SUBSTITUTE FOR

SENATE BILL NO. 910

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 19601, 19607, 19608, and 19608a (MCL 324.19601, 324.19607, 324.19608, and 324.19608a), sections 19601 and 19607 as added by 1998 PA 288, section 19608 as amended by 2012 PA 446, and section 19608a as added by 2003 PA 253, and by adding section 19608b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 19601. As used in this part:

(A) "BASELINE ENVIRONMENTAL ASSESSMENT" MEANS THAT TERM AS DEFINED IN SECTIONS 20101 AND 21302.

(B) ~~(a)~~ "Bonds" means the bonds authorized under the clean Michigan initiative act**, 1998 PA 284, MCL 324.95101 TO 324.95108**.

(C) "BROWNFIELD PROJECT" OR "PROJECT" MEANS THE ENTIRE PROJECT

TO BE UNDERTAKEN, INCLUDING, BUT NOT LIMITED TO, THE ACTUAL SITE REMEDIATION AND ITS RESULTING ECONOMIC DEVELOPMENT.

(D) "CHIEF EXECUTIVE OFFICER" MEANS THE MAYOR OF A CITY, THE VILLAGE MANAGER OF A VILLAGE, THE TOWNSHIP SUPERVISOR OF A TOWNSHIP, OR THE COUNTY EXECUTIVE OF A COUNTY OR, IF THE COUNTY DOES NOT HAVE AN ELECTED COUNTY EXECUTIVE, THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS.

(E) ~~(b)~~ "Corrective action" means that term as it is defined in ~~part 213.~~**SECTION 21302.**

(F) ~~(c)~~ "Department" means the department of environmental quality.

(G) "DUE CARE ACTIVITIES" MEANS THOSE ACTIVITIES CONDUCTED UNDER SECTIONS 20107A AND 21304C.

(H) "ELIGIBLE ACTIVITIES" FOR PROJECTS WITH FUNDING ALLOCATED UNDER SECTION 19608(1)(A)(*iv*) MEANS:

(*i*) BASELINE ENVIRONMENTAL ASSESSMENT ACTIVITIES.

(*ii*) INVESTIGATIONS.

(*iii*) DUE CARE ACTIVITIES.

(*iv*) RESPONSE ACTIVITIES, INCLUDING RESPONSE ACTIVITIES THAT ARE MORE PROTECTIVE OF THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE ENVIRONMENT THAN REQUIRED BY SECTION 20107A OR 21304C.

(*v*) REMOVAL AND CLOSURE OF UNDERGROUND STORAGE TANKS PURSUANT TO PARTS 211 AND 213.

(*vi*) DUST CONTROL RELATED TO CONSTRUCTION ACTIVITIES.

(*vii*) INDUSTRIAL CLEANING.

(*viii*) SHEETING AND SHORING NECESSARY FOR THE REMOVAL OF MATERIALS EXCEEDING PART 201 CLEANUP CRITERIA AT PROJECTS REQUIRING

A PERMIT UNDER PART 301, 303, OR 325.

(*ix*) THE FOLLOWING ACTIVITIES, PROVIDED THAT THE TOTAL COST OF THESE ACTIVITIES DOES NOT EXCEED THE TOTAL COST OF PROJECT-RELATED ACTIVITIES IDENTIFIED IN SUBPARAGRAPHS (*i*) TO (*viii*):

(A) DISPOSAL OF SOLID WASTE, AS DEFINED IN PART 115, FROM THE ELIGIBLE PROPERTY, PROVIDED IT WAS NOT GENERATED OR ACCUMULATED BY THE AUTHORITY OR THE DEVELOPER.

(B) LEAD, ASBESTOS, OR MOLD ABATEMENT, AND DEMOLITION OF STRUCTURES THAT ARE NOT A RESPONSE ACTIVITY.

