

# HOUSE BILL No. 4759

May 10, 2005, Introduced by Reps. Espinoza, Kehrl, McDowell, Miller, Kathleen Law, Alma Smith, Tobocman, Angerer, Clack, Zelenko, Condino, Meisner, Brown, Spade, Donigan, Anderson, Lipsey, Byrum, Murphy, Ball and Kolb and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 11502, 11503, 11504, 11505, and 11506 (MCL  
324.11502, 324.11503, 324.11504, 324.11505, and 324.11506),  
section 11502 as amended by 2004 PA 35, sections 11503 and 11506  
as amended by 1998 PA 466, and section 11504 as amended by 1996  
PA 359, and by adding sections 11532c, 11532d, 11532e, 11532f,  
11532g, and 11532h; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1           (3) "BENCHMARK RECYCLING PROGRAM" MEANS A RECYCLING PROGRAM  
2 AS DESCRIBED IN SECTION 11532F.

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

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

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

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

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

25           (6) ~~—(5)—~~ "Certificate of deposit" means a negotiable  
26 certificate of deposit held by a bank or other financial  
27 institution regulated and examined by a state or federal agency,

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

9       (7) ~~—(6)—~~ "Certified health department" means a city,  
10 county, or district department of health that is specifically  
11 delegated authority by the department to perform designated  
12 activities as prescribed by this part.

13       (8) ~~—(7)—~~ "Coal or wood ash" means either or both of the  
14 following:

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

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

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

26       (10) ~~—(9)—~~ "Consistency review" means evaluation of the  
27 administrative and technical components of an application for a

1 permit, license, or for operating conditions in the course of  
2 inspection, for the purpose of determining consistency with the  
3 requirements of this part, rules promulgated under this part, and  
4 approved plans and specifications.

5       (11) ~~-(10)-~~ "Corrective action" means the investigation,  
6 assessment, cleanup, removal, containment, isolation, treatment,  
7 or monitoring of constituents, as defined in a facility's  
8 approved hydrogeological monitoring plan, released into the  
9 environment from a disposal area, or the taking of other actions  
10 related to the release as may be necessary to prevent, minimize,  
11 or mitigate injury to the public health, safety, or welfare, the  
12 environment, or natural resources that is consistent with  
13 ~~subtitle D of the solid waste disposal act, title II of Public~~  
14 ~~Law 89-272, 42 U.S.C. 6941 and 6942 to~~ **42 USC 6941 TO 6949a** or  
15 regulations promulgated ~~pursuant to that act~~ **THEREUNDER.**

16       Sec. 11503. (1) "Department" means the department of  
17 environmental quality.

18       **(2) "DEVELOPMENT FUND" MEANS THE RECYCLING MARKET**  
19 **DEVELOPMENT FUND CREATED IN SECTION 11532C.**

20       (3) ~~-(2)-~~ "Director" means the director of the department.

21       (4) ~~-(3)-~~ "Discharge" includes, but is not limited to, any  
22 spilling, leaking, pumping, pouring, emitting, emptying,  
23 discharging, injecting, escaping, leaching, dumping, or disposing  
24 of a substance into the environment which is or may become  
25 injurious to the public health, safety, or welfare, or to the  
26 environment.

27       (5) ~~-(4)-~~ "Disposal area" means 1 or more of the following

1 at a location as defined by the boundary identified in its  
2 construction permit or engineering plans approved by the  
3 department:

4 (a) A solid waste transfer facility.

5 (b) Incinerator.

6 (c) Sanitary landfill.

7 (d) Processing plant.

8 (e) Other solid waste handling or disposal facility utilized  
9 in the disposal of solid waste.

10 (6) ~~—(5)—~~ "Enforceable mechanism" means a legal method  
11 whereby the state, a county, a municipality, or a person is  
12 authorized to take action to guarantee compliance with an  
13 approved county solid waste management plan. Enforceable  
14 mechanisms include contracts, intergovernmental agreements, laws,  
15 ordinances, rules, and regulations.

