House
Legislative
Analysis
Section

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ENVIRONMENTAL CLEANUP PACKAGE

House Bill 5672 (Substitute H-1*)
Sponsor: Rep. Howard Wetters

House Bill 5673 (Substitute H-1)
Sponsor: Rep. Alvin Kukuk

First Analysis (5-16-96)

Committee: Conservation, Environment and Great Lakes

THE APPARENT PROBLEM:

In 1995, the legislature enacted major reforms designed to aid in the cleanup and redevelopment of contaminated land, especially land in urban areas: liability for cleanup costs was eliminated for owners and operators who did not cause contamination at a facility, and a new emphasis was placed on the private redevelopment of so-called "brownfield" sites. However, the insolvency of the Michigan Underground Storage Tanks Financial Assurance (MUSTFA) Fund, and the elimination of retroactive liability for cleanup sites from private companies, in combination with the near-exhaustion of "Quality of Life Bond" program enacted in 1988 to meet the state's environmental challenges, has left the state facing a number of serious environmental challenges, including finding ways to finance the cleanup of "orphan shares" of contaminated sites, and the cleanup of the many underground storage tank sites left unfunded.

New funding proposals have been adopted during the past several months to resolve this problem. Public Acts 133, 134, and 135 of 1996 permit the Department of Natural Resources (DNR) to deposit into a new environmental protection fund money received from the sale of the state's royalty interests in oil and gas wells. In addition, the Environmental Response Division of the Michigan Department of Environmental Quality (DEQ), in its *Environmental Cleanup and Redevelopment Funding Proposal*, dated April 1996, has identified new funding initiatives. The proposal suggests that $82 million be spent on environmental cleanup and urban redevelopment, including $20 million for leaking underground storage tank (LUST) cleanups, and $16 million for cleanups at newly orphaned sites. The DEQ proposals identified the following funding sources: $30 million from the state general fund; $20 million from unclaimed bottle deposits; $1 million from the proceeds of the sale of surplus state lands; $6 million from Section 29 credits on the sale of the state's gas and oil royalty interests; and $25 million from a source that is to be identified at a later date.

The DEQ proposals also identified new priorities in the use of funding for environmental cleanup and redevelopment. These have been incorporated into legislation which would, among other things, replace the Environmental Response Fund, and, instead, would create a cleanup and redevelopment fund. That fund would receive money that, under current law, is required to be deposited into the Michigan Unclaimed Bottle Fund. Money from the Cleanup and Redevelopment Fund would be used, among other thing, to provide cost-share grants for municipal landfills; as a Superfund match, including funding for any response activity for which funds were required to match federal dollars; and to complete response activities at sites that would facilitate redevelopment; or to complete response activities in situations where environmental problems threatened the public health.

THE CONTENT OF THE BILLS:

House Bills 5672 and 5673 would amend the Natural Resources and Environmental Protection Act (NREPA) and the beverage container deposit law, respectively, to provide for redevelopment of contaminated industrial sites; create a revitalization loan program, a state sites cleanup program, and a cost-share grant program; establish revitalization and cleanup and redevelopment funds; and require that money from the Bottle Deposit Fund be allocated to the Cleanup and Redevelopment Fund. The following is a more detailed description of the legislation.

House Bill 5673 would amend the beverage container deposit law (MCL 445.573c) to require that 75 percent

of the money in the Bottle Deposit Fund be allocated to the proposed Cleanup and Redevelopment Fund, rather than to the Michigan Unclaimed Bottle Fund as currently provided. Further, the bill would delete provisions that require that 1) during the first 10 years of its existence any money received by the Unclaimed Bottle Fund, and interest earned on that money, remain permanently in the fund, and 2) any money received by the fund thereafter, plus any interest on that money and any interest on the money deposited during the first 10 years, be disbursed annually according to the provisions in Natural Resources and Environmental Protection Act that established the fund.

House Bill 5673 is tie-barred to Senate Bill 919. (Senate Bill 919 is identical to House Bill 5672, and is currently pending before the Senate.)

House Bill 5672 would amend Part 201 of the Natural Resources and Environmental Protection Act (MCL 324.19507 et al.), which governs environmental response, to do the following:

Brownfield Redevelopment Board. The bill would create the Brownfield Redevelopment Board within the Department of Environmental Quality (DEQ). The board would consist of the director of the DEQ, the director of the Department of Management and Budget, and the chief executive officer of the Jobs Commission, or their designees.