(C) REMOVAL AND DISPOSAL OF LAKE OR RIVER SEDIMENTS EXCEEDING PART 201 UNRESTRICTED CRITERIA FROM, AT, OR RELATED TO AN ECONOMIC DEVELOPMENT PROJECT IF THE UPLAND PROPERTY EITHER IS A FACILITY OR WOULD BECOME A FACILITY AS A RESULT OF THE DEPOSITION OF DREDGED SPOILS.

(I) "ELIGIBLE PROPERTY" FOR PROJECTS WITH FUNDING ALLOCATED UNDER SECTION 19608(1)(A)(*iv*) MEANS PROPERTY THAT IS KNOWN OR SUSPECTED TO BE A FACILITY UNDER PART 201 OR A SITE OR PROPERTY UNDER PART 213 AND THAT WAS USED OR IS CURRENTLY BEING USED FOR COMMERCIAL, INDUSTRIAL, PUBLIC, OR RESIDENTIAL PURPOSES.

(J) ~~(d)~~ "Facility" means that term as it is defined in part 201.

(K) ~~(e)~~ "Fund" means the clean Michigan initiative bond fund created in section 19606.

(*l*) ~~(f)~~ "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, ~~the Initiated Law of 1996,~~ **1996 IL 1,** MCL 432.201 to 432.226.

(M) ~~(g)~~ "Local unit of government" means a county, city,

village, or township, or an agency of a county, city, village, or township; or **A BROWNFIELD REDEVELOPMENT AUTHORITY, ECONOMIC DEVELOPMENT CORPORATION, OR** an authority or other public body created by or pursuant to state law.

(N) "MEASURABLE ECONOMIC BENEFIT" MEANS THE PERMANENT JOBS THAT ARE CREATED OR RETAINED, THE CAPITAL INVESTED, OR THE INCREASED TAX BASE TO THE APPLICABLE COUNTY, CITY, VILLAGE, AND TOWNSHIP WHERE THE PROJECT IS LOCATED.

(O) "MEASURABLE ENVIRONMENTAL BENEFIT" MEANS THE EXTENT THAT THE REQUIREMENTS OF PART 201 OR PART 213, OR BOTH, ARE ADVANCED AT A BROWNFIELD PROJECT WHERE ENVIRONMENTAL CONDITIONS INHIBIT THE SITE'S REDEVELOPMENT OR REUSE.

(P) "PART 213 PROPERTY" MEANS A PROPERTY AS DEFINED IN SECTION 21303.

(Q) ~~(h)~~ "Response activity" means that term as it is defined in part 201 **OR CORRECTIVE ACTION AS DEFINED IN PART 213**.

Sec. 19607. (1) The total proceeds of all bonds shall be deposited into the fund and allocated as follows:

(a) Not more than $335,000,000.00 shall be used for ~~response~~ **ELIGIBLE** activities at facilities **AND PART 213 PROPERTIES**.

(b) Not more than $50,000,000.00 shall be used for waterfront improvements.

(c) Not more than $25,000,000.00 shall be used for remediation of contaminated lake and river sediments.

(d) Not more than $50,000,000.00 shall be used for nonpoint source pollution prevention and control projects or wellhead protection projects.

(e) Not more than $90,000,000.00 shall be used for water quality monitoring and water resources protection and pollution control activities.

(f) Not more than $20,000,000.00 shall be used for pollution prevention programs.

(g) ~~Not~~ **EXCEPT AS PROVIDED UNDER SUBSECTION (1)(A), NOT** more than $5,000,000.00 shall be used to abate lead hazards.

(h) Not more than $50,000,000.00 shall be used for state park infrastructure improvements.

(i) Not more than $50,000,000.00 shall be used for local recreation projects.

(2) The state treasurer shall direct the investment of the fund. Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, interest and earnings from investment of the proceeds of any bond issue shall be allocated in the same proportion as earned on the investment of the proceeds of the bond issue.

(3) Except as may be required to maintain the exclusion from gross income of the interest paid on the bonds or to comply otherwise with state or federal law, all repayments of principal and interest earned under a loan program authorized by this part shall be credited to the appropriate restricted subaccount of the fund and used for the purposes authorized for that subaccount or to pay debt service on any obligation issued which pledges the loan repayments and the proceeds of which are deposited in that subaccount.

