

# HOUSE BILL No. 5566

November 3, 2009, Introduced by Reps. Robert Jones, Stanley, Young, Constan, Durhal,  
Polidori, Meadows, Dean and Roy Schmidt and referred to the Committee on Commerce.

A bill to amend 1996 PA 381, entitled  
"Brownfield redevelopment financing act,"  
by amending sections 2 and 13 (MCL 125.2652 and 125.2663), section  
2 as amended by 2007 PA 204 and section 13 as amended by 2007 PA  
202.

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

1           Sec. 2. As used in this act:

2           (a) "Additional response activities" means response activities  
3 identified as part of a brownfield plan that are in addition to  
4 baseline environmental assessment activities and due care  
5 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

1 defined in section 20101 of the natural resources and environmental  
2 protection act, 1994 PA 451, MCL 324.20101.

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

7 (e) "Blighted" means property that meets any of the following  
8 criteria as determined by the governing body:

9 (i) Has been declared a public nuisance in accordance with a  
10 local housing, building, plumbing, fire, or other related code or  
11 ordinance.

12 (ii) Is an attractive nuisance to children because of physical  
13 condition, use, or occupancy.

14 (iii) Is a fire hazard or is otherwise dangerous to the safety  
15 of persons or property.

16 (iv) Has had the utilities, plumbing, heating, or sewerage  
17 permanently disconnected, destroyed, removed, or rendered  
18 ineffective so that the property is unfit for its intended use.

19 (v) Is tax reverted property owned by a qualified local  
20 governmental unit, by a county, or by this state. The sale, lease,  
21 or transfer of tax reverted property by a qualified local  
22 governmental unit, county, or this state after the property's  
23 inclusion in a brownfield plan shall not result in the loss to the  
24 property of the status as blighted property for purposes of this  
25 act.

26 (vi) Is property owned or under the control of a land bank fast  
27 track authority under the land bank fast track act, whether or not

1 located within a qualified local governmental unit. Property  
2 included within a brownfield plan prior to the date it meets the  
3 requirements of this subdivision to be eligible property shall be  
4 considered to become eligible property as of the date the property  
5 is determined to have been or becomes qualified as, or is combined  
6 with, other eligible property. The sale, lease, or transfer of the  
7 property by a land bank fast track authority after the property's  
8 inclusion in a brownfield plan shall not result in the loss to the  
9 property of the status as blighted property for purposes of this  
10 act.

11 (vii) Has substantial subsurface demolition debris buried on  
12 site so that the property is unfit for its intended use.

13 (f) "Board" means the governing body of an authority.

14 (g) "Brownfield plan" means a plan that meets the requirements  
15 of section 13 and is adopted under section 14.

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

23 (i) "Chief executive officer" means the mayor of a city, the  
24 village manager of a village, the township supervisor of a  
25 township, or the county executive of a county or, if the county  
26 does not have an elected county executive, the chairperson of the  
27 county board of commissioners.

1 (j) "Department" means the department of environmental  
2 quality.

3 (k) "Due care activities" means those response activities  
4 identified as part of a brownfield plan that are necessary to allow  
5 the owner or operator of an eligible property in the plan to comply  
6 with the requirements of section 20107a of the natural resources  
7 and environmental protection act, 1994 PA 451, MCL 324.20107a.

8 (l) "Economic opportunity zone" means 1 or more parcels of  
9 property that meet all of the following:

10 (i) That together are 40 or more acres in size.

11 (ii) That contain a manufacturing facility that consists of  
12 500,000 or more square feet.

13 (iii) That are located in a municipality that has a population  
14 of 30,000 or less and that is contiguous to a qualified local  
15 governmental unit.

16 (m) "Eligible activities" or "eligible activity" means 1 or  
17 more of the following:

18 (i) Baseline environmental assessment activities.

19 (ii) Due care activities.

20 (iii) Additional response activities.

21 (iv) For eligible activities on eligible property that was used  
22 or is currently used for commercial, industrial, or residential  
23 purposes that is in a qualified local governmental unit, that is  
24 owned or under the control of a land bank fast track authority, or  
25 that is located in an economic opportunity zone, and is a facility,  
26 functionally obsolete, or blighted, and except for purposes of  
27 former section 38d of the single business tax act, 1975 PA 228, the

1 following additional activities:

2 (A) Infrastructure improvements that directly benefit eligible  
3 property.

4 (B) Demolition of structures that is not response activity  
5 under section 20101 of the natural resources and environmental  
6 protection act, 1994 PA 451, MCL 324.20101.

