

**SENATE BILL NO. 270**

February 4, 1999, Introduced by Senators SCHUETTE, GOUGEON,  
MC MANUS, STEIL, STILLE, GOSCHKA, BENNETT and BULLARD and  
referred to the Committee on Economic Development,  
International Trade and Regulatory Affairs.

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
by amending sections 2, 3, 4, 5, 8, 13, 15, 16, and 19 (MCL  
125.2652, 125.2653, 125.2654, 125.2655, 125.2658, 125.2663,  
125.2665, 125.2666, and 125.2669).

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

1       Sec. 2. As used in this act:

2       (a) "Additional response activities" means response activi-  
3 ties ~~proposed~~ IDENTIFIED as part of a brownfield plan that are  
4 in addition to baseline environmental assessment activities and  
5 due care activities for an eligible property.

6       (b) "Authority" means a brownfield redevelopment authority  
7 created under this act.

8       (c) "Baseline environmental assessment" means that term as  
9 defined in section 20101 ~~of part 201 (environmental~~

1 ~~remediation)~~ of the natural resources and environmental  
2 protection act, ~~Act No. 451 of the Public Acts of 1994, being~~  
3 ~~section 324.20101 of the Michigan Compiled Laws~~ 1994 PA 451, MCL  
4 324.20101.

5 (d) "Baseline environmental assessment activities" means  
6 those response activities identified as part of a brownfield plan  
7 that are necessary to complete a baseline environmental assess-  
8 ment for an eligible property in the brownfield plan.

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

10 (f) "Brownfield plan" means a plan that meets the require-  
11 ments of section 13 and is adopted under section 14.

12 (g) "Captured taxable value" means the amount in 1 year by  
13 which the current taxable value of an eligible property subject  
14 to a brownfield plan, including the taxable value or assessed  
15 value, as appropriate, of the property for which specific taxes  
16 are paid in lieu of property taxes, exceeds the initial taxable  
17 value of that eligible property. The state tax commission shall  
18 prescribe the method for calculating captured taxable value.

19 (h) "Chief executive officer" means the mayor of a city, the  
20 village manager of a village, the township supervisor of a town-  
21 ship, or the county executive of a county or, if the county does  
22 not have an elected county executive, the chairperson of the  
23 county board of commissioners.

24 (i) "Department" means the department of environmental  
25 quality.

26 (j) "Due care activities" means those response activities  
27 identified as part of a brownfield plan that are necessary to

1 allow the owner or operator of an eligible property in the plan  
2 to comply with the requirements of section 20107a ~~of part 201 of~~  
3 ~~Act No. 451 of the Public Acts of 1994, being section 324.20107a~~  
4 ~~of the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVI-  
5 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.20107A.

6 (k) "Eligible activities" means 1 or more of the following:

7 (i) Baseline environmental assessment activities.

8 (ii) Due care activities.

9 (iii) Additional response activities.

10 (iv) ADMINISTRATIVE AND OPERATING ACTIVITIES OF THE AUTHORI-  
11 TY, OR THE MUNICIPALITY ON BEHALF OF THE AUTHORITY, IN CONNECTION  
12 WITH SUBPARAGRAPHS (i), (ii), OR (iii).

13 (l) "Eligible property" means a facility as that term is  
14 defined in section 20101 of ~~part 201 of Act No. 451 of the~~  
15 ~~Public Acts of 1994, being section 324.20101 of the Michigan~~  
16 ~~Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION  
17 ACT, 1994 PA 451, MCL 324.20101, OR PROPERTY THAT CONTAINS A HAZ-  
18 ARDOUS SUBSTANCE AS THAT TERM IS DEFINED IN SECTION 20101 OF THE  
19 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,  
20 MCL 324.20101, THE PRESENCE OF WHICH COULD CREATE A RISK TO HUMAN  
21 HEALTH DURING THE REDEVELOPMENT OF THE PROPERTY PURSUANT TO A  
22 BROWNFIELD PLAN, and adjacent or contiguous parcels if the devel-  
23 opment of the adjacent and contiguous parcels is estimated to  
24 increase the captured taxable value of the facility for which  
25 eligible activities are proposed under a brownfield plan.  
26 Eligible property shall include, to the extent included in  
27 brownfield plan, personal property located on the facility.

1 (m) "Fiscal year" means the fiscal year of the authority.

2 (n) "Governing body" means the elected body having legisla-  
3 tive powers of a municipality creating an authority under this  
4 act.

5 (o) "Initial taxable value" means the taxable value of an  
6 eligible property identified in and subject to a brownfield plan  
7 at the time the resolution adding that eligible property in the  
8 brownfield plan is adopted, as shown by the most recent assess-  
9 ment roll for which equalization has been completed at the time  
10 the resolution is adopted. Property exempt from taxation at the  
11 time the initial taxable value is determined shall be included  
12 with the initial taxable value of zero. Property for which a  
13 specific tax is paid in lieu of property tax shall not be consid-  
14 ered exempt from taxation. The state tax commission shall pre-  
15 scribe the method for calculating the initial taxable value of  
16 property for which a specific tax was paid in lieu of property  
17 tax.