(4) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of the bonds.

(5) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(6) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury in order for the state to comply with requirements set forth for issuing tax exempt bonds, including arbitrage rebate calculations. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

Sec. 19608. (1) Money in the fund that is allocated under section 19607 shall be used for the following purposes:

(a) Money allocated under section 19607(1)(a) shall be used by the department to fund all of the following:

(*i*) Corrective actions undertaken by the department to address releases from leaking underground storage tanks pursuant to part 213.

(*ii*) Response activities undertaken by the department at facilities pursuant to part 201 to address public health and environmental problems or to promote redevelopment.

(*iii*) Assessment activities undertaken by the department to determine whether a property is a facility.

(*iv*) $75,000,000.00 shall be used to provide grants and loans

to local units of government ~~and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672,~~ for ~~response~~ **ELIGIBLE** activities at ~~known or suspected facilities~~ **ELIGIBLE PROPERTIES** with redevelopment potential. Of the money provided for in this subparagraph, not more than $50,000,000.00 shall be used to provide grants and not more than $25,000,000.00 shall be used to provide loans pursuant to the clean Michigan initiative **GRANT AND** revolving loan program created in section 19608a. However, grants or loans provided for in this subparagraph shall not be made to a local unit of government ~~or a brownfield redevelopment authority~~ that is responsible for causing a release or threat of release under part 201 **OR PART 213** at the site proposed for grant or loan funding**, EXCEPT AS PROVIDED IN SECTION 19608B(F)**.

(b) Money allocated under section 19607(1)(b) shall be used for waterfront redevelopment grants pursuant to part 795.

(c) Money allocated under section 19607(1)(c) shall be used for response activities for the remediation of contaminated lake and river sediments pursuant to part 201.

(d) Money allocated under section 19607(1)(d) shall be used for nonpoint source pollution prevention and control grants or wellhead protection grants ~~pursuant to~~ **UNDER** part 88.

(e) Money allocated under section 19607(1)(e) shall be deposited into the clean water fund created in section 8807.

(f) Money allocated under section 19607(1)(f) shall be expended as follows:

(*i*) $10,000,000.00 shall be deposited into the retired

engineers technical assistance program fund created in section 14512.

(*ii*) $5,000,000.00 shall be deposited into the small business pollution prevention assistance revolving loan fund created in section 14513.

(*iii*) $5,000,000.00 shall be used by the department to implement pollution prevention activities other than those funded under subparagraphs (*i*) and (*ii*).

(g) Money that is allocated under section 19607(1)(g) shall be used by the department of ~~community~~ health **AND HUMAN SERVICES** for remediation and physical improvements to structures to abate or minimize exposure of persons to lead hazards.

(h) Money allocated under section 19607(1)(h) shall be used for infrastructure improvements at Michigan state parks as determined by the department of natural resources. The installation or upgrade of drinking water systems or rest room facilities shall be the first priority.

(i) Money allocated under section 19607(1)(i) shall be used to provide grants to local units of government for local recreation projects ~~pursuant to~~ **UNDER** part 716.

(2) Of the money allocated under section 19607(1)(a), $93,000,000.00 shall be used for facilities **OR PART 213 PROPERTIES** that pose an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment. For purposes of this subsection, facilities **OR PART 213 PROPERTIES** that pose an imminent or substantial endangerment ~~shall~~ include, but are not limited to, those where public access poses hazards because of

potential exposure to chemicals or safety risks and where drinking water supplies are threatened by contamination.

(3) Before expending any funds allocated under subsection (1)(c) at ~~a site that is~~ an area of concern as designated by the parties to the Great Lakes water quality agreement **OF 1978 AS AMENDED BY PROTOCOL SIGNED SEPTEMBER 7, 2012**, the department shall notify the public advisory council established to oversee that area of concern regarding the development, implementation, and evaluation of response activities to be conducted with money in the fund at that area of concern.