7 (C) Lead or asbestos abatement.

8 (D) Site preparation that is not response activity under  
9 section 20101 of the natural resources and environmental protection  
10 act, 1994 PA 451, MCL 324.20101.

11 (E) Assistance to a land bank fast track authority in clearing  
12 or quieting title to, or selling or otherwise conveying, property  
13 owned or under the control of a land bank fast track authority or  
14 the acquisition of property by the land bank fast track authority  
15 if the acquisition of the property is for economic development  
16 purposes.

17 **(F) ASSISTANCE TO A QUALIFIED LOCAL GOVERNMENTAL UNIT OR**  
18 **AUTHORITY IN CLEARING OR QUIETING TITLE TO, OR SELLING OR OTHERWISE**  
19 **CONVEYING, PROPERTY OWNED OR UNDER THE CONTROL OF A QUALIFIED LOCAL**  
20 **GOVERNMENTAL UNIT OR AUTHORITY OR THE ACQUISITION OF PROPERTY BY A**  
21 **QUALIFIED LOCAL GOVERNMENTAL UNIT OR AUTHORITY IF THE ACQUISITION**  
22 **OF THE PROPERTY IS FOR ECONOMIC DEVELOPMENT PURPOSES.**

23 (v) Relocation of public buildings or operations for economic  
24 development purposes.

25 (vi) For eligible activities on eligible property that is a  
26 qualified facility that is not located in a qualified local  
27 governmental unit and that is a facility, functionally obsolete, or

1 blighted, the following additional activities:

2 (A) Infrastructure improvements that directly benefit eligible  
3 property.

4 (B) Demolition of structures that is not response activity  
5 under section 20101 of the natural resources and environmental  
6 protection act, 1994 PA 451, MCL 324.20101.

7 (C) Lead or asbestos abatement.

8 (D) Site preparation that is not response activity under  
9 section 20101 of the natural resources and environmental protection  
10 act, 1994 PA 451, MCL 324.20101.

11 (vii) For eligible activities on eligible property that is not  
12 located in a qualified local governmental unit and that is a  
13 facility, functionally obsolete, or blighted, the following  
14 additional activities:

15 (A) Demolition of structures that is not response activity  
16 under section 20101 of the natural resources and environmental  
17 protection act, 1994 PA 451, MCL 324.20101.

18 (B) Lead or asbestos abatement.

19 (viii) Reasonable costs of developing and preparing brownfield  
20 plans and work plans.

21 (ix) For property that is not located in a qualified local  
22 governmental unit and that is a facility, functionally obsolete, or  
23 blighted, that is a former mill that has not been used for  
24 industrial purposes for the immediately preceding 2 years, that is  
25 located along a river that is a federal superfund site listed under  
26 the comprehensive environmental response, compensation, and  
27 liability act of 1980, 42 USC 9601 to 9675, and that is located in

1 a city with a population of less than 10,000 persons, the following  
2 additional activities:

3 (A) Infrastructure improvements that directly benefit the  
4 property.

5 (B) Demolition of structures that is not response activity  
6 under section 20101 of the natural resources and environmental  
7 protection act, 1994 PA 451, MCL 324.20101.

8 (C) Lead or asbestos abatement.

9 (D) Site preparation that is not response activity under  
10 section 20101 of the natural resources and environmental protection  
11 act, 1994 PA 451, MCL 324.20101.

12 (x) For eligible activities on eligible property that is  
13 located north of the 45th parallel, that is a facility,  
14 functionally obsolete, or blighted, and the owner or operator of  
15 which makes new capital investment of \$250,000,000.00 or more in  
16 this state, the following additional activities:

17 (A) Demolition of structures that is not response activity  
18 under section 20101 of the natural resources and environmental  
19 protection act, 1994 PA 451, MCL 324.20101.

20 (B) Lead or asbestos abatement.

21 (xi) Reasonable costs of environmental insurance.

22 (n) Except as otherwise provided in this subdivision,  
23 "eligible property" means property for which eligible activities  
24 are identified under a brownfield plan that was used or is  
25 currently used for commercial, industrial, public, or residential  
26 purposes, including personal property located on the property, to  
27 the extent included in the brownfield plan, and that is 1 or more

1 of the following:

2 (i) Is in a qualified local governmental unit and is a  
3 facility, functionally obsolete, or blighted and includes parcels  
4 that are adjacent or contiguous to that property if the development  
5 of the adjacent and contiguous parcels is estimated to increase the  
6 captured taxable value of that property.

