.

1 (b) Medical waste. ~~as it is defined in part 138 of the public~~
2 ~~health code, 1978 PA 368, MCL 333.13801 to 333.13831, and regulated~~
3 ~~under that part and part 55.~~

4 (c) Organic waste generated in the production of livestock and
5 poultry.

6 (d) Liquid waste.

7 (e) Ferrous or nonferrous scrap directed to a scrap metal
8 processor or to a reuser of ferrous or nonferrous products.

9 (f) Slag or slag products directed to a slag processor or to a
10 reuser of slag or slag products.

11 (g) Sludges and ashes managed as recycled or nondetrimental
12 materials appropriate for agricultural or silvicultural use
13 pursuant to a plan approved by the department. Food processing
14 residuals, ~~+~~wood ashes resulting solely from a source that burns
15 only wood that is untreated and inert, ~~+~~lime from kraft pulping
16 processes generated prior to bleaching, ~~+~~or aquatic plants may be
17 applied on, or composted and applied on, farmland or forestland for
18 an agricultural or silvicultural purpose, or used as animal feed,
19 as appropriate. ~~, and such an application or use does not require a~~
20 ~~plan described in this subdivision or a permit or license under~~
21 ~~this part.~~In addition, source separated materials approved by the
22 department for land application for agricultural and silvicultural
23 purposes and compost produced from those materials may be applied
24 ~~to the~~**ON** land for **AN** agricultural ~~and~~**OR** silvicultural **PURPOSE**.
25 ~~purposes and such an application does not require a plan described~~
26 ~~in this subdivision or permit or license under this part.~~Land
27 application authorized under this subdivision for an agricultural

1 or silvicultural purpose, or use as animal feed —as provided for
2 in this subdivision, **DOES NOT REQUIRE A PLAN UNDER THIS SUBDIVISION**
3 **OR A PERMIT OR LICENSE UNDER THIS PART, BUT** shall be performed in a
4 manner that prevents losses from runoff and leaching. Land
5 application under this subdivision shall be at an agronomic rate
6 consistent with generally accepted agricultural and management
7 practices under the Michigan right to farm act, 1981 PA 93, MCL
8 286.471 to 286.474.

9 (h) Materials approved for emergency disposal by the
10 department.

11 (i) Source separated materials.

12 (j) Site separated material.

13 (k) Fly ash or any other ash produced from the combustion of
14 coal, when used in the following instances:

15 (i) With a maximum of 6% of unburned carbon, **IF USED** as a
16 component of concrete, grout, mortar, or casting molds.

17 (ii) With a maximum of 12% unburned carbon passing M.D.O.T.
18 test method MTM 101, ~~when~~ **IF** used as a raw material in asphalt for
19 road construction.

20 (iii) As aggregate, road, or building material that in ultimate
21 use will be stabilized or bonded by cement, limes, or asphalt.

22 (iv) As a road base or construction fill that is covered with
23 asphalt, concrete, or other material approved by the department and
24 that is placed at least 4 feet above the seasonal groundwater
25 table.

26 (v) As the sole material in a depository designed to reclaim,
27 develop, or otherwise enhance land, subject to the approval of the

1 department. In evaluating the site, the department shall consider
2 the physical and chemical properties of the ash including, **BUT NOT**
3 **LIMITED TO**, leachability, and the engineering of the depository,
4 including, but not limited to, the compaction, control of surface
5 water and groundwater that may threaten to infiltrate the site, and
6 evidence that the depository is designed to prevent water
7 percolation through the material.

8 (1) Other wastes regulated by statute.

9 (2) "Solid waste hauler" means a person who owns or operates a
10 solid waste transporting unit.

11 (3) "Solid waste processing plant" means a tract of land,
12 building, unit, or appurtenance of a building or unit or a
13 combination of land, buildings, and units that is used or intended
14 for use for the processing of solid waste or the separation of
15 material for salvage or disposal, or both, but does not include a
16 plant engaged primarily in the acquisition, processing, and
17 shipment of ferrous or nonferrous metal scrap, or a plant engaged
18 primarily in the acquisition, processing, and shipment of slag or
19 slag products.