16 (7) ~~—(6)—~~ "Escrow account" means an account managed by a  
17 bank or other financial institution whose account operations are  
18 regulated and examined by a federal or state agency and which  
19 complies with section 11523b.

20 (8) ~~—(7)—~~ "Financial assurance" means the mechanisms used to  
21 demonstrate that the funds necessary to meet the cost of closure,  
22 postclosure maintenance and monitoring, and corrective action  
23 will be available whenever they are needed.

24 (9) ~~—(8)—~~ "Financial test" means a corporate or local  
25 government financial test or guarantee approved for type II  
26 landfills under ~~subtitle D of the solid waste disposal act,~~  
27 ~~title II of Public Law 89-272, 42 U.S.C. 6941 and 6942 to~~ 42 USC

1 **6941 TO** 6949a. An owner or operator may use a single financial  
 2 test for more than 1 facility. Information submitted to the  
 3 department to document compliance with the test shall include a  
 4 list showing the name and address of each facility and the amount  
 5 of funds assured by the test for each facility. For purposes of  
 6 the financial test, the owner or operator shall aggregate the sum  
 7 of the closure, postclosure, and corrective action costs it seeks  
 8 to assure with any other environmental obligations assured by a  
 9 financial test under state or federal law.

10 **(10)** ~~—(9)—~~ "Food processing residuals" means any of the  
 11 following:

12 (a) Residuals of fruits, vegetables, aquatic plants, or  
 13 field crops.

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

16 (c) Otherwise unusable food products which do not meet size,  
 17 quality, or other product specifications and which were intended  
 18 for human or animal consumption.

19 **(11)** ~~—(10)—~~ "Garbage" means rejected food wastes including  
 20 waste accumulation of animal, fruit, or vegetable matter used or  
 21 intended for food or that attends the preparation, use, cooking,  
 22 dealing in, or storing of meat, fish, fowl, fruit, or vegetable  
 23 matter.

24 ~~—— (11) "Scrap wood" means wood or wood product that is 1 or~~  
 25 ~~more of the following:~~

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

~~1 (b) Wood or wood product treated with creosote or  
2 pentachlorophenol.~~

~~3 (c) Any other wood or wood product designated as scrap wood  
4 in rules promulgated by the department.~~

~~5 (12) "Treated wood" means wood or wood product that has been  
6 treated with 1 or more of the following:~~

~~7 (a) Chromated copper arsenate (CCA).~~

~~8 (b) Ammoniacal copper quat (ACQ).~~

~~9 (c) Ammoniacal copper zinc arsenate (ACZA).~~

~~10 (d) Any other chemical designated in rules promulgated by  
11 the department.~~

~~12 (13) "Wood" means trees, branches, bark, lumber, pallets,  
13 wood chips, sawdust, or other wood or wood product but does not  
14 include scrap wood, treated wood, painted wood or painted wood  
15 product, or any wood or wood product that has been contaminated  
16 during manufacture or use.~~

17       Sec. 11504. (1) **"HDPE" MEANS THAT TERM AS DEFINED IN SECTION**  
18 **16101.**

19       (2) ~~(1)~~ "Health officer" means a full-time administrative  
20 officer of a certified city, county, or district department of  
21 health.

22       (3) ~~(2)~~ "Inert material" means a substance that will not  
23 decompose, dissolve, or in any other way form a contaminated  
24 leachate upon contact with water, or other liquids determined by  
25 the department as likely to be found at the disposal area,  
26 percolating through the substance.

27       (4) ~~(3)~~ "Insurance" means insurance that conforms to the

requirements of 40 ~~C.F.R.~~ **CFR** 258.74(d) provided by an insurer who has a certificate of authority from the Michigan commissioner of insurance to sell this line of coverage. An applicant for an operating license shall submit evidence of the required coverage by submitting both of the following to the department:

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

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

(5) ~~(4)~~ "Landfill" means a disposal area that is a sanitary landfill.

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

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

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

(9) ~~(7)~~ "Municipal solid waste incinerator" means an incinerator that is owned or operated by any person, and meets all of the following requirements:

(a) The incinerator receives solid waste from off site and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources, or this household waste together with solid waste from commercial, institutional,



1 municipal, county, or industrial sources that, if disposed of,  
 2 would not be required to be placed in a disposal facility  
 3 licensed under part 111.