A majority of the board members would constitute a quorum for the transaction of business at a meeting of the board. The board would be subject to the Open Meetings Act and the Freedom of Information Act and would have to carry out the duties and responsibilities specified in the bill and as otherwise provided by law.

Cleanup and Redevelopment Fund. The bill would delete provisions that established the Environmental Response Fund and, instead, would create the Cleanup and Redevelopment Fund. The state treasurer could receive money and other assets from any source for deposit into the fund. He or she would be responsible for directing the investment of the fund and would have to credit to the fund any interest and earnings from fund investments. Further, the bill specifies that civil fines imposed by the circuit court and collected and placed in the fund could be earmarked by the DEQ for use at specific sites.

The state treasurer could establish subaccounts within the fund, and would have to establish a subaccount for all money in the former Environmental Response Fund on the effective date of the bill. Proceeds of all cost recovery actions taken and settlements entered into under Part 201, excluding natural resource damages, by the DEQ or the attorney general, or both, would have to be credited to this subaccount.

The NREPA currently allows money to be appropriated from the Environmental Response Fund only for response activities at facilities that have been subjected to the risk assessment process described in the act. The bill would allow money from the Cleanup and Redevelopment Fund to be appropriated only for response activities at sites subjected to the risk assessment process. The bill also would delete a provision that allows the Environmental Response Fund to be used for match, operation, and maintenance purposes as required under the federal Superfund Act and that requires the governor to recommend an annual appropriation for the fund in his or her annual budget recommendations to the legislature. Instead, the bill would require the DEQ to submit annually to the governor a request for appropriation from the Cleanup and Redevelopment Fund.

Money from the fund could be used for the following as determined by the DEQ:

--National priority list Municipal Landfill Cost-Share Grants to be approved by the board.

--Superfund match, which would include funding for any response activity that was required to match federal dollars at a Superfund site as required under the Superfund Act.

--Response activities to address actual or potential public health or environmental problems.

--Completion of response activities initiated by the state using environmental protection bond funds or completion of response activities at facilities initiated by a person who was liable under Part 201 prior to Public Act 71 of 1995, but who was not liable if response activities had ceased.

--Response activities at sites that would facilitate redevelopment.

--Emergency response actions for sites to be determined by the DEQ.

The total amount of funds spent by the DEQ at sites where the source of the contamination was predominantly from the release of a regulated substance from an underground storage tank system could not exceed 24 percent of the total funds appropriated from the fund in a fiscal year or $20 million in a fiscal year, whichever was less. The total amount of funds spent

by the DEQ for national priority list Municipal Landfill Cost-Share Grants could not exceed 12 percent of the funds appropriated from the fund in a fiscal year or $10 million in a fiscal year, whichever was less.

Revitalization Revolving Loan Fund. The bill would create the Revitalization Revolving Loan Fund within the state treasury and require the state treasurer to direct its investment. The state treasurer could receive money or other assets from any source for deposit into the fund, and would have to credit to the fund interest and earnings from fund investments. An unspent balance within the fund at the close of the fiscal year would have to be carried forward to the following fiscal year.

The DEQ annually would have to submit to the governor a request for a lump-sum appropriation from the fund for loans to be made under the proposed Revitalization Revolving Loan Program. Further, the DEQ could spend money from the fund, upon appropriation, only for the Revitalization Revolving Loan Program.

Revitalization Loan Program. The DEQ would have to create a Revitalization Revolving Loan Program to provide loans to certain local units of government for eligible activities at facilities in order to promote economic redevelopment. To be eligible for a loan the applicant would have to be a county, city, township, or village, or an authority under the proposed Brownfield Redevelopment Financing Act (proposed in Senate Bill 923 and House Bill 5671). The municipality that created the authority would have to commit to secure the loan with a pledge of the municipality's full faith and credit. Further, the facility would have to be within the applicant's jurisdiction, and the application would have to be completed and submitted on a form provided by the DEQ, be received by the deadline established by the DEQ, and be for eligible activities only. (Under the NREPA, "facility" refers to an area, place, or property where a hazardous substance in excess of specified concentrations has been released, deposited, disposed of, or otherwise come to be located.)

