

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5121**

A bill to amend 1986 PA 281, entitled "The local development financing act," by amending sections 2 and 11a (MCL 125.2152 and 125.2161a), section 2 as amended by 1996 PA 270 and section 11a as amended by 1996 PA 452.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Advance" means a transfer of funds made by a municipal-
3 ity to an authority or to another person on behalf of the author-
4 ity in anticipation of repayment by the authority. Evidence of
5 the intent to repay an advance may include, but is not limited
6 to, an executed agreement to repay, provisions contained in a tax
7 increment financing plan approved prior to the advance, or a
8 resolution of the authority or the municipality.

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1 (b) "Assessed value" means 1 of the following:

2 (i) For valuations made before January 1, 1995, the state
3 equalized valuation as determined under the general property tax
4 act, ~~Act No. 206 of the Public Acts of 1893, being~~
5 ~~sections 211.1 to 211.157 of the Michigan Compiled Laws~~ 1893 PA
6 206, MCL 211.1 TO 211.157.

7 (ii) For valuations made after December 31, 1994, the tax-
8 able value as determined under section 27a of ~~Act No. 206 of the~~
9 ~~Public Acts of 1893, being section 211.27a of the Michigan~~
10 ~~Compiled Laws~~ THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL
11 211.27A.

12 (c) "Authority" means a local development finance authority
13 created pursuant to this act.

14 (d) "Authority district" means an area or areas within which
15 an authority exercises its powers.

16 (e) "Board" means the governing body of an authority.

17 (f) "Captured assessed value" means the amount in any 1 year
18 by which the current assessed value, as equalized, of the eligi-
19 ble property identified in the tax increment financing plan,
20 including the current assessed value of property for which spe-
21 cific local taxes are paid in lieu of property taxes as deter-
22 mined pursuant to subdivision (w), exceeds the initial assessed
23 value. The state tax commission shall prescribe the method for
24 calculating captured assessed value.

25 (g) "Certified industrial park" means an area of land desig-
26 nated by the department of ~~commerce~~ CONSUMER AND INDUSTRY
27 SERVICES as meeting all of the following requirements:

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1 (i) It contains not less than 40 acres of land.

2 (ii) It is zoned exclusively for use for eligible property.

3 (iii) It has a site plan or plat approved by the city, vil-
4 lage, or township in which the land is located.

5 (iv) The developer of the land agrees to comply with other
6 requirements, not inconsistent with subparagraphs (i) to (iii),
7 imposed upon property classified as a certified industrial park
8 by the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES
9 under the certified industrial park program. Compliance with
10 these other requirements is not a prerequisite to meeting the
11 requirement of this subparagraph.

12 (h) "Chief executive officer" means the mayor or city man-
13 ager of a city, the president of a village, or, for other local
14 units of government or school districts, the person charged by
15 law with the supervision of the functions of the local unit of
16 government or school district.

17 (i) "Development plan" means that information and those
18 requirements for a development set forth in section 15.

19 (j) "Development program" means the implementation of a
20 development plan.

21 (k) "Eligible advance" means an advance made before
22 August 19, 1993.

23 (l) "Eligible obligation" means an obligation issued or
24 incurred by an authority or by a municipality on behalf of an
25 authority before August 19, 1993 and its subsequent refunding by
26 a qualified refunding obligation. ELIGIBLE OBLIGATION INCLUDES
27 AN AUTHORITY'S WRITTEN AGREEMENT ENTERED INTO BEFORE AUGUST 19,

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1 1993 TO PAY AN OBLIGATION ISSUED AFTER AUGUST 18, 1993 AND BEFORE
2 DECEMBER 31, 1996 BY ANOTHER ENTITY ON BEHALF OF THE AUTHORITY.

3 (m) "Eligible property" means land improvements, buildings,
4 structures, and other real property, and machinery, equipment,
5 furniture, and fixtures, or any part or accessory thereof whether
6 completed or in the process of construction comprising an inte-
7 grated whole, located within an authority district, of which the
8 primary purpose and use is 1 of the following:

9 (i) The manufacture of goods or materials or the processing
10 of goods or materials by physical or chemical change.