4 (b) The incinerator has established contractual requirements  
 5 or other notification or inspection procedures sufficient to  
 6 assure that the incinerator receives and burns only waste  
 7 referred to in subdivision (a).

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

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

12 (e) The incinerator is not an incinerator that receives and  
 13 burns only medical waste or only waste produced at 1 or more  
 14 hospitals.

15 **(10) —(8)—** "Municipal solid waste incinerator ash" means the  
 16 substances remaining after combustion in a municipal solid waste  
 17 incinerator.

18 **(11) "MUNICIPALITY" MEANS A CITY, VILLAGE, OR TOWNSHIP.**

19 **(12) —(9)—** "Perpetual care fund" means a perpetual care fund  
 20 provided for in section 11525.

21 ~~——(10) "Trust fund" means a trust fund held by a trustee which~~  
 22 ~~has the authority to act as a trustee and whose trust operations~~  
 23 ~~are regulated and examined by a federal or state agency. A trust~~  
 24 ~~fund shall comply with section 11523b.~~

25 **(13) "PETE" MEANS THAT TERM AS DEFINED IN SECTION 16101.**

26 Sec. 11505. (1) "Recyclable materials" means source  
 27 separated materials, site separated materials, high grade paper,

1 glass, metal, plastic, aluminum, newspaper, corrugated paper,  
2 yard clippings, and other materials that may be recycled or  
3 composted.

4 (2) "RECYCLING FUND" MEANS THE RECYCLING AND WASTE DIVERSION  
5 FUND CREATED IN SECTION 11532B.

6 (3) ~~-(2)-~~ "Regional solid waste management planning agency"  
7 means the regional solid waste planning agency designated by the  
8 governor pursuant to ~~section 4006 of subtitle D of the solid~~  
9 ~~waste disposal act, title II of Public Law 89-272, 42 U.S.C. 42~~  
10 USC 6946.

11 (4) ~~-(3)-~~ "Resource recovery facility" means machinery,  
12 equipment, structures, or any parts or accessories of machinery,  
13 equipment, or structures, installed or acquired for the primary  
14 purpose of recovering materials or energy from the waste stream.

15 (5) ~~-(4)-~~ "Response activity" means an activity that is  
16 necessary to protect the public health, safety, welfare, or the  
17 environment, and includes, but is not limited to, evaluation,  
18 cleanup, removal, containment, isolation, treatment, monitoring,  
19 maintenance, replacement of water supplies, and temporary  
20 relocation of people.

21 (6) ~~-(5)-~~ "Rubbish" means nonputrescible solid waste,  
22 excluding ashes, consisting of both combustible and  
23 noncombustible waste, including paper, cardboard, metal  
24 containers, yard clippings, wood, glass, bedding, crockery,  
25 demolished building materials, or litter of any kind that may be  
26 a detriment to the public health and safety.

27 (7) ~~-(6)-~~ "Salvaging" means the lawful and controlled

1 removal of reusable materials from solid waste.

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

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

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

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

10 (9) ~~-(7)-~~ "Site separated material" means glass, metal,  
11 wood, paper products, plastics, rubber, textiles, garbage, yard  
12 clippings, or any other material approved by the department that  
13 is separated from solid waste for the purpose of conversion into  
14 raw materials or new products. Site separated material does not  
15 include the residue remaining after glass, metal, wood, paper  
16 products, plastics, rubber, textiles, or any other material  
17 approved by the department is separated from solid waste.

18 (10) ~~-(8)-~~ "Slag" means the nonmetallic product resulting  
19 from melting or smelting operations for iron or steel.

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

26 (a) Human body waste.

27 (b) Medical waste. ~~as it is defined in part 138 of the~~

1 ~~public health code, 1978 PA 368, MCL 333.13801 to 333.13831, and~~  
2 ~~regulated under that part and part 55.~~

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

5 (d) Liquid waste.