18 (p) "Local taxes" means all taxes levied other than taxes  
19 levied for school operating purposes.

20 (q) "Municipality" means all of the following:

21 (i) A city.

22 (ii) A village.

23 (iii) A township in those areas of the township that are  
24 outside of a village.

25 (iv) A township in those areas of the township that are in a  
26 village upon the concurrence by resolution of the village. ~~in~~  
27 ~~which the zone would be located.~~

1 (v) A county upon the concurrence by resolution of the city  
2 or village or township. ~~in which the zone would be located.~~

3 (r) "Remedial action plan" means a plan that meets both of  
4 the following requirements:

5 (i) Is a remedial action plan as that term is defined in  
6 section 20101 of ~~part 201 of Act No. 451 of the Public Acts of~~  
7 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ THE  
8 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,  
9 MCL 324.20101.

10 (ii) Describes each individual activity to be conducted to  
11 complete an eligible activity and the associated costs of each  
12 individual activity.

13 (s) "Response activity" means that term as defined in  
14 section 20101 of ~~part 201 of Act No. 451 of the Public Acts of~~  
15 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ THE  
16 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,  
17 MCL 324.20101.

18 (t) "Specific taxes" means a tax levied under ~~Act No. 198~~  
19 ~~of the Public Acts of 1974, being sections 207.551 to 207.572 of~~  
20 ~~the Michigan Compiled Laws~~ 1974 PA 198, MCL 207.551 TO 207.572;  
21 the commercial redevelopment act, ~~Act No. 255 of the Public Acts~~  
22 ~~of 1978, being sections 207.651 to 207.668 of the Michigan~~  
23 ~~Compiled Laws~~ 1978 PA 255, MCL 207.651 TO 207.668; the enter-  
24 prise zone act, ~~Act No. 224 of the Public Acts of 1985, being~~  
25 ~~sections 125.2101 to 125.2123 of the Michigan Compiled Laws; Act~~  
26 ~~No. 189 of the Public Acts of 1953, being sections 211.181 to~~  
27 ~~211.182 of the Michigan Compiled Laws~~ 1985 PA 224, MCL 125.2101

1 TO 125.2123; 1953 PA 189, MCL 211.181 TO 211.182; or the  
2 technology park development act, ~~Act No. 385 of the Public Acts~~  
3 ~~of 1984, being sections 207.701 to 207.718 of the Michigan~~  
4 ~~Compiled Laws~~ 1984 PA 385, MCL 207.701 TO 207.718.

5 (u) "Tax increment revenues" means the amount of ad valorem  
6 property taxes and specific taxes attributable to the application  
7 of the levy of all taxing jurisdictions upon the captured taxable  
8 value of each parcel of eligible property subject to a brownfield  
9 plan and personal property located on that property. Tax incre-  
10 ment revenues exclude ad valorem property taxes specifically  
11 levied for the payment of principal of and interest on either  
12 obligations approved by the electors or obligations pledging the  
13 unlimited taxing power of the local governmental unit, and spe-  
14 cific taxes attributable to those ad valorem property taxes. Tax  
15 increment revenues attributable to eligible property also exclude  
16 the amount of ad valorem property taxes or specific taxes cap-  
17 tured by a downtown development authority, tax increment finance  
18 authority, or local development finance authority if those taxes  
19 were captured by these other authorities on the date that eligi-  
20 ble property became subject to a brownfield plan under this act.

21 (v) "Taxable value" means the value determined under section  
22 27a of the general property tax act, ~~Act No. 206 of the Public~~  
23 ~~Acts of 1893, being section 211.27a of the Michigan Compiled~~  
24 ~~Laws~~ 1893 PA 206, MCL 211.27A.

25 (w) "Taxes levied for school operating purposes" means all  
26 of the following:

1        (i) The taxes levied by a local school district for  
2 operating purposes.

3        (ii) The taxes levied under the state education tax act,  
4 ~~Act No. 331 of the Public Acts of 1993, being sections 211.901~~  
5 ~~to 211.906 of the Michigan Compiled Laws~~ 1993 PA 331, MCL  
6 211.901 TO 211.906.

7        (iii) That portion of specific taxes attributable to taxes  
8 described under subparagraphs (i) and (ii).

9        (x) "Work plan" means a plan that describes each individual  
10 activity ~~to be conducted~~ NEEDED to complete an eligible activ-  
11 ity and the associated costs of each individual activity as  
12 approved by the department.

13        ~~(y) "Zone" means a brownfield redevelopment zone designated~~  
14 ~~under section 4.~~

15        Sec. 3. (1) A municipality may establish 1 or more  
16 authorities. An authority shall exercise its powers ~~in its zone~~  
17 ~~or zones~~ OVER ANY ELIGIBLE PROPERTY LOCATED IN THE  
18 MUNICIPALITY.

19        (2) The authority shall be a public body corporate that may  
20 sue and be sued in a court of competent jurisdiction. The  
21 authority possesses all the powers necessary to carry out the  
22 purpose of its incorporation. The enumeration of a power in this  
23 act is not a limitation upon the general powers of the  
24 authority. The powers granted in this act to an authority may be  
25 exercised whether or not bonds are issued by the authority.