11 (ii) Agricultural processing.

12 (iii) A high technology activity that has as its primary
13 purpose research, product development, engineering, laboratory
14 testing, or development of industrial technology. This subpara-
15 graph applies only to eligible property for which a tax increment
16 financing plan or development plan is adopted and bonds are
17 issued under this act before January 1, 1993.

18 (iv) The production of energy by the processing of goods or
19 materials by physical or chemical change by a small power produc-
20 tion facility as defined by the federal energy regulatory commis-
21 sion pursuant to the public utility regulatory policies act of
22 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled
23 primarily by biomass or wood waste. This act does not affect a
24 person's rights or liabilities under law with respect to ground-
25 water contamination described in this subparagraph. This sub-
26 paragraph applies only if all of the following requirements are
27 met:

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1 (A) Tax increment revenues captured from the eligible
2 property will be used to finance, or will be pledged for debt
3 service on tax increment bonds used to finance, a public facility
4 in or near the authority district designed to reduce, eliminate,
5 or prevent the spread of identified soil and groundwater contami-
6 nation, pursuant to law.

7 (B) The board of the authority exercising powers within the
8 authority district where the eligible property is located adopted
9 an initial tax increment financing plan between January 1, 1991
10 and May 1, 1991.

11 (C) The municipality that created the authority establishes
12 a special assessment district whereby not less than 50% of the
13 operating expenses of the public facility described in this sub-
14 paragraph will be paid for by special assessments. Not less than
15 50% of the amount specially assessed against all parcels in the
16 special assessment district shall be assessed against parcels
17 owned by parties potentially responsible for the identified
18 groundwater contamination pursuant to law.

19 (n) "Fiscal year" means the fiscal year of the authority.

20 (o) "Governing body" means the elected body having legisla-
21 tive powers of a municipality creating an authority under this
22 act.

23 (p) "Initial assessed value" means the assessed value, as
24 equalized, of the eligible property identified in the tax incre-
25 ment financing plan at the time the resolution establishing the
26 tax increment financing plan is approved as shown by the most
27 recent assessment roll for which equalization has been completed

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1 at the time the resolution is adopted. Property exempt from
2 taxation at the time of the determination of the initial assessed
3 value shall be included as zero. Property for which a specific
4 local tax is paid in lieu of property tax shall not be considered
5 exempt from taxation. The initial assessed value of property for
6 which a specific local tax was paid in lieu of property tax shall
7 be determined as provided in subdivision (w).

8 (q) "Municipality" means a city, village, or urban
9 township.

10 (r) "Obligation" means a written promise to pay, whether
11 evidenced by a contract, agreement, lease, sublease, bond, or
12 note, or a requirement to pay imposed by law. An obligation does
13 not include a payment required solely because of default upon an
14 obligation, employee salaries, or consideration paid for the use
15 of municipal offices. An obligation does not include those bonds
16 that have been economically defeased by refunding bonds issued
17 under this act. Obligation includes, but is not limited to, the
18 following:

19 (i) A requirement to pay proceeds derived from ad valorem
20 property taxes or taxes levied in lieu of ad valorem property
21 taxes.

22 (ii) A management contract or a contract for professional
23 services.

24 (iii) A payment required on a contract, agreement, bond, or
25 note if the requirement to make or assume the payment arose
26 before August 19, 1993.

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1 (iv) A requirement to pay or reimburse a person for the cost
2 of insurance for, or to maintain, property subject to a lease,
3 land contract, purchase agreement, or other agreement.

4 (v) A letter of credit, paying agent, transfer agent, bond
5 registrar, or trustee fee associated with a contract, agreement,
6 bond, or note.