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

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

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

as provided for in this subdivision shall occur in a manner that prevents losses from runoff and leaching, and if applied to land, the land application shall be at an agronomic rate consistent with generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

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

(i) Source separated materials.

(j) Site separated material.

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

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

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

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

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

(v) As the sole material in a depository designed to reclaim, develop, or otherwise enhance land, subject to the approval of the department. In evaluating the site, the

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

7 (1) Other wastes regulated by statute.

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

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

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

22 (5) "Solid waste transfer facility" means a tract of land, a  
23 building and any appurtenances, or a container, or any  
24 combination of land, buildings, or containers that is used or  
25 intended for use in the rehandling or storage of solid waste  
26 incidental to the transportation of the solid waste, but is not  
27 located at the site of generation or the site of disposal of the

1 solid waste.

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

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

10 (A) CHROMATED COPPER ARSENATE (CCA).

11 (B) AMMONIACAL COPPER QUAT (ACQ).

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

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

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

19 (9) "WOOD" MEANS TREES, BRANCHES, BARK, LUMBER, PALLETS,  
20 WOOD CHIPS, SAWDUST, OR OTHER WOOD OR WOOD PRODUCT BUT DOES NOT  
21 INCLUDE SCRAP WOOD, TREATED WOOD, PAINTED WOOD OR PAINTED WOOD  
22 PRODUCT, OR ANY WOOD OR WOOD PRODUCT THAT HAS BEEN CONTAMINATED  
23 DURING MANUFACTURE OR USE.

24 (10) ~~—(7)—~~ "Yard clippings" means leaves, grass clippings,  
25 vegetable or other garden debris, shrubbery, or brush or tree  
26 trimmings, less than 4 feet in length and 2 inches in diameter,  
27 that can be converted to compost humus. Yard clippings do not

1 include stumps, agricultural wastes, animal waste, roots, sewage  
2 sludge, or garbage.

3 SEC. 11532C. (1) THE RECYCLING MARKET DEVELOPMENT FUND IS  
4 CREATED WITHIN THE STATE TREASURY.

5 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS  
6 FROM ANY SOURCE FOR DEPOSIT INTO THE DEVELOPMENT FUND. THE STATE  
7 TREASURER SHALL DIRECT THE INVESTMENT OF THE DEVELOPMENT FUND.  
8 THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND  
9 EARNINGS FROM DEVELOPMENT FUND INVESTMENTS.

10 (3) MONEY IN THE DEVELOPMENT FUND AT THE CLOSE OF THE FISCAL  
11 YEAR SHALL REMAIN IN THE DEVELOPMENT FUND, EXCEPT AS PROVIDED IN  
12 SUBSECTION (5), AND SHALL NOT LAPSE TO THE GENERAL FUND.

13 (4) IF THE DEVELOPMENT FUND ACCUMULATES, AT ANY TIME BEFORE  
14 OCTOBER 1, 2008, \$1,000,000.00, THE DEPARTMENT SHALL EXPEND MONEY  
15 FROM THE DEVELOPMENT FUND, UPON APPROPRIATION, FOR GRANTS OR  
16 OTHER INCENTIVES TO PRIVATE OR PUBLIC ENTITIES TO EXPAND MARKETS  
17 FOR RECYCLED MATERIALS IN THIS STATE.

18 (5) IF THE DEVELOPMENT FUND DOES NOT ACCUMULATE, AT ANY TIME  
19 BEFORE OCTOBER 1, 2008, \$1,000,000.00, THEN AT THE END OF EACH  
20 STATE FISCAL YEAR BEGINNING WITH THE 2008-2009 STATE FISCAL YEAR,  
21 THE BALANCE IN THE DEVELOPMENT FUND SHALL BE TRANSFERRED TO THE  
22 RECYCLING FUND TO BE USED TO AUGMENT DISTRIBUTIONS UNDER SECTION  
23 11532D(1)(A)(ii).