26        Sec. 4. (1) A governing body may declare by resolution  
27 adopted by a majority of its members elected and serving its

1 intention to create and provide for the operation of an  
2 authority.

3       (2) In the resolution of intent, the governing body shall  
4 set a date for holding a public hearing on the adoption of a pro-  
5 posed resolution creating the authority. ~~and designating the~~  
6 ~~boundaries of the zone.~~ Notice of the public hearing shall be  
7 published twice in a newspaper of general circulation in the  
8 municipality, not less than 20 nor more than 40 days before the  
9 date of the hearing. The notice shall state the date, time, and  
10 place of the hearing. ~~, and shall describe the area or areas of~~  
11 ~~the municipality to be included within the proposed zone. The~~  
12 ~~areas to be included within a proposed zone may include noncon-~~  
13 ~~tiguous parcels of property, all of which shall be considered~~  
14 ~~within the boundaries of the zone.~~ At that hearing, a citizen,  
15 taxpayer, official from a taxing jurisdiction whose millage may  
16 be subject to capture under a brownfield plan, ~~in the proposed~~  
17 ~~zone,~~ or property owner of the municipality has the right to be  
18 heard in regard to the establishment of the authority. ~~and the~~  
19 ~~boundaries of the proposed zone. The governing body of the~~  
20 ~~municipality shall not incorporate land into the zone not~~  
21 ~~included in the description contained in the notice of public~~  
22 ~~hearing, but it may eliminate described lands from the zone in~~  
23 ~~the final determination of the boundaries without additional~~  
24 ~~notice.~~

25       (3) Not more than 30 days after the public hearing, if the  
26 governing body intends to proceed with the establishment of the  
27 authority, the governing body shall adopt, by majority vote of



1 its members elected and serving, a resolution establishing the  
2 authority. ~~and designating the boundaries of the zone within~~  
3 ~~which the authority shall exercise its powers.~~ The adoption of  
4 the resolution is subject to all applicable statutory or charter  
5 provisions with respect to the approval or disapproval by the  
6 chief executive or other officer of the municipality and the  
7 adoption of a resolution over his or her veto. This resolution  
8 shall be filed with the secretary of state promptly after its  
9 adoption.

10 ~~(4) The governing body may alter or amend the boundaries of~~  
11 ~~the zone to include or exclude lands from the zone in accordance~~  
12 ~~with the same requirements prescribed for adopting the resolution~~  
13 ~~creating the authority.~~

14 (4) ~~(5)~~ The proceedings establishing an authority shall be  
15 presumptively valid unless contested in a court of competent  
16 jurisdiction within 60 days after the filing of the resolution  
17 with the secretary of state.

18 (5) ~~(6)~~ The exercise by an authority of the powers con-  
19 ferred by this act shall be considered to be an essential govern-  
20 mental function and benefit to, and a legitimate public purpose  
21 of, the state, the authority, and the municipality or units.

22 Sec. 5. (1) Each authority shall be under the supervision  
23 and control of a board chosen by the governing body. Subject to  
24 subsection (2), the governing body may by majority vote designate  
25 1 of the following to constitute the board:

26 (a) The board of directors of the economic development  
27 corporation of the municipality established under the economic

1 development corporations act, ~~Act No. 338 of the Public Acts of~~  
2 ~~1974, being sections 125.1601 to 125.1636 of the Michigan~~  
3 ~~Compiled Laws~~ 1974 PA 338, MCL 125.1601 TO 125.1636.

4 (b) The trustees of the board of a downtown development  
5 authority established under ~~Act No. 197 of the Public Acts of~~  
6 ~~1975, being sections 125.1651 to 125.1681 of the Michigan~~  
7 ~~Compiled Laws, if the zone includes an area within the boundaries~~  
8 ~~of the district of that downtown development authority~~ 1975 PA  
9 197, MCL 125.1651 TO 125.1681.

10 (c) The trustees of the board of a tax increment financing  
11 authority established under the tax increment finance authority  
12 act, ~~Act No. 450 of the Public Acts of 1980, being sections~~  
13 ~~125.1801 to 125.1830 of the Michigan Compiled Laws, if the zone~~  
14 ~~includes an area within the boundaries of the district of that~~  
15 ~~tax increment financing authority~~ 1980 PA 450, MCL 125.1801 TO  
16 125.1830.

17 (d) The trustees of the board of a local development financ-  
18 ing authority established under the local development financing  
19 act, ~~Act No. 281 of the Public Acts of 1986, being sections~~  
20 ~~125.2151 to 125.2174 of the Michigan Compiled Laws, if the zone~~  
21 ~~includes an area within the boundaries of the district of that~~  
22 ~~local development financing authority~~ 1986 PA 281, MCL 125.2151  
23 TO 125.2174.

24 (e) Not less than 5 nor more than 9 persons appointed by the  
25 chief executive officer of the municipality subject to the  
26 approval of the governing body. Of the initial members  
27 appointed, an equal number, as near as practicable, shall be

1 appointed for 1 year, 2 years, and 3 years. A member shall hold  
2 office until the member's successor is appointed and qualified.  
3 Thereafter, each member shall serve for a term of 3 years. An  
4 appointment to fill a vacancy shall be made by the chief execu-  
5 tive officer of the municipality for the unexpired term only.  
6 Members of the board shall serve without compensation, but shall  
7 be reimbursed for reasonable actual and necessary expenses.

