Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 919 through 924 (as introduced 3-13-96)
Senate Joint Resolution Y (as introduced 3-13-96)
Sponsor: Senator Loren Bennett (S.B. 919)
Senator Bill Schuette (S.B. 920 & 924)
Senator Philip E. Hoffman (S.B. 921 & 923 and S.J.R. Y)
Senator Leon Stille (S.B. 922)
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 4-18-96

CONTENT

Senate Bills 919 through 922 and Senate Bill 924 would amend various acts to provide for redevelopment of contaminated industrial sites; create a revitalization loan program, a State sites cleanup program, and a cost-share grant program; establish revitalization and cleanup and redevelopment funds; require that money from the Bottle Deposit Fund be allocated to the Cleanup and Redevelopment Fund; require money from the Natural Resources Trust Fund to be spent on the remediation and redevelopment of environmentally contaminated land; provide for a single business tax credit for an owner or leasee of eligible property within a brownfield redevelopment zone; and provide for the sale of surplus State-owned land. Senate Bill 923 would create the "Brownfield Redevelopment Financing Act" to allow municipalities to create brownfield redevelopment zone authorities and provide for financing of redevelopment activities within the zones. Senate Joint Resolution Y would amend the State Constitution of 1963 to require money from the Natural Resources Trust Fund to be used for remediation and redevelopment of contaminated land.

Following is a more detailed description of the legislation.

Senate Bill 919

Brownfield Redevelopment Board

The bill would amend Part 201 of the Natural Resources and Environmental Protection Act (NREPA), which governs environmental response, to create the Brownfield Redevelopment Board within the Department of Environmental Quality (DEQ). The board would consist of the Director of the DEQ, the Director of the Department of Management and Budget, and the chief executive officer of the Jobs Commission, or their designees.

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

Cleanup and Redevelopment Fund

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

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

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

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

-- National priority list Municipal Landfill Cost-Share Grants to be approved by the board.
-- Superfund match, which would include funding for any response activity that was required to match Federal dollars at a Superfund site as required under the Superfund Act.
-- Response activities to address actual or potential public health or environmental problems.
-- Completion of response activities initiated by the State using environmental protection bond funds or completion of response activities at facilities initiated by a person who was liable under Part 201 prior to Public Act 71 of 1995, but who was not liable if response activities had ceased.
-- Response activities at sites that would facilitate redevelopment.
-- Emergency response actions for sites to be determined by the DEQ.

The total amount of funds spent by the DEQ at sites where the source of the contamination was predominantly from the release of a regulated substance from an underground storage tank system could not exceed 24% of the total funds appropriated from the Fund in a fiscal year or $20 million in a fiscal year, whichever was less. The total amount of funds spent by the DEQ for national priority list Municipal Landfill Cost-Share Grants could not exceed 12% of the funds appropriated from the Fund in a fiscal year or $10 million in a fiscal year, whichever was less.

Revitalization Revolving Loan Fund

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

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

Revitalization Loan Program

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

Eligible activities would be limited to evaluation and demolition at the facility or facilities in an area-wide zone, and interim response activities required to facilitate evaluation and demolition conducted prior to redevelopment of a facility or facilities in an area-wide zone. Eligible activities would include only those activities necessary to facilitate redevelopment; they would not include activities necessary only to design or complete a remedial action that fully complied with the requirements of the NREPA pertaining to cleanup criteria and remedial actions. All eligible activities would have

to be consistent with a work plan or remedial action plan approved in advance by the DEQ. Only activities carried out and costs incurred after execution of a loan agreement would be eligible.

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

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

-- A description of the facility's economic redevelopment potential. The applicant would not have to demonstrate that a specific redevelopment proposal had been identified.
-- A resolution from the local governing body of the applicant committing to repayment of the loan.
-- Other information as specified by the DEQ in its written instructions.

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

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

-- The approved eligible activities to be undertaken with loan funds.
-- The loan interest rate, terms, and repayment schedule as determined by the DEQ.
-- An implementation schedule.
-- If the property were not owned by the recipient, an executed agreement that had been approved by the DEQ that committed the property owner to cooperate with the applicant.
-- A commitment that the loan was secured by a full faith and credit pledge of the applicant. If the applicant were an authority established under the Brownfield Redevelopment Financing Act, the commitment and pledge would have to be made by the municipality that created the authority.
-- Reporting requirements. At a minimum, the recipient would have to submit a progress status report to the DEQ every six months during the implementation schedule, and within three months of completing the loan-funded activities would have to provide a final report that contained documentation of project costs and expenditures, including invoices and proof of payment.
-- Other provisions as considered appropriate by the DEQ.

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

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

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

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

State Sites Cleanup Program

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

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

-- The facility's name and location.
-- A history of the use of the facility.
-- A detailed summary of available information regarding the source, nature, and extent of the contamination at the facility, and of any public health or environmental impacts at the facility.
-- A detailed summary of available information on the resale and redevelopment potential of the facility.
-- A description, and estimated cost, of the response activities needed at the facility, if known.