Eligible activities would be limited to evaluation and demolition at the facility or facilities in an area-wide zone, and interim response activities required to facilitate evaluation and demolition conducted prior to redevelopment of a facility or facilities in an area-wide zone. Eligible activities would include only those activities necessary to facilitate redevelopment; they would not include activities necessary only to design or complete a remedial action that fully complied with the requirements of the NREPA pertaining to cleanup criteria and remedial actions. All eligible activities would have to be consistent with a work plan or remedial action plan approved in advance by the DEQ. Only activities carried out and costs incurred after execution of a loan agreement would be eligible.

The DEQ would have to provide for at least one application cycle per fiscal year. Prior to each application cycle, the DEQ would have to develop written instructions for prospective applicants including the criteria that would be used in application review and approval. Final application decisions would have to be made by the DEQ within four months of the application deadline.

A complete application would have to include a description of the proposed eligible activities, an itemized budget for the proposed eligible activities, a schedule for the completion of the proposed eligible activities, location of the facility, current ownership and ownership history of the facility, current use of the facility, a detailed history of the use of the facility, and existing and proposed future zoning of the facility. The application also would have to include:

--A description of the facility's economic redevelopment potential. The applicant would not have to demonstrate that a specific redevelopment proposal had been identified.

--A resolution from the local governing body of the applicant committing to repayment of the loan.

--Other information as specified by the DEQ in its written instructions.

If the property were not owned by the applicant, the application would have to include a draft of an enforceable agreement between the property owner and the applicant that committed the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed activities.

To receive loan funds, approved applicants would have to enter into a loan agreement with the DEQ. At a minimum, the loan agreement would have to contain all of the following provisions:

--The approved eligible activities to be undertaken with loan funds.

--The loan interest rate, terms, and repayment schedule as determined by the DEQ.

--An implementation schedule.

--If the property were not owned by the recipient, an executed agreement that had been approved by the DEQ that committed the property owner to cooperate with the applicant.

--A commitment that the loan was secured by a full faith and credit pledge of the applicant. If the applicant were an authority established under the Brownfield Redevelopment Financing Act (proposed in Senate Bill 923 and House Bill 5671), the commitment and pledge would have to be made by the municipality that created the authority.

--Reporting requirements. At a minimum, the recipient would have to submit a progress status report to the DEQ every six months during the implementation schedule, and within three months of completing the loan-funded activities would have to provide a final report that contained documentation of project costs and expenditures, including invoices and proof of payment.

--Other provisions as considered appropriate by the DEQ.

If an approved applicant failed to sign a loan agreement within 90 days of a written loan offer by the DEQ, the DEQ could cancel the loan offer. The applicant could not appeal or contest a cancellation.

The DEQ could terminate a loan agreement and require immediate repayment of the loan if the recipient used loan funds for any purpose other than for the approved eligible activities specified in the loan agreement. The DEQ would have to provide written notice 30 days prior to the termination.

Loans would have an interest rate of 2 percent, and loan recipients would have to repay loans in equal annual installments beginning not later than five years, and concluding not later than 15 years, after execution of a loan agreement. Loan payments and interest would have to be deposited into the Revitalization Revolving Loan Fund.

Upon default of a loan, or upon the request of the loan recipient as a method to repay the loan, the Department of Treasury would have to withhold state payments from the loan recipient in amounts consistent with the repayment schedule in the loan agreement until the loan was repaid. The Department of Treasury would have to deposit these withheld funds into the Revitalization Revolving Loan Fund until the loan was repaid.

State Sites Cleanup Program. The bill would require the DEQ to establish a state Sites Cleanup Program to spend $20 million appropriated by the legislature for site cleanup under Public Act 265 of 1994, which made appropriations for the Department of Natural Resources for fiscal year 1994-95. The DEQ could spend the money appropriated for state site cleanup only for response activities at facilities where the state was liable as an owner or operator, or where the state had licensure or decommissioning obligations as an owner or possessor of radioactive materials regulated by the Nuclear Regulatory Commission. Money spent for the state Sites Cleanup Program could not be used to pay fines, penalties, or damages.

Six months after the effective date of the bill, and by October 1 of each year thereafter, each state executive department and agency would have to provide to the DEQ a detailed list of all facilities for which the department or agency was liable as an owner or operator. Subsequent lists would not have to include facilities identified in a previous list. A list would have to include the following information for each facility:

--The facility's name and location.