7 (ii) Is not in a qualified local governmental unit and is a  
8 facility, and includes parcels that are adjacent or contiguous to  
9 that property if the development of the adjacent and contiguous  
10 parcels is estimated to increase the captured taxable value of that  
11 property.

12 (iii) Is tax reverted property owned or under the control of a  
13 land bank fast track authority.

14 (iv) Is not in a qualified local governmental unit, is a  
15 qualified facility, and is a facility, functionally obsolete, or  
16 blighted, if the eligible activities on the property are limited to  
17 the eligible activities identified in subdivision (m) (vi).

18 (v) Is not in a qualified local governmental unit and is a  
19 facility, functionally obsolete, or blighted, if the eligible  
20 activities on the property are limited to the eligible activities  
21 identified in subdivision (m) (vii).

22 (vi) Is not in a qualified local governmental unit and is a  
23 facility, functionally obsolete, or blighted, if the eligible  
24 activities on the property are limited to the eligible activities  
25 identified in subdivision (m) (ix).

26 (vii) Is located north of the 45th parallel, is a facility,  
27 functionally obsolete, or blighted, and the owner or operator makes



1 new capital investment of \$250,000,000.00 or more in this state.  
2 Eligible property does not include qualified agricultural property  
3 exempt under section 7ee of the general property tax act, 1893 PA  
4 206, MCL 211.7ee, from the tax levied by a local school district  
5 for school operating purposes to the extent provided under section  
6 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

7 (o) "Environmental insurance" means liability insurance for  
8 environmental contamination and cleanup that is not otherwise  
9 required by state or federal law.

10 (p) "Facility" means that term as defined in section 20101 of  
11 the natural resources and environmental protection act, 1994 PA  
12 451, MCL 324.20101.

13 (q) "Fiscal year" means the fiscal year of the authority.

14 (r) "Functionally obsolete" means that the property is unable  
15 to be used to adequately perform the function for which it was  
16 intended due to a substantial loss in value resulting from factors  
17 such as overcapacity, changes in technology, deficiencies or  
18 superadequacies in design, or other similar factors that affect the  
19 property itself or the property's relationship with other  
20 surrounding property.

21 (s) "Governing body" means the elected body having legislative  
22 powers of a municipality creating an authority under this act.

23 (t) "Infrastructure improvements" means a street, road,  
24 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,  
25 sewage treatment plant, property designed to reduce, eliminate, or  
26 prevent the spread of identified soil or groundwater contamination,  
27 drainage system, waterway, waterline, water storage facility, rail

1 line, utility line or pipeline, or other similar or related  
2 structure or improvement, together with necessary easements for the  
3 structure or improvement, owned or used by a public agency or  
4 functionally connected to similar or supporting property owned or  
5 used by a public agency, or designed and dedicated to use by, for  
6 the benefit of, or for the protection of the health, welfare, or  
7 safety of the public generally, whether or not used by a single  
8 business entity, provided that any road, street, or bridge shall be  
9 continuously open to public access and that other property shall be  
10 located in public easements or rights-of-way and sized to  
11 accommodate reasonably foreseeable development of eligible property  
12 in adjoining areas.

13 (u) "Initial taxable value" means the taxable value of an  
14 eligible property identified in and subject to a brownfield plan at  
15 the time the resolution adding that eligible property in the  
16 brownfield plan is adopted, as shown either by the most recent  
17 assessment roll for which equalization has been completed at the  
18 time the resolution is adopted or, if provided by the brownfield  
19 plan, by the next assessment roll for which equalization will be  
20 completed following the date the resolution adding that eligible  
21 property in the brownfield plan is adopted. Property exempt from  
22 taxation at the time the initial taxable value is determined shall  
23 be included with the initial taxable value of zero. Property for  
24 which a specific tax is paid in lieu of property tax shall not be  
25 considered exempt from taxation. The state tax commission shall  
26 prescribe the method for calculating the initial taxable value of  
27 property for which a specific tax was paid in lieu of property tax.

1 (v) "Land bank fast track authority" means an authority  
2 created under the land bank fast track act, 2003 PA 258, MCL  
3 124.751 to 124.774.

4 (w) "Local taxes" means all taxes levied other than taxes  
5 levied for school operating purposes.

6 (x) "Municipality" means all of the following:

7 (i) A city.

8 (ii) A village.

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

11 (iv) A township in those areas of the township that are in a  
12 village upon the concurrence by resolution of the village in which  
13 the zone would be located.