7 (s) "On behalf of an authority", in relation to an eligible
8 advance made BY A MUNICIPALITY or an eligible obligation OR OTHER
9 PROTECTED OBLIGATION issued or incurred by a municipality, means
10 in anticipation that an authority would transfer tax increment
11 revenues or reimburse the municipality from tax increment reve-
12 nues in an amount sufficient to fully make payment required by
13 the ELIGIBLE ADVANCE MADE BY A MUNICIPALITY, OR eligible obliga-
14 tion OR OTHER PROTECTED OBLIGATION issued or incurred by the
15 municipality, if the anticipation of the transfer or receipt of
16 tax increment revenues from the authority is pursuant to or evi-
17 denced by 1 or more of the following:

18 (i) A reimbursement agreement between the municipality and
19 an authority it established.

20 (ii) A requirement imposed by law that the authority trans-
21 fer tax increment revenues to the municipality.

22 (iii) A resolution of the authority agreeing to make pay-
23 ments to the incorporating unit.

24 (iv) Provisions in a tax increment financing plan describing
25 the project for which the obligation was incurred.

26 (t) "Other protected obligation" means:

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1 (i) A qualified refunding obligation issued to refund an
2 obligation described in subparagraph (ii) or (iii), an obligation
3 that is not a qualified refunding obligation that is issued to
4 refund an eligible obligation, or a qualified refunding obliga-
5 tion issued to refund an obligation described in this
6 subparagraph.

7 (ii) An obligation issued or incurred by an authority or by
8 a municipality on behalf of an authority after August 19, 1993,
9 but before December 31, 1994, to finance a project described in a
10 tax increment finance plan approved by the municipality in
11 accordance with this act before August 19, 1993, for which a con-
12 tract for final design is entered into by the municipality or
13 authority before March 1, 1994.

14 (iii) An obligation incurred by an authority or municipality
15 after August 19, 1993, to reimburse a party to a development
16 agreement entered into by a municipality or authority before
17 August 19, 1993, for a project described in a tax increment
18 financing plan approved in accordance with this act before
19 August 19, 1993, and undertaken and installed by that party in
20 accordance with the development agreement.

21 (iv) An ongoing management or professional services contract
22 with the governing body of a county which was entered into before
23 March 1, 1994 and which was preceded by a series of limited term
24 management or professional services contracts with the governing
25 body of the county, the last of which was entered into before
26 August 19, 1993.

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1 (u) "Public facility" means 1 or more of the following:

2 (i) A street, road, bridge, sewer, sewage treatment
3 facility, facility designed to reduce, eliminate, or prevent the
4 spread of identified soil or groundwater contamination, drainage
5 system, waterway, waterline, water storage facility, rail line,
6 utility line or pipeline, or other similar or related structure
7 or improvement, together with necessary easements for the struc-
8 ture or improvement, owned or used by a public agency or func-
9 tionally connected to similar or supporting facilities owned or
10 used by a public agency, or designed and dedicated to use by, for
11 the benefit of, or for the protection of the health, welfare, or
12 safety of the public generally, whether or not used by a single
13 business entity, provided that any road, street, or bridge shall
14 be continuously open to public access and that other facilities
15 shall be located in public easements or rights-of-way and sized
16 to accommodate reasonably foreseeable development of eligible
17 property in adjoining areas.

18 (ii) The acquisition and disposal of real and personal prop-
19 erty or an interest in that property, demolition of structures,
20 site preparation, relocation costs, building rehabilitation, and
21 all administrative costs related to a public facility, including,
22 but not limited to, architect's, engineer's, legal, and account-
23 ing fees as contained in the resolution establishing the
24 district's development plan.

25 (iii) An improvement to a facility used by the public or a
26 public facility as those terms are defined in section 1 of ~~Act~~
27 ~~No. 1 of the Public Acts of 1966, being section 125.1351 of the~~

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1 ~~Michigan Compiled Laws~~ 1966 PA 1, MCL 125.1351, which
2 improvement is made to comply with the barrier free design
3 requirements of the state construction code promulgated under the
4 state construction code act of 1972, ~~Act No. 230 of the Public~~
5 ~~Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan~~
6 ~~Compiled Laws~~ 1972 PA 230, MCL 125.1501 TO 125.1531.