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

All State executive departments and agencies that were liable as an owner or operator would be responsible for undertaking and paying for all necessary response activities that could not be addressed with money appropriated to the DEQ for State site cleanup, or any money appropriated to the DEQ specifically for the purpose of response activities at facilities for which the State was liable as an owner or operator. The existence of these funds would not affect the liability of any person under Part 201 or any State or Federal law.

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

-- The purpose of the project to be carried forward would be to provide for contaminated site cleanups.
-- The project would be accomplished by contracts.
-- The total estimated cost of the project would be $20 million.
-- The tentative completion date would be September 30, 1999.

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

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

Cost-Share Grant Program

The bill would establish a Municipal Landfill Cost-Share Grant Program to make grants to reimburse local units of government for a portion of the response activity costs at certain municipal solid waste landfills. The Cost-Share Grant Program would be administered by the Brownfield

Redevelopment Board, which would have to provide for at least one application cycle per fiscal year. Prior to each application cycle, the board would have to develop written instructions for prospective applicants, including the criteria that would be used in application review and approval.

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

A complete application would have to include the following:

-- The landfill name and brief history.
-- The reason the applicant incurred the response activity costs.
-- An analysis of the local unit of government's insurance coverage for the response activity costs at the landfill and any available documentation that supported the analysis.
-- A brief narrative description of the overall response activities completed or to be completed at the landfill.

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

-- A demonstration that each eligible cost was consistent with a work plan or remedial action plan that had been approved by the DEQ or the U.S. Environmental Protection Agency (EPA), or had been ordered by a State or Federal court. The demonstration would have to relate each cost for which reimbursement was being sought to a specific element of the approved work plan or remedial action plan. A copy of the plan and documentation of approval or court order of the plan would have to be included with the application.
-- Documentation that the costs had been incurred by the applicant, including itemized invoices that clearly listed each cost and proof of payment of each invoice by the applicant.
-- A resolution passed by the governing body for the local unit of government attesting that it had not received reimbursement for any of the costs for which it was seeking a grant from any other sources.

Further, the application would have to include a list of persons the applicant believed could be liable for response activities under the NREPA or the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) for a substantial portion of the response activity costs at the landfill, as well as any available supporting documentation.

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

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

-- An updated list of eligible costs incurred by the applicant for which it was seeking a grant, and for which it was not approved to receive grant funds in a preceding grant cycle.
-- Supporting documentation that the costs had been properly incurred.
-- Any other information needed to update information in the original application.

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

A recipient of a cost-share grant would have to provide timely notification to the DEQ if it received money or any other form of compensation from any other source to pay for, or compensate it for, any of the response activity costs for which it was liable. Sources of money or compensation could include, but would not be limited to, the Federal government, other liable persons, or insurance policies. The notice would have to include the

source of the money or compensation; the amount of money or dollar value of the compensation; the reason the local unit of government received the money or compensation; any conditions or terms associated with the money or compensation; documentation of the costs incurred by the local unit to obtain the funds or compensation; and the amount of money to be repaid to the State based on the formula specified in the bill. The notice also would have to include a detailed estimate of the total eligible response costs at the landfill for which the local unit was seeking a grant that were consistent with a work plan or remedial action plan that had been approved by the DEQ or the EPA, or had been ordered by a State or Federal court, as well as documentation of those costs that had been incurred.

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

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

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

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

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

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

-- The costs were incurred by a local unit of government after the date of the bill's enactment and prior to the work being conducted.
-- The DEQ had determined that the costs to be borne by a local unit of government were reasonable considering the rationale provided in the application, the existence of other persons liable for response activities or the Superfund Act, and the need for the local unit to proceed with the response activity.
-- The costs were consistent with a work plan or remedial action plan that was approved by the DEQ or the EPA, or was ordered by a State or Federal court prior to the work being conducted.
-- The costs were incurred for response activities that were part of a cost-effective remedy consistent with the requirements of Part 201 of the NREPA.
-- The costs were incurred for work that was competitively bid and performed by the lowest-priced responsive bidder.

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

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

Report

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

Transfers to Cleanup and Redevelopment Fund

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

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

Repealer

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

Senate Bill 920

The bill would amend the beverage container deposit law to require that 75% of the money in the Bottle Deposit Fund be allocated to the proposed Cleanup and Redevelopment Fund, rather than to the Michigan Unclaimed Bottle Fund as currently provided. Further, the bill would delete provisions that require that 1) during the first 10 years of its existence any money received by the Unclaimed Bottle Fund, and interest earned on that money, remain permanently in the Fund, and 2) any money received by the Fund thereafter, plus any interest on that money and any interest on the money deposited during the first 10 years, be disbursed annually according to the provisions in Natural Resources and Environmental Protection Act that established the Fund.

The bill is tie-barred to Senate Bill 919.