8 (2) The governing body of a municipality in which a board  
9 described in subsection (1)(b), (c), or (d) has been established  
10 shall designate the trustees of 1 of those boards to constitute  
11 the board. This subsection shall only apply in the event a board  
12 described in subsection (1)(b), (c), or (d) is authorized under  
13 subsection (1) to serve as the board of the authority. ~~and all~~  
14 ~~the parcels in the brownfield zone are in the existing authority~~  
15 ~~described in subsection (1)(b), (c), or (d).~~

16 (3) The members shall elect 1 of their membership as chair-  
17 person and another as vice-chairperson. The members may desig-  
18 nate and elect other officers of the board as they consider  
19 necessary.

20 (4) Before assuming the duties of office, a member shall  
21 qualify by taking and subscribing to the oath of office provided  
22 in section 1 of article XI of the state constitution of 1963.

23 (5) The board shall adopt rules governing its procedure and  
24 the holding of regular meetings, subject to the approval of the  
25 governing body. Special meetings may be held when called in the  
26 manner provided in the rules of the board. Meetings of the board  
27 shall be open to the public, in accordance with the open meetings

1 act, ~~Act No. 267 of the Public Acts of 1976, being sections~~  
2 ~~15.261 to 15.275 of the Michigan Compiled Laws~~ 1976 PA 267, MCL  
3 15.261 TO 15.275.

4 (6) After notice and an opportunity to be heard, a member of  
5 the board appointed under subsection (1)(e) may be removed before  
6 the expiration of his or her term for cause by the governing  
7 body. Removal of a member is subject to review by the circuit  
8 court.

9 (7) All financial records of an authority shall be open to  
10 the public under the freedom of information act, ~~Act No. 442 of~~  
11 ~~the Public Acts of 1976, being sections 15.231 to 15.246 of the~~  
12 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

13 (8) A majority of the members of the board appointed and  
14 serving shall constitute a quorum. Action may be taken by the  
15 board at a meeting upon a vote of the majority of the members  
16 present.

17 Sec. 8. (1) An authority may establish a local site remedi-  
18 ation revolving fund. A local site remediation revolving fund  
19 shall consist of money available under section 13(5) and may also  
20 consist of money appropriated or otherwise made available from  
21 public or private sources. An authority shall separately account  
22 for money deposited to the fund that is directly derived from tax  
23 increment revenues levied for school operating purposes.

24 (2) The local site remediation revolving fund may be used  
25 only to pay the costs of eligible activities on eligible property  
26 that is located within ~~the zone of an authority established by~~  
27 the municipality.

1       (3) An authority or a municipality on behalf of an authority  
2 may incur an obligation for the purpose of funding a local site  
3 remediation revolving fund.

4       Sec. 13. (1) Subject to section 15, the board may implement  
5 a brownfield plan. The brownfield plan may apply to 1 or more  
6 parcels of eligible property ~~within the zone~~ whether or not  
7 those parcels of eligible property are contiguous and may be  
8 amended to apply to additional parcels of eligible property.  
9 ~~within the zone.~~ If more than 1 parcel of eligible property is  
10 included within the plan, the tax increment revenues under the  
11 plan shall be determined individually for each parcel of eligible  
12 property. Each plan shall be approved by the governing body of  
13 the municipality and shall contain all of the following:

14       (a) A description of the costs of the plan intended to be  
15 paid for with the tax increment revenues, including a brief sum-  
16 mary of the eligible activities that are proposed for each eligi-  
17 ble property.

18       (b) An estimate of the captured taxable value and tax incre-  
19 ment revenues for each year of the plan from each parcel of eli-  
20 gible property and in aggregate. The plan may provide for the  
21 use of part or all of the captured taxable value, including  
22 deposits in the local site remediation revolving fund, but the  
23 portion intended to be used shall be clearly stated in the plan.  
24 The plan shall not provide either for an exclusion from captured  
25 taxable value of a portion of the captured taxable value or for  
26 an exclusion of the tax levy of 1 or more taxing jurisdictions  
27 unless the tax levy is excluded from tax increment revenues in

1 section 2(u), or unless the tax levy is excluded from capture  
2 under section 15.

3 (c) The method by which the costs of the plan will be  
4 financed, including a description of any advances made or antici-  
5 pated to be made for the costs of the plan from the  
6 municipality.

7 (d) The maximum amount of note or bonded indebtedness to be  
8 incurred, if any.

9 (e) The duration of the brownfield plan, which shall not  
10 exceed the lesser of the period authorized under subsections (4)  
11 and (5) or 30 years.

12 (f) An estimate of the impact of tax increment financing on  
13 the revenues of all taxing jurisdictions in which the eligible  
14 property is located.

15 (g) A legal description of each parcel of eligible property  
16 to which the plan applies, a map showing the location and dimen-  
17 sions of each eligible property, and a statement of whether per-  
18 sonal property is included as part of the eligible property.