7 (v) "Qualified refunding obligation" means an obligation
8 issued or incurred by an authority or by a municipality on behalf
9 of an authority to refund an obligation if the refunding obliga-
10 tion meets both of the following:

11 (i) The net present value of the principal and interest to
12 be paid on the refunding obligation, including the cost of issu-
13 ance, will be less than the net present value of the principal
14 and interest to be paid on the obligation being refunded, as cal-
15 culated using a method approved by the department of treasury.

16 (ii) The net present value of the sum of the tax increment
17 revenues described in subdivision (y)(ii) and the distributions
18 under section 11a to repay the refunding obligation will not be
19 greater than the net present value of the sum of the tax incre-
20 ment revenues described in subdivision (y)(ii) and the distribu-
21 tions under section 11a to repay the obligation being refunded,
22 as calculated using a method approved by the department of
23 treasury.

24 (w) "Specific local taxes" means a tax levied under ~~Act~~
25 ~~No. 198 of the Public Acts of 1974, being sections 207.551 to~~
26 ~~207.572 of the Michigan Compiled Laws~~ 1974 PA 198, MCL 207.551
27 TO 207.572, the commercial redevelopment act, ~~Act No. 255 of the~~

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1 ~~Public Acts of 1978, being sections 207.651 to 207.668 of the~~
2 ~~Michigan Compiled Laws— 1978 PA 255, MCL 207.651 TO 207.668, the~~
3 ~~enterprise zone act, —Act No. 224 of the Public Acts of 1985,~~
4 ~~being sections 125.2101 to 125.2123 of the Michigan Compiled~~
5 ~~Laws, Act No. 189 of the Public Acts of 1953, being sections~~
6 ~~211.181 to 211.182 of the Michigan Compiled Laws— 1985 PA 224,~~
7 ~~MCL 125.2101 TO 125.2123, 1953 PA 189, MCL 211.181 TO 211.182,~~
8 ~~and the technology park development act, —Act No. 385 of the~~
9 ~~Public Acts of 1984, being sections 207.701 to 207.718 of the~~
10 ~~Michigan Compiled Laws— 1984 PA 385, MCL 207.701 TO 207.718. The~~
11 ~~initial assessed value or current assessed value of property~~
12 ~~subject to a specific local tax is the quotient of the specific~~
13 ~~local tax paid divided by the ad valorem millage rate. However,~~
14 ~~after 1993, the state tax commission shall prescribe the method~~
15 ~~for calculating the initial assessed value and current assessed~~
16 ~~value of property for which a specific local tax was paid in lieu~~
17 ~~of a property tax.~~

18 (x) "State fiscal year" means the annual period commencing
19 October 1 of each year.

20 (y) "Tax increment revenues" means the amount of ad valorem
21 property taxes and specific local taxes attributable to the
22 application of the levy of all taxing jurisdictions upon the cap-
23 ture assessed value of real and personal property in the develop-
24 ment area, subject to the following requirements:

25 (i) Tax increment revenues include ad valorem property taxes
26 and specific local taxes attributable to the application of the
27 levy of all taxing jurisdictions other than the state pursuant to

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1 the state education tax act, ~~Act No. 331 of the Public Acts of~~
2 ~~1993, being sections 211.901 to 211.906 of the Michigan Compiled~~
3 ~~Laws~~ 1993 PA 331, MCL 211.901 TO 211.906, and local or interme-
4 diate school districts upon the captured assessed value of real
5 and personal property in the development area for any purpose
6 authorized by this act.

7 (ii) Tax increment revenues include ad valorem property
8 taxes and specific local taxes attributable to the application of
9 the levy of the state pursuant to ~~Act No. 331 of the Public Acts~~
10 ~~of 1993~~ THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO
11 211.906, and local or intermediate school districts upon the cap-
12 tured assessed value of real and personal property in the devel-
13 opment area in an amount equal to the amount necessary, without
14 regard to subparagraph (i), to repay eligible advances, eligible
15 obligations, and other protected obligations.