20 (4) "Solid waste transporting unit" means a container, ~~that~~
21 **WHICH** may be an integral part of a truck or other piece of
22 equipment, used for the transportation of solid waste.

23 (5) "Solid waste transfer facility" means a tract of land, a
24 building, ~~and any appurtenances~~ **APPURTENANCE**, or a container, or
25 ~~any~~ **A** combination of land, buildings, **APPURTENANCES**, or containers
26 that is used or intended for use in the rehandling or storage of
27 solid waste incidental to the transportation of the solid waste,

1 but is not located at the site of generation or the site of
2 disposal of the solid waste.

3 (6) "Source separated material" means glass, metal, wood,
4 paper products, plastics, rubber, textiles, garbage, or any other
5 material approved by the department that is separated at the source
6 of generation for the purpose of conversion into raw materials or
7 new products including, but not limited to, compost.

8 (7) "TREATED WOOD" MEANS WOOD OR WOOD PRODUCT THAT HAS BEEN
9 TREATED WITH 1 OR MORE OF THE FOLLOWING:

10 (A) CHROMATED COPPER ARSENATE (CCA).

11 (B) AMMONIACAL COPPER QUAT (ACQ).

12 (C) AMMONIACAL COPPER ZINC ARSENATE (ACZA).

13 (D) ANY OTHER CHEMICAL DESIGNATED IN RULES PROMULGATED BY THE
14 DEPARTMENT.

15 (8) "TRUST FUND" MEANS A TRUST FUND HELD BY A TRUSTEE WHO HAS
16 THE AUTHORITY TO ACT AS A TRUSTEE AND WHOSE TRUST OPERATIONS ARE
17 REGULATED AND EXAMINED BY A FEDERAL OR STATE AGENCY. A TRUST FUND
18 SHALL COMPLY WITH SECTION 11523B.

19 (9) ~~(7)~~—"Type I public water supply", "type IIa public water
20 supply", "type IIb public water supply", and "type III public water
21 supply" mean those terms, respectively, as described in R 325.10502
22 of the Michigan administrative code.

23 (10) "WOOD" MEANS TREES, BRANCHES, BARK, LUMBER, PALLETS, WOOD
24 CHIPS, SAWDUST, OR OTHER WOOD OR WOOD PRODUCT BUT DOES NOT INCLUDE
25 SCRAP WOOD, TREATED WOOD, PAINTED WOOD OR PAINTED WOOD PRODUCT, OR
26 ANY WOOD OR WOOD PRODUCT THAT HAS BEEN CONTAMINATED DURING
27 MANUFACTURE OR USE.

1 (11) ~~(8)~~—"Yard clippings" means leaves, grass clippings,
2 vegetable or other garden debris, shrubbery, or brush or tree
3 trimmings, less than 4 feet in length and 2 inches in diameter,
4 that can be converted to compost humus. Yard clippings do not
5 include stumps, agricultural wastes, animal waste, roots, sewage
6 sludge, or garbage.

7 SEC. 11532C. (1) THE RECYCLING INNOVATION AND MARKET
8 DEVELOPMENT FUND IS CREATED WITHIN THE STATE TREASURY.

9 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
10 ANY SOURCE FOR DEPOSIT INTO THE MARKET DEVELOPMENT FUND. THE STATE
11 TREASURER SHALL DIRECT THE INVESTMENT OF THE MARKET DEVELOPMENT
12 FUND. THE STATE TREASURER SHALL CREDIT TO THE MARKET DEVELOPMENT
13 FUND INTEREST AND EARNINGS FROM DEVELOPMENT FUND INVESTMENTS.

14 (3) MONEY IN THE MARKET DEVELOPMENT FUND AT THE CLOSE OF THE
15 FISCAL YEAR SHALL REMAIN IN THE MARKET DEVELOPMENT FUND AND SHALL
16 NOT LAPSE TO THE GENERAL FUND.

17 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE MARKET
18 DEVELOPMENT FUND FOR AUDITING PURPOSES.