--A history of the use of the facility.

--A detailed summary of available information regarding the source, nature, and extent of the contamination at the facility, and of any public health or environmental impacts at the facility.

--A detailed summary of available information on the resale and redevelopment potential of the facility.

--A description, and estimated cost, of the response activities needed at the facility, if known.

Within 12 months after the effective date of the bill and by February 1 of each year thereafter, the Brownfield Redevelopment Board would have to develop a list of the identified facilities according to priority. Sites posing the greatest risk to the public health, safety, welfare, or the environment and those having high resale and redevelopment potential would have to be given the highest priority. For each facility, the list would have to include the facility's priority order, the response activities to be completed at the facility, the estimated cost of the response activities, and the state executive department or agency that was liable as an owner or operator.

All state executive departments and agencies that were liable as an owner or operator would be responsible for undertaking and paying for all necessary response activities that could not be addressed with money appropriated to the DEQ for state site cleanup, or any money appropriated to the DEQ specifically for the

purpose of response activities at facilities for which the state was liable as an owner or operator. The existence of these funds would not affect the liability of any person under Part 201 or any state or federal law.

The $20 million appropriated under Public Act 265 of 1994 and to be spent under the bill would have to carry over to succeeding fiscal years. The unspent portion of the appropriation would be considered a work project appropriation, and any unencumbered or unallotted funds would have to be carried forward to the succeeding fiscal year. To comply with the Management and Budget Act, the bill specifies that:

--The purpose of the project to be carried forward would be to provide for contaminated site cleanups.

--The project would be accomplished by contracts.

--The total estimated cost of the project would be $20 million.

--The tentative completion date would be September 30, 1999.

(The Management and Budget Act requires the appropriation for a work order or work project specifically to designate the item as a work order or work project and to include the purpose of the order or project, the methods that will be used to accomplish the project, the total estimated cost of the project, and a tentative completion date for the project [MCL 18.1451].)

The DEQ would have to submit an annual report to the governor and the legislature on the status of the response activities being conducted with money appropriated to the DEQ to implement the bill, and the need for additional funds to conduct future response activities.

Cost-Share Grant Program. The bill would establish a Municipal Landfill Cost-Share Grant Program to make grants to reimburse local units of government for a portion of the response activity costs at certain municipal solid waste landfills. The Cost-Share Grant Program would be administered by the Brownfield Redevelopment Board, which would have to provide for at least one application cycle per fiscal year. Prior to each application cycle, the board would have to develop written instructions for prospective applicants, including the criteria that would be used in application review and approval.

To be eligible for a cost-share grant, the applicant would have to be a local unit of government, and the application, which could be only for eligible response activity costs, would have to be completed and submitted on a form provided by the board by the established deadline. (The NREPA defines "response activity" as evaluation, interim response activity, remedial action, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. The bill would include demolition in that definition.)

A complete application would have to include the following:

--The landfill name and brief history.

--The reason the applicant incurred the response activity costs.

--An analysis of the local unit of government's insurance coverage for the response activity costs at the landfill and any available documentation that supported the analysis.

--A brief narrative description of the overall response activities completed or to be completed at the landfill.

The application also would have to include a list and narrative description of all eligible costs incurred by the applicant for which it was seeking a grant, including all of the following:

--A demonstration that each eligible cost was consistent with a work plan or remedial action plan that had been approved by the DEQ or the U.S. Environmental Protection Agency (EPA), or had been ordered by a state or federal court. The demonstration would have to relate each cost for which reimbursement was being sought to a specific element of the approved work plan or remedial action plan. A copy of the plan and documentation of approval or court order of the plan would have to be included with the application.

--Documentation that the costs had been incurred by the applicant, including itemized invoices that clearly listed each cost and proof of payment of each invoice by the applicant.

--A resolution passed by the governing body for the local unit of government attesting that it had not received reimbursement for any of the costs for which it was seeking a grant from any other sources.

Further, the application would have to include a list of persons the applicant believed could be liable for response activities under the NREPA or the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or

Superfund) for a substantial portion of the response activity costs at the landfill, as well as any available supporting documentation.