24 SEC. 11532D. (1) EACH STATE FISCAL YEAR, MONEY APPROPRIATED  
25 FROM THE RECYCLING FUND SHALL BE DISTRIBUTED AS FOLLOWS:

26 (A) THE FIRST \$53,000,000.00 APPROPRIATED FROM THE RECYCLING  
27 FUND SHALL BE DISTRIBUTED AS FOLLOWS:



1 (i) SUBJECT TO SECTION 11532C(5), \$15,000.00 TO EACH COUNTY  
2 TO BE USED TO OFFSET THE COST OF MEETING REPORTING REQUIREMENTS  
3 UNDER SECTION 11532G.

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

7 (B) THE NEXT \$2,000,000.00 APPROPRIATED FROM THE RECYCLING  
8 FUND SHALL BE DISTRIBUTED TO THE DEPARTMENT FOR ALL OF THE  
9 FOLLOWING PURPOSES:

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

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

15 (iii) TO FUND FULL-TIME EQUATED POSITIONS, IN ADDITION TO  
16 THOSE FUNDED BY FEES AND SURCHARGES UNDER SECTION 11525A, TO  
17 CONDUCT INSPECTIONS, CARRY OUT THE DEPARTMENT'S RESPONSIBILITIES  
18 WITH RESPECT TO COUNTY SOLID WASTE MANAGEMENT PLANNING, AND  
19 OTHERWISE ADMINISTER AND ENFORCE THIS PART.

20 (C) THE NEXT \$1,500,000.00 APPROPRIATED FROM THE RECYCLING  
21 FUND SHALL BE DISTRIBUTED TO COUNTIES THROUGH AND FOR THE  
22 PURPOSES OF THE GRANT PROGRAM PROVIDED FOR IN SECTION 11547.

23 (D) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2010,  
24 THE NEXT \$8,000,000.00 APPROPRIATED FROM THE RECYCLING FUND SHALL  
25 BE DISTRIBUTED ON A PER CAPITA BASIS TO MUNICIPALITIES THAT,  
26 SINCE SEPTEMBER 30, 2005, HAVE DIRECTLY PROVIDED CURBSIDE  
27 RECYCLING SERVICE, OR HAVE PAID A CONTRACTOR TO PROVIDE SUCH

1 SERVICE FREE OF CHARGE, AT LEAST EVERY OTHER WEEK FOR HOUSEHOLDS  
 2 IN THAT MUNICIPALITY TO WHICH CURBSIDE RECYCLING SERVICE IS  
 3 AVAILABLE.

4 (E) THROUGH THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2010,  
 5 AFTER THE DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (D), MONEY  
 6 APPROPRIATED FROM THE RECYCLING FUND SHALL BE DISTRIBUTED TO  
 7 LOCAL UNITS OF GOVERNMENT THAT DIRECTLY PROVIDE DROP-OFF  
 8 RECYCLING SERVICE, OR PAY A CONTRACTOR TO PROVIDE SUCH SERVICE  
 9 FREE OF CHARGE. THE AMOUNT DISTRIBUTED SHALL BE \$5,000.00 PER  
 10 DROP-OFF POINT MAINTAINED SINCE ON OR BEFORE SEPTEMBER 30, 2005.

11 (F) AFTER DISTRIBUTIONS UNDER SUBDIVISIONS (A) TO (C) AND,  
 12 IF APPLICABLE, (D) AND (E), ANY REMAINING MONEY APPROPRIATED FROM  
 13 THE RECYCLING FUND SHALL BE DISTRIBUTED AS FOLLOWS:

14 (i) 85% ON A PER CAPITA BASIS TO MUNICIPALITIES. OF THE MONEY  
 15 DISTRIBUTED UNDER THIS SUBPARAGRAPH, EACH MUNICIPALITY SHALL  
 16 RECEIVE \$3.75 PER CAPITA. THE BALANCE OF THE MONEY DISTRIBUTED  
 17 UNDER THIS SUBPARAGRAPH SHALL BE DISTRIBUTED PURSUANT TO THE  
 18 FOLLOWING FORMULA:

19 (A) DETERMINE THE POPULATION WEIGHT FACTOR FOR EACH  
 20 MUNICIPALITY AS FOLLOWS:

21	POPULATION	POPULATION WEIGHT FACTOR
22	10,000 OR LESS	1
23	10,001 TO 40,000	2
24	40,001 TO 80,000	3
25	MORE THAN 80,000	4

26 (B) DETERMINE THE ADJUSTED POPULATION FOR EACH MUNICIPALITY

1 BY MULTIPLYING ITS POPULATION WEIGHT FACTOR AS DETERMINED UNDER  
2 SUB-SUBPARAGRAPH (A) BY ITS POPULATION.

3 (C) DETERMINE THE TOTAL STATEWIDE ADJUSTED POPULATION BY  
4 ADDING THE ADJUSTED POPULATIONS FOR ALL MUNICIPALITIES.

5 (D) DETERMINE THE POPULATION PAYMENT RATE BY DIVIDING THE  
6 TOTAL AMOUNT OF MONEY TO BE DISTRIBUTED PURSUANT TO THIS FORMULA  
7 BY THE TOTAL STATEWIDE ADJUSTED POPULATION AS DETERMINED UNDER  
8 SUB-SUBPARAGRAPH (C).

9 (E) DETERMINE THE DISTRIBUTION TO EACH MUNICIPALITY BY  
10 MULTIPLYING THE POPULATION PAYMENT RATE AS DETERMINED UNDER SUB-  
11 SUBPARAGRAPH (D) BY THE ADJUSTED POPULATION FOR THAT MUNICIPALITY  
12 AS DETERMINED UNDER SUB-SUBPARAGRAPH (B).

13 (ii) SUBJECT TO SECTION 11532G, 15% ON A PER CAPITA BASIS TO  
14 COUNTIES.

15 (2) MONEY DISTRIBUTED UNDER SUBSECTION (1)(D), (E), OR (F)  
16 SHALL BE USED TO PROMOTE THE HEALTH, SAFETY, OR WELFARE OF THE  
17 CITIZENS OF THE RESPECTIVE LOCAL UNIT OF GOVERNMENT.

18 SEC. 11532E. (1) TO QUALIFY FOR A DISTRIBUTION UNDER SECTION  
19 11532D(1)(A)(ii) DURING A STATE FISCAL YEAR, A MUNICIPALITY SHALL  
20 MEET ALL OF THE FOLLOWING REQUIREMENTS, AS APPLICABLE:

21 (A) BY THE END OF THE PRECEDING STATE FISCAL YEAR, THE  
22 MUNICIPALITY HAD A BENCHMARK RECYCLING PROGRAM. THIS SUBDIVISION  
23 APPLIES BEGINNING OCTOBER 1, 2007 OR, FOR A MUNICIPALITY WITH A  
24 POPULATION OF 124,000 OR MORE, BEGINNING OCTOBER 1, 2008.

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

1 PLANNING COSTS.

2 (C) IF THE MUNICIPALITY RECEIVED A DISTRIBUTION UNDER  
3 SECTION 11532D(1)(A)(ii) IN THE PRECEDING STATE FISCAL YEAR, THE  
4 MUNICIPALITY, BY NOVEMBER 15 OF THE CURRENT STATE FISCAL YEAR,  
5 SUBMITS TO THE COUNTY INFORMATION NECESSARY FOR THE PREPARATION  
6 OF THE COUNTY WASTE DIVERSION REPORT UNDER SECTION 11532G.

7 (2) A MUNICIPALITY THAT RECEIVES MONEY UNDER SECTION  
8 11532D(1)(A)(ii) SHALL DO 1 OR MORE OF THE FOLLOWING WITH THE  
9 MONEY:

10 (A) POOL THE MONEY WITH OR TRANSFER IT TO OTHER LOCAL UNITS  
11 OR AN AUTHORITY ESTABLISHED UNDER 1947 PA 179, MCL 123.301 TO  
12 123.311, OR 1955 PA 233, MCL 124.281 TO 124.294, FOR  
13 MULTIJURISDICTIONAL RECYCLING PROGRAMS CONSISTENT WITH THE  
14 REQUIREMENTS OF THIS SECTION.