Senate Bill 921

The bill would amend the Natural Resources and Environmental Protection Act to add the remediation and redevelopment of environmentally contaminated land to the list of purposes for which the interest and earnings of the Natural Resources Trust Fund may be spent. Trust Fund money could be used for the contaminated land for 10 years after the effective date of the bill. Further, for the same 10-year period, the Legislature could provide that revenues from bonuses, rentals, delayed rentals, and royalties received by the Trust Fund during each State fiscal year could be spent during subsequent fiscal years for remediation and redevelopment of environmentally contaminated land. Total expenditures from the Trust Fund, however, in any State fiscal year for remediation and redevelopment of environmentally contaminated land could not exceed $ 25 million.

The bill is tie-barred to Senate Joint Resolution Y.

Senate Bill 922

The bill would amend the Management and Budget Act to require the head of each State

department having control and supervision over State-owned land, the sale or disposition of which was not otherwise provided for by law, to notify the Director of the Department of Management and Budget (DMB), in writing, whether or not there was any State-owned land under the control and supervision of that department that was no longer needed, and the reasons why it was no longer needed. "State owned land" would mean all improved and unimproved real property belonging to the State, other than land escheated to the State or land in which the sale or disposition was otherwise provided by law.

The DMB Director would have to determine whether any of the land should be declared surplus and offered for sale or otherwise disposed of by transferring custodial control to other State departments. If the DMB Director determined that any State-owned land was no longer needed for State purposes, he or she would have to certify it as surplus and dispose of it.

Before offering any surplus State-owned land for sale, however, the DMB Director would have to determine its fair market value primarily by having it appraised. An appraisal of State-owned land would have to be based on its highest and best use and be prepared by the State Tax Commission or an independent fee appraiser at the discretion of the Director.

Before offering surplus State-owned land for public sale, the Director first would have to offer it for sale for fair market value to the local units of government in which it was situated. If a local unit wanted to purchase surplus State-owned land, it would have to submit a written offer to the Director by a specified time. If more than one local unit tendered an offer, the Director would have to determine which local unit would receive the property, based on the best interest of the State.

State-owned land determined surplus by the Director and not sold to a local unit would have to be offered for public sale. Each piece of surplus State-owned land would have to be sold for fair market value as determined by the Director. Sales would have to continue until all parcels were sold, or until the Director ordered a reappraisal, withdrew the remaining pieces of State-owned land from sale, or determined that the land should be sold for less than fair market value because it was not in the best interest of the State to continue to hold and maintain the land. All closing costs, including title insurance, recording fees, legal fees, and documentary stamp tax, would be the responsibility of the purchaser of the land. State-owned land and improvements would have to be sold "as is" with no warranties or representations other than those required by State or Federal law.

The Director could sell surplus State-owned land on land contract subject to terms and conditions that he or she determined to be in the best interest of the State. Further, the Director could subdivide surplus State-owned land as necessary or appropriate for sale.

The State could reserve for its own use all rights to coal, oil, gas, and other minerals, excluding sand, gravel, clay, or other nonmetallic minerals, found on, within, or under all State-owned land that was sold, and any land contract or quitclaim deed could contain a clause reserving all such minerals for the use of the State.

Unless otherwise provided by law, proceeds from the sale of surplus State-owned land that were received each fiscal year, up to $1 million, would have to be transmitted to the State Treasurer and then credited to the Revitalization Revolving Loan Fund. The remaining proceeds received each State fiscal year would have to be credited to the Surplus State Land Revolving Fund.

The bill would create the Surplus State Land Revolving Fund in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would direct the investment of the Fund, and would have to credit to the Fund interest and earnings from Fund investments.

Money in the Fund would have to be used by the DMB to pay for its expenses in preparing surplus State-owned land for sale, including employee salaries and benefits, land surveys, appraisals, legal services, advertising, demolition, and other contractual services. If money were left after expenses, it could be used by the DMB for response activities on surplus State-owned land. Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

Senate Bill 923

Brownfield Redevelopment Zone Authorities

The bill would allow a municipality to establish one or more brownfield redevelopment zone authorities. Each authority would have to exercise its powers in its zone or zones. The authority

would be a public body corporate that could sue and be sued in a court of competent jurisdiction. Further, the authority would possess all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in the bill would not limit the general powers of the authority. The powers granted by the bill to an authority could be exercised whether or not bonds were issued by the authority. ("Municipality" would mean a city, a village, a township in those areas of the township outside of a village or upon the concurrence by resolution of the village in which the zone would be located, or a county with the concurrence by resolution of the city or village or township in which the zone would be located.)

A governing body could declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority. ("Governing body" would mean the elected body having legislative powers of a municipality creating an authority under the bill.) In the resolution, the governing body would have to set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the zone. Notice of the public hearing would have to be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. At the hearing, a citizen, a taxpayer, or a property owner of the municipality would have the right to be heard in regard to the establishment of the authority and the boundaries of the proposed zone. The governing body of the municipality could not incorporate land into the zone not included in the description contained in the notice of public hearing, but it could eliminate described lands from the zone in the final determination of the boundaries without additional notice.

