



# HOUSE BILL No. 6198

November 14, 1996, Introduced by Reps. Middaugh, Alley and Gnodtke and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to provide for matters related to the long-term management of low-level radioactive waste and the voluntary siting of a waste isolation facility in this state to protect the public health, safety, welfare, and the environment; to create a low-level radioactive waste authority and prescribe its powers and duties; to prescribe the powers and duties of certain state departments and other persons; to authorize the issuance of bonds; and to repeal acts and parts of acts.

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

1       Sec. 1. As used in this act:

2       (a) "Authority" means the low-level radioactive waste  
3 authority created in section 3.

4       (b) "Buffer zone" means the portion of the site between the  
5 waste isolation facility and associated structures and

1 appurtenances and the site boundary which is used as an area for  
2 environmental monitoring.

3 (c) "Community" means a city, village, township, or Indian  
4 tribe.

5 (d) "Compact" means a contractual, cooperative agreement  
6 among 2 or more states, pursuant to the low-level radioactive  
7 waste policy act, Public Law 96-573, 94 Stat. 3347,  
8 42 U.S.C. 2021 to 2021j, to provide for the disposal of low-level  
9 radioactive waste that is reflected by the passage of statutes by  
10 the participating states.

11 (e) "Department" means the department of environmental  
12 quality.

13 (f) "Director" means the director of the authority.

14 (g) "Facility development agreement" means a contract nego-  
15 tiated between an interested community or regional group and the  
16 authority for siting, construction, monitoring, operating, clo-  
17 sure, and institutional control of a waste isolation facility for  
18 a minimum operating life of 20 years within the borders of the  
19 community or regional group. A facility development agreement  
20 may be renewed for an additional 20-year operating period if  
21 agreed to by the community or regional group and the authority.

22 (h) "Fund" means the low-level radioactive waste management  
23 fund established in section 10.

24 (i) "Generator" means a person whose act or process results  
25 in the creation of low-level radioactive waste.

1 (j) "Grants" means funds awarded to interested communities  
2 or regional groups by the authority that are restricted to  
3 supporting activities specified in this act.

4 (k) "Host community" means a Michigan community or regional  
5 group that volunteers under this act to host a site in its commu-  
6 nity or regional group and has approved a facility development  
7 agreement through a referendum of the qualified voters of the  
8 community or regional group pursuant to section 8.

9 (l) "Incentives" means unrestricted funds paid to interested  
10 communities or regional groups by the authority.

11 (m) "Institutional control" means the continued surveil-  
12 lance, monitoring, and care of the site after site closure and  
13 stabilization to ensure the protection of public health, safety,  
14 and the environment until the contents of the disposal site no  
15 longer have a radioactive content that is greater than the natu-  
16 ral background radiation of the host site as determined during  
17 its site characterization.

18 (n) "Interested community" means a community or regional  
19 group that has expressed interest in exploring issues related to  
20 hosting a waste isolation facility by passing a resolution by its  
21 governing body and submitting to the authority a copy of the  
22 resolution.

23 (o) "Low-level radioactive waste" or "waste" means radioac-  
24 tive material that consists of or contains class A, B, or C  
25 radioactive waste as defined by 10 C.F.R. 61.55, as in effect on  
26 January 26, 1983, but does not include waste or material that is  
27 any of the following:

1 (i) Owned or generated by the United States department of  
2 energy.

3 (ii) Owned or generated by the United States navy as a  
4 result of the decommissioning of vessels of the United States  
5 navy.

6 (iii) Owned or generated as a result of any research, devel-  
7 opment, testing, or production of an atomic weapon.

8 (iv) Identified under the formerly utilized sites remedial  
9 action program.

10 (v) High-level radioactive waste, spent nuclear fuel, or  
11 by-product material as defined in section 11(e)(2) of the atomic  
12 energy act of 1954, chapter 1073, 68 Stat. 922, 42 U.S.C. 2014.

13 (vi) Contains greater than or equal to 100 nanocuries per  
14 gram of transuranic elements.

15 (vii) Contains concentrations of radionuclides that exceed  
16 the limits established by the nuclear regulatory commission for  
17 class C radioactive waste as defined by 10 C.F.R. 61.55, as in  
18 effect January 26, 1983.

19 (viii) Classified as naturally occurring or  
20 accelerator-produced radioactive materials known as  
21 N.A.R.M. waste.

22 (p) "Operation" means the control, supervision, or implemen-  
23 tation of the actual physical activities involved in the accep-  
24 tance, storage, containment, and monitoring of waste at the waste  
25 isolation facility, the maintenance of the waste isolation facil-  
26 ity, and any other responsibility pertaining to the waste  
27 isolation facility and the site.

1 (q) "Person" means an individual, partnership, corporation,  
2 association, base conversion authority, university, governmental  
3 entity, or other legal entity.

4 (r) "Regional group" means 2 or more interested communities  
5 working cooperatively to explore the possibility of offering to  
6 the state a host site within their boundaries. If a proposed  
7 site is within 500 feet of the boundary of 1 or more adjoining  
8 communities, then each adjoining community must join in a  
9 regional group for that site to be considered under this act.

10 (s) "Site" means a geographic location in this state of 160  
11 acres or more upon which the waste isolation facility and any  
12 associated structures and appurtenances are located. Site  
13 includes the buffer zone.

14 (t) "Site characterization" is a multidisciplinary site  
15 review process that begins with the preliminary site evaluation  
16 described in section 7(7). The process studies in detail the  
17 geology, hydrology, meteorology, ecology, demography, socioeco-  
18 nomic factors, and other aspects of a site.

19 (u) "Waste isolation facility" means an engineered contain-  
20 ment structure and appurtenances for the permanent isolation of  
21 waste from the environment.

22 Sec. 1a. The legislature hereby finds and declares that:

23 (a) Michigan residents and businesses benefit by the use of  
24 radioactive materials through medical applications, industrial  
25 testing, teaching, and the production of electricity.

1 (b) One responsibility resulting from the beneficial use of  
2 radioactive materials is the safe disposal of low-level  
3 radioactive wastes.