14 (v) A county.

15 (y) "Owned or under the control of" means that a land bank  
16 fast track authority has 1 or more of the following:

17 (i) An ownership interest in the property.

18 (ii) A tax lien on the property.

19 (iii) A tax deed to the property.

20 (iv) A contract with this state or a political subdivision of  
21 this state to enforce a lien on the property.

22 (v) A right to collect delinquent taxes, penalties, or  
23 interest on the property.

24 (vi) The ability to exercise its authority over the property.

25 (z) "Qualified facility" means a landfill facility area of 140  
26 or more contiguous acres that is located in a city and that  
27 contains a landfill, a material recycling facility, and an asphalt

1 plant that are no longer in operation.

2 (aa) "Qualified local governmental unit" means that term as  
3 defined in the obsolete property rehabilitation act, 2000 PA 146,  
4 MCL 125.2781 to 125.2797.

5 (bb) "Qualified taxpayer" means that term as defined in former  
6 sections 38d and 38g of the single business tax act, 1975 PA 228,  
7 or section 437 of the Michigan business tax act, 2007 PA 36, MCL  
8 208.1437.

9 (cc) "Response activity" means that term as defined in section  
10 20101 of the natural resources and environmental protection act,  
11 1994 PA 451, MCL 324.20101.

12 (dd) "Specific taxes" means a tax levied under 1974 PA 198,  
13 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA  
14 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,  
15 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the  
16 technology park development act, 1984 PA 385, MCL 207.701 to  
17 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL  
18 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA  
19 147, MCL 207.771 to 207.786; the commercial rehabilitation act,  
20 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax  
21 levied under the tax reverted clean title act, 2003 PA 260, MCL  
22 211.1021 to 211.1026, that is not required to be distributed to a  
23 land bank fast track authority.

24 (ee) "Tax increment revenues" means the amount of ad valorem  
25 property taxes and specific taxes attributable to the application  
26 of the levy of all taxing jurisdictions upon the captured taxable  
27 value of each parcel of eligible property subject to a brownfield

1 plan and personal property located on that property. Tax increment  
2 revenues exclude ad valorem property taxes specifically levied for  
3 the payment of principal of and interest on either obligations  
4 approved by the electors or obligations pledging the unlimited  
5 taxing power of the local governmental unit, and specific taxes  
6 attributable to those ad valorem property taxes. Tax increment  
7 revenues attributable to eligible property also exclude the amount  
8 of ad valorem property taxes or specific taxes captured by a  
9 downtown development authority, tax increment finance authority, or  
10 local development finance authority if those taxes were captured by  
11 these other authorities on the date that eligible property became  
12 subject to a brownfield plan under this act.

13 (ff) "Taxable value" means the value determined under section  
14 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

15 (gg) "Taxes levied for school operating purposes" means all of  
16 the following:

17 (i) The taxes levied by a local school district for operating  
18 purposes.

19 (ii) The taxes levied under the state education tax act, 1993  
20 PA 331, MCL 211.901 to 211.906.

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

23 (hh) "Work plan" means a plan that describes each individual  
24 activity to be conducted to complete eligible activities and the  
25 associated costs of each individual activity.

26 (ii) "Zone" means, for an authority established before June 6,  
27 2000, a brownfield redevelopment zone designated under this act.

1           Sec. 13. (1) Subject to section 15, the board may implement a  
2 brownfield plan. The brownfield plan may apply to 1 or more parcels  
3 of eligible property whether or not those parcels of eligible  
4 property are contiguous and may be amended to apply to additional  
5 parcels of eligible property. Except as otherwise authorized by  
6 this act, if more than 1 eligible property is included within the  
7 plan, the tax increment revenues under the plan shall be determined  
8 individually for each eligible property. Each plan or an amendment  
9 to a plan shall be approved by the governing body of the  
10 municipality and shall contain all of the following:

11           (a) A description of the costs of the plan intended to be paid  
12 for with the tax increment revenues or, for a plan for eligible  
13 properties qualified on the basis that the property is owned or  
14 under the control of a land bank fast track authority, a listing of  
15 all eligible activities that may be conducted for 1 or more of the  
16 eligible properties subject to the plan.

17           (b) A brief summary of the eligible activities that are  
18 proposed for each eligible property or, for a plan for eligible  
19 properties qualified on the basis that the property is owned or  
20 under the control of a land bank fast track authority, a brief  
21 summary of eligible activities conducted for 1 or more of the  
22 eligible properties subject to the plan.