The board would have to allocate the funds available for cost-share grants to eligible facilities in the following order of priority: facilities with active litigation in state court where the state was a plaintiff to compel a remedy; facilities with active litigation in federal court where the state was a plaintiff to compel a remedy; facilities posing a risk to public health; and facilities posing a risk to the environment.

Once a complete application had been submitted and approved by the board, applications submitted by the same applicant for the same landfill in subsequent application cycles would have to include only updated information that was not in the original application, including:

--An updated list of eligible costs incurred by the applicant for which it was seeking a grant, and for which it was not approved to receive grant funds in a preceding grant cycle.

--Supporting documentation that the costs had been properly incurred.

--Any other information needed to update information in the original application.

A cost-share grant could not exceed 50 percent of the total eligible costs. A local unit of government could not receive more than one grant for the same municipal landfill during each application cycle.

A recipient of a cost-share grant would have to provide timely notification to the DEQ if it received money or any other form of compensation from any other source to pay for, or compensate it for, any of the response activity costs for which it was liable. Sources of money or compensation could include, but would not be limited to, the federal government, other liable persons, or insurance policies. The notice would have to include the source of the money or compensation; the amount of money or dollar value of the compensation; the reason the local unit of government received the money or compensation; any conditions or terms associated with the money or compensation; documentation of the costs incurred by the local unit to obtain the funds or compensation; and the amount of money to be repaid to the state based on the formula specified in the bill. The notice also would have to include a detailed estimate of the total eligible response costs at the landfill for which the local unit was seeking a grant that were consistent with a work plan or remedial action plan that had been approved by the DEQ or the EPA, or had been ordered by a state or federal court, as well as documentation of those costs that had been incurred.

A recipient that received money or compensation from any other source would have to repay the DEQ an amount of money not to exceed the grant amount based on a formula specified in the bill. All documentation of costs and the calculations and assumptions used by the recipient to determine the amount of money to be repaid would have to be submitted to the Brownfield Redevelopment Board and would be subject to its review and approval. The money would have to be repaid to the DEQ within 60 days of board approval of the documentation, calculations, and assumptions. Funds repaid to the DEQ would have to be placed into the fund.

To receive a cost-share grant, approved applicants would have to enter into an agreement with the board. The agreement would have to contain, at a minimum, a list of board-approved eligible costs for which the recipient would be reimbursed up to 50 percent; the agreement period; a resolution passed by the governing body for the local unit of government committing to make reasonable efforts to pursue any insurance coverage for the eligible costs; and grant repayment provisions. Upon execution of a grant agreement, the DEQ would have to disburse grant funds within 45 days. If a local unit failed to sign a grant agreement within 90 days of a written grant offer by the board, the board could cancel the grant offer. The local unit could not appeal or contest cancellation of a grant.

The bill specifies that the existence of the grant program would not in any way affect the liability of any person under Part 201 of the NREPA or any other state or federal law. The state, the board, and the fund would not be liable or in any way obligated to make grants for eligible costs, if funds were not appropriated by the legislature for that purpose, or if the funds were insufficient. The availability of the grant program could not be used by any liable person as a basis to delay necessary response activities.

Funds granted to local units of government under the Cost-Share Grant Program would have to be considered response activity costs incurred by the state. The state could pursue recovery or a claim for contribution of the grant funds from persons other than the grant recipient who were liable for response activities. In addition, a local unit could pursue recovery or a claim for contribution from liable persons for the costs it had incurred but for which it had not received grant funds. The bill specifies that these provisions would not in any way affect a local unit of government's eligibility to

make a claim for insurance for any response activity costs, including the costs for which it received a grant.

"Municipal solid waste landfill" would mean a landfill that, as of the effective date of the bill, was on the national priority list, or was proposed by the governor for inclusion on the national priority list, as defined in the Superfund Act (CERCLA).

"Eligible costs" or "eligible response activity costs" would mean response activity costs, excluding all fees for the services of a licensed attorney, that met all of the following criteria:

--The costs were incurred by a local unit of government after the date of the bill's enactment and prior to the work being conducted.

--The DEQ had determined that the costs to be borne by a local unit of government were reasonable considering the rationale provided in the application, the existence of other persons liable for response activities or the Superfund Act, and the need for the local unit to proceed with the response activity.

--The costs were consistent with a work plan or remedial action plan that was approved by the DEQ or the EPA, or was ordered by a state or federal court prior to the work being conducted.