19 (h) Estimates of the number of persons residing on each eli-  
20 gible property to which the plan applies and the number of fami-  
21 lies and individuals to be displaced. If occupied residences are  
22 designated for acquisition and clearance by the authority, the  
23 plan shall include a demographic survey of the persons to be dis-  
24 placed, a statistical description of the housing supply in the  
25 community, including the number of private and public units in  
26 existence or under construction, the condition of those in  
27 existence, the number of owner-occupied and renter-occupied

1 units, the annual rate of turnover of the various types of  
2 housing and the range of rents and sale prices, an estimate of  
3 the total demand for housing in the community, and the estimated  
4 capacity of private and public housing available to displaced  
5 families and individuals.

6 (i) A plan for establishing priority for the relocation of  
7 persons displaced by implementation of the plan.

8 (j) Provision for the costs of relocating persons displaced  
9 by implementation of the plan, and financial assistance and reim-  
10 bursement of expenses, including litigation expenses and expenses  
11 incident to the transfer of title, in accordance with the stan-  
12 dards and provisions of the ~~federal~~ uniform relocation assist-  
13 ance and real property acquisition policies act of 1970, Public  
14 Law 91-646, 84 Stat. 1894.

15 (k) A strategy for compliance with ~~Act No. 227 of the~~  
16 ~~Public Acts of 1972, being sections 213.321 to 213.332 of the~~  
17 ~~Michigan Compiled Laws~~ 1972 PA 227, MCL 213.321 TO 213.332.

18 (l) A description of proposed use of the local site remedia-  
19 tion revolving fund.

20 (m) Other material that the authority or governing body con-  
21 siderers pertinent.

22 (2) The percentage of all taxes levied on a parcel of eligi-  
23 ble property for school operating expenses that is captured and  
24 used under a brownfield plan and all tax increment finance plans  
25 under ~~Act No. 197 of the Public Acts of 1975, being sections~~  
26 ~~125.1651 to 125.1681 of the Michigan Compiled Laws~~ 1975 PA 197,  
27 MCL 125.1651 TO 125.1681, the tax increment finance authority

1 act, ~~Act No. 450 of the Public Acts of 1980, being sections~~  
2 ~~125.1801 to 125.1830 of the Michigan Compiled Laws~~ 1980 PA 450,  
3 MCL 125.1801 TO 125.1830, or the local development financing act,  
4 ~~Act No. 281 of the Public Acts of 1986, being sections 125.2151~~  
5 ~~to 125.2174 of the Michigan Compiled Laws~~ 1986 PA 281, MCL  
6 125.2151 TO 125.2174, OR TAX INCREMENT REVENUES CONTRIBUTED TO  
7 THE AUTHORITY UNDER AN INTERLOCAL AGREEMENT UNDER THE URBAN COOP-  
8 ERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512,  
9 shall not be greater than the combination of the plans' percen-  
10 tage capture and use of all local taxes levied for purposes other  
11 than for the payment of principal of and interest on either obli-  
12 gations approved by the electors or obligations pledging the  
13 unlimited taxing power of the local unit of government. This  
14 subsection shall apply only when taxes levied for school operat-  
15 ing purposes are subject to capture under section 15.

16 (3) Except as provided in subsection (5), tax increment rev-  
17 enues related to a brownfield plan shall be used only for costs  
18 of eligible activities attributable to the eligible property, the  
19 captured taxable value of which produces the tax increment reve-  
20 nues, including the cost of principal of and interest on any  
21 obligation issued by the authority to pay the costs of eligible  
22 activities attributable to the eligible property, and the reason-  
23 able costs of preparing a work plan or remedial action plan for  
24 the eligible property, including the actual cost of the  
25 department's review of the work plan or remedial action plan  
26 under section 15.



1       (4) Except as provided in subsection (5), a brownfield plan  
2 shall not authorize the capture of tax increment revenue from  
3 eligible property after the year in which the total amount of tax  
4 increment revenues captured is equal to the sum of the costs of  
5 eligible activities attributable to the eligible property includ-  
6 ing the cost of principal of and interest on any obligation  
7 issued by the authority to pay the costs of eligible activities  
8 on the eligible property, and the reasonable cost of preparing a  
9 work plan or remedial action plan for eligible property, and the  
10 actual cost of the department's review of the work plan or reme-  
11 dial action plan.

12       (5) A brownfield plan may authorize the capture of addi-  
13 tional tax increment revenue from an eligible property in excess  
14 of the amount authorized under subsection (4) during the time of  
15 capture for the purpose of paying the costs of eligible activi-  
16 ties under subsection (3), or for not more than 5 years after the  
17 time that capture is required for the purpose of paying the costs  
18 of eligible activities under subsection (3), or both. Excess  
19 revenues captured under this subsection shall be deposited in the  
20 local site remediation revolving fund created under section 8 and  
21 used for the purposes authorized in section 8. If tax increment  
22 revenues levied for school operating purposes from eligible prop-  
23 erty are captured by the authority for purposes authorized under  
24 subsection (3), the tax increment revenues captured for deposit  
25 in the local site remediation revolving fund also may include tax  
26 increment revenues levied for school operating purposes in an  
27 amount not greater than the tax increment revenues levied for

1 school operating purposes captured from the eligible property by  
2 the authority for the purposes authorized under subsection (3).

