

**SUBSTITUTE FOR
HOUSE BILL NO. 5540**

A bill to amend 1986 PA 281, entitled
"The local development financing act,"
(MCL 125.2151 to 125.2174) by adding section 11b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 11B. (1) IF THE AMOUNT OF TAX INCREMENT REVENUES LOST AS**
2 **A RESULT OF THE PERSONAL PROPERTY TAX EXEMPTIONS PROVIDED BY**
3 **SECTION 1211(4) OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL**
4 **380.1211, SECTION 3 OF THE STATE EDUCATION TAX ACT, 1993 PA 331,**
5 **MCL 211.903, SECTION 14(4) OF 1974 PA 198, MCL 207.564, AND SECTION**

1 9K OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9K, WILL
2 REDUCE THE ALLOWABLE SCHOOL TAX CAPTURE RECEIVED IN A FISCAL YEAR
3 BY AN AUTHORITY UNDER SECTION 13 USED TO REPAY AN ELIGIBLE ADVANCE,
4 AN ELIGIBLE OBLIGATION, ANOTHER PROTECTED OBLIGATION, OR AN
5 OBLIGATION ISSUED OR INCURRED BEFORE JULY 12, 2007 FOR EXPENDITURES
6 AUTHORIZED IN A CERTIFIED TECHNOLOGY PARK, NOTWITHSTANDING ANY
7 OTHER PROVISION OF THIS ACT, THE AUTHORITY, WITH APPROVAL OF THE
8 DEPARTMENT UNDER SUBSECTION (3), MAY REQUEST THE LOCAL TAX
9 COLLECTING TREASURER TO RETAIN AND PAY TO THE AUTHORITY TAXES
10 LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901
11 TO 211.906.

12 (2) NOT LATER THAN MAY 1, 2008 AND APRIL 1, 2009 AND YEARLY
13 THEREAFTER, AN AUTHORITY ELIGIBLE UNDER SUBSECTION (1) TO HAVE
14 TAXES LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL
15 211.901 TO 211.906, RETAINED AND PAID TO THE AUTHORITY UNDER THIS
16 SECTION, SHALL APPLY FOR APPROVAL WITH THE DEPARTMENT OF TREASURY.
17 THE APPLICATION FOR APPROVAL SHALL INCLUDE THE FOLLOWING
18 INFORMATION:

19 (A) THE PROPERTY TAX MILLAGE RATES EXPECTED TO BE LEVIED BY
20 LOCAL SCHOOL DISTRICTS WITHIN THE JURISDICTIONAL AREA OF THE
21 AUTHORITY FOR SCHOOL OPERATING PURPOSES FOR THAT FISCAL YEAR.

22 (B) THE TAX INCREMENT REVENUES ESTIMATED TO BE RECEIVED BY THE
23 AUTHORITY FOR THAT FISCAL YEAR BASED UPON ACTUAL PROPERTY TAX
24 LEVIES OF ALL TAXING JURISDICTIONS WITHIN THE JURISDICTIONAL AREA
25 OF THE AUTHORITY.

26 (C) THE TAX INCREMENT REVENUES THE AUTHORITY ESTIMATES IT
27 WOULD HAVE RECEIVED FOR THAT FISCAL YEAR IF THE PERSONAL PROPERTY

1 TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT.

2 (D) A LIST OF ELIGIBLE OBLIGATIONS, ELIGIBLE ADVANCES, OTHER
3 PROTECTED OBLIGATIONS, AND OBLIGATIONS ISSUED ON OR OCCURRED BEFORE
4 JULY 12, 2007 FOR EXPENDITURES AUTHORIZED IN A CERTIFIED TECHNOLOGY
5 PARK, AND THE PAYMENTS DUE ON EACH OF THOSE OBLIGATIONS AND
6 ADVANCES IN THAT FISCAL YEAR, AND THE TOTAL AMOUNT OF ALL THE
7 PAYMENTS DUE ON THOSE OBLIGATIONS AND ADVANCES IN THAT FISCAL YEAR.