16 (iii) Tax increment revenues do not include any of the
17 following:

18 (A) Ad valorem property taxes or specific local taxes
19 attributable either to a portion of the captured assessed value
20 shared with taxing jurisdictions within the jurisdictional area
21 of the authority or to a portion of value of property that may be
22 excluded from captured assessed value.

23 (B) Ad valorem property taxes and specific local taxes
24 attributable to ad valorem property taxes excluded by the tax
25 increment financing plan of the authority from the determination
26 of the amount of tax increment revenues to be transmitted to the
27 authority.

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1 (C) Ad valorem property taxes exempted from capture under
2 section 4(3) or specific local taxes attributable to such ad
3 valorem property taxes.

4 (D) Ad valorem property taxes specifically levied for the
5 payment of principal and interest of obligations approved by the
6 electors or obligations pledging the unlimited taxing power of
7 the local governmental unit or specific local taxes attributable
8 to such ad valorem property taxes.

9 (iv) The amount of tax increment revenues authorized to be
10 included under subparagraph (ii), and required to be transmitted
11 to the authority under section 13(1), from ad valorem property
12 taxes and specific local taxes attributable to the application of
13 the levy of the state education tax act, 1993 PA 331, MCL 211.901
14 TO 211.906, a local school district or an intermediate school
15 district upon the captured assessed value of real and personal
16 property in a development area shall be determined separately for
17 the levy by the state, each school district, and each intermedi-
18 ate school district as the product of sub-subparagraphs (A) and
19 (B):

20 (A) The percentage which the total ad valorem taxes and spe-
21 cific local taxes available for distribution by law to the state,
22 local school district, or intermediate school district, respec-
23 tively, bears to the aggregate amount of ad valorem millage taxes
24 and specific taxes available for distribution by law to the
25 state, each local school district, and each intermediate school
26 district.

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1 (B) The maximum amount of ad valorem property taxes and
2 specific local taxes considered tax increment revenues under
3 subparagraph (ii).

4 (z) "Urban township" means a township that meets all of the
5 following requirements:

6 (i) Has a population of 20,000 or more, or has a population
7 of 10,000 or more but is located in a county with a population of
8 400,000 or more.

9 (ii) Adopted a master zoning plan before February 1, 1987.

10 (iii) Provides sewer, water, and other public services to
11 all or a part of the township.

12 Sec. 11a. (1) If the amount of tax increment revenues lost
13 as a result of the reduction of taxes levied by local school dis-
14 tricts for school operating purposes required by the millage lim-
15 itations under section 1211 of the revised school code, ~~Act~~
16 ~~No. 451 of the Public Acts of 1976, being section 380.1211 of the~~
17 ~~Michigan Compiled Laws~~ 1976 PA 451, MCL 380.1211, reduced by the
18 amount of tax increment revenues received from the capture of
19 taxes levied under or attributable to the state education tax
20 act, ~~Act No. 331 of the Public Acts of 1993, being~~
21 ~~sections 211.901 to 211.906 of the Michigan Compiled Laws~~ 1993
22 PA 331, MCL 211.901 TO 211.906, will cause the tax increment rev-
23 enues received in a fiscal year by an authority under section 13
24 to be insufficient to repay an eligible advance or to pay an eli-
25 gible obligation, the legislature shall appropriate and distrib-
26 ute to the authority the amount described in subsection (5).

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1 (2) Not less than 30 days before the first day of a fiscal
2 year, an authority eligible to retain tax increment revenues from
3 taxes levied by a local or intermediate school district or this
4 state or to receive a distribution under this section for that
5 fiscal year shall file a claim with the department of treasury.
6 The claim shall include the following information:

7 (a) The property tax millage rates levied in 1993 by local
8 school districts within the jurisdictional area of the authority
9 for school operating purposes.