4 (c) Federal and state laws have created mechanisms whereby  
5 Michigan state government and waste generators may join with  
6 other states and generators to safely manage and dispose of  
7 waste.

8 (d) New technologies to reduce the volume of waste make it  
9 increasingly costly for the development and operation of numerous  
10 sites around the nation.

11 (e) Recognizing state government's responsibility for man-  
12 agement and economy, it is the policy of the state of Michigan to  
13 make every effort to join with other states in relationships  
14 which create disposal capacity. If creating such capacity  
15 requires development of a Michigan facility, volunteer community  
16 siting is preferred to state government directed siting.

17 Sec. 2. (1) This act shall not be construed to require any  
18 community in this state to host a low-level radioactive waste  
19 isolation facility. Only communities that volunteer pursuant to  
20 this act will be considered as potential hosts for the waste iso-  
21 lation facility.

22 (2) Shallow land burial of low-level radioactive waste is  
23 prohibited in this state. Acceptable technologies for waste iso-  
24 lation are limited to aboveground and belowground canisters or  
25 aboveground and belowground vaults, or both.

26 Sec. 3. (1) An authority is created to be known as the  
27 low-level radioactive waste authority. The authority is an

1 autonomous entity within the department of environmental  
2 quality. The authority shall exercise its powers and duties  
3 independently of the department of environmental quality, includ-  
4 ing the budgeting, procurement, contracting for, and actual pur-  
5 chase of all equipment, supplies, and services of whatever kind  
6 necessary to implement this act.

7 (2) The director of the authority shall be qualified by  
8 training and experience to direct the work of the authority. The  
9 director shall be appointed by the governor and shall serve at  
10 the pleasure of the governor.

11 (3) The director is exempt from civil service. The director  
12 is responsible directly to the governor to ensure the account-  
13 ability and integrity of the authority.

14 (4) The director shall employ or enter into contracts for  
15 personnel or services as necessary to implement this act.

16 Sec. 4. (1) In addition to other powers and duties provided  
17 in this act, the authority shall do or provide for all of the  
18 following:

19 (a) Hold public meetings in compliance with the open meet-  
20 ings act, Act No. 267 of the Public Acts of 1976, being sections  
21 15.261 to 15.275 of the Michigan Compiled Laws.

22 (b) Accept assistance from public agencies, colleges, and  
23 universities, private foundations, base conversion authorities,  
24 individuals, corporations, or associations.

25 (c) Develop an annual budget.

26 (d) Apply for, accept, and utilize a donation, loan, grant,  
27 or reimbursement of money to obtain equipment, supplies,

1 materials, or services from any state or the United States or an  
2 agency or a political subdivision of the state or the United  
3 States, or from any person. The nature, amount, and conditions,  
4 if any, attached to a donation, loan, or grant accepted pursuant  
5 to this subdivision, together with the identity of the donor,  
6 grantor, or lender, is public information. A donor, lender, or  
7 grantor shall not derive any advantage in any matter under this  
8 act or federal law by reason of a donation, loan, or grant. The  
9 authority shall forward money obtained under this subdivision to  
10 the state treasurer for deposit in the fund.

11 (e) Form advisory committees as considered appropriate to  
12 make recommendations to the authority regarding the performance  
13 of 1 or more of the responsibilities of the authority.

14 (f) Exercise the power of eminent domain under the uniform  
15 condemnation procedures act, Act No. 87 of the Public Acts of  
16 1980, being sections 213.51 to 213.77 of the Michigan Compiled  
17 Laws, pursuant to an approved facility development agreement.

18 (g) Perform other functions considered necessary to imple-  
19 ment this act.

20 (h) Establish and use a computer system to maintain,  
21 receive, or transmit any of the following:

22 (i) A manifest, report, or other record required by this  
23 act.

24 (ii) The application, or a portion of the application, for a  
25 construction and operating license for the disposal site.

26 (iii) Information the authority is required to provide to  
27 the public or the department under this act.



1 (i) Negotiate legal mechanisms for the state or private  
2 waste generators to enter into relationships with out-of-state  
3 entities for the out-of-state disposal of low-level radioactive  
4 waste generated in this state. However, prior to entering into a  
5 contractual relationship obligating the state, the authority in  
6 addition to other requirements of law shall first submit the pro-  
7 posed contract to the attorney general for review.

8 (j) Establish and implement the volunteer host community  
9 process.

10 (k) Submit an application to the United States nuclear regu-  
11 latory commission for a construction and operating license for  
12 the waste isolation facility.

13 (l) Acquire, purchase, hold, lease, or manage real property  
14 in a host community, including, but not limited to, easements and  
15 rights-of-way in a host community to implement this act.

16 (m) If the state is the host for a waste isolation facility  
17 as a member of a compact, negotiate with other compact members to  
18 provide monetary and nonmonetary incentives and benefits for the  
19 state and host community.

20 (n) Subject to appropriations by the legislature, make  
21 available to interested communities sufficient funding in the  
22 form of grants and incentives to allow the communities to explore  
23 the opportunities and fulfill their responsibilities under this  
24 act. The authority shall develop procedures for awarding and  
25 administering grants. The authority shall retain the right to  
26 refuse grant awards to communities or regional groups that are  
27 not acting in good faith, and to communities that, in the

1 judgment of the authority, do not have potentially suitable  
2 sites.

3 (o) Negotiate and enter into a facility development agree-  
4 ment with an interested host community or regional group.

5 (p) If this state does not enter a compact, refuse to accept  
6 waste that is not generated in this state.

7 (q) If this state does enter into a compact, refuse to  
8 accept waste generated in any state that is not a member of the  
9 compact in which this state is a member. In addition, the  
10 authority shall refuse to accept waste at the waste isolation  
11 facility from any member of the compact who is delinquent in  
12 paying dues payable under the compact.

13 (r) Inspect the construction of the waste isolation facility  
14 until construction is completed.

15 (s) Assist generators to facilitate waste minimization and  
16 volume reduction, including, but not limited to, switching from  
17 long-lived radioactive materials to short-lived radioactive mate-  
18 rials, switching to nonradioactive materials and processes, waste  
19 stream screening and separation, and other waste minimization  
20 activities as appropriate.