19 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE MARKET
20 DEVELOPMENT FUND, UPON APPROPRIATION, FOR GRANTS OF NOT MORE THAN
21 \$250,000.00 EACH OR, IF THE GRANTS ARE FOR CAPITAL IMPROVEMENTS,
22 NOT MORE THAN \$1,000,000.00 EACH TO PRIVATE OR PUBLIC ENTITIES IN
23 THIS STATE FOR ANY OF THE FOLLOWING PURPOSES:

24 (A) TO EXPAND MARKETS FOR RECYCLED MATERIALS IN THIS STATE.

25 (B) TO IMPLEMENT PROGRAMS TO EXPAND THE COLLECTION OF
26 RECYCLABLE MATERIALS FROM WASTE GENERATED AT SITES OTHER THAN
27 SINGLE-FAMILY DWELLINGS.

1 (C) TO EXPAND RECYCLING EFFORTS WITHIN A MUNICIPALITY THAT HAS
2 A BENCHMARK RECYCLING PROGRAM THROUGH THE IMPLEMENTATION OF
3 INNOVATIVE RECYCLING EFFORTS THAT WILL INCREASE THE RECYCLING RATE
4 WITHIN THAT MUNICIPALITY.

5 (D) TO EXPAND RECYCLING EFFORTS BY AUTHORITIES ESTABLISHED
6 UNDER 1947 PA 179, MCL 123.301 TO 123.311, OR 1955 PA 233, MCL
7 124.281 TO 124.294.

8 SEC. 11532D. (1) BY THE FIRST DAY OF EVERY THIRD MONTH AFTER
9 THE MONTH IN WHICH THE RECYCLING AND SOLID WASTE SURCHARGE IS
10 INITIALLY ASSESSED UNDER SECTION 11532A, MONEY APPROPRIATED FROM
11 THE RECYCLING FUND SHALL BE DISTRIBUTED, BUT ONLY AS FOLLOWS:

12 (A) THE FIRST \$13,250,000.00 APPROPRIATED FROM THE RECYCLING
13 FUND SHALL BE DISTRIBUTED AS FOLLOWS:

14 (i) IF COUNTIES ARE REQUIRED TO REPORT RECYCLING DATA TO THE
15 DEPARTMENT UNDER THIS PART, \$6,250.00 TO EACH COUNTY TO BE USED TO
16 OFFSET THE COST OF MEETING THE REPORTING REQUIREMENTS.

17 (ii) THE REMAINING MONEY TO MUNICIPALITIES ON A PER CAPITA
18 BASIS, SUBJECT TO AND TO BE USED FOR THE PURPOSES DESCRIBED IN
19 SECTION 11532E.

20 (B) THE NEXT \$1,662,500.00 APPROPRIATED FROM THE RECYCLING
21 FUND SHALL BE DISTRIBUTED TO THE DEPARTMENT FOR ALL OF THE
22 FOLLOWING PURPOSES:

23 (i) TO PROVIDE RECYCLING TECHNICAL ASSISTANCE, INCLUDING, BUT
24 NOT LIMITED TO, GATHERING AND DISSEMINATING INFORMATION USEFUL IN
25 THE DEVELOPMENT OF MARKET DEMAND FOR RECYCLED MATERIALS.

26 (ii) FOR THE ADMINISTRATION OF THE RECYCLING FUND AND SECTIONS
27 11532A TO 11532H.

1 (iii) TO OTHERWISE ADMINISTER AND ENFORCE THIS PART.

2 (C) THE NEXT \$375,000.00 APPROPRIATED FROM THE RECYCLING FUND
3 SHALL BE DISTRIBUTED TO COUNTIES THROUGH AND FOR THE PURPOSES OF
4 THE GRANT PROGRAM PROVIDED FOR IN SECTION 11547.

5 (D) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012,
6 THE NEXT \$2,000,000.00 APPROPRIATED FROM THE RECYCLING FUND SHALL
7 BE DISTRIBUTED ON A PER CAPITA BASIS TO MUNICIPALITIES THAT, SINCE
8 SEPTEMBER 30, 2008, HAVE DIRECTLY PROVIDED CURBSIDE RECYCLING
9 SERVICE, OR HAVE PAID A CONTRACTOR TO PROVIDE SUCH SERVICE FREE OF
10 CHARGE, AT LEAST EVERY OTHER WEEK FOR SOME OR ALL OF THE HOUSEHOLDS
11 IN THAT MUNICIPALITY.