15 (B) USE THE MONEY TO CONDUCT OR TO PAY CONTRACTORS TO  
16 CONDUCT RECYCLING PROGRAMS CONSISTENT WITH THE REQUIREMENTS OF  
17 THIS SECTION.

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

22 (A) TO THE COUNTY, SUBJECT TO SECTION 11532G. TO QUALIFY FOR  
23 A DISTRIBUTION UNDER THIS SUBDIVISION, THE COUNTY SHALL SUBMIT TO  
24 THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT AN AGREEMENT  
25 TO USE THE MONEY ANYWHERE IN THE COUNTY FOR THE PURPOSES FOR  
26 WHICH IT WOULD HAVE BEEN REQUIRED TO HAVE BEEN USED BY THE  
27 MUNICIPALITY.

1 (B) IF THE COUNTY DOES NOT QUALIFY FOR A DISTRIBUTION UNDER  
2 SUBDIVISION (A), TO THE DEVELOPMENT FUND.

3 SEC. 11532F. A BENCHMARK RECYCLING PROGRAM IS A RECYCLING  
4 AND WASTE DIVERSION PROGRAM THAT MEETS ALL OF THE FOLLOWING  
5 REQUIREMENTS, AS APPLICABLE:

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

14 (i) CLEAR GLASS.

15 (ii) COLORED GLASS.

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

17 (iv) MIXED RESIDENTIAL PAPER.

18 (v) NEWSPRINT.

19 (vi) CORRUGATED CARDBOARD.

20 (vii) MAGAZINES.

21 (viii) BOXBOARD.

22 (ix) HDPE AND PETE.

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

26 (i) THE RECYCLING PROGRAM MEETS THE REQUIREMENTS OF  
27 SUBDIVISION (A).

1           (ii) THE RECYCLING PROGRAM DOES NOT MEET AND HAS NOT MET THE  
2 REQUIREMENTS OF SUBDIVISION (A) BUT INCLUDES AN EASILY ACCESSIBLE  
3 DROP-OFF COLLECTION POINT AVAILABLE TO CITIZENS NOT LESS THAN 8  
4 HOURS PER WEEK.

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

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

20          (E) THE MUNICIPALITY ADEQUATELY DOCUMENTS ITS RECYCLING AND  
21 WASTE DIVERSION PROGRAM, INCLUDING SUBMISSION OF THE INFORMATION  
22 NECESSARY FOR THE COUNTY RECYCLING AND WASTE DIVERSION REPORTS TO  
23 MEET THE REQUIREMENTS OF SECTION 11532G.

24          SEC. 11532G. BY DECEMBER 31 OF EACH YEAR, EACH COUNTY SHALL  
25 SUBMIT TO THE DEPARTMENT A RECYCLING AND WASTE DIVERSION REPORT.  
26 THE REPORT SHALL BE SUBMITTED IN THE MANNER AND SHALL CONTAIN THE  
27 INFORMATION REQUIRED BY THE DEPARTMENT DESCRIBING PROGRESS IN

1 RECYCLING AND WASTE DIVERSION DURING THE PREVIOUS STATE FISCAL  
2 YEAR. IN REPORTING PROGRESS, THE COUNTY SHALL USE A STANDARD  
3 METHODOLOGY FOR MEASURING RECYCLING RATES CONSISTENT WITH THE  
4 METHODOLOGY USED BY THE UNITED STATES ENVIRONMENTAL PROTECTION  
5 AGENCY AS SPECIFIED BY THE DEPARTMENT. A COUNTY THAT FAILS TO  
6 SUBMIT A COMPLETE RECYCLING AND WASTE DIVERSION REPORT TO THE  
7 DEPARTMENT AS PROVIDED IN THIS SECTION DOES NOT QUALIFY FOR A  
8 DISTRIBUTION UNDER SECTION 11532D(1)(A)(i) OR (F)(ii) OR  
9 11532E(3)(A) UNTIL THE COMPLETE WASTE DIVERSION REPORT IS  
10 SUBMITTED.