21 (t) Adopt the federal standards for siting a facility as  
22 provided under 10 C.F.R. part 61. Additional siting criteria  
23 that are not inconsistent with 10 C.F.R. part 61 may be  
24 established. All such criteria shall be incorporated into the  
25 facility development agreement by an interested community.

1 (u) Prior to operation of the facility, take title to the  
2 site and the waste isolation facility pursuant to an approved  
3 facility development agreement.

4 (v) In conjunction with, and through agreements with, the  
5 department and other appropriate state departments, maintain  
6 overall responsibility for the protection of public health,  
7 safety, and the environment with regard to the siting, construc-  
8 tion, operation, and closure of a waste isolation facility in  
9 this state.

10 (w) If there has been a release of waste or radionuclides at  
11 the waste isolation facility during its operation, closure, or  
12 postclosure, assure appropriate remedial action.

13 (x) If the waste isolation facility has been permanently  
14 closed for any reason, begin site closure and stabilization. The  
15 authority shall assure that site closure and stabilization is  
16 complete and adequate and that the authority retains control of  
17 the disposal site.

18 (y) After completing site closure and stabilization, assure  
19 that institutional control of the disposal site occurs in accord-  
20 ance with the requirements and conditions of the construction and  
21 operating license and with the facility development agreement.  
22 The authority shall retain control of the site through the period  
23 of institutional control.

24 (2) The authority may issue an order temporarily or per-  
25 manently closing the waste isolation facility prior to its sched-  
26 uled closing date if the authority finds that there is a  
27 potential hazard to the public health or safety or to the

1 environment that justifies a temporary or permanent closure. A  
2 waste isolation facility that is temporarily closed shall not  
3 receive waste and shall remain closed while remedial action is  
4 taken.

5       Sec. 5. To implement the volunteer host process provided in  
6 sections 6 to 9, the authority shall do or provide for all of the  
7 following:

8       (a) Conduct a statewide awareness campaign for the volunteer  
9 host process.

10       (b) Produce and distribute general information about the  
11 beneficial uses of radioactive materials, low-level radioactive  
12 waste, and the volunteer host process to any person who requests  
13 the information by any means.

14       (c) Develop a process for the administration of grants and  
15 incentive payments.

16       (d) Respond to requests for information from interested com-  
17 munities and other persons.

18       (e) Receive resolutions of interest from communities.

19       (f) Provide financial and other support for preliminary site  
20 evaluation and site characterization activities.

21       (g) Provide financial and other support for facility devel-  
22 opment agreement negotiations.

23       (h) Track the scheduling and results of referenda.

24       (i) Negotiate a facility development agreement with an  
25 interested community.

26       (j) Contract for site characterization.

1 (k) Contract for site development, operation, closure and  
2 stabilization, and long-term maintenance and monitoring.

3 (l) At the request of an interested community, provide  
4 assistance or expertise, or both, with regard to the volunteer  
5 host process as provided in this act.

6 (m) Other appropriate actions as necessary to implement this  
7 act.

8 Sec. 6. (1) If the governing body of a community determines  
9 that it is interested in exploring issues related to becoming a  
10 host community and wishes to apply for initial research grants,  
11 it shall reflect its interest through passage of a resolution of  
12 the governing body of the community and submittal of that resolu-  
13 tion by the governing body of the community to the authority.

14 (2) The governing body of an interested community may  
15 appoint or designate 1 or more persons to serve the community as  
16 its liaison for purposes of interaction with the authority and  
17 the community. The liaison shall coordinate community research  
18 efforts and maintain contact with community officials, residents,  
19 neighboring communities, and county government. Regional groups  
20 may choose to utilize 1 liaison for their group or independent  
21 liaisons for each member community.

22 (3) Upon receipt of a resolution of interest, the authority  
23 shall provide to each interested community an initial research  
24 grant of \$30,000.00 to fund preliminary research and education  
25 regarding becoming a host community. If a regional group submits  
26 a resolution of interest, that regional group shall receive from  
27 the authority an initial research grant of \$50,000.00 to fund

1 preliminary research and investigation within the geographic area  
2 and communities that comprise the regional group regarding becom-  
3 ing the host community. The recipients of grants under this sub-  
4 section shall use the grants to conduct a community education  
5 program regarding issues that are pertinent to hosting a site.  
6 The community will be encouraged to engage in extensive public  
7 participation activities with local environmental groups, busi-  
8 ness groups, civic organizations, and the general public.

9 (4) In addition to the grant funds provided in subsection  
10 (3), each interested community shall receive from the authority a  
11 \$15,000.00 incentive payment for unrestricted use. The proposed  
12 host community in a regional group will receive from the author-  
13 ity a \$15,000.00 incentive payment for unrestricted use and each  
14 nonhost community within the regional group shall receive from  
15 the authority a \$10,000.00 incentive payment for unrestricted  
16 use. If there are more than 5 communities in a regional group  
17 that are not proposed as the host community, those communities  
18 will receive from the authority a \$50,000.00 incentive for unre-  
19 stricted use to divide among themselves.

20 (5) In addition to other funds available under this section,  
21 the first 3 interested communities or regional groups that submit  
22 a resolution of interest will receive from the authority a  
23 \$10,000.00 incentive payment for unrestricted use.

24 (6) An interested community or regional group may remove  
25 itself from the volunteer host process at any time during the  
26 process described in this section. Removal may be accomplished  
27 through passage of a resolution of withdrawal expressing the

1 community's or regional group's desire to remove itself from the  
2 process. Unexpended initial research grant funds under subsec-  
3 tion (3) shall be returned to the authority if a community  
4 removes itself from the process. Incentive payments under sub-  
5 sections (4) and (5) are not required to be returned. After  
6 opting out, a community or regional group that reenters the pro-  
7 cess is eligible for unexpended research and education grant  
8 funds that would have been available to the community or regional  
9 group had it not removed itself from the process. However, a  
10 community or regional group that reenters the volunteer process  
11 is not eligible for a second incentive payment for this phase of  
12 the volunteer host process.