12 (E) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012,
13 AFTER THE DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (D), MONEY
14 APPROPRIATED FROM THE RECYCLING FUND SHALL BE DISTRIBUTED TO LOCAL
15 UNITS OF GOVERNMENT THAT DIRECTLY PROVIDE DROP-OFF RECYCLING
16 SERVICE, OR PAY A CONTRACTOR TO PROVIDE SUCH SERVICE FREE OF
17 CHARGE. THE AMOUNT DISTRIBUTED SHALL BE \$1,250.00 PER DROP-OFF
18 POINT MAINTAINED SINCE SEPTEMBER 30, 2008.

19 (F) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012,
20 THE NEXT \$2,000,000.00, AND FOR STATE FISCAL YEARS ENDING ON OR
21 AFTER SEPTEMBER 30, 2013, THE NEXT \$4,250,000.00 TO THE MARKET
22 DEVELOPMENT FUND.

23 (G) AFTER DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (C), UNDER
24 SUBDIVISIONS (D) AND (E), IF APPLICABLE, AND UNDER SUBDIVISION (F),
25 85% OF ANY REMAINING MONEY APPROPRIATED FROM THE RECYCLING FUND
26 SHALL BE DISTRIBUTED TO MUNICIPALITIES ON A PER CAPITA BASIS AND
27 15% SHALL BE DISTRIBUTED TO COUNTIES ON A PER CAPITA BASIS. IF

1 COUNTIES ARE REQUIRED TO REPORT RECYCLING DATA TO THE DEPARTMENT
2 UNDER THIS PART, A COUNTY THAT FAILS TO REPORT THE DATA IS NOT
3 ELIGIBLE FOR A DISTRIBUTION UNDER THIS SUBDIVISION.

4 (2) MONEY DISTRIBUTED UNDER SUBSECTION (1) (D), (E), OR (G)
5 SHALL BE USED TO PROMOTE THE HEALTH, SAFETY, OR WELFARE OF THE
6 CITIZENS OF THE RESPECTIVE LOCAL UNIT OF GOVERNMENT.

7 (3) FUNDING PROVIDED TO LOCAL UNITS OF GOVERNMENT UNDER THIS
8 SECTION IS IN ADDITION TO, AND NOT A SUBSTITUTE FOR, REVENUE
9 SHARING OR OTHER STATUTORY OR CONSTITUTIONAL FUNDING OBLIGATIONS OF
10 THIS STATE TO LOCAL UNITS OF GOVERNMENT.

11 (4) TO BE ELIGIBLE FOR A DISTRIBUTION UNDER THIS SECTION, A
12 LOCAL UNIT OF GOVERNMENT SHALL, UPON REQUEST, PROVIDE THE
13 DEPARTMENT WITH INFORMATION THE DEPARTMENT CONSIDERS NECESSARY TO
14 DETERMINE ELIGIBILITY.

15 SEC. 11532E. (1) TO QUALIFY FOR A DISTRIBUTION UNDER SECTION
16 11532D(1) (A) (ii) DURING A STATE FISCAL YEAR, A MUNICIPALITY SHALL
17 MEET ALL OF THE FOLLOWING REQUIREMENTS, AS APPLICABLE:

18 (A) BY THE END OF THE PRECEDING STATE FISCAL YEAR, THE
19 MUNICIPALITY HAD A BENCHMARK RECYCLING PROGRAM. THIS SUBDIVISION
20 APPLIES TO DISTRIBUTIONS ON OR AFTER OCTOBER 1, 2011 OR, FOR A
21 MUNICIPALITY WITH A POPULATION OF 124,000 OR MORE, ON OR AFTER
22 OCTOBER 1, 2012.

23 (B) THE MUNICIPALITY SUBMITS TO THE DEPARTMENT ON A FORM
24 PROVIDED BY THE DEPARTMENT AN AGREEMENT TO USE THE DISTRIBUTION TO
25 OFFSET THE COSTS OF A RECYCLING PROGRAM, WHICH MAY INCLUDE PLANNING
26 COSTS.

