

SENATE 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  
6        9K OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9K, WILL

House Bill No. 5540 as amended May 27, 2008

1 REDUCE THE ALLOWABLE SCHOOL TAX CAPTURE RECEIVED IN A FISCAL YEAR,  
2 THEN, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE  
3 AUTHORITY, WITH APPROVAL OF THE DEPARTMENT OF TREASURY UNDER  
4 SUBSECTION (3), MAY REQUEST THE LOCAL TAX COLLECTING TREASURER TO  
5 RETAIN AND PAY TO THE AUTHORITY TAXES LEVIED UNDER THE STATE  
6 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, TO BE USED  
7 FOR THE FOLLOWING:

8 (A) TO REPAY AN ELIGIBLE ADVANCE.

9 (B) TO REPAY AN ELIGIBLE OBLIGATION.

10 (C) TO REPAY AN OTHER PROTECTED OBLIGATION.

11 (D) TO PAY AN ADVANCE OR AN OBLIGATION IDENTIFIED IN A  
12 DEVELOPMENT PLAN, OR AN AMENDMENT TO THAT PLAN FOR PROPERTY LOCATED  
13 IN A CERTIFIED TECHNOLOGY PARK APPROVED BY BOARD OF THE AUTHORITY  
14 NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
15 ACT THAT ADDED THIS SECTION IF THE PLAN CONTAINS ALL OF THE  
16 FOLLOWING AND THE PLAN FOR THE CAPTURE OF SCHOOL TAXES HAS BEEN  
17 APPROVED WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
18 ACT THAT ADDED THIS SECTION:

19 (i) A DETAILED DESCRIPTION OF THE PROJECT.

20 (ii) A STATEMENT OF THE ESTIMATED COST OF THE PROJECT.

21 (iii) THE SPECIFIC LOCATION OF THE PROJECT.

22 (iv) THE NAME OF ANY DEVELOPER OF THE PROJECT.

23 (2) NOT LATER THAN JUNE <<15 OF 2008 AND NOT LATER THAN JUNE 1 OF  
EACH SUBSEQUENT>> YEAR, AN AUTHORITY ELIGIBLE

24 UNDER SUBSECTION (1) TO HAVE TAXES LEVIED UNDER THE STATE EDUCATION  
25 TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, RETAINED AND PAID TO  
26 THE AUTHORITY UNDER THIS SECTION, SHALL APPLY FOR APPROVAL WITH THE  
27 DEPARTMENT OF TREASURY. THE APPLICATION FOR APPROVAL SHALL INCLUDE

1 THE FOLLOWING INFORMATION:

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

5 (B) THE TAX INCREMENT REVENUES ESTIMATED TO BE RECEIVED BY THE  
6 AUTHORITY FOR THAT FISCAL YEAR BASED UPON ACTUAL PROPERTY TAX  
7 LEVIES OF ALL TAXING JURISDICTIONS WITHIN THE JURISDICTIONAL AREA  
8 OF THE AUTHORITY.

9 (C) THE TAX INCREMENT REVENUES THE AUTHORITY ESTIMATES IT  
10 WOULD HAVE RECEIVED FOR THAT FISCAL YEAR IF THE PERSONAL PROPERTY  
11 TAX EXEMPTIONS DESCRIBED IN SUBSECTION (1) WERE NOT IN EFFECT.

12 (D) A LIST OF ELIGIBLE OBLIGATIONS, ELIGIBLE ADVANCES, OTHER  
13 PROTECTED OBLIGATIONS, AND ADVANCES AND OBLIGATIONS DESCRIBED IN  
14 SUBSECTION (1) (D) FOR EXPENDITURES AUTHORIZED IN A CERTIFIED  
15 TECHNOLOGY PARK; THE PAYMENTS DUE ON EACH OF THOSE IN THAT FISCAL  
16 YEAR; AND THE TOTAL AMOUNT OF PAYMENTS DUE ON ALL OF THOSE IN THAT  
17 FISCAL YEAR.