8 (E) THE AMOUNT OF MONEY, OTHER THAN TAX INCREMENT REVENUES,
9 ESTIMATED TO BE RECEIVED IN THAT FISCAL YEAR BY THE AUTHORITY THAT
10 IS PRIMARILY PLEDGED TO, AND TO BE USED FOR, THE PAYMENT OF AN
11 ELIGIBLE OBLIGATION, THE REPAYMENT OF AN ELIGIBLE ADVANCE, THE
12 PAYMENT OF ANOTHER PROTECTED OBLIGATION, OR THE PAYMENT OF
13 OBLIGATIONS ISSUED ON OR OCCURRED BEFORE JULY 12, 2007 FOR
14 EXPENDITURES AUTHORIZED IN A CERTIFIED TECHNOLOGY PARK. THAT AMOUNT
15 SHALL NOT INCLUDE EXCESS TAX INCREMENT REVENUES OF THE AUTHORITY
16 THAT ARE PERMITTED BY LAW TO BE RETAINED BY THE AUTHORITY FOR
17 PURPOSES THAT FURTHER THE DEVELOPMENT PROGRAM. HOWEVER, THAT AMOUNT
18 SHALL INCLUDE MONEY TO BE OBTAINED FROM SOURCES AUTHORIZED BY LAW,
19 WHICH LAW IS ENACTED ON OR AFTER DECEMBER 1, 1993, FOR USE BY THE
20 MUNICIPALITY OR AUTHORITY TO FINANCE A DEVELOPMENT PLAN.

21 (F) THE AMOUNT OF A DISTRIBUTION RECEIVED PURSUANT TO THIS ACT
22 FOR A FISCAL YEAR IN EXCESS OF OR LESS THAN THE DISTRIBUTION THAT
23 WOULD HAVE BEEN REQUIRED IF CALCULATED UPON ACTUAL TAX INCREMENT
24 REVENUES RECEIVED FOR THAT FISCAL YEAR.

25 (3) NOT LATER THAN AUGUST 15, 2008 AND AUGUST 1, 2009 AND
26 YEARLY THEREAFTER, BASED ON THE CALCULATIONS UNDER SUBSECTION (5),
27 THE DEPARTMENT OF TREASURY SHALL APPROVE, MODIFY, OR DENY THE

1 APPLICATION FOR APPROVAL TO HAVE TAXES LEVIED UNDER THE STATE
2 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, RETAINED
3 AND PAID TO THE AUTHORITY UNDER THIS SECTION. IF THE APPLICATION
4 FOR APPROVAL IS APPROVED OR MODIFIED BY THE DEPARTMENT OF TREASURY,
5 THE LOCAL TAX COLLECTING TREASURER SHALL RETAIN AND PAY TO THE
6 AUTHORITY THE AMOUNT DESCRIBED IN SUBSECTION (5) AS APPROVED BY THE
7 DEPARTMENT. IF THE DEPARTMENT OF TREASURY DENIES THE AUTHORITY'S
8 APPLICATION FOR APPROVAL, THE LOCAL TAX COLLECTING TREASURER SHALL
9 NOT RETAIN OR PAY TO THE AUTHORITY THE TAXES LEVIED UNDER THE STATE
10 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906.

11 (4) EACH YEAR THE LEGISLATURE SHALL APPROPRIATE AND DISTRIBUTE
12 AN AMOUNT SUFFICIENT TO PAY EACH AUTHORITY THE FOLLOWING:

13 (A) IF THE AMOUNT TO BE RETAINED AND PAID UNDER SUBSECTION (3)
14 IS LESS THAN THE AMOUNT CALCULATED UNDER SUBSECTION (5), THE
15 DIFFERENCE BETWEEN THOSE AMOUNTS.

16 (B) IF THE APPLICATION FOR APPROVAL IS DENIED BY THE
17 DEPARTMENT OF TREASURY, AN AMOUNT VERIFIED BY THE DEPARTMENT EQUAL
18 TO THE AMOUNT CALCULATED UNDER SUBSECTION (5).