10 (b) The property tax millage rates expected to be levied by
11 local school districts within the jurisdictional area of the
12 authority for school operating purposes for that fiscal year.

13 (c) The tax increment revenues estimated to be received by
14 the authority for that fiscal year based upon actual property tax
15 levies of all taxing jurisdictions within the jurisdictional area
16 of the authority plus any tax increment revenues the authority
17 would have received for the fiscal year from property that is
18 exempt from taxation pursuant to the Michigan renaissance zone
19 act, ~~Act No. 376 of the Public Acts of 1996, being~~
20 ~~sections 125.2681 to 125.2696 of the Michigan Compiled Laws~~ 1996
21 PA 376, MCL 125.2681 TO 125.2696, based on the property's taxable
22 value at the time the zone is designated.

23 (d) The tax increment revenues the authority estimates it
24 would have received for that fiscal year if property taxes were
25 levied by local school districts within the jurisdictional area
26 of the authority for school operating purposes at the millage
27 rates described in subdivision (a) and if no property taxes were

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1 levied by this state under ~~Act No. 331 of the Public Acts of~~
2 ~~1993~~ THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO
3 211.906.

4 (e) A list and documentation of eligible obligations ~~,~~ AND
5 eligible advances ~~,~~ and other protected obligations and the
6 payments due on each of those eligible obligations ~~,~~ OR eligi-
7 ble advances ~~,~~ or other protected obligations in that fiscal
8 year, and the total amount of all the payments due on those eli-
9 gible obligations ~~,~~ AND eligible advances ~~,~~ and other pro-
10 tected obligations in that fiscal year.

11 (f) The amount of money, other than tax increment revenues,
12 estimated to be received in that fiscal year by the authority
13 that is primarily pledged to, and to be used for, the payment of
14 an eligible obligation or the repayment of an eligible advance.
15 That amount shall not include excess tax increment revenues of
16 the authority that are permitted by law to be retained by the
17 authority for purposes that further the development program.
18 However, that amount shall include money to be obtained from
19 sources authorized by law, which law is enacted on or after
20 December 1, 1993, for use by the municipality or authority to
21 finance a development project.

22 (g) The amount of a distribution received pursuant to this
23 act for a fiscal year in excess of or less than the distribution
24 that would have been required if calculated upon actual tax
25 increment revenues received for that fiscal year.

26 (H) A LIST AND DOCUMENTATION OF OTHER PROTECTED OBLIGATIONS
27 AND THE PAYMENTS DUE ON EACH OF THOSE OTHER PROTECTED OBLIGATIONS

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1 IN THAT FISCAL YEAR, AND THE TOTAL AMOUNT OF ALL THE PAYMENTS DUE
2 ON THOSE OTHER PROTECTED OBLIGATIONS IN THAT FISCAL YEAR.

3 (3) For the fiscal year that commences after September 30,
4 1993 and before October 1, 1994, an authority may make a claim
5 with all information required by subsection (2) at any time after
6 March 15, 1994.

7 (4) After review and verification of claims submitted pursu-
8 ant to this section, amounts appropriated by the state in compli-
9 ance with this act shall be distributed as 2 equal payments on
10 March 1 and September 1 after receipt of a claim. An authority
11 shall allocate a distribution it receives for an eligible obliga-
12 tion issued on behalf of a municipality to the municipality.