18 (E) THE AMOUNT OF MONEY, OTHER THAN TAX INCREMENT REVENUES,  
19 ESTIMATED TO BE RECEIVED IN THAT FISCAL YEAR BY THE AUTHORITY THAT  
20 IS PRIMARILY PLEDGED TO, AND TO BE USED FOR, THE PAYMENT OF AN  
21 ELIGIBLE OBLIGATION, THE REPAYMENT OF AN ELIGIBLE ADVANCE, THE  
22 PAYMENT OF ANOTHER PROTECTED OBLIGATION, OR THE PAYMENT OF  
23 OBLIGATIONS OR ADVANCES DESCRIBED IN SUBSECTION (1) (D) FOR  
24 EXPENDITURES AUTHORIZED IN A CERTIFIED TECHNOLOGY PARK. THAT AMOUNT  
25 SHALL NOT INCLUDE EXCESS TAX INCREMENT REVENUES OF THE AUTHORITY  
26 THAT ARE PERMITTED BY LAW TO BE RETAINED BY THE AUTHORITY FOR  
27 PURPOSES THAT FURTHER THE DEVELOPMENT PROGRAM. HOWEVER, THAT AMOUNT

1 SHALL INCLUDE MONEY TO BE OBTAINED FROM SOURCES AUTHORIZED BY LAW,  
2 WHICH LAW IS ENACTED ON OR AFTER DECEMBER 1, 1993, FOR USE BY THE  
3 MUNICIPALITY OR AUTHORITY TO FINANCE A DEVELOPMENT PLAN.

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

8 (3) NOT LATER THAN AUGUST 15, BASED ON THE CALCULATIONS UNDER  
9 SUBSECTION (5), THE DEPARTMENT OF TREASURY SHALL APPROVE, MODIFY,  
10 OR DENY THE APPLICATION FOR APPROVAL TO HAVE TAXES LEVIED UNDER THE  
11 STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906,  
12 RETAINED AND PAID TO THE AUTHORITY UNDER THIS SECTION. IF THE  
13 APPLICATION FOR APPROVAL CONTAINS THE INFORMATION REQUIRED UNDER  
14 SUBSECTION (2) (A) THROUGH (F) AND APPEARS TO BE IN SUBSTANTIAL  
15 COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THEN THE DEPARTMENT  
16 OF TREASURY SHALL APPROVE THE APPLICATION. IF THE APPLICATION IS  
17 DENIED BY THE DEPARTMENT OF TREASURY, THEN THE DEPARTMENT OF  
18 TREASURY SHALL PROVIDE THE OPPORTUNITY FOR A REPRESENTATIVE OF THE  
19 AUTHORITY TO DISCUSS THE DENIAL WITHIN 21 DAYS AFTER THE DENIAL  
20 OCCURS AND SHALL SUSTAIN OR MODIFY ITS DECISION WITHIN 30 DAYS  
21 AFTER RECEIVING INFORMATION FROM THE AUTHORITY. IF THE APPLICATION  
22 FOR APPROVAL IS APPROVED OR MODIFIED BY THE DEPARTMENT OF TREASURY,  
23 THE LOCAL TAX COLLECTING TREASURER SHALL RETAIN AND PAY TO THE  
24 AUTHORITY THE AMOUNT DESCRIBED IN SUBSECTION (5) AS APPROVED BY THE  
25 DEPARTMENT. IF THE DEPARTMENT OF TREASURY DENIES THE AUTHORITY'S  
26 APPLICATION FOR APPROVAL, THE LOCAL TAX COLLECTING TREASURER SHALL  
27 NOT RETAIN OR PAY TO THE AUTHORITY THE TAXES LEVIED UNDER THE STATE

1 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906. AN APPROVAL  
2 BY THE DEPARTMENT DOES NOT PROHIBIT A SUBSEQUENT AUDIT OF TAXES  
3 RETAINED IN ACCORDANCE WITH THE PROCEDURES CURRENTLY AUTHORIZED BY  
4 LAW.