After the public hearing, if the governing body planned to proceed with the establishment of the authority, it would have to adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the zone within which the authority could exercise its powers. The adoption of the resolution would be subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. The resolution would have to be filed with the Secretary of State promptly after its adoption. ("Chief executive officer" would mean the mayor of a city, the village manager of a village, the township supervisor of a township, and the county executive of a county or, if the county did not have an elected county executive, the chairperson of the county board of commissioners.)

The governing body could alter or amend the boundaries of the brownfield redevelopment zone to include or exclude lands from the zone in accordance with the same requirements prescribed for adopting the resolution creating the authority. The proceedings establishing an authority would be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the Secretary of State.

The exercise by an authority of the powers conferred by the bill would be considered to be an essential governmental function and benefit to, and a legitimate public purpose of, the State, the authority, and the municipality or units.

Authority Board

Each authority would be supervised and controlled by a board chosen by the governing body of the municipality. The governing body could designate one of the following to constitute the board:

-- The board of directors of the economic development corporation of the municipality.
-- The trustees of the board of a downtown development authority, if the zone included an area within the boundaries of the district of that downtown development authority.
-- The trustees of the board of a tax increment financing authority, if the zone included an area within the boundaries of the district of that tax increment financing authority.
-- The trustees of the board of a local development financing authority, if the zone included an area within the boundaries of the district of that local development financing authority.
-- Not less than five or more than nine persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Appointed members would serve three-year staggered terms. Further, appointed members would serve without compensation, but would be reimbursed for reasonable actual and necessary expenses.

Before assuming the duties of office, a member would have to take and subscribe to the oath of office specified in the State Constitution of 1963.

The board would have to adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings could be held when called in the manner provided in the rules of the board. The board would be subject to the Open Meetings Act and the Freedom of Information Act.

After notice and an opportunity to be heard, a member of the board appointed by the chief executive officer of the municipality could be removed before the expiration of his or her term for cause by the governing body. Removal of a member would be subject to review by the circuit court.

The board could employ and fix the compensation of a director of the authority, who would be its chief officer, subject to the approval of the governing body creating the authority. The director would serve at the pleasure of the board. A member of the board would not be eligible to be the director. Before entering upon the duties of the office, the director would have to take and subscribe to the oath of office and post a bond in the sum specified in the resolution establishing the authority. Subject to the board's approval, the director would have to supervise, and be responsible for, the preparation of plans and the performance of the functions of the authority. The director would have to attend the meetings of the board and submit to the board and to the governing body a regular report covering the activities and financial condition of the authority. The director would have to furnish the board with information or reports governing the operation of the authority, as the board required.

The board also could appoint or employ a treasurer, and could employ and retain personnel and consultants as it considered necessary, including legal counsel. The employees of an authority could be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees.

Upon request, the municipality would have to assist the authority in the performance of its powers and duties.

Powers of an Authority

The bill would grant an authority the power to:

-- Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.
-- Incur and spend funds to pay, or reimburse a public or private person for, costs of eligible activities attributable to an eligible property.
-- As approved by the municipality, incur costs and spend funds from the Local Site Remediation Revolving Fund.
-- Make and enter into contracts.
-- Own, mortgage, convey, or otherwise dispose of, or lease, land and other property, or rights or interests in the property and grant or acquire licenses, easements, and options with respect to the property.
-- Incur costs in connection with the performance of its authorized functions, including administrative costs and architect, engineer, legal, or accounting fees.
-- Study, develop, and prepare the reports or plans the authority considered necessary to help it exercise its powers under the bill and to monitor and evaluate the progress made in the development of the zone.
-- Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.
-- Make loans, buy and sell loans and mortgages at public or private sale, purchase property that was the subject of the mortgage at a foreclosure or other sale, and acquire and take possession of the property.
-- Borrow money and issue its notes under the Municipal Finance Act, in anticipation of the collection of tax increment revenues.

An authority would be considered an instrumentality of a political subdivision for purpose of the Uniform Condemnation Procedures Act. A municipality could take private property under that Act, and transfer it to the authority for use as authorized in the brownfield plan, on terms and conditions it considered appropriate. The taking, transfer, and use would be considered necessary for public purposes and for the benefit of the public.

The authority would have to determine the captured assessed value of each parcel of eligible property that was included in a zone. The captured assessed value of a parcel could not be less than zero. ("Eligible property" would mean a facility as defined in Part 201 (any area, place, or property where a hazardous substance in excess of the recommended concentrations has been released, deposited, disposed of, or otherwise comes to be located). "Captured assessed value"

would mean the amount in one year by which the current assessed value of a parcel of eligible property subject to a brownfield plan and all personal property located on that property, including the assessed value of the property for which specific local taxes were paid in lieu of property taxes, exceeded the initial assessed value of that eligible property and all personal property located on it.