3 (6) An authority shall not expend tax increment revenues to  
4 acquire or prepare eligible property, unless the acquisition or  
5 preparation is an eligible activity.

6 (7) Costs of eligible activities attributable to eligible  
7 property include all costs that are necessary or related to a  
8 release from the eligible property, including eligible activities  
9 on properties affected by a release from the eligible property.  
10 For purposes of this subsection, "release" means that word as  
11 defined in section 20101 ~~of part 201 (environmental~~  
12 ~~remediation)~~ of the natural resources and environmental protec-  
13 tion act, ~~Act No. 451 of the Public Acts of 1994, being~~  
14 ~~section 324.20101 of the Michigan Compiled Laws~~ 1994 PA 451, MCL  
15 324.20101.

16 (8) Costs of a response activity paid with tax increment  
17 revenues that are captured pursuant to subsection (3) may be  
18 recovered from a person who is liable for the costs of eligible  
19 activities at an eligible property. This state or an authority  
20 may undertake cost recovery for tax increment revenue captured.  
21 Before an authority or this state may institute a cost recovery  
22 action, it must provide the other with 120 days' notice. This  
23 state or an authority that recovers costs under this subsection  
24 shall apply those recovered costs to the following, in the fol-  
25 lowing order of priority:

26 (a) The reasonable attorney fees and costs incurred by this  
27 state or an authority in obtaining the cost recovery.

1 (b) One of the following:

2 (i) If an authority undertakes the cost recovery action, the  
3 authority shall deposit the remaining recovered funds into the  
4 local site remediation fund created pursuant to section 8, if  
5 such a fund has been established by the authority. If a local  
6 site remediation fund has not been established, the authority  
7 shall disburse the remaining recovered funds to the local taxing  
8 jurisdictions in the proportion that the local taxing  
9 jurisdictions' taxes were captured.

10 (ii) If this state undertakes a cost recovery action, this  
11 state shall deposit the remaining recovered funds into the rev-  
12 talization revolving loan fund established under section 20108a  
13 ~~of part 201 (environmental remediation)~~ of the natural  
14 resources and environmental protection act, ~~Act No. 451 of the~~  
15 ~~Public Acts of 1994, being section 324.20108a of the Michigan~~  
16 ~~Compiled Laws~~ 1994 PA 451, MCL 324.20108A.

17 (iii) If this state and an authority each undertake a cost  
18 recovery action, undertake a cost recovery action jointly, or  
19 on behalf of the other, the amount of any remaining recovered  
20 funds shall be deposited pursuant to subparagraphs (i) and (ii)  
21 in the proportion that the tax increment revenues being recovered  
22 represent local taxes and taxes levied for school operating pur-  
23 poses, respectively.

24 (9) Approval of the brownfield plan shall be in accordance  
25 with the notice and approval provisions of this section and  
26 section 14.

1 (10) Before approving a brownfield plan for an eligible  
2 property, the governing body shall provide notice and a  
3 reasonable opportunity to the taxing jurisdictions levying taxes  
4 subject to capture to express their views and recommendations  
5 regarding the plan. The authority shall fully inform the taxing  
6 jurisdictions about the fiscal and economic implications of the  
7 proposed plan ~~before the public hearing held under section 4~~  
8 ALONG WITH THE NOTICE TO THE TAXING JURISDICTION AS PROVIDED  
9 UNDER SECTION 14(1). The authority shall not enter into agree-  
10 ments with the taxing jurisdictions and the governing body of the  
11 municipality ~~in which the zone is located~~ to share a portion of  
12 the captured taxable value of ~~the zone~~ AN ELIGIBLE PROPERTY.  
13 Upon adoption of the plan, the collection and transmission of the  
14 amount of tax increment revenues as specified in this act shall  
15 be binding on all taxing units levying ad valorem property taxes  
16 or specific taxes against property located in the zone.

17 Sec. 15. (1) An authority shall not do any of the  
18 following:

19 (a) ~~Capture~~ USE taxes levied for school operating purposes  
20 CAPTURED from eligible property unless the eligible activities  
21 ~~to be~~ conducted on the eligible property are consistent with a  
22 work plan or remedial action plan approved by the department  
23 after ~~the effective date of this act~~ JULY 24, 1996 and before  
24 January 1, 2001.

25 (b) Use funds from a local site remediation revolving fund  
26 that are derived from taxes levied for school operating purposes  
27 unless the eligible activities to be conducted are consistent

1 with a work plan or remedial action plan that has been approved  
2 by the department after ~~the effective date of this act~~ JULY 24,  
3 1996.

4 (2) To seek department approval of a work plan or remedial  
5 action plan, the authority shall submit all of the following for  
6 each eligible property:

7 (a) A copy of the brownfield plan.

8 (b) Current ownership information for each eligible property  
9 and a summary of available information on proposed future owner-  
10 ship, including the amount of any delinquent taxes, interest, and  
11 penalties that may be due.