13       Sec. 7. (1) Interested communities and regional groups  
14 that, upon thorough exploration of the issues, wish to proceed in  
15 the volunteer host process shall identify 1 or more potential  
16 sites of 160 acres or more within their communities for a waste  
17 isolation facility and adopt a site identification resolution.  
18 The site identification resolution shall be sent to the  
19 authority.

20       (2) Upon notifying the authority that an interested commu-  
21 nity or regional group has passed a site identification resolu-  
22 tion identifying 1 or more potential sites within their bounda-  
23 ries, each interested community or regional group shall receive  
24 from the authority a grant of \$100,000.00 for site evaluation  
25 research. Site evaluation research shall focus on providing data  
26 and information necessary to make a preliminary determination on

1 the suitability of the proposed site or a waste isolation  
2 facility.

3 (3) Each community that passes a site identification resolu-  
4 tion shall receive from the authority a \$100,000.00 incentive  
5 payment for unrestricted use. The proposed host community in a  
6 regional group that passes a site identification resolution shall  
7 receive from the authority a \$100,000.00 incentive payment for  
8 unrestricted use; the nonhost communities shall each receive from  
9 the authority a \$50,000.00 incentive payment for unrestricted  
10 use. If more than 5 nonhost communities participate in the  
11 regional group, they may divide a total of \$250,000.00 among  
12 themselves for unrestricted use.

13 (4) In addition to other funds available under this section,  
14 the first 3 communities or regional groups to pass site identifi-  
15 cation resolutions under this section shall each receive from the  
16 authority an additional \$100,000.00 incentive payment for unre-  
17 stricted use.

18 (5) At the request of the authority, interested communities  
19 shall provide to the authority information and any other records  
20 that pertain to the suitability of the proposed site for the  
21 waste isolation facility.

22 (6) Interested communities and regional groups that identify  
23 a potential site may request from the authority a preliminary  
24 evaluation as to whether the site is, to a reasonable certainty,  
25 suitable for a waste isolation facility. The authority may  
26 request that the community establish ownership of the property  
27 and that ownership can be transferred to the state or purchased



1 by the state at fair market value if the site is selected for a  
2 waste isolation facility.

3 (7) If the proposed site is suitable according to the  
4 authority's preliminary evaluation of all data developed during  
5 this phase, the community may remain in the process or may choose  
6 to remove itself from the process. If, according to the prelimi-  
7 nary evaluation, the site is found to be unsuitable, the commu-  
8 nity may remain in the process by identifying a new site, or may  
9 remove itself from the process. The authority shall reject any  
10 proposed site that will not meet requisite public health, safety,  
11 and environmental protection standards under criteria adopted  
12 pursuant to section 4(1)(t).

13 (8) Any interested community or regional group may remove  
14 itself from the voluntary host process at any time during the  
15 process described in this section through passage of a resolution  
16 of the community's governing body and written notification of  
17 that resolution to the authority by the governing body.  
18 Unexpended site identification research grant funds under subsec-  
19 tion (2) shall be returned to the authority if a community  
20 removes itself from the volunteer process. Incentive payments  
21 under subsections (3) and (4) are not required to be returned to  
22 the authority. After opting out, an interested community or  
23 regional group may reenter the process and will be eligible for  
24 unexpended site identification research grants that would have  
25 been available to the community or regional group had it not  
26 removed itself from the process. However, a community or  
27 regional group that reenters the volunteer process is not

1 eligible for a second incentive payment for this phase of the  
2 volunteer host process.

3       Sec. 8. (1) If a potential site in an interested community  
4 appears to the authority to be suitable to be the host site, an  
5 interested community or regional group may proceed to negotiate  
6 the terms of a facility development agreement with the  
7 authority. The facility development agreement may include, but  
8 is not limited to, provisions that address all of the following:

9       (a) Siting criteria desired by the host community that  
10 exceed those required by 10 C.F.R. part 61.

11       (b) Monetary and nonmonetary compensation for the host  
12 community.

13       (c) Participation in contractor selection.

14       (d) Buffer zones.

15       (e) Operations.

16       (f) Community relationship with facility operator.

17       (g) Local monitoring programs.

18       (h) Property value guarantees.

19       (i) Shipping routes and schedules.

20       (j) Community role in site characterization and licensing.

21       (k) Impact offsets.

22       (l) Site landscaping.

23       (m) Emergency response plans.

24       (n) Health monitoring program.

25       (o) Limits on imported waste.

26       (p) Site closure issues including institutional control.

1 (q) Terms for temporary or permanent shutdown of the site.

2 (r) Conditions for withdrawing the site during the licensing  
3 phase.

4 (s) Waste acceptance criteria. However, such criteria shall  
5 not exclude the acceptance of waste that is low-level radioactive  
6 waste as defined in this act.

7 (2) Once negotiated, the facility development agreement  
8 shall be made available by the negotiating parties for public  
9 inspection. Interested communities that have negotiated a facil-  
10 ity development agreement are encouraged to engage in extensive  
11 public participation, education, and communication activities to  
12 achieve the highest possible level of community understanding  
13 about the terms and conditions of the facility development  
14 agreement.

15 (3) An interested community that identifies a potentially  
16 suitable site, with the intent to negotiate a facility develop-  
17 ment agreement in good faith and schedule a referendum on the  
18 agreement, will receive a grant of \$250,000.00 from the authority  
19 for legal assistance in negotiating the facility development  
20 agreement. A regional group that identifies a potentially suit-  
21 able site with the intent to negotiate a facility development  
22 agreement in good faith and schedule a referendum will receive a  
23 \$250,000.00 grant from the authority for legal assistance in  
24 negotiating the terms of the facility development agreement.