"Initial assessed value" would mean the assessed value, as equalized, of a parcel of eligible property identified in the brownfield plan and all personal property located on that property at the time the resolution adding that eligible property in the brownfield plan was adopted, as shown by the most recent assessment roll for which equalization had been completed at the time the resolution was adopted. Property exempt from taxation at the time the initial assessed value was determined would have to be included with the initial assessed value of zero. Property for which a specific local tax was paid in lieu of property tax could not be considered exempt from taxation. The State Tax Commission would have to prescribe the method for calculating the initial assessed value of property for which a specific local tax was paid in lieu of property tax.

"Specific local taxes" would mean a tax levied under the Plant Rehabilitation and Industrial Development Act, the Commercial Redevelopment Act, the Enterprise Zone Act, Public Act 189 of 1953 (which provides for the taxation of users and lessees of tax-exempt property), or the Technology Park Development Act.)

Local Site Remediation Revolving Fund

The bill would allow a municipality that established a renaissance zone under the Michigan Renaissance Zone Act to establish a Local Site Remediation Revolving Fund. In addition to excess tax increment revenue, all money appropriated or otherwise made available from public or private loans or grants would have to be deposited in the Local Site Remediation Revolving Fund. As approved by the municipality, the Local Site Remediation Revolving Fund could be used only to pay the costs of eligible activities on eligible property that was located within the zone and within a renaissance zone.

("Tax increment revenues" would mean the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues would exclude ad valorem property taxes specifically levied for the payment of principal of, and interest on, either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific local taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also would exclude the amount of ad valorem property taxes or specific local taxes subject to capture by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were subject to capture by the other authorities on the date that eligible property became subject to a brownfield plan under the bill.)

Financing Sources

The activities of an authority could be financed from one or more of the following sources:

-- Contributions, contractual payments, or appropriations to the authority for the performance of its functions or to pay the costs of a brownfield plan of the authority.
-- Revenues from a property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.
-- Tax increment revenues received under a brownfield plan.
-- Proceeds of tax increment bonds and revenue bonds.
-- As approved by the municipality, revenue available in the local site remediation revolving fund.
-- Money obtained from all other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance activities authorized under the bill.

The authority could borrow money and issue its negotiable revenue bonds or notes to finance the costs of eligible activities or another activity of the authority, or to refund or refund in advance its bonds or notes. The costs that could be financed by the issuance of revenue bonds or notes could include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with an activity authorized under the bill; engineering,

architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues were developed. The authority could secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

Negotiable revenue, bonds or notes would be exempt from all State taxes except inheritance and transfer taxes, and the interest on the bonds or notes would be exempt from all State taxes. The interest, however, could be subject to Federal income tax.

Unless otherwise provided by a majority vote of the members of its governing body, the municipality would not be liable on bonds or notes of the authority and the bonds or notes would not be debt of the municipality.

The bonds and notes of the authority could be invested in by the State Treasurer and all other public officers, State agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and could be deposited with and received by the State Treasurer and all other public officers and the agencies and political subdivisions of this State for all purposes for which the deposit of bonds or notes was authorized.

("Eligible activities" would mean baseline environmental assessment activities, due care activities, and additional response activities. "Baseline environmental assessment activities" would mean those response activities identified as part of a brownfield plan that were necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan. "Baseline environmental assessment" as defined in Part 201 means the evaluation of environmental conditions that exist at a facility at the time of purchase, occupancy, or foreclosure that reasonably defines the existing conditions and circumstance at the facility so that, in the event of a subsequent release, there is a means of distinguishing the new release from existing contamination.

"Due care activities" would mean those response activities identified as part of a brownfield plan that were necessary to allow the owner or operator of an eligible property in the plan to comply with the provisions of Part 201 that require the owner or operator of a facility with hazardous substances to 1) undertake measures necessary to prevent exacerbation of the existing contamination, 2) exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances and allow for the intended use of the facility in a manner that protects the public health and safety and 3) take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.

"Additional response activities" would mean response activities proposed as part of a brownfield plan that were in addition to baseline environmental assessment activities and due care activities for a facility.

"Response activity", as defined in Part 201, means evaluation, interim response activity, remedial action, or the taking of other actions necessary to protect the public health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the Department of Public Health and enforcement actions related to any response activity.)

Brownfield Plan

The bill would allow an authority's board to implement a brownfield plan. The plan could apply to one or more parcels of eligible property within the zone, whether or not those parcels were contiguous, and could be amended to apply to additional parcels of eligible property within the zone. If more than one parcel of eligible property were included within the plan, the tax increment revenues under the plan would have to be determined individually for each parcel of eligible property. Each plan would have to be approved by the governing body of the municipality and would have to contain all of the following:

-- A description of the costs of the plan intended to be paid for with the tax increment revenues.
-- The method by which the costs of the plan would be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

-- The costs of the plan anticipated to be paid from tax increment revenues.
-- The duration of the brownfield plan, which could not exceed the period authorized or 20 years, whichever was less.
-- A legal description and tax identification number of each parcel of eligible property to which the plan applied.
-- Current ownership information for each eligible property and a summary of available information on proposed future ownership.
-- A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and any knowledge about environmental contamination.
-- Existing and proposed future zoning for each eligible property.
-- A brief summary of the proposed redevelopment and future use for each eligible property.
-- A summary of each of the eligible activities proposed for each eligible property.
-- Other material that the authority or governing body considered pertinent.