12 (c) A summary of available information on the historical and  
13 current use of each eligible property, including a brief summary  
14 of site conditions and what is known about environmental contami-  
15 nation as that term is defined in section 20101 ~~of part 201~~  
16 ~~(environmental remediation)~~ of the natural resources and envi-  
17 ronmental protection act, ~~Act No. 451 of the Public Acts of~~  
18 ~~1994, being section 324.20101 of the Michigan Compiled Laws~~ 1994  
19 PA 451, MCL 324.20101.

20 (d) Existing and proposed future zoning for each eligible  
21 property.

22 (e) A brief summary of the proposed redevelopment and future  
23 use for each eligible property.

24 (f) A separate work plan or remedial action plan, or part of  
25 a work plan or remedial action plan, for each eligible activity  
26 to be undertaken.

1       (3) Upon receipt of a request for approval of a work plan or  
2 remedial action plan under subsection (2) that pertains to  
3 baseline environmental assessment activities or due care activi-  
4 ties, or both, or a portion of a work plan or remedial action  
5 plan that pertains to only baseline environmental assessment  
6 activities or due care activities, or both, the department shall  
7 provide 1 of the following written responses to the requesting  
8 authority within 60 days:

9       (a) An unconditional approval.

10       (b) A conditional approval that delineates specific neces-  
11 sary modifications to the work plan or remedial action plan,  
12 including but not limited to individual activities to be added or  
13 deleted from the work plan or remedial action plan and revision  
14 of costs.

15       (c) If the work plan or remedial action plan lacks suffi-  
16 cient information for the department to respond under  
17 subdivision (a) or (b), a letter stating with specificity the  
18 necessary additions or changes to the work plan or remedial  
19 action plan to be submitted before a plan will be considered by  
20 the department.

21       (4) In its review of a work plan or remedial action plan,  
22 the department shall consider all of the following:

23       (a) Whether the individual activities included in the work  
24 plan or remedial action plan are sufficient to complete the eli-  
25 gible activity.

1 (b) Whether each individual activity included in the work  
2 plan or remedial action plan is required to complete the eligible  
3 activity.

4 (c) Whether the cost for each individual activity is  
5 reasonable.

6 (5) If the department fails to provide a written response  
7 under subsection (3) within 60 days after receipt of a request  
8 for approval of a work plan or remedial action plan that pertains  
9 to baseline environmental assessment activities or due care  
10 activities, or both, the authority may proceed with the baseline  
11 environmental assessment activities or due care activities, or  
12 both, as outlined in the work plan or remedial action plan as  
13 submitted for approval. Except as provided in subsection (6),  
14 baseline environmental assessment activities or due care activi-  
15 ties, or both, conducted pursuant to a work plan or remedial  
16 action plan that was submitted to the department for approval but  
17 for which the department failed to provide a written response  
18 under subsection (3) shall be considered approved for the pur-  
19 poses of subsection (1).

20 (6) The department may issue a written response to a work  
21 plan or remedial action plan that pertains to baseline environ-  
22 mental assessment activities or due care activities, or both,  
23 more than 60 days but less than 6 months after receipt of a  
24 request for approval. If the department issues a written  
25 response under this subsection, the authority is not required to  
26 conduct individual activities that are in addition to the  
27 individual activities included in the work plan or remedial

1 action plan as it was submitted for approval and failure to  
2 conduct these additional activities shall not affect the  
3 authority's ability to capture taxes under subsection (1) for the  
4 eligible activities described in the work plan or remedial action  
5 plan initially submitted under subsection (5). In addition, at  
6 the option of the authority, these additional individual activi-  
7 ties shall be considered part of the work plan or remedial action  
8 plan of the authority and approved for purposes of  
9 subsection (1). However, any response by the department under  
10 this subsection that identifies addition individual activities  
11 that must be carried out to satisfy the baseline environmental  
12 assessment or due care requirements, or both, of part 201  
13 ~~-(environmental remediation)-~~ of the natural resources and envi-  
14 ronmental protection act, ~~Act No. 451 of the Public Acts of~~  
15 ~~1994, being sections 324.20101 to 324.20142 of the Michigan~~  
16 ~~Compiled Laws~~ 1994 PA 451, MCL 324.20101 TO 324.20142, must be  
17 satisfactorily completed for the baseline environmental assess-  
18 ment or due care activities, or both, to be considered acceptable  
19 for the purposes of compliance with part 201 of ~~Act No. 451 of~~  
20 ~~the Public Acts of 1994~~ THE NATURAL RESOURCES AND ENVIRONMENTAL  
21 PROTECTION ACT, 1994 PA 451, MCL 324.20101 TO 324.20142.

22 (7) If the department issues a written response under  
23 subsection (6) to a work plan or remedial action plan that per-  
24 tains to baseline environmental assessment activities or due care  
25 activities, or both, and if the department's written response  
26 modifies an individual activity proposed by the work plan or  
27 remedial action plan of the authority in a manner that reduces or



1 eliminates a proposed response activity, the authority must  
2 complete those individual activities included in the baseline  
3 environmental assessment or due care activities, or both, in  
4 accordance with the department's response in order for that por-  
5 tion of the work plan or remedial action plan to be considered  
6 approved for purposes of subsection (1), unless 1 or more of the  
7 following conditions apply:

8       (a) Obligations for the individual activity have been issued  
9 by the authority, or by a municipality on behalf of the authori-  
10 ty, to fund the individual activity prior to issuance of the  
11 department's response.