~~(4) Money in the fund shall not be used to develop a municipal or commercial marina.~~

(4) ~~(5)~~ Money ~~provided~~ in the fund may be used by the department of treasury to pay for the cost of issuing bonds and by the department and the department of natural resources to pay department costs as provided in this subsection. Not more than 3% of the total amount specified in section 19607(1)(a) to (f) shall be available for appropriation to the department to pay its costs directly associated with the completion of a project authorized by section 19607(1)(a) to (f). Not more than 3% of the total amount specified in section 19607(1)(h) and (i) shall be available for appropriation to the department of natural resources to pay its costs directly associated with the completion of a project authorized by section 19607(1)(h) and (i). It is the intent of the legislature that general fund appropriations to the department and to the department of natural resources shall not be reduced as a result of costs funded pursuant to this subsection.

(5) ~~(6)~~ A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

(6) ~~(7)~~ The department, the department of natural resources, and the department of ~~community~~ health **AND HUMAN SERVICES** shall each submit annually a list of all projects that will be undertaken by that department that are recommended to be funded under this part. The list shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate. The list shall be submitted to the legislative committees not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. For each eligible project, the list shall include the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the administering state department. A project that is funded by a grant or loan with money from the fund

1 does not need to be included on the list submitted under this
2 subsection. However, money in the fund that is appropriated for
3 grants and loans shall not be encumbered or expended until the
4 administering state department has reported those projects that
5 have been approved for a grant or a loan to the standing committees
6 of the house of representatives and the senate that primarily
7 address issues pertaining to the protection of natural resources
8 and the environment and to the appropriations subcommittees in the
9 house of representatives and the senate on natural resources and
10 environmental quality. ~~Before submitting the first cycle of~~
11 ~~recommended projects under subsection (1)(a), the~~ **THE** department
12 shall ~~publish and disseminate~~ **POST ON ITS WEBSITE** the criteria it
13 will use in evaluating and recommending ~~these~~ projects for funding
14 **UNDER THIS PART**.
15 **(7)** ~~(8)~~ The legislature shall appropriate prospective or
16 actual bond proceeds for projects proposed to be funded.
17 Appropriations shall be carried over to succeeding fiscal years
18 until the project for which the funds are appropriated is
19 completed.
20 **(8)** ~~(9)~~ Not later than December 31 of each year, the
21 department, the department of natural resources, and the department
22 of ~~community~~ health **AND HUMAN SERVICES** shall each submit a list of
23 the projects financed under this part by that department to the
24 governor, the standing committees of the house of representatives
25 and the senate that primarily address issues pertaining to the
26 protection of natural resources and the environment, and the
27 subcommittees of the house of representatives and the senate on

appropriations on natural resources and environmental quality. Each list shall include the name, address, and telephone number of the recipient or participant, if appropriate; the name and location of the project; the nature of the project; the amount of money allocated to the project; the county in which the project is located; a brief summary of what has been accomplished by the project; and other information considered pertinent by the administering state department.

Sec. 19608a. (1) The department shall create a clean Michigan initiative **GRANT AND** revolving loan program for the purpose of making **GRANTS AND** loans to local units of government ~~and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities at known or suspected facilities with redevelopment potential.~~**UNDER SECTION 19608(1)(A)(*iv*) FOR ELIGIBLE ACTIVITIES AT ELIGIBLE PROPERTIES WITH REDEVELOPMENT POTENTIAL.**

~~(2) The department shall accept, and consider for approval, applications for loans throughout the year. The department shall develop written instructions for prospective applicants, including the criteria that will be used in application review and approval.~~

~~(3) Final application decisions shall be made by the department within 90 days of submittal of a complete loan application.~~

~~(4) A complete application shall include all of the following:~~

~~(a) A description of the proposed eligible activities.~~

~~(b) An itemized budget for the proposed eligible activities.~~

~~(c) A schedule for the completion of the proposed eligible~~

~~activities.~~

~~(d) The location of the property.~~

~~(e) The current ownership and ownership history of the property.~~

~~(f) The current use of the property.~~

~~(g) A detailed history of the use of the property.~~

~~(h) The existing and proposed future zoning of the property.~~

~~(i) If the property is not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that commits the property owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.~~