25 (4) Interested communities that enter into negotiations for  
26 a facility development agreement shall receive from the authority  
27 a \$100,000.00 incentive payment for unrestricted use from the

1 authority. The proposed host community in a regional group that  
2 enters into negotiations for a facility development agreement  
3 shall receive from the authority a \$100,000.00 incentive payment  
4 for unrestricted use from the authority and each nonhost commu-  
5 nity within the regional group shall receive from the authority a  
6 \$50,000.00 incentive payment for unrestricted use. If more than  
7 5 nonhost communities participate in a regional group, they may  
8 divide a total of a \$250,000.00 incentive payment for unre-  
9 stricted use among themselves as they choose.

10 (5) The first 2 communities, whether individual or a  
11 regional group, to enter negotiations for a facility development  
12 agreement will each receive an additional \$100,000.00 incentive  
13 payment for unrestricted use from the authority. The authority  
14 may conduct facility development agreement negotiations with not  
15 more than 2 interested communities or regional groups at any 1  
16 time.

17 (6) The authority and the interested community or regional  
18 group may make use of an arbitration process of their choosing to  
19 resolve differences that arise in the attempt to negotiate a  
20 facility development agreement.

21 (7) A facility development agreement negotiated between an  
22 interested community or regional group and the authority is con-  
23 sidered to be formally approved and binding on the community only  
24 by a referendum in the community and upon approval of the state  
25 administrative board and the legislature as required in this  
26 subsection. A facility development agreement negotiated between  
27 a regional group and the authority is considered to be formally

1 approved and binding on the regional group either through a  
2 referendum in the host community, or referenda in all communities  
3 in the group. The decision of which option to pursue shall be  
4 determined by the members of the regional group. In addition,  
5 following approval of the facility development agreement by an  
6 interested community or regional group, the facility development  
7 agreement shall be reviewed and approved by the state administra-  
8 tive board and the legislature. The legislature shall have not  
9 more than 30 session days, during which at least 1 house of the  
10 legislature is in session, or 90 calendar days, whichever is  
11 less, after receipt of such a facility development agreement to  
12 disapprove the facility development agreement by concurrent reso-  
13 lution of a record roll call of a majority of the members elected  
14 to and serving in each house. If the legislature does not act to  
15 disapprove of the facility development agreement, the facility  
16 development agreement shall be considered to have been approved  
17 by the legislature.

18 (8) Following approval of a facility development agreement  
19 as required in subsection (7), the interested community or  
20 regional group shall receive a \$1,000,000.00 incentive payment in  
21 unrestricted funds from the authority and each nonhost community  
22 within the regional group that approves the referendum shall  
23 receive a \$500,000.00 incentive payment from the authority. If  
24 the regional group numbers more than 5 nonhost communities, the  
25 group shall share a \$2,500,000.00 incentive payment in unre-  
26 stricted funds.

1           (9) In addition to incentive payments available under  
2 subsection (8), the first interested community or regional group  
3 to have a site and facility development agreement approved as  
4 required by subsection (7) will receive an additional  
5 \$1,000,000.00 incentive payment in unrestricted funds.

6           (10) Approval of a site and facility development agreement  
7 by the community, state administrative board, and legislature  
8 confers upon the interested community or regional group the  
9 status of host community. The host community or regional group  
10 is now committed to the development and construction of a waste  
11 isolation facility on the approved site under the terms of the  
12 facility development agreement. After the approval of the facil-  
13 ity development agreement by the community or regional group, the  
14 state administrative board, and the legislature, the host  
15 community's relationship with the authority is governed by the  
16 facility development agreement and the provisions of this act.  
17 The facility development agreement shall contain provisions for  
18 the termination of the agreement.

19           Sec. 8a. (1) Site characterization may commence at any  
20 point during the volunteer host process described in this act,  
21 before or after the referendum required under this section,  
22 depending on such factors as the results of the preliminary site  
23 evaluation, the desire of the interested community to remain in  
24 the process, the need for data, and the cost. The host community  
25 will have the opportunity to assist in coordinating site charac-  
26 terization activities and may obtain independent review of the  
27 site characterization conducted by the authority.

1           (2) The authority shall financially support complete site  
2 characterization of not more than 3 sites that have been priori-  
3 tized by the authority. Detailed site characterization shall be  
4 completed on the site, which is considered by the authority to be  
5 the most suitable site, prior to beginning detailed site charac-  
6 terization of the next site on prioritized list. If more than 1  
7 site is licensable, the authority shall select the site upon  
8 which to develop the waste isolation facility.

9           (3) The role of the host community in the licensing process  
10 shall be defined in the facility development agreement. The host  
11 community shall have a substantial role, as defined in the facil-  
12 ity development agreement, in determining the design, technology,  
13 buffer zones, landscaping, and other aspects of site  
14 development. In addition, the host community shall also have a  
15 substantial role in selecting the contractor for construction of  
16 the waste isolation facility and monitoring the construction pro-  
17 cess, according to the terms of the facility development  
18 agreement.

19           Sec. 9. A safety analysis report and an environmental  
20 report required by the nuclear regulatory commission shall be  
21 prepared by the authority. These reports will assist the author-  
22 ity in determining whether a site is suitable for a waste isola-  
23 tion facility. Both reports shall be available to the public.

24           Sec. 10. (1) There is hereby created in the state treasury  
25 a low-level radioactive waste management fund that shall be  
26 administered by the authority. The legislature annually shall  
27 make appropriations from the fund as necessary to assure that the

1 authority is able to fully utilize its powers and fulfill its  
2 responsibilities under this act.

3 (2) The authority may expend appropriations by the legisla-  
4 ture from the low-level radioactive waste fund for pre construc-  
5 tion, construction, and postconstruction costs associated with  
6 the waste isolation facility and as are otherwise reasonably  
7 related to the full implementation of the powers and duties of  
8 the authority.

9 (3) The source of the revenue of the fund may include, but  
10 is not limited to, revenue from the following sources:

11 (a) Funds provided by other states, if this state is a  
12 member of a compact and this state is the host state for the com-  
13 pact, including funds to be allocated to candidate site communi-  
14 ties and any other revenue.

15 (b) Funds received from donations, loans, or grants from any  
16 person.

17 (4) The assets of the low-level radioactive waste management  
18 fund are exempt from all taxation by this state or any of its  
19 political subdivisions.