--The costs were incurred for response activities that were part of a cost-effective remedy consistent with the requirements of Part 201 of the NREPA.

--The costs were incurred for work that was competitively bid and performed by the lowest-priced responsive bidder.

These provisions could not take effect until the effective date of reauthorization of the federal Superfund Act or 12 months after the effective date of the bill, whichever was earlier.

Following reauthorization of the Superfund Act, if a federal cost-share program were established that was similar to the municipal landfill cost-share grant program, a grant under this section of the bill could not be made for any response activity cost until the EPA made a final determination that the response activity cost would not be paid for under the federal program.

Report. By December 31 of each year, the DEQ would have to provide to the governor, the Senate and House of Representatives standing committees with jurisdiction over issues pertaining to national resources and the environment, and the Senate and House of Representatives appropriations committees a list of all projects financed under Part 201 through the preceding fiscal year. The list would have to include the project site and location, the nature of the project, the total amount of money authorized, and project status.

Transfers to Cleanup and Redevelopment Fund. The NREPA currently requires that the total proceeds of all bonds issued under Part 193 of the act (concerning environmental protection bond authorization) be deposited into the Environmental Response Fund, and specifies that up to $150 million must be used for solid waste projects. The bill would require that any of the $150 million that reverted to the Environmental Response Fund be transferred to the Cleanup and Redevelopment Fund. Further, the bill would transfer to the Cleanup and Redevelopment Fund any interest and earnings from investment of the proceeds of any bond issue. Currently, the interest and earnings are allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

In addition, the bill would require that, with some exceptions, all repayments of principal and interest earned under a loan program created with the money allocated for solid waste projects be transferred to the Cleanup and Redevelopment Fund. Currently, the act requires the repayments of principal and interest earned under a loan program to be credited to the appropriate restricted subaccounts of the fund.

Repealer. The bill would repeal provisions of the act that established the Michigan Unclaimed Bottle Fund, the Long-Term Maintenance Trust Fund, and the Long-Term Maintenance Trust Fund Board (MCL 324.20109, 324.20110, and 324.20111).

BACKGROUND INFORMATION:

Unclaimed bottle deposits. When a deposit-bearing can or bottle is not returned, the deposit remains in the hands of the wholesaler or bottler who distributed the product to the retailer. Under Public Acts 148 and 157 of 1989, beverage manufacturers and distributors must turn over the difference between the amount collected in deposits and the amount paid out in refunds for deposit into the Bottle Deposit Fund. Seventy-five percent of that money is deposited in the Unclaimed Bottle Fund, and is to be used to fund environmental projects, and twenty-five percent is distributed among retailers for handling fees. Before money from unclaimed deposits was collected, however, the Michigan Soft Drink Association (MSDA) challenged the constitutionality of the unclaimed bottle legislation. Reportedly, distributors and manufacturers maintain that

unclaimed deposits are owed to them, since they owned the containers in the first place. However, the law was upheld by the Michigan Court of Appeals in 1994. In May, 1995, the Michigan Supreme Court refused to hear the case. According to a report on the beverage container law, Research Brief No. 8, published by the Legislative Service Bureau in April, 1996, efforts to retrieve the unclaimed funds have been given up by the bottle industry. Bottlers and distributors must now report the annual deposit earnings that have been produced since 1991. However, no returns have been filed or money collected. Therefore, no one can be certain how large the fund will be, or how much will be available to be spent on environmental projects.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 5672 would redirect the balance remaining in the Solid Waste Management Program into the Cleanup and Redevelopment Fund ($27.8 million). This program was phased out at the end of the last grant cycle, and no new grants are anticipated. The bill would also create a revolving loan fund, from which loans could be made to promote economic development and assist in the development of contaminated properties. The bill would also establish a state Sites Cleanup Program to spend the $20 million appropriation for state projects that remains unspent from prior fiscal years.