~~(j) A description of the property's economic redevelopment potential.~~

~~(k) A resolution from the governing body of the applicant committing to repayment of the loan according to the terms of this section.~~

~~(*l*) Other information as specified by the department in its written instructions.~~

~~(5) To receive loan funds, approved applicants must enter into a loan agreement with the department. At a minimum, the loan agreement shall contain all of the following:~~

~~(a) The approved eligible activities to be undertaken with loan funds.~~

~~(b) An implementation schedule for the approved eligible activities.~~

~~(c) Reporting requirements, including, at a minimum, the~~

~~following:~~

~~(*i*) The loan recipient shall submit a progress status report to the department every 6 months during the implementation schedule.~~

~~(*ii*) The loan recipient shall provide a final report within 3 months of completion of the loan-funded activities that includes documentation of project costs and expenditures, including invoices and proof of payment.~~

~~(d) If the property is not owned by the loan recipient, an executed agreement that has been approved by the department that meets the requirements of subsection (4)(i).~~

~~(e) Other provisions as considered appropriate by the department.~~

~~(6) As used in this section:~~

~~(a) "Baseline environmental assessment" and "response activity" mean those terms as they are defined in section 20101.~~

~~(b) "Due care activities" means those activities conducted under section 20107a.~~

~~(c) "Eligible activities" means baseline environmental assessment activities, due care activities, and any additional response activity. Eligible activities include only those activities necessary to facilitate redevelopment. All eligible activities must be consistent with a work plan or remedial action plan pursuant to section 15 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2665. Unless otherwise approved by the director, only activities carried out and costs incurred after execution of a loan agreement are eligible.~~

1 (2) GRANTS PROVIDED UNDER THE CLEAN MICHIGAN INITIATIVE GRANT
2 AND REVOLVING LOAN PROGRAM THAT ARE USED SOLELY TO DETERMINE
3 WHETHER A PROPERTY IS A SITE OR A FACILITY AND, IF SO, TO
4 CHARACTERIZE THE NATURE AND EXTENT OF THE CONTAMINATION BY MEANS OF
5 AN ASSESSMENT OR INVESTIGATION SHALL BE ISSUED ONLY IF ALL OF THE
6 FOLLOWING CONDITIONS ARE MET:
7 (A) THE CHARACTERIZATION OF THE NATURE AND EXTENT OF
8 CONTAMINATION INCLUDES AN ESTIMATE OF RESPONSE ACTIVITY COSTS IN
9 RELATION TO THE VALUE OF THE PROPERTY IN AN UNCONTAMINATED STATE
10 AND IDENTIFIES FUTURE POTENTIAL LIMITATIONS ON THE USE OF THE
11 PROPERTY BASED UPON CURRENT ENVIRONMENTAL CONDITIONS.
12 (B) THE PROPERTY HAS DEMONSTRABLE ECONOMIC DEVELOPMENT
13 POTENTIAL. THIS SUBDIVISION DOES NOT REQUIRE A SPECIFIC DEVELOPMENT
14 PROPOSAL TO BE IDENTIFIED.
15 (3) THE DEPARTMENT SHALL NOT MAKE A GRANT OR A LOAN UNDER THE
16 CLEAN MICHIGAN INITIATIVE GRANT AND REVOLVING LOAN PROGRAM UNLESS
17 ALL OF THE FOLLOWING CONDITIONS ARE MET:
18 (A) THE APPLICANT DEMONSTRATES THAT THE PROPOSED PROJECT IS
19 IN, OR WILL RESULT IN, COMPLIANCE WITH ALL APPLICABLE STATE LAWS
20 AND RULES.
21 (B) THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THE
22 CAPABILITY TO CARRY OUT THE PROPOSED PROJECT.
23 (C) THE APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT THERE IS
24 AN IDENTIFIABLE SOURCE OF FUNDS FOR THE FUTURE MAINTENANCE AND
25 OPERATION OF THE ACTIVITIES FUNDED WITH MONEY FROM THE FUND, IF
26 APPROPRIATE.
27 (D) WITHIN THE LAST 24 MONTHS, THE APPLICANT HAS SUCCESSFULLY

UNDERGONE AN AUDIT CONDUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS OR AN EMERGENCY MANAGER HAS BEEN APPOINTED FOR THE APPLICANT UNDER THE LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541 TO 141.1575.