A plan also would have to include an estimate of the captured assessed value and tax increment revenues for each year of the plan from each parcel of eligible property and in aggregate. The plan could provide for the use of part or all of the captured assessed value, but the portion to be used would have to be stated clearly in the plan. The plan could not provide either for an exclusion from captured assessed value of a portion of the captured assessed value or for an exclusion of the tax levy of one or more taxing jurisdictions unless the tax levy were excluded from tax increment revenues.

In addition, a plan would have to include estimates of the number of persons residing on each eligible property to which the plan applied and the number of families and individuals to be displaced. If occupied residences were designated for acquisition and clearance by the authority, the plan would have to include a survey of the persons to be displaced, including their income and racial composition; a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, and the condition of those in existence; the number of owner-occupied and renter-occupied units; the annual rate of turnover of the various types of housing and the range of rents and sale prices; an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals. The plan also would have to include:

-- A plan for establishing priority for the relocation of persons displaced by implementation of the plan.
-- Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.
-- A strategy for compliance with Public Act 227 of 1972, which provides for relocation assistance advisory services for persons displaced by the acquisition of property by a State agency.

The percentage of taxes levied on a parcel of eligible property for school operating expenses that was captured and used under a brownfield plan and all tax increment finance plans under the downtown development authority Act, the Tax Increment Finance Authority Act, or the Local Development Financing Act, could not be greater than the combination of the plans' percentage capture and use of taxes levied for all other purposes. ("Taxes levied for school operating purposes" would mean taxes levied by a local school district for operating purposes and taxes levied under the State Education Tax Act.)

Generally, tax increment revenues related to a brownfield plan could be used only for costs of eligible activities attributable to the eligible property, the captured assessed value of which produced the tax increment revenues. Further, a brownfield plan could not authorize the capture of tax increment revenue eligible property after the year in which the total amount of tax increment revenues captured was equal to the sum of the costs of eligible activities attributable to the eligible property and the cost of the review of the work plan or remedial action plan by the Department of Environmental Quality. If, however, a zone included eligible property that was located in a renaissance zone under the Michigan Renaissance Zone Act, a brownfield plan could authorize the capture of tax increment revenue from eligible property for up to five years after the year in which the total amount of tax increment revenue equaled the sum of the costs. Excess revenues captured would have to be deposited in

the Local Site Remediation Revolving Fund. Subject to approval by the municipality, an authority could use excess revenues for eligible activities on eligible property other than the eligible property whose captured assessed value produced the tax increment revenue if the property on which the activities would occur were within the zone and the renaissance zone. ("Work plan or remedial action plan" would mean a plan that described both the work to be done to complete an eligible activity and the associated costs of that work.)

The costs of eligible activities attributable to a parcel of eligible property would include all costs that were necessary or related to a release from the property, whether or not those costs were spent for other property.

Tax revenues that were captured to pay the costs of eligible activities, excluding revenues deposited in a Local Site Remediation Revolving Fund, could be recovered from a person who was liable for the costs of eligible activities at an eligible property. The State or a municipality could undertake cost recovery for tax increment revenues captured. Before a municipality could institute a cost recovery action, it would have to give the State 120 days' notice, and would have to coordinate its cost recovery actions with a related State action, if requested to do so.

Before approving a brownfield plan for any eligible property, the governing body would have to provide notice and a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the plan. The authority would have to fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed plan. The authority could not enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the zone was located to share a portion of the captured assessed value of the zone. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues would be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the zone.

At least 10 days after notice of the proposed brownfield plan was provided to the taxing jurisdictions, the governing body would have to determine whether the plan constituted a public purpose. If the governing body determined that the plan did not constitute a public purpose, it would have to reject the plan. If it determined that the plan did constitute a public purpose, it could approve or reject the plan, or approve it with modification, by resolution, based on whether:

-- The plan met the requirements of the bill.
-- The proposed method of financing the costs of eligible activities was feasible and the authority had the ability to arrange the financing.
-- The costs of eligible activities proposed were reasonable and necessary to carry out the purposes of the bill.
-- The amount of captured assessed value estimated to result from adoption of the plan was reasonable.

Amendments to an approved brownfield plan would have to be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice would not be required for revisions in the estimates of captured assessed value or tax increment revenues.

The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value would be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan also would be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan were contested, the original resolution adopting the plan would not therefore be open to contest.

The municipal and county treasurers would have to transmit to the authority tax increment revenues. The authority could spend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the Local Site Remediation Revolving Fund of the authority would revert proportionately to the respective taxing bodies. The governing body could abolish the plan if it found that the purposes for which the plan was established were accomplished. The plan could not be abolished, however, until the principal and interest on bonds and all other obligations to which the tax increment revenues were pledged had been paid or funds sufficient to make the payment had been segregated.