27 (2) A MUNICIPALITY THAT RECEIVES MONEY UNDER SECTION

1 11532D(1) (A) (ii) SHALL DO 1 OR MORE OF THE FOLLOWING WITH THE MONEY:

2 (A) POOL THE MONEY WITH OR TRANSFER IT TO OTHER LOCAL UNITS OR
3 AN AUTHORITY ESTABLISHED UNDER 1947 PA 179, MCL 123.301 TO 123.311,
4 OR 1955 PA 233, MCL 124.281 TO 124.294, FOR MULTI JURISDICTIONAL
5 RECYCLING PROGRAMS CONSISTENT WITH THE REQUIREMENTS OF THIS
6 SECTION.

7 (B) USE THE MONEY TO CONDUCT OR TO PAY CONTRACTORS TO CONDUCT
8 RECYCLING PROGRAMS CONSISTENT WITH THE REQUIREMENTS OF THIS
9 SECTION.

10 (3) IF A MUNICIPALITY DOES NOT QUALIFY FOR A DISTRIBUTION OR
11 PORTION OF A DISTRIBUTION UNDER SECTION 11532D(1) (A) (ii), THE MONEY
12 THAT WOULD OTHERWISE HAVE BEEN DISTRIBUTED TO THE MUNICIPALITY
13 SHALL BE DISTRIBUTED AS FOLLOWS:

14 (A) TO THE COUNTY. TO QUALIFY FOR A DISTRIBUTION UNDER THIS
15 SUBDIVISION, THE COUNTY SHALL DO BOTH OF THE FOLLOWING, AS
16 APPLICABLE:

17 (i) SUBMIT TO THE DEPARTMENT ON A FORM PROVIDED BY THE
18 DEPARTMENT AN AGREEMENT TO USE THE MONEY ANYWHERE IN THE COUNTY FOR
19 THE PURPOSES FOR WHICH IT WOULD HAVE BEEN REQUIRED TO HAVE BEEN
20 USED BY THE MUNICIPALITY.

21 (ii) IF COUNTIES ARE REQUIRED TO REPORT RECYCLING DATA TO THE
22 DEPARTMENT UNDER THIS PART, COMPLY WITH THE REPORTING REQUIREMENT.

23 (B) IF THE COUNTY DOES NOT QUALIFY FOR A DISTRIBUTION UNDER
24 SUBDIVISION (A), TO THE MARKET DEVELOPMENT FUND.

25 SEC. 11532F. A BENCHMARK RECYCLING PROGRAM IS A RECYCLING AND
26 WASTE DIVERSION PROGRAM THAT MEETS ALL OF THE FOLLOWING
27 REQUIREMENTS, AS APPLICABLE:

1 (A) FOR A MUNICIPALITY WITH A POPULATION GREATER THAN 10,000
2 OR A POPULATION DENSITY GREATER THAN 300 PER SQUARE MILE, THE
3 RECYCLING PROGRAM USES TRUCKS AND RELATED EQUIPMENT TO COLLECT
4 RECYCLABLE MATERIALS FROM THE CURBSIDE OR SIMILAR LOCATIONS AT
5 LEAST EVERY OTHER WEEK FROM EACH HOUSEHOLD IN THE MUNICIPALITY,
6 OTHER THAN HOUSEHOLDS IN MULTIFAMILY DWELLINGS OF 5 OR MORE
7 DWELLING UNITS. AT LEAST 5 OF THE FOLLOWING MATERIALS SHALL BE
8 COLLECTED IN THIS MANNER:

9 (i) CLEAR GLASS.

10 (ii) COLORED GLASS.

11 (iii) ALUMINUM, STEEL, AND BIMETALLIC CANS.

12 (iv) MIXED RESIDENTIAL PAPER.

13 (v) NEWSPRINT.

14 (vi) CORRUGATED CARDBOARD.

15 (vii) MAGAZINES.

16 (viii) BOXBOARD.

17 (ix) HDPE AND PETE.