19 (5) SUBJECT TO SUBSECTION (6), THE AGGREGATE AMOUNT UNDER THIS
20 SECTION SHALL BE THE SUM OF THE AMOUNTS DETERMINED UNDER
21 SUBDIVISIONS (A) AND (B) MINUS THE AMOUNT DETERMINED UNDER
22 SUBDIVISION (C), AS FOLLOWS:

23 (A) THE AMOUNT BY WHICH THE TAX INCREMENT REVENUES THE
24 AUTHORITY WOULD HAVE RECEIVED AND RETAINED FOR THE FISCAL YEAR,
25 EXCLUDING TAXES EXEMPT UNDER SECTION 7FF OF THE GENERAL PROPERTY
26 TAX ACT, 1893 PA 206, MCL 211.7FF, IF THE PERSONAL PROPERTY TAX
27 EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT, EXCEED

1 THE TAX INCREMENT REVENUES THE AUTHORITY ACTUALLY RECEIVED FOR THE
2 FISCAL YEAR.

3 (B) A SHORTFALL REQUIRED TO BE REPORTED UNDER SUBSECTION
4 (2) (F) THAT HAD NOT PREVIOUSLY INCREASED A DISTRIBUTION.

5 (C) AN EXCESS AMOUNT REQUIRED TO BE REPORTED UNDER SUBSECTION
6 (2) (F) THAT HAD NOT PREVIOUSLY DECREASED A DISTRIBUTION.

7 (6) A DISTRIBUTION OR TAXES RETAINED UNDER THIS SECTION
8 REPLACING TAX INCREMENT REVENUES PLEDGED BY AN AUTHORITY OR A
9 MUNICIPALITY ARE SUBJECT TO THE LIEN OF THE PLEDGE, WHETHER OR NOT
10 THERE HAS BEEN PHYSICAL DELIVERY OF THE DISTRIBUTION.

11 (7) OBLIGATIONS FOR WHICH DISTRIBUTIONS ARE MADE UNDER THIS
12 SECTION ARE NOT A DEBT OR LIABILITY OF THIS STATE; DO NOT CREATE OR
13 CONSTITUTE AN INDEBTEDNESS, LIABILITY, OR OBLIGATION OF THIS STATE;
14 AND ARE NOT AND DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT
15 OF THIS STATE.

16 (8) NOT LATER THAN SEPTEMBER 1 OF EACH YEAR, THE AUTHORITY
17 SHALL PROVIDE A COPY OF THE APPLICATION FOR APPROVAL APPROVED BY
18 THE DEPARTMENT OF TREASURY TO THE LOCAL TAX COLLECTING TREASURER
19 AND PROVIDE THE AMOUNT OF THE TAXES RETAINED AND PAID TO THE
20 AUTHORITY UNDER SUBSECTION (5).

21 (9) CALCULATIONS OF AMOUNTS RETAINED AND PAID AND
22 APPROPRIATIONS TO BE DISTRIBUTED UNDER THIS SECTION SHALL BE MADE
23 ON THE BASIS OF EACH DEVELOPMENT AREA OF THE AUTHORITY.

24 (10) THE STATE TAX COMMISSION MAY PROVIDE THAT THE
25 REIMBURSEMENT CALCULATIONS UNDER THIS SECTION AND THE CALCULATION
26 OF ALLOWABLE CAPTURE OF SCHOOL TAXES SHALL BE MADE FOR EACH
27 CALENDAR YEAR'S TAX INCREMENT REVENUES USING A 12-MONTH DEBT

House Bill No. 5540 (H-1) as amended December 13, 2007

1 PAYMENT PERIOD USED BY THE AUTHORITY AND APPROVED BY THE STATE TAX

2 COMMISSION.

[(11) IT IS THE INTENT OF THE LEGISLATURE THAT, TO THE EXTENT THAT THE TOTAL AMOUNT OF TAXES LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, THAT ARE ALLOWED TO BE RETAINED UNDER THIS SECTION AND SECTION 15A OF THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2665A, SECTION 12B OF THE TAX INCREMENT FINANCING ACT, 1980 PA 450, MCL 125.1812B, AND SECTION 13C OF 1975 PA 197, MCL 125.1663C, EXCEEDS THE DIFFERENCE OF THE TOTAL SCHOOL AID FUND REVENUE FOR THE TAX YEAR MINUS THE ESTIMATED AMOUNT OF REVENUE THE SCHOOL AID FUND WOULD HAVE RECEIVED FOR THE TAX YEAR HAD THE TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) AND THE EARMARK CREATED BY SECTION 515 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1515, NOT TAKEN EFFECT, THE GENERAL FUND SHALL REIMBURSE THE SCHOOL AID FUND THE DIFFERENCE.]