House Bill 5673 would place the revenue from the Unclaimed Bottle Deposit Fund into the Cleanup and Redevelopment Fund created by House Bill 5672. The agency estimates that lost interest earnings to the general fund could be as high as $1 million per year; this interest would accrue instead to the Cleanup and Redevelopment Fund. Approximately $15 to $20 million per year from unclaimed bottle deposits could be appropriated for environmental redevelopment projects. (5-16-96)

ARGUMENTS:

For:

In its April, 1996, *Environmental Cleanup and Redevelopment Funding Proposal*, the Department of Environmental Quality identified new funding priorities and initiatives. These proposals have been incorporated into legislation introduced under Senate Bills 919-924, which are pending before the Senate, and House Bills 5671-5675. Senate Bills 919 and 920 and House Bills 5672 and 5673 would create a revitalization loan program to issue loans to local municipalities for use in redevelopment projects; establish a state sites cleanup program, which would be allowed to expend up to $20 million in cleanup funds; establish revitalization and cleanup and redevelopment funds; allow municipal landfill cost-share grants to reimburse local units of government for the cleanup of solid waste landfills; and require that money from the Bottle Deposit Fund be allocated to the cleanup and redevelopment funds. Senate Bill 921 would allow money from the Natural Resources Trust Fund to be spent on the remediation and redevelopment of environmentally contaminated land for ten years (this proposal has apparently been dropped from the package); Senate Bill 922 and House Bill 5675 would permit the state to sell surplus state lands and deposit money from the sales into the Surplus State Land Revolving Fund; and Senate Bill 923 and House Bill 5671 would allow municipalities to establish brownfield redevelopment zone authorities, which could make use of local site remediation revolving funds to implement brownfield plans, under which contaminated property would be remediated. In addition, Senate Bill 924 and House Bill 5674 would provide a single business tax credit for investments in these redevelopment zones.

In total, the package would provide a comprehensive solution to many of the most pressing environmental cleanup problems in the state.

For:

The Unclaimed Bottle Fund is supposed to collect revenue and interest for ten years -- until the year 2000 -- before disbursement is made for environmental projects. After that, annual deposits and interest are to be distributed evenly each year between the Environmental Response Fund (for toxic contamination cleanup), the Longer Term Maintenance Trust Fund (for prevention of environmental contamination), and the Clean Michigan Fund (for solid waste grant programs). Although the ten-year period specified under the act has not yet passed, the state's obligation to fund environmental clean-ups of orphan shares and other contaminated sites is immediate. Redesignating monies from the Unclaimed Bottle Fund to a new Cleanup and Redevelopment Fund would accomplish part of the state's objectives in accomplishing its environmental clean-up objectives.

Against:

Diverting money from the Unclaimed Bottle Fund presents a short term funding approach that will leave the state searching for new funding sources in a few years. Under current law, deposits to the fund were to be allowed to accumulate for ten years. After that period, the annual income and interest could be disbursed, but the fund principal was to remain intact. However, according to the Department of Treasury, the fund now contains $50 million, and receives approximately $8 million in annual income. The

provisions of House Bill 5673 would therefore divert around $15 million per year and seriously deplete the fund, destroying its purpose of creating a long term source of funding for environmental protection programs, including hazardous waste cleanup.

Against:

The funding sources outlined in the Department of Environment Quality's (DEQ) April, 1996 *Environmental Cleanup and Redevelopment Funding Proposal* suggest that a total of $82 million be spent on environmental cleanup and urban redevelopment. Included among the funding sources originally identified by the DEQ to accomplish its funding priorities and objectives were $25 million that would be withdrawn from the Natural Resources Trust Fund. The proposal to "raid" the trust fund has since been withdrawn. However, as a result, there will be a $25 million shortfall in the amount needed to fund the state's environmental cleanup and urban redevelopment programs. The bills contain no funding proposals that would eliminate this shortfall.

POSITIONS:

The Department of Environmental Quality (DEQ) supports the bills. (5-15-96)

The Michigan Environmental Council's support of the bills is contingent upon the inclusion of an amendment to House Bill 5672 requiring that $10 million of the money appropriated to the Cleanup and Redevelopment Fund be designated for pollution prevention, and an amendment to House Bill 5673 reducing the amount diverted from the Unclaimed Bottle Fund by one-half. (5-15-96)

The Michigan Manufacturers Association supports the bills. (5-15-96)

The Michigan Municipal League supports the bills. (5-16-96)

The Michigan Chemical Council supports the bills. (5-15-96)

The Michigan United Conservation Clubs (MUCC) supports House Bill 5672 and opposes House 5673. (5-15-96)

The Michigan Recycling Coalition opposes the bills. (5-15-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.