20 (5) The assets of the low-level radioactive waste management  
21 fund shall be preserved, invested, and expended solely pursuant  
22 to and for the purposes set forth in this act and shall not be  
23 loaned or otherwise transferred or used by the state for any  
24 other purpose.

25 (6) An unexpended balance within the fund at the close of  
26 the fiscal year shall be carried forward within the fund to the



1 next fiscal year and shall be applied toward the next fiscal  
2 year's budget.

3       Sec. 11. (1) Financing of land acquisition and the con-  
4 struction of the waste isolation facility shall be derived from  
5 the sale of bonds as authorized under this act.

6       (2) If expenditures are required as a result of a release or  
7 threatened release, the authority and the attorney general shall  
8 seek recovery of funds from a responsible party or liability  
9 insurance held by that party.

10       Sec. 12. (1) The authority shall make an annual report to  
11 the governor and to the legislature. The annual report shall  
12 include a full account of the activities of the authority.

13       (2) In addition to the report under subsection (1), 5 years  
14 after the effective date of this act, the authority shall appoint  
15 an independent committee who shall evaluate the operation of this  
16 act and the waste isolation facility sited under this act and  
17 recommend to the legislature any changes or improvements that  
18 could be made in this act or the rules promulgated under this act  
19 or in the waste isolation facility.

20       Sec. 13. (1) For the purpose of financing the project costs  
21 associated with the waste isolation facility, the authority may  
22 borrow money and issue revenue bonds payable solely from the  
23 waste isolation facility revenues, except to the extent paid from  
24 the proceeds of sale of revenue bonds or from any other security  
25 provided for and pledged as provided by this act. The bonds  
26 shall be serial bonds or term bonds, or a combination of serial  
27 bonds and term bonds, and shall be payable as provided in the

1 resolution authorizing the bonds. The last annual principal  
2 installment shall not be longer than the estimated period of use-  
3 fulness of the waste isolation facility for which the bonds were  
4 issued as determined by the authority. The resolution of the  
5 authority authorizing the issuance of the bonds may provide for  
6 sinking fund payments; for the bond to bear interest at a fixed  
7 or variable rate or rates of interest per annum or at no inter-  
8 est; for the establishment of a reserve and the method of funding  
9 the reserve; for the investment of bond proceeds and other money  
10 held in funds and accounts created by the resolution; for the  
11 denomination or denominations of the bonds; for the form, either  
12 coupon or registered, of the bonds; for the conversion or regis-  
13 tration privileges; for the manner of execution; for the sources,  
14 medium of payment, and place or places within or without the  
15 state of payment; and that the bond be subject to redemption at  
16 the option of the holder or the authority with the terms and  
17 redemption premiums as the resolution provides.

18 (2) Bonds issued may be sold at a discount but may not be  
19 sold at a price that would make the interest cost on the money  
20 borrowed after deducting any premium or adding any discount  
21 exceed 10% per annum or the maximum rate permitted by the munici-  
22 pal finance act, Act No. 202 of the Public Acts of 1943, being  
23 sections 131.1 to 139.3 of the Michigan Compiled Laws, whichever  
24 is greater. Bonds of the authority may be sold at public or pri-  
25 vate sale and shall be subject to the prior approval or an excep-  
26 tion from prior approval requirement of Act No. 202 of the Public  
27 Acts of 1943, except that the requirements of the bonds shall not

1 be subject to the other requirements of Act No. 202 of the Public  
2 Acts of 1943.

3 (3) Bonds of the authority shall not be in any way a debt or  
4 liability of the state and shall not create or constitute an  
5 indebtedness, liability, or obligation of the state or constitute  
6 a pledge of the faith and credit of the state, but all bonds  
7 issued by the authority, unless funded or refunded by bonds  
8 issued by the authority, shall be payable solely from revenues or  
9 funds pledged or available for their payment from waste isolation  
10 facility revenues, or as otherwise provided by this act. The  
11 authority shall not be personally liable for an indebtedness,  
12 liability, or obligation under this section. Each bond issued  
13 under this section shall contain on its face a statement to the  
14 effect that the bond is not in any way a debt or liability of the  
15 state, that the state is not obligated to pay principal or inter-  
16 est on the bond, that neither the faith and credit nor the taxing  
17 power of the state is pledged for the payment of principal of or  
18 interest on the bond, and that the authority is obligated to pay  
19 the principal of and interest on the bond only from the waste  
20 isolation facility revenues.

21 (4) The authority may authorize and approve an insurance  
22 contract, an agreement for a line of credit, a letter of credit,  
23 a commitment to purchase bonds, an agreement to remarket bonds or  
24 not to call for prior redemption of bonds, swaps, or interest  
25 protection agreements including interest rates, hedges, or simi-  
26 lar agreements, and any other transaction to provide security to  
27 assure timely payment of the bond. The authority may authorize

1 payment from the proceeds of the bond or from other funds  
2 available, of the costs of issuance including, but not limited  
3 to, fees for placement, charges for replacement, letters of  
4 credit, lines of credit, remarketing agreements, reimbursement  
5 agreements, or purchase or sales agreements or commitments, or  
6 agreements to provide security to assure timely payment of the  
7 bonds.

8       (5) A pledge of the waste isolation facility revenues and  
9 the funds and accounts pledged by the resolution is valid and  
10 binding from the time when the pledge is made. The waste isola-  
11 tion facility revenues pledged and thereafter received by the  
12 authority shall be subject to a statutory lien of the pledge  
13 without physical delivery of the revenues or money or further  
14 act, until payment in full of the principal of and interest upon  
15 the bonds, unless the authorizing resolution provides for an ear-  
16 lier discharge of the lien. The lien of a pledge of the waste  
17 isolation facility revenue is valid and binding against a party  
18 having a claim of any kind in tort, contract, or otherwise  
19 against the authority, irrespective of whether that party has  
20 notice of the pledge. Neither the resolution authorizing the  
21 issuance of the bonds, the trust indenture, nor any other instru-  
22 ment by which a pledge is created need be filed or recorded in  
23 order to establish and perfect a lien or security interest in the  
24 property pledged.