5 (4) EACH YEAR, THE LEGISLATURE SHALL APPROPRIATE AND  
6 DISTRIBUTE AN AMOUNT SUFFICIENT TO PAY EACH AUTHORITY THE  
7 FOLLOWING:

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

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

14 (5) SUBJECT TO SUBSECTION (6), THE AGGREGATE AMOUNT UNDER THIS  
15 SECTION SHALL BE THE SUM OF THE AMOUNTS DETERMINED UNDER  
16 SUBDIVISIONS (A) AND (B) MINUS THE AMOUNT DETERMINED UNDER  
17 SUBDIVISION (C), AS FOLLOWS:

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

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

27 (C) AN EXCESS AMOUNT REQUIRED TO BE REPORTED UNDER SUBSECTION

1 (2) (F) THAT HAD NOT PREVIOUSLY DECREASED A DISTRIBUTION.

2 (6) A DISTRIBUTION OR TAXES RETAINED UNDER THIS SECTION  
3 REPLACING TAX INCREMENT REVENUES PLEDGED BY AN AUTHORITY OR A  
4 MUNICIPALITY ARE SUBJECT TO ANY LIEN OF THE PLEDGE DESCRIBED IN  
5 SUBSECTION (1), WHETHER OR NOT THERE HAS BEEN PHYSICAL DELIVERY OF  
6 THE DISTRIBUTION.

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

12 (8) NOT LATER THAN SEPTEMBER 15 OF EACH YEAR, THE AUTHORITY  
13 SHALL PROVIDE A COPY OF THE APPLICATION FOR APPROVAL APPROVED BY  
14 THE DEPARTMENT OF TREASURY TO THE LOCAL TAX COLLECTING TREASURER  
15 AND PROVIDE THE AMOUNT OF THE TAXES RETAINED AND PAID TO THE  
16 AUTHORITY UNDER SUBSECTION (5).

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

20 (10) THE STATE TAX COMMISSION MAY PROVIDE THAT THE  
21 REIMBURSEMENT CALCULATIONS UNDER THIS SECTION AND THE CALCULATION  
22 OF ALLOWABLE CAPTURE OF SCHOOL TAXES SHALL BE MADE FOR EACH  
23 CALENDAR YEAR'S TAX INCREMENT REVENUES USING A 12-MONTH DEBT  
24 PAYMENT PERIOD USED BY THE AUTHORITY AND APPROVED BY THE STATE TAX  
25 COMMISSION.

26 (11) IT IS THE INTENT OF THE LEGISLATURE THAT, TO THE EXTENT  
27 THAT THE TOTAL AMOUNT OF TAXES LEVIED UNDER THE STATE EDUCATION TAX

1 ACT, 1993 PA 331, MCL 211.901 TO 211.906, THAT ARE ALLOWED TO BE  
2 RETAINED UNDER THIS SECTION AND SECTION 15A OF THE BROWNFIELD  
3 REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2665A, SECTION  
4 12B OF THE TAX INCREMENT FINANCING ACT, 1980 PA 450, MCL 125.1812B,  
5 AND SECTION 13C OF 1975 PA 197, MCL 125.1663C, EXCEEDS THE  
6 DIFFERENCE OF THE TOTAL SCHOOL AID FUND REVENUE FOR THE TAX YEAR  
7 MINUS THE ESTIMATED AMOUNT OF REVENUE THE SCHOOL AID FUND WOULD  
8 HAVE RECEIVED FOR THE TAX YEAR HAD THE TAX EXEMPTIONS DESCRIBED IN  
9 SUBSECTION (1) AND THE EARMARK CREATED BY SECTION 515 OF THE  
10 MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL 208.1515, NOT TAKEN  
11 EFFECT, THE GENERAL FUND SHALL REIMBURSE THE SCHOOL AID FUND THE  
12 DIFFERENCE.