(E) WITHIN THE LAST 24 MONTHS, THE DEPARTMENT HAS NOT REVOKED OR TERMINATED A GRANT TO THE APPLICANT AND THE ADMINISTERING STATE DEPARTMENT HAS NOT DETERMINED THAT THE APPLICANT DEMONSTRATED AN INABILITY TO MANAGE A GRANT.

SEC. 19608B. WITH RESPECT TO THE GRANTS AND LOANS UNDER SECTION 19608(1)(A)(*iv*), ALL OF THE FOLLOWING CONDITIONS APPLY:

(A) AN APPLICANT MUST BE A LOCAL UNIT OF GOVERNMENT.

(B) A RECIPIENT IS NOT ELIGIBLE TO RECEIVE MORE THAN THE FOLLOWING:

(*i*) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (*iii*) AND (*iv*), 1 GRANT PER YEAR, NOT TO EXCEED $1,000,000.00 PER GRANT.

(*ii*) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (*iii*) AND (*iv*), 1 LOAN PER YEAR, NOT TO EXCEED $1,000,000.00 PER LOAN.

(*iii*) BROWNFIELD PROJECTS THAT HAVE SIGNIFICANT ECONOMIC AND ENVIRONMENTAL BENEFIT MAY BE CONSIDERED FOR MORE THAN 1 GRANT OR LOAN OVER CONSECUTIVE YEARS, PROVIDED THAT THE LOAN OR GRANT AGREEMENT INCLUDES PROJECT-SPECIFIC BENCHMARKS FOR ELIGIBLE ACTIVITIES AND FAILURE TO SATISFY A BENCHMARK WOULD TERMINATE THE PROJECT'S ELIGIBILITY FOR ADDITIONAL GRANT OR LOAN FUNDING, AS APPLICABLE.

(*iv*) A LOCAL UNIT OF GOVERNMENT MAY BE CONSIDERED FOR AND AWARDED MORE THAN 1 GRANT OR LOAN IN A SINGLE YEAR RELATING TO MULTIPLE UNRELATED BROWNFIELD PROJECTS IF THE PROJECTS ARE

1 DETERMINED TO HAVE SIGNIFICANT ENVIRONMENTAL OR ECONOMIC BENEFITS
2 TO THE RECIPIENT'S MUNICIPALITY OR REGION.
3 (C) EXCEPT FOR A GRANT DESCRIBED IN SECTION 19608A(2), THE
4 DEPARTMENT MAY AWARD A GRANT ONLY IF IT DETERMINES THAT BOTH OF THE
5 FOLLOWING APPLY:
6 (*i*) THE PROPERTY IS AN ELIGIBLE PROPERTY.
7 (*ii*) THE PROPOSED DEVELOPMENT OF THE PROPERTY IS EXPECTED TO
8 RESULT IN MEASURABLE ECONOMIC BENEFIT IN EXCESS OF THE GRANT AMOUNT
9 REQUESTED BY THE APPLICANT.
10 (D) THE DEPARTMENT MAY AWARD A LOAN ONLY IF IT DETERMINES THAT
11 BOTH OF THE FOLLOWING APPLY:
12 (*i*) THE PROPERTY IS KNOWN OR SUSPECTED TO BE AN ELIGIBLE
13 PROPERTY.
14 (*ii*) THE PROPERTY HAS ECONOMIC DEVELOPMENT POTENTIAL BASED ON
15 THE APPLICANT'S PLANNED USE OF THE PROPERTY.
16 (E) THE DEPARTMENT MAY APPROVE FUNDING FOR RESPONSE ACTIVITIES
17 THAT ARE MORE PROTECTIVE OF THE PUBLIC HEALTH, SAFETY, AND WELFARE
18 AND THE ENVIRONMENT THAN REQUIRED BY SECTION 20107A OR 21304C IF
19 THOSE ACTIVITIES PROVIDE PUBLIC HEALTH OR ENVIRONMENTAL BENEFIT. IN
20 ITS REVIEW OF A WORK PLAN THAT INCLUDES ACTIVITIES THAT ARE MORE
21 PROTECTIVE OF THE PUBLIC HEALTH, SAFETY, AND WELFARE AND THE
22 ENVIRONMENT, THE DEPARTMENT MAY CONSIDER, BUT IS NOT LIMITED TO,
23 ALL OF THE FOLLOWING:
24 (*i*) PROPOSED NEW LAND USE AND RELIABILITY OF RESTRICTIONS TO
25 PREVENT EXPOSURE TO CONTAMINATION.
26 (*ii*) COST OF IMPLEMENTATION ACTIVITIES MINIMALLY NECESSARY TO
27 SATISFY DUE CARE REQUIREMENTS, THE INCREMENTAL COST OF RESPONSE