18 (B) FOR A MUNICIPALITY WITH A POPULATION OF 10,000 OR LESS AND
19 A POPULATION DENSITY OF 300 OR LESS PER SQUARE MILE, 1 OF THE
20 FOLLOWING APPLIES:

21 (i) THE RECYCLING PROGRAM MEETS THE REQUIREMENTS OF SUBDIVISION
22 (A).

23 (ii) THE RECYCLING PROGRAM DOES NOT MEET AND HAS NOT MET THE
24 REQUIREMENTS OF SUBDIVISION (A) BUT INCLUDES AN EASILY ACCESSIBLE
25 DROP-OFF COLLECTION POINT AVAILABLE TO CITIZENS NOT LESS THAN 24
26 HOURS PER WEEK WHERE AT LEAST 5 OF THE MATERIALS LISTED IN
27 SUBDIVISION (A) ARE COLLECTED.

1 (C) BY ORDINANCE, THE MUNICIPALITY REQUIRES PERSONS GENERATING
2 YARD CLIPPINGS AND OTHER ITEMS PROHIBITED FROM DISPOSAL IN A
3 LANDFILL UNDER SECTION 11514 TO SEPARATE THOSE ITEMS FROM OTHER
4 SOLID WASTE FOR SEPARATE COLLECTION, COMPOSTING, OR OTHER PROPER
5 MANAGEMENT.

6 (D) THE MUNICIPALITY CONDUCTS A COMPREHENSIVE AND SUSTAINED
7 PUBLIC INFORMATION AND EDUCATION PROGRAM CONCERNING RECYCLING
8 PROGRAM FEATURES AND REQUIREMENTS. AS PART OF THIS PROGRAM, THE
9 MUNICIPALITY SHALL, AT LEAST 30 DAYS PRIOR TO THE INITIATION OF THE
10 RECYCLING PROGRAM AND AT LEAST ANNUALLY THEREAFTER, NOTIFY ALL
11 PERSONS OCCUPYING RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, AND
12 MUNICIPAL PREMISES IN THE MUNICIPALITY OF THE OPPORTUNITIES FOR
13 RECYCLING IN THAT MUNICIPALITY AND THE REQUIREMENTS FOR SEPARATION
14 AND PROPER MANAGEMENT OF YARD CLIPPINGS AND OTHER ITEMS PROHIBITED
15 FROM DISPOSAL IN A LANDFILL.

16 (E) THE MUNICIPALITY ADEQUATELY DOCUMENTS ITS RECYCLING AND
17 WASTE DIVERSION PROGRAM.

18 SEC. 11532H. (1) THE RECYCLING ADVISORY COUNCIL IS CREATED
19 WITHIN THE DEPARTMENT.

20 (2) THE COUNCIL SHALL CONSIST OF THE DIRECTOR OR HIS OR HER
21 DESIGNEE AND ALL OF THE FOLLOWING MEMBERS APPOINTED BY THE
22 GOVERNOR:

23 (A) A REPRESENTATIVE OF AN ORGANIZATION OF TOWNSHIPS.

24 (B) A REPRESENTATIVE OF AN ORGANIZATION OF CITIES AND
25 VILLAGES.

26 (C) A REPRESENTATIVE OF AN ORGANIZATION OF COUNTIES.

27 (D) A REPRESENTATIVE OF A CONSERVATION OR ENVIRONMENTAL

1 ORGANIZATION.

2 (E) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
3 GLASS.

4 (F) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
5 PLASTICS.

6 (G) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED
7 PAPER.

8 (H) A REPRESENTATIVE OF A RECYCLING PROCESSING FACILITY.

9 (I) A REPRESENTATIVE OF AN ORGANIZATION REPRESENTING BEVERAGE
10 BOTTLERS, WHOLESALERS, AND RETAILERS.

11 (J) A REPRESENTATIVE OF A PUBLIC LANDFILL OPERATOR.

12 (K) A REPRESENTATIVE OF A PRIVATE LANDFILL OPERATOR.

13 (L) AN OFFICER OR EMPLOYEE OF A LOCAL UNIT OF GOVERNMENT
14 RESPONSIBLE FOR RECYCLING IN THAT LOCAL UNIT.