25       (6) In the resolution authorizing the issuance of the bonds,  
26 the authority may authorize the state treasurer, as agent for the  
27 authority, to do 1 or more of the following:

1 (a) Sell and deliver, and receive payment for, bonds.

2 (b) Refund bonds by the delivery of new bonds, whether or  
3 not the bonds to be refunded have matured or are subject to  
4 redemption.

5 (c) Deliver bonds, partly to refund bonds, and partly for  
6 any other authorized purpose.

7 (d) Buy bonds that have been issued and resell those bonds.

8 (e) Approve interest rates or methods for fixing interest  
9 rates, prices, discounts, maturities, principal amounts, denomi-  
10 nations, dates of issuance, interest payment dates, redemption  
11 rights at the option of the authority or holder, the place of  
12 delivery and payment, and other matters and procedures necessary  
13 to complete the transactions authorized.

14 (7) The authority may provide in the resolution authorizing  
15 the issuance of the bonds for any of the following:

16 (a) A provision that the waste isolation facility revenues  
17 shall be pledged for the payment of the bonds.

18 (b) To establish, make provision for, and make regulation  
19 regarding the disposition of reserves or sinking funds.

20 (c) To covenant with respect to or against limitations on  
21 the right to sell or otherwise dispose of property of any kind.

22 (d) A provision for deposit and expenditure of the proceeds  
23 of sale of the bonds and for investment of the proceeds and of  
24 other funds relating to the bonds.

25 (e) To covenant as to the issuance of additional bonds or  
26 notes, or as to limitations on the issuance of additional bonds,  
27 and on incurring other debts of the authority.

1 (f) To covenant as to the payment of principal and interest  
2 on the bonds, as to the sources and methods of that payment, as  
3 to the rank and priority of the bonds with respect to a lien or  
4 security, or as to the acceleration of the maturity of the  
5 bonds.

6 (g) To covenant as to the redemption of the bonds, and priv-  
7 ileges for exchange of other bonds of the authority.

8 (h) To covenant as to create or authorize the creation of  
9 special funds or money to be held or pledged or otherwise for  
10 operating expenses, payment or redemption of bonds, reserves, or  
11 other purposes, and as the use and disposition of the money held  
12 in these special funds.

13 (i) To establish the procedure by which the terms of a con-  
14 tract or covenant with or for the benefit of the holders of the  
15 bonds may be amended or abrogated, the amount of bonds the hold-  
16 ers of which must consent to the amendment of abrogation, and to  
17 the manner in which the consent may be given.

18 (j) To provide for the rights and liabilities, powers, and  
19 duties arising upon the breach of a covenant, condition, or obli-  
20 gation, and to prescribe the events of default and the terms and  
21 conditions upon which any or all the bonds shall become or may be  
22 declared due and payable before maturity, and the terms and con-  
23 ditions upon which such declarations and its consequences may be  
24 waived.

25 (k) Provide for the appointment of a trustee, to vest in a  
26 trustee property, rights, powers, and duties in trust as the  
27 authority determines, which may include all or any of the rights,

1 powers, or duties of a trustee appointed by the holders of bonds  
2 of the authority to appoint a trustee under this section or to  
3 limit the rights, powers, and duties of such trustee.

4 (l) To limit the rights of holders of bonds to enforce a  
5 pledge or covenant securing the bonds.

6 (m) Any other matters of like or different character, which  
7 in any way affects the security or protection of the bonds.

8 (8) Notwithstanding any other restriction contained in any  
9 other law, the state and the public officer, governmental unit,  
10 or agencies of the state or governmental unit; a bank, trust com-  
11 pany, savings bank and institution, savings and loan association,  
12 investment company, or other person carrying on a banking busi-  
13 ness; an insurance company, insurance association, or any other  
14 person carrying on an insurance business; or an executor, admin-  
15 istrator, guardian, trustee, or other fiduciary may legally  
16 invest a sinking fund, money, or any other fund belonging to them  
17 or within their control in bonds or notes issued under this sec-  
18 tion, and authority bonds shall be authorized security for public  
19 deposits. If the interest of the bonds is excluded from gross  
20 income for federal income tax purposes, bonds and interest on  
21 those bonds shall be exempt from all taxation by the state or a  
22 subdivision of the state.

23 (9) The authority may provide for the issuance of bonds in  
24 the amount the authority considers necessary for the purpose of  
25 refunding bonds of the authority then outstanding, including the  
26 payment of any redemption premium and interest accrued or to  
27 accrue to the earliest or subsequent date of redemption,

1 purchase, or maturity of these bonds. The proceeds of these  
2 refunding bonds may be applied to the purchase or retirement at  
3 maturity or redemption of outstanding bonds either on the earli-  
4 est or subsequent redemption date, and pending such application,  
5 may be placed in escrow to be applied to the purchase or retire-  
6 ment at maturity or redemption on a date or dates determined by  
7 the authority. Pending such application and subject to agree-  
8 ments with the bondholders, the escrowed proceeds may be invested  
9 and reinvested in the manner the authority determines, maturing  
10 at the time or times as appropriate to assure prompt payment of  
11 the principal, interest, and redemption premium, if any, of the  
12 outstanding bonds to be refunded. After the terms of the escrow  
13 have been fully satisfied and carried out, the balance of the  
14 proceeds and interest, income, and profits, if any, earned or  
15 realized on the investment of the proceeds shall be returned to  
16 the authority for use by the authority in any lawful manner. In  
17 the resolution authorizing bonds, the authority may provide that  
18 the bonds that have been refunded shall be considered paid when  
19 there has been deposited in trust money or direct obligations of  
20 the United States, or other obligations secured by the foregoing  
21 which will provide payments of principal and interest adequate to  
22 pay the principal and interest on the refunded bonds as that  
23 principal and interest becomes due whether by maturity or prior  
24 redemption and that, upon the deposit of the money or obliga-  
25 tions, the obligations of the authority to the holders of the  
26 refunded bonds are terminated except as to the rights to the  
27 money or obligations deposited in trust.