Bonds/Brownfield Plan

By resolution of its board, an authority could authorize, issue, and sell its tax increment bonds and notes to finance the purposes of a brownfield plan. The bonds or notes would have to mature within 30 years and would have to bear interest and be sold and payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The bonds or notes could include capitalized interest and a sum to provide a reasonable reserve for payment or principal and interest on the bonds or notes. Except for the requirement of the Municipal Finance Act that an authority receive the approval or an exception from approval from the Department of Treasury prior to issuing bonds, the terms of the Act would not apply to the bonds.

The municipality, by majority vote of the members of its governing body, could pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes. The bonds or notes would have to be secured by one or more sources of revenue identified as sources of financing of activities of the authority, as provided by resolution of the authority.

DEQ Approval of Brownfield Plan

To obtain DEQ approval of a brownfield plan, the authority would have to submit a copy of the plan and a separate work plan or remedial action plan, or part of a work plan or remedial action plan, for each eligible activity to be undertaken at each eligible property. The Department could consider whether the costs were reasonable and necessary in its decision to approve or reject a work plan or remedial action plan.

An authority would have sole discretion to propose to undertake additional response activities at an eligible property under a brownfield plan. The DEQ could not reject a work plan or remedial action plan for either baseline environmental assessment activities or due care activities on the basis that it did not include additional response activities unless it determined that the response activities were necessary to complete the baseline environmental assessment activities or the due care activities. The DEQ could consider the level of risk reduction that would be accomplished by the additional response activities in determining whether to approve or reject a work plan or remedial action plan that included additional response activities. The DEQ's approval or rejection of a work plan or remedial action plan for additional response activities would be final and could not be contested or appealed.

The authority would have to reimburse the DEQ for the actual cost incurred by the DEQ or a contractor of the DEQ to review a work plan. Funds paid to the DEQ would have to be deposited in the Environmental Response Fund.

Other Provisions

An authority could not 1) capture taxes levied for school operating purposes from an eligible property, or 2) use funds from a Local Site Remediation Revolving Fund that were derived from taxes levied for school operating purposes, unless the eligible activities to be conducted were consistent with a work plan or remedial action plan that had been approved by the DEQ after the effective date of the bill.

An authority would have to submit annually to the governing body and the State Tax Commission a financial report on the status of the activities of the authority. The report would have to include the amount and source of tax increment revenues received, the amount and purpose of expenditures of tax increment revenues, the amount of principal and interest on all outstanding bonded indebtedness, the initial assessed value of all eligible property subject to the brownfield plan, the captured assessed value realized by the authority, and all additional information that the governing body or the State Tax Commission considered necessary.

An authority would have to prepare and approve a budget for its operation for the ensuing fiscal year. The budget would have to be prepared in the manner and contain the information required of municipal departments. An authority's budget could not include funds of a municipality except those funds authorized in the bill or by the governing body of the municipality. The governing body of a municipality could assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds of the authority, other than those committed for designated purposes. This cost would have to be paid annually by the authority under an appropriate item in its budget.

The State Tax Commission could institute proceedings to compel enforcement of the bill.

The bill would take effect January 1, 1997.

Senate Bill 924

The bill would amend the Single Business Tax Act to allow a qualified taxpayer to claim a credit against the single business tax equal to the least of the following:

-- 10% of the cost of eligible investment paid or accrued by the qualified taxpayer in the tax year.
-- 50% of the taxpayer's tax liability attributable to business activity conducted on eligible property.
-- $1 million.

The brownfield tax credit would be for tax years beginning after December 31, 1996. A taxpayer could not claim a brownfield tax credit for more than nine consecutive years after the first year in which the taxpayer claimed the credit. The proposed credit would have to be calculated after application of all other credits allowed under the Act. The amount of eligible investment available, but not used, to calculate a brownfield tax credit for a tax year could be carried forward and used to calculate a credit in subsequent years. A brownfield credit would not be allowed for tax years beginning after December 31 of the year in which the aggregate amount of the credits by all taxpayers for all prior years under the bill exceeded $50 million.

The Department of Treasury would have to develop procedures to implement the bill.

"Eligible investment" would mean construction, restoration, alteration, renovation, or improvement of buildings on eligible property and the addition of machinery, equipment, furniture, and fixtures to eligible property after the date that the property became subject to a tax capture program under the proposed Brownfield Redevelopment Financing Act, the costs of which were not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer.

"Qualified taxpayer" would mean a taxpayer that owned or leased an eligible property within a brownfield redevelopment zone that was subject to a work plan or remedial action plan for response activity, and that had not been determined by the Department of Environmental Quality to be liable for response activity at an eligible property to which the credit was attributable.

"Tax liability attributable to business activity conducted on eligible property" would mean the tax liability imposed by the Single Business Tax Act after the calculation of all credits under the Act other than the credit allowed by the bill multiplied by a fraction, the numerator of which would be the ratio of the value of eligible property to all of the taxpayer's property located in this State plus the ratio of the taxpayer's payroll attributable to eligible investment to all of the taxpayer's payroll in this State, and the denominator of which would be two.