15 (M) A REPRESENTATIVE OF A PRIVATE COMPANY THAT PROVIDES
16 CURBSIDE RECYCLING OR DROP-OFF COLLECTION POINT SERVICE TO THE
17 PUBLIC.

18 (N) A REPRESENTATIVE OF THE GENERAL PUBLIC.

19 (3) THE MEMBERS FIRST APPOINTED TO THE COUNCIL SHALL BE
20 APPOINTED BY APRIL 1, 2012.

21 (4) MEMBERS OF THE COUNCIL SHALL SERVE FOR THE LIFE OF THE
22 COUNCIL.

23 (5) IF A VACANCY OCCURS ON THE COUNCIL, THE GOVERNOR SHALL
24 MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS
25 THE ORIGINAL APPOINTMENT.

26 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COUNCIL FOR
27 INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR

1 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

2 (7) THE FIRST MEETING OF THE COUNCIL SHALL BE CALLED BY THE
3 DIRECTOR. AT THE FIRST MEETING, THE COUNCIL SHALL ELECT FROM AMONG
4 ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS
5 NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE COUNCIL
6 SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF
7 THE CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

8 (8) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTE A
9 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE COUNCIL.
10 THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF THE COUNCIL IS
11 REQUIRED FOR OFFICIAL ACTION OF THE COUNCIL.

12 (9) THE BUSINESS THAT THE COUNCIL MAY PERFORM SHALL BE
13 CONDUCTED AT A PUBLIC MEETING OF THE COUNCIL HELD IN COMPLIANCE
14 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

15 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
16 RETAINED BY THE COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
17 IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
18 15.231 TO 15.246.

19 (11) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION.
20 THE DIRECTOR OR HIS OR HER DESIGNEE ON THE COUNCIL SHALL SERVE
21 WITHOUT ADDITIONAL COMPENSATION. HOWEVER, MEMBERS OF THE COUNCIL
22 MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED
23 IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE
24 COUNCIL.

25 (12) BY APRIL 1, 2013, THE COUNCIL SHALL SUBMIT TO THE
26 GOVERNOR AND THE LEGISLATURE A REPORT ON ITS RECOMMENDATIONS ON
27 EXPANDING AND IMPROVING THE EFFICIENCY OF RECYCLING IN THIS STATE.

1 THE REPORT SHALL INCLUDE RECOMMENDATIONS ON ALL OF THE FOLLOWING:

2 (A) ANY CHANGES IN THE DISTRIBUTION FORMULA UNDER SECTION
3 11532D(1) (A) TO TAKE EFFECT AFTER SEPTEMBER 30, 2014.

4 (B) THE EFFECTIVENESS OF THE GRANT PROGRAM ESTABLISHED IN
5 SECTION 11532C AND RECOMMENDATIONS AS TO WHETHER THE PROGRAM SHOULD
6 BE CONTINUED OR EXPANDED OR OTHERWISE CHANGED.

7 (C) ANY CHANGES IN THE STANDARDS FOR A BENCHMARK RECYCLING
8 PROGRAM TO TAKE EFFECT AFTER SEPTEMBER 30, 2014, INCLUDING, BUT NOT
9 LIMITED TO, RECOMMENDATIONS CONCERNING THE FOLLOWING POTENTIAL
10 CHANGES:

11 (i) INCREASING THE NUMBER OF MATERIALS THAT MUST BE COLLECTED.

12 (ii) REQUIRING THE COLLECTION OF HOUSEHOLD HAZARDOUS WASTE.

13 (iii) REQUIRING A COLLECTION PROGRAM FOR COMMERCIAL GENERATORS
14 OF RECYCLABLE SOLID WASTE.

15 (iv) REQUIRING A CURBSIDE RECYCLING PROGRAM DESCRIBED IN
16 SECTION 11532F(A) TO PROVIDE SERVICE TO HOUSEHOLDS IN MULTIFAMILY
17 DWELLINGS OF 5 OR MORE DWELLING UNITS.

18 (13) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2014.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No.____ or House Bill No. 5558(request no.
21 01126'09 *) of the 95th Legislature is enacted into law.