

SUBSTITUTE FOR  
HOUSE BILL NO. 5539

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
(MCL 125.2651 to 125.2672) by adding section 15a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 15A. (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  
7 REDUCE THE ALLOWABLE SCHOOL TAX CAPTURE RECEIVED IN A FISCAL YEAR  
8 BY AN AUTHORITY UNDER SECTION 16 USED TO REPAY AN ADVANCE MADE NOT  
9 LATER THAN 120 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT  
10 THAT ADDED THIS SECTION OR AN OBLIGATION ISSUED OR INCURRED NOT

1 LATER THAN 120 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT  
2 THAT ADDED THIS SECTION, NOTWITHSTANDING ANY OTHER PROVISION OF  
3 THIS ACT, THE AUTHORITY, WITH APPROVAL OF THE DEPARTMENT 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.

7 (2) NOT LATER THAN MAY 1, 2008 AND APRIL 1, 2009 AND YEARLY  
8 THEREAFTER, AN AUTHORITY ELIGIBLE UNDER SUBSECTION (1) TO HAVE  
9 TAXES LEVIED UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL  
10 211.901 TO 211.906, RETAINED AND PAID TO THE AUTHORITY UNDER THIS  
11 SECTION, SHALL APPLY FOR APPROVAL WITH THE DEPARTMENT OF TREASURY.  
12 THE APPLICATION FOR APPROVAL SHALL INCLUDE THE FOLLOWING  
13 INFORMATION:

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

17 (B) THE TAX INCREMENT REVENUES ESTIMATED TO BE RECEIVED BY THE  
18 AUTHORITY FOR THAT FISCAL YEAR BASED UPON ACTUAL PROPERTY TAX  
19 LEVIES OF ALL TAXING JURISDICTIONS WITHIN THE JURISDICTIONAL AREA  
20 OF THE AUTHORITY.

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

24 (D) A LIST OF ADVANCES AND OBLIGATIONS DESCRIBED IN SUBSECTION  
25 (1), AND THE PAYMENTS DUE ON EACH OF THOSE OBLIGATIONS AND ADVANCES  
26 IN THAT FISCAL YEAR, AND THE TOTAL AMOUNT OF ALL THE PAYMENTS DUE  
27 ON THOSE OBLIGATIONS AND ADVANCES IN THAT FISCAL YEAR.

1           (E) THE AMOUNT OF MONEY, OTHER THAN TAX INCREMENT REVENUES,  
2 ESTIMATED TO BE RECEIVED IN THAT FISCAL YEAR BY THE AUTHORITY THAT  
3 IS PRIMARILY PLEDGED TO, AND TO BE USED FOR, THE REPAYMENT OF AN  
4 ADVANCE OR THE PAYMENT OF AN OBLIGATION DESCRIBED IN SUBSECTION  
5 (1). THAT AMOUNT SHALL NOT INCLUDE EXCESS TAX INCREMENT REVENUES OF  
6 THE AUTHORITY THAT ARE PERMITTED BY LAW TO BE RETAINED BY THE  
7 AUTHORITY FOR PURPOSES THAT FURTHER THE DEVELOPMENT PROGRAM.  
8 HOWEVER, THAT AMOUNT SHALL INCLUDE MONEY TO BE OBTAINED FROM  
9 SOURCES AUTHORIZED BY LAW, WHICH LAW IS ENACTED ON OR AFTER  
10 DECEMBER 1, 1993, FOR USE BY THE MUNICIPALITY OR AUTHORITY TO  
11 FINANCE A DEVELOPMENT PLAN.

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

16           (3) NOT LATER THAN AUGUST 15, 2008 AND AUGUST 1, 2009 AND  
17 YEARLY THEREAFTER, BASED ON THE CALCULATIONS UNDER SUBSECTION (5),  
18 THE DEPARTMENT OF TREASURY SHALL APPROVE, MODIFY, OR DENY THE  
19 APPLICATION FOR APPROVAL TO HAVE TAXES LEVIED UNDER THE STATE  
20 EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, RETAINED  
21 AND PAID TO THE AUTHORITY UNDER THIS SECTION. 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.

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

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

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

10 (5) SUBJECT TO SUBSECTION (6), THE AGGREGATE AMOUNT UNDER THIS  
11 SECTION SHALL BE THE SUM OF THE AMOUNTS DETERMINED UNDER  
12 SUBDIVISIONS (A) AND (B) MINUS THE AMOUNT DETERMINED UNDER  
13 SUBDIVISION (C), AS FOLLOWS:

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

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

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

25 (6) A DISTRIBUTION OR TAXES RETAINED UNDER THIS SECTION  
26 REPLACING TAX INCREMENT REVENUES PLEDGED BY AN AUTHORITY OR A  
27 MUNICIPALITY ARE SUBJECT TO THE LIEN OF THE PLEDGE, WHETHER OR NOT

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1 THERE HAS BEEN PHYSICAL DELIVERY OF THE DISTRIBUTION.

2 (7) OBLIGATIONS FOR WHICH DISTRIBUTIONS ARE MADE UNDER THIS  
3 SECTION ARE NOT A DEBT OR LIABILITY OF THIS STATE; DO NOT CREATE OR  
4 CONSTITUTE AN INDEBTEDNESS, LIABILITY, OR OBLIGATION OF THIS STATE;  
5 AND ARE NOT AND DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT  
6 OF THIS STATE.

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

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

15 (10) THE STATE TAX COMMISSION MAY PROVIDE THAT THE  
16 REIMBURSEMENT CALCULATIONS UNDER THIS SECTION AND THE CALCULATION  
17 OF ALLOWABLE CAPTURE OF SCHOOL TAXES SHALL BE MADE FOR EACH  
18 CALENDAR YEAR'S TAX INCREMENT REVENUES USING A 12-MONTH DEBT  
19 PAYMENT PERIOD USED BY THE AUTHORITY AND APPROVED BY THE STATE TAX  
20 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 11B OF THE LOCAL DEVELOPMENT FINANCING ACT, 1986  
PA 281, MCL 125.2161B, 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.

21 (12)] AS USED IN THIS SECTION:

22 (A) "ADVANCE" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1975  
23 PA 197, MCL 125.1651.

24 (B) "OBLIGATION" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
25 1975 PA 197, MCL 125.1651.