The bill is tie-barred to Senate Bill 923.

Senate Joint Resolution Y

The resolution would amend the State Constitution of 1963 to specify that, in addition to the other purposes for which the money must be used, the interest and earnings of the Natural Resources Trust Fund would have to be used for the remediation and redevelopment of environmentally contaminated land for a period of 10 years after the effective date of the resolution. Further, for the same 10-year period, the resolution would allow the Legislature to provide that revenues from bonuses, rentals, delayed rentals, and royalties received by the Trust Fund during each State fiscal year could be spent during subsequent fiscal years for remediation and redevelopment of environmentally contaminated land. The total expenditures from the Trust Fund, however, in any State fiscal year for remediation and redevelopment of environmentally contaminated land could not exceed $25 million.

In addition, the resolution would require the Trust Fund Board to recommend projects related to the acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty and projects related to the development of public recreation facilities, which should be funded by the Trust Fund. Currently, the Constitution specifies that the Trust Fund Board must recommend the projects to be funded.

MCL 324.19507 et al. (S.B. 919)
445.573c (S.B. 920)
324.1903 (S.B. 921)
Proposed MCL 18.1224 & 18.1224a (S.B. 922)
Proposed MCL 208.38d (S.B. 924)

Legislative Analyst: L. Burghardt

FISCAL IMPACT

Senate Bill 919

The bill would have an overall indeterminate fiscal impact on State and local government, depending upon the amount of funds to be deposited into the Revitalization Revolving Loan Fund and the Cleanup and Redevelopment Fund.

The bill would redirect approximately $27.8 million in unencumbered funds remaining in the Solid Waste Management Program into the Cleanup and Redevelopment Fund. There would be no direct fiscal impact on this program since FY 1995-96 was its last funding cycle and no new grants are anticipated.

The bill would establish a State Sites Cleanup Program to spend $20 million that has been appropriated and remains unspent.

Administrative costs for the programs would be covered by the Cleanup and Redevelopment Fund, and the Department would be required annually to request appropriations from the Fund to implement programs established in the bill.

Senate Bill 920

The bill would redirect revenues from the Unclaimed Bottle Deposit Fund to the Cleanup and Redevelopment Fund, and have an indeterminate fiscal impact on State government, depending upon the amount of revenue and the interest rate on State-invested funds.

Assuming the Department of Environmental Quality estimate that $20 million per year would be diverted from the Bottle Deposit Fund to the Cleanup and Redevelopment Fund, and a 6% interest rate on State-invested funds, the bill would result in a revenue loss to the State of approximately $13 million over a 10-year period. This does not include interest earnings due to the State after 10 years that could be generated from the approximately $230 million balance accumulated by that time.

Senate Bill 921 & Senate Joint Resolution Y

These proposals would redirect up to $25 million in State revenues currently utilized for State and local land acquisition, local development projects, and State Park improvement projects toward the remediation and redevelopment of environmentally contaminated land.

For FY 1994-95, approximately $41.3 million was received by the Natural Resources Trust Fund - $32 million in revenues and $9.3 million in interest earnings. Of this, $20 million was available for State and local land acquisition and local redevelopment projects, and $10 million for the State Parks Endowment Fund. The remaining funds were deposited into the Fund principal balance, which was $90.4 million at the end of FY 1994-95.

Senate Bill 922

The bill would have an indeterminate fiscal impact on State and local government, depending upon the amount and value of land sold.

The Department of Environmental Quality has estimated that this bill would generate $1 million in revenue to the Revitalization Revolving Loan Fund to provide loans to local units of government for environmental cleanup purposes. Any remaining proceeds would be credited to the Surplus State Land Revolving Fund, to be used to cover administrative costs and cleanup costs on State surplus land.

Senate Bill 923

The bill would have an indeterminate fiscal impact on State and local government, depending on the amount of land in the brownfield redevelopment zones. The fiscal impact also would depend on a "brownfield's" initial value and its captured assessed value.

Senate Bill 924

This bill would provide for single business tax (SBT) credits equal to $50 million over the span of the bill. If the credit were in the form of a refund, the loss would have an impact on the General Fund; however, if the credit were not in the form of a refund, the loss would affect revenue sharing. If the $50 million maximum credit were spread evenly over 10 fiscal years, each fiscal year would produce a $5.0 million loss.

Single business tax payers would qualify to receive the credit if they owned or leased property, incurred eligible investment costs, and were not liable for contamination of the property. The SBT credit for those that qualified would be the lesser of 10% of the eligible investment costs the taxpayer incurred to redevelop or expand the brownfield site, 50% of the taxpayer's SBT liability attributable to the property, or $1 million. A

taxpayer could not claim the SBT credit for more than nine consecutive years after the first year of claiming the credit.

Fiscal Analyst: G. Cutler
R. Ross

S9596\S923SA