12       (b) The individual activity has commenced or payment for the  
13 work has been irrevocably obligated prior to issuance of the  
14 department's response.

15       (8) It shall be in the sole discretion of an authority to  
16 propose to undertake additional response activities at an eligi-  
17 ble property under a brownfield plan. The department shall not  
18 require a work plan or remedial action plan for either baseline  
19 environmental assessment activities or due care activities, or  
20 both, to include additional response activities.

21       (9) The department may reject the portion of a work plan or  
22 remedial action plan that includes additional response activities  
23 and may consider the level of risk reduction that will be accom-  
24 plished by the additional response activities in determining  
25 whether to approve or reject the work plan or remedial action  
26 plan or a portion of a plan.

1       (10) The department's approval or rejection of a work plan  
2 or remedial action plan for additional response activities is  
3 final.

4       (11) The authority shall reimburse the department for the  
5 actual cost incurred by the department or a contractor of the  
6 department to review a work plan or remedial action plan under  
7 this section. Funds paid to the department under this subsection  
8 shall be deposited in the ~~environmental response fund~~  
9 ~~established~~ CLEANUP AND REDEVELOPMENT FUND CREATED under section  
10 20108 ~~of part 201 (environmental remediation)~~ of the natural  
11 resources and environmental protection act, ~~Act No. 451 of the~~  
12 ~~Public Acts of 1994, being section 324.20108 of the Michigan~~  
13 ~~Compiled Laws~~ 1994 PA 451, MCL 324.20108.

14       (12) The department shall submit a report each year on or  
15 before March 1 to each member of the legislature that contains  
16 all of the following:

17       (a) A compilation and summary of all the information submit-  
18 ted under subsection (2).

19       (b) The amount of revenue this state would have received if  
20 taxes levied for school operating purposes had not been captured  
21 under this section for the previous calendar year.

22       (c) The amount of revenue each local governmental unit would  
23 have received if taxes levied for school operating purposes had  
24 not been captured under this section for the previous calendar  
25 year.

26       (13) ALL TAXES LEVIED FOR SCHOOL OPERATING PURPOSES THAT ARE  
27 NOT USED FOR ELIGIBLE ACTIVITIES CONSISTENT WITH A WORK PLAN OR

1 REMEDIAL ACTION PLAN APPROVED BY THE DEPARTMENT SHALL BE  
2 DISTRIBUTED AS REQUIRED UNDER SECTION 16(2).

3       Sec. 16. (1) The municipal and county treasurers shall  
4 transmit tax increment revenues to the authority not more than 30  
5 days after tax increment revenues are collected.

6       (2) The authority shall expend the tax increment revenues  
7 received only in accordance with the brownfield plan. All sur-  
8 plus funds not deposited in the local site remediation revolving  
9 fund of the authority under section 13(5) shall revert propor-  
10 tionately to the respective taxing bodies. The governing body  
11 may abolish the plan when it finds that the purposes for which  
12 the plan was established are accomplished. However, the plan  
13 shall not be abolished until the principal and interest on bonds  
14 issued under section 17 and all other obligations to which the  
15 tax increment revenues are pledged have been paid or funds suffi-  
16 cient to make the payment have been segregated.

17       (3) The authority shall submit annually to the governing  
18 body and the state tax commission a financial report on the  
19 status of the activities of the authority. The report shall  
20 include all of the following:

21       (a) The amount and source of tax increment revenues  
22 received.

23       (b) The amount and purpose of expenditures of tax increment  
24 revenues.

25       (c) The amount of principal and interest on all outstanding  
26 indebtedness.

1 (d) The initial taxable value of all eligible property  
2 subject to the brownfield plan.

3 (e) The captured taxable value realized by the authority.

4 (f) Information concerning any transfer of ownership of or  
5 interest in each eligible property. ~~within the zone.~~

6 (g) All additional information that the governing body or  
7 the state tax commission considers necessary.

8 (4) The department and the state tax commission shall col-  
9 lect the financial reports submitted under subsection (3), com-  
10 pile and analyze the information contained in those reports, and  
11 submit annually a report based on that information to all of the  
12 following standing committees of the legislature:

13 (a) In the house of representatives, the conservation, envi-  
14 ronment, and Great Lakes committee and tax policy committee.

15 (b) In the senate, the natural resources and environmental  
16 affairs committee and the finance committee.

17 Sec. 19. (1) An authority that completes the purposes for  
18 which it was organized shall be dissolved by resolution of the  
19 governing body. ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (2), THE  
20 property and assets of the authority remaining after the satis-  
21 faction of the obligations of the authority shall belong to the  
22 municipality or to an agency or instrumentality designated by  
23 resolution of the municipality.

24 (2) TAX INCREMENT REVENUES AND THE INTEREST EARNED ON TAX  
25 INCREMENT REVENUES SHALL BE DISTRIBUTED AS PROVIDED UNDER SECTION  
26 16(2).