13 (5) Subject to subsections (6) and (7), the aggregate amount
14 to be appropriated and distributed pursuant to this section to an
15 authority shall be the sum of the amounts determined pursuant to
16 subdivisions (a) and (b) minus the amount determined pursuant to
17 subdivision (c), as follows:

18 (a) The amount by which the tax increment revenues the
19 authority would have received for the fiscal year, if property
20 taxes were levied by local school districts on property, includ-
21 ing property that is exempt from taxation pursuant to ~~Act~~
22 ~~No. 376 of the Public Acts of 1996~~ THE MICHIGAN RENAISSANCE ZONE
23 ACT, 1996 PA 376, MCL 125.2681 TO 125.2696, based on the
24 property's taxable value at the time the zone is designated, for
25 school operating purposes at the millage rates described in
26 subsection (2)(a) and if no property taxes were levied under ~~Act~~
27 ~~No. 331 of the Public Acts of 1993~~ THE STATE EDUCATION TAX ACT,

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1 1993 PA 331, MCL 211.901 TO 211.906, exceed the sum of tax
2 increment revenues the authority actually received for the fiscal
3 year plus any tax increment revenues the authority would have
4 received for the fiscal year from property that is exempt from
5 taxation pursuant to ~~Act No. 376 of the Public Acts of 1996~~ THE
6 MICHIGAN RENAISSANCE ZONE ACT, 1996 PA 376, MCL 125.2681 TO
7 125.2696, based on the property's taxable value at the time the
8 zone is designated.

9 (b) A shortfall required to be reported pursuant to
10 subsection (2)(g) that had not previously increased a
11 distribution.

12 (c) An excess amount required to be reported pursuant to
13 subsection (2)(g) that had not previously decreased a
14 distribution.

15 (6) The amount distributed under subsection (5) shall not
16 exceed the difference between the amount described in
17 subsection (2)(e) and the sum of the amounts described in
18 subsection (2)(c) and (f).

19 (7) If, based upon the tax increment financing plan in
20 effect on August 19, 1993, the payment due on eligible obliga-
21 tions or eligible advances anticipates the use of excess prior
22 year tax increment revenues permitted by law to be retained by
23 the authority, and if the sum of the amounts described in
24 subsection (2)(c) and (f) plus the amount to be distributed under
25 subsections (5) and (6) is less than the amount described in
26 subsection (2)(e), the amount to be distributed under subsections
27 (5) and (6) shall be increased by the amount of the shortfall.

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1 However, the amount authorized to be distributed pursuant to this
2 section shall not exceed that portion of the cumulative differ-
3 ence, for each preceding fiscal year, between the amount that
4 could have been distributed pursuant to subsection (5) and the
5 amount actually distributed pursuant to subsections (5) and (6)
6 and this subsection.

7 (8) A distribution under this section replacing tax incre-
8 ment revenues pledged by an authority or a municipality is
9 subject to the lien of the pledge, whether or not there has been
10 physical delivery of the distribution.

11 (9) Obligations for which distributions are made pursuant to
12 this section are not a debt or liability of this state; do not
13 create or constitute an indebtedness, liability, or obligation of
14 this state; and are not and do not constitute a pledge of the
15 faith and credit of this state.

16 (10) Not later than July 1 of each year, the authority shall
17 certify to the local tax collecting treasurer the amount of the
18 distribution required under subsection (5), calculated without
19 regard to the receipt of tax increment revenues attributable to
20 local or intermediate school district operating taxes or attrib-
21 utable to taxes levied under ~~Act No. 331 of the Public Acts of~~
22 ~~1993~~ THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO
23 211.906.

24 (11) Calculations of distributions under this section and
25 claims reports required to be made under subsection (2) shall be
26 made on the basis of each development area of the authority.

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1 (12) THE STATE TAX COMMISSION MAY PROVIDE THAT THE
2 REIMBURSEMENT CALCULATIONS UNDER THIS SECTION AND THE CALCULATION
3 OF ALLOWABLE CAPTURE OF SCHOOL TAXES SHALL BE MADE FOR EACH CAL-
4 ENDAR YEAR'S TAX INCREMENT REVENUES USING A 12-MONTH DEBT PAYMENT
5 PERIOD USED BY THE AUTHORITY AND APPROVED BY THE STATE TAX
6 COMMISSION.

7 Enacting section 1. The provisions of section 2 and section
8 11a, as amended by this amendatory act, are retroactive and
9 effective for taxes levied after 1993.