1 (10) As used in this section:

2 (a) "Annual principal installment" means a maturity of  
3 serial bonds, an amount of term bonds required to be redeemed in  
4 that year, or a maturity of term bonds less amounts previously  
5 required to be redeemed.

6 (b) "Bonds" means any note, bond, or other obligation or  
7 evidence of indebtedness of the authority.

8 (c) "Waste isolation facility revenues" means revenues gen-  
9 erated by the operation of the waste isolation facility and other  
10 revenues received by the bondholders pursuant to the resolution  
11 authorizing the bond, after deduction of reasonable expenses of  
12 administration, operation, and maintenance of the waste isolation  
13 facility.

14 (d) "Project costs" means the costs of land acquisition,  
15 assurance of title, construction, insurance during construction,  
16 acquisition, improvement, enlargement, extension, or repair of  
17 the waste isolation facility including any engineering, architect-  
18 tural, legal, accounting, financial, surveying, and other  
19 expenses incidental to the waste isolation facility. Project  
20 costs shall also include interest on the bonds and other obliga-  
21 tions of the borrower issued to pay project costs or to secure  
22 the timely payment of the bonds, a reserve or an addition to a  
23 reserve for payment of principal and interest on the bonds, the  
24 amount determined by the authority required for the operation of  
25 maintenance of the waste isolation facility until sufficient rev-  
26 enues have developed, and all costs associated with the issuance  
27 of the bonds.

1       Sec. 14. Upon the request of the authority, any department  
2 or agency of this state shall assist the authority in fulfilling  
3 its responsibilities under this act and that department or agency  
4 shall be reimbursed for reasonable costs associated with that  
5 assistance.

6       Sec. 15. (1) Once the waste isolation facility is operation-  
7 al, the authority shall maintain a data base, and prepare an  
8 annual report for submittal to the department, that includes all  
9 of the following:

10       (a) The source, character, volume, class, and curie count of  
11 waste received by the waste isolation facility.

12       (b) The number of shipments of waste received by the waste  
13 isolation facility during the reporting period.

14       (c) The number of manifests received by the authority that  
15 properly and improperly reflected the waste received.

16       (d) The response of the authority to any discrepancies in  
17 the manifest.

18       (e) The recommendation of the authority to the department  
19 for follow-up action regarding a discrepancy in a manifest or  
20 other impropriety.

21       (2) By October 1 of each year, or in accordance with a  
22 schedule otherwise required by the authority, a generator shall  
23 report to the authority the following information about the waste  
24 it generates:

25       (a) Volume of waste.

26       (b) Curie content and principal radionuclides present.

1 (c) Form of waste.

2 (d) Methods used to store waste.

3 (e) Any other information about the waste that the authority  
4 considers necessary or helpful in implementing its duties under  
5 this act.

6 (3) A summary of information reported under subsection (2)  
7 shall be prepared by the authority and presented to the appropri-  
8 ate standing committees of the senate and house of representa-  
9 tives of the legislature that primarily address issues pertaining  
10 to the environment and natural resources.

11 (4) If this state serves as the host state for an interstate  
12 compact, the reporting requirements in subsection (2) shall apply  
13 to all generators who generate waste in the compact  
14 jurisdiction.

15 Sec. 16. (1) The authority shall compile and maintain a  
16 list of all generators of waste within this state.

17 (2) If this state is a member of a compact and in that  
18 capacity will serve as a host site to waste generated in another  
19 state or states, the authority shall obtain from each compact  
20 member a list of generators who generate waste in each compact  
21 member state, which shall be updated as necessary.

22 (3) The authority shall permit the waste isolation facility  
23 to receive waste only from a generator whose name is on the  
24 master list.

25 Sec. 17. (1) The authority, operator of the waste isolation  
26 facility, or any other person shall not accept delivery of waste  
27 unless the waste is accompanied by a manifest certified by each

1 person who possessed the waste and who is authorized to possess  
2 waste under this act, and the location of acceptance is the  
3 destination indicated on the manifest.

4 (2) When waste is accepted at the waste isolation facility,  
5 the authority shall do all of the following:

6 (a) Keep permanent records.

7 (b) Compile an annual report pertaining to the operation of  
8 the waste isolation facility and the volume and type of waste  
9 placed in the waste isolation facility.

10 (c) Make manifest copies and reports available for review  
11 and inspection at reasonable times by a representative of the  
12 host community.

13 (d) Certify on the manifest receipt of the waste and furnish  
14 a copy of the manifest to the generator and to the department  
15 within 10 days after receipt of the waste.

16 (e) Within 30 days of receipt of waste, notify the generator  
17 if the manifest was improperly completed.

18 Sec. 18. Except as provided in this section, the issuance  
19 of a license from the United States nuclear regulatory commission  
20 shall exempt the authority from obtaining other permits,  
21 licenses, or registrations that may be required under other  
22 applicable state laws, but shall not exempt the authority from  
23 meeting other standards and requirements of applicable state or  
24 federal laws.

25 Sec. 19. A local ordinance or permit requirement or other  
26 local requirement shall not prohibit, restrict, or regulate the

1 construction or operation of the waste isolation facility  
2 established pursuant to this act.

3       Sec. 20. A municipality or county shall not prohibit or  
4 restrict a lawful activity regulated under this act.

5       Sec. 21. The authority shall promulgate rules to implement  
6 this act pursuant to the administrative procedures act of 1969,  
7 Act No. 306 of the Public Acts of 1969, being sections 24.201 to  
8 24.328 of the Michigan Compiled Laws.

9       Sec. 22. The following acts and parts of acts are  
10 repealed:

11       (a) Act No. 204 of the Public Acts of 1987, being  
12 sections 333.26201 to 333.26226 of the Michigan Compiled Laws.

13       (b) Sections 13701 to 13741 of Act No. 368 of the Public  
14 Acts of 1978, being sections 333.13701 to 333.13741 of the  
15 Michigan Compiled Laws.

16       (c) Act No. 460 of the Public Acts of 1982, being sections  
17 3.751 to 3.752 of the Michigan Compiled Laws.