ACTIVITIES RELATIVE TO THE COST OF ACTIVITIES MINIMALLY NECESSARY TO SATISFY DUE CARE REQUIREMENTS, AND THE TOTAL COST OF ALL RESPONSE ACTIVITIES.

(*iii*) LONG-TERM OBLIGATIONS ASSOCIATED WITH LEAVING CONTAMINATION IN PLACE AND THE VALUE OF REDUCING OR ELIMINATING THESE OBLIGATIONS.

(F) A GRANT OR LOAN SHALL NOT BE USED TO FUND RESPONSE ACTIVITIES THAT BENEFIT A PARTY THAT IS RESPONSIBLE FOR AN ACTIVITY CAUSING A RELEASE AT THE ELIGIBLE PROPERTY, EXCEPT THAT A LOAN MAY BE USED TO FUND APPROPRIATE RESPONSE ACTIVITIES RELATED TO REDEVELOPMENT AND DUE CARE ACTIVITIES NECESSARY TO FACILITATE REDEVELOPMENT OF THE PROPERTY IF THE PARTY THAT IS RESPONSIBLE FOR AN ACTIVITY CAUSING A RELEASE AT THE ELIGIBLE PROPERTY MEETS ALL OF THE FOLLOWING:

(*i*) IS A LOCAL UNIT OF GOVERNMENT.

(*ii*) HAS A PROPOSED REDEVELOPMENT FOR THE PROPERTY WITH MEASURABLE ECONOMIC BENEFIT.

(*iii*) PROVIDES A MINIMUM OF 50% LOCAL MATCHING FUNDS FOR THE PROJECT.

(G) A GRANT OR LOAN MAY BE USED TO FUND DUE CARE ACTIVITIES NECESSARY TO FACILITATE REDEVELOPMENT IF THE PARTY RESPONSIBLE FOR AN ACTIVITY CAUSING A RELEASE IS NOT THE DEVELOPER OF PROPOSED REDEVELOPMENT.

(H) A LOAN MAY BE USED TO FUND RESPONSE ACTIVITIES IF BOTH OF THE FOLLOWING ARE MET:

(*i*) A PARTY RESPONSIBLE FOR AN ACTIVITY CAUSING A RELEASE IS NEITHER THE SELLER NOR THE DEVELOPER OF THE PROPERTY TO RECEIVE

FUNDING.

(*ii*) THE RECIPIENT CAN SHOW THAT RESPONSE ACTIVITIES ARE APPROPRIATE IN RELATION TO THE REDEVELOPMENT.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

(a) Senate Bill No. 908.

(b) Senate Bill No. 909.

(c) Senate Bill No. 911.

(d) Senate Bill No. 912.

(e) Senate Bill No. 913.