11 SEC. 11532H. (1) THE RECYCLING ADVISORY COUNCIL IS CREATED  
12 WITHIN THE DEPARTMENT.

13 (2) THE COUNCIL SHALL CONSIST OF THE DIRECTOR OR HIS OR HER  
14 DESIGNEE AND ALL OF THE FOLLOWING MEMBERS APPOINTED BY THE  
15 GOVERNOR:

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

17 (B) A REPRESENTATIVE OF AN ORGANIZATION OF CITIES AND  
18 VILLAGES.

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

20 (D) A REPRESENTATIVE OF A CONSERVATION OR ENVIRONMENTAL  
21 ORGANIZATION.

22 (E) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED  
23 GLASS.

24 (F) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED  
25 PLASTICS.

26 (G) A REPRESENTATIVE OF A BUSINESS THAT UTILIZES RECYCLED  
27 PAPER.

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

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

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

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

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

8 (M) A REPRESENTATIVE OF A PRIVATE COMPANY THAT PROVIDES  
9 CURBSIDE RECYCLING OR DROP-OFF COLLECTION POINT SERVICE TO THE  
10 PUBLIC.

11 (N) A REPRESENTATIVE OF THE GENERAL PUBLIC.

12 (3) THE MEMBERS FIRST APPOINTED TO THE COUNCIL SHALL BE  
13 APPOINTED BY APRIL 1, 2008.

14 (4) MEMBERS OF THE COUNCIL SHALL SERVE FOR THE LIFE OF THE  
15 COUNCIL.

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

19 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COUNCIL FOR  
20 INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR  
21 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

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



1       (8) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTE A  
2 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
3 COUNCIL. THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS OF THE  
4 COUNCIL IS REQUIRED FOR OFFICIAL ACTION OF THE COUNCIL.

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

8       (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,  
9 OR RETAINED BY THE COUNCIL IN THE PERFORMANCE OF AN OFFICIAL  
10 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA  
11 442, MCL 15.231 TO 15.246.

12       (11) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT  
13 COMPENSATION. THE DIRECTOR OR HIS OR HER DESIGNEE ON THE COUNCIL  
14 SHALL SERVE WITHOUT ADDITIONAL COMPENSATION. HOWEVER, MEMBERS OF  
15 THE COUNCIL MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY  
16 EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS  
17 MEMBERS OF THE COUNCIL.

18       (12) BY APRIL 1, 2009, THE COUNCIL SHALL SUBMIT TO THE  
19 GOVERNOR AND THE LEGISLATURE A REPORT ON ITS RECOMMENDATIONS ON  
20 EXPANDING AND IMPROVING THE EFFICIENCY OF RECYCLING IN THIS  
21 STATE. THE REPORT SHALL INCLUDE RECOMMENDATIONS ON ALL OF THE  
22 FOLLOWING:

23       (A) ANY CHANGES IN THE DISTRIBUTION FORMULA UNDER SECTION  
24 11532D(1)(A), (D), AND (E) TO TAKE EFFECT AFTER SEPTEMBER 30,  
25 2010.

26       (B) WHETHER AND TO WHAT EXTENT THE RECYCLING FUND AND THE  
27 DEVELOPMENT FUND SHOULD BE USED TO EXPAND MARKETS FOR RECYCLED

1 MATERIALS.

2 (C) ANY CHANGES IN THE STANDARDS FOR A BENCHMARK RECYCLING  
3 PROGRAM TO TAKE EFFECT AFTER SEPTEMBER 30, 2010 INCLUDING, BUT  
4 NOT LIMITED TO, RECOMMENDATIONS CONCERNING THE FOLLOWING  
5 POTENTIAL CHANGES:

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

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

9 (iii) REQUIRING A COLLECTION PROGRAM FOR COMMERCIAL GENERATORS  
10 OR RECYCLABLE SOLID WASTE.

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

14 (13) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2010.

15 Enacting section 1. This amendatory act does not take effect  
16 unless Senate Bill No.\_\_\_\_ or House Bill No. 4758(request no.  
17 01681'05) of the 93rd Legislature is enacted into law.