23           (c) An estimate of the captured taxable value and tax  
24 increment revenues for each year of the plan from the eligible  
25 property. The plan may provide for the use of part or all of the  
26 captured taxable value, including deposits in the local site  
27 remediation revolving fund, but the portion intended to be used

1 shall be clearly stated in the plan. The plan shall not provide  
2 either for an exclusion from captured taxable value of a portion of  
3 the captured taxable value or for an exclusion of the tax levy of 1  
4 or more taxing jurisdictions unless the tax levy is excluded from  
5 tax increment revenues in section 2(dd), or unless the tax levy is  
6 excluded from capture under section 15.

7 (d) The method by which the costs of the plan will be  
8 financed, including a description of any advances made or  
9 anticipated to be made for the costs of the plan from the  
10 municipality.

11 (e) The maximum amount of note or bonded indebtedness to be  
12 incurred, if any.

13 (f) The duration of the brownfield plan for eligible  
14 activities on eligible property which shall not exceed 35 years  
15 following the date of the resolution approving the plan amendment  
16 related to a particular eligible property. Each plan amendment  
17 shall also contain the duration of capture of tax increment  
18 revenues including the beginning date of the capture of tax  
19 increment revenues, which beginning date shall be identified in the  
20 brownfield plan and which beginning date shall not be later than 5  
21 years following the date of the resolution approving the plan  
22 amendment related to a particular eligible property and which  
23 duration shall not exceed the lesser of the period authorized under  
24 subsections (4) and (5) or 30 years from the beginning date of the  
25 capture of tax increment revenues. The date for the beginning of  
26 capture of tax increment revenues may be amended by the authority  
27 but not to a date later than 5 years after the date of the

1 resolution adopting the plan. The authority may not amend the date  
2 for the beginning of capture of tax increment revenues if the  
3 authority has begun to reimburse eligible activities from the  
4 capture of tax increment revenues. The authority may not amend the  
5 date for the beginning of capture if that amendment would lead to  
6 the duration of capture of tax increment revenues being longer than  
7 30 years or the period authorized under subsections (4) and (5). If  
8 the date for the beginning of capture of tax increment revenues is  
9 amended by the authority and that plan includes the capture of tax  
10 increment revenues for school operating purposes, then the  
11 authority that amended that plan shall notify the department and  
12 the Michigan economic growth authority within 30 days of the  
13 approval of the amendment.

14 (g) An estimate of the impact of tax increment financing on  
15 the revenues of all taxing jurisdictions in which the eligible  
16 property is located.

17 (h) A legal description of the eligible property to which the  
18 plan applies, a map showing the location and dimensions of each  
19 eligible property, a statement of the characteristics that qualify  
20 the property as eligible property, and a statement of whether  
21 personal property is included as part of the eligible property. If  
22 the project is on property that is functionally obsolete, the  
23 taxpayer shall include, with the application, an affidavit signed  
24 by a level 3 or level 4 assessor, that states that it is the  
25 assessor's expert opinion that the property is functionally  
26 obsolete and the underlying basis for that opinion.

27 (i) Estimates of the number of persons residing on each



1 eligible property to which the plan applies and the number of  
2 families and individuals to be displaced. If occupied residences  
3 are designated for acquisition and clearance by the authority, the  
4 plan shall include a demographic survey of the persons to be  
5 displaced, a statistical description of the housing supply in the  
6 community, including the number of private and public units in  
7 existence or under construction, the condition of those in  
8 existence, the number of owner-occupied and renter-occupied units,  
9 the annual rate of turnover of the various types of housing and the  
10 range of rents and sale prices, an estimate of the total demand for  
11 housing in the community, and the estimated capacity of private and  
12 public housing available to displaced families and individuals.

13 (j) A plan for establishing priority for the relocation of  
14 persons displaced by implementation of the plan.

15 (k) Provision for the costs of relocating persons displaced by  
16 implementation of the plan, and financial assistance and  
17 reimbursement of expenses, including litigation expenses and  
18 expenses incident to the transfer of title, in accordance with the  
19 standards and provisions of the uniform relocation assistance and  
20 real property acquisition policies act of 1970, Public Law 91-646.

21 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to  
22 213.332.

23 (m) A description of proposed use of the local site  
24 remediation revolving fund.

25 (n) Other material that the authority or governing body  
26 considers pertinent.

27 (2) The percentage of all taxes levied on a parcel of eligible

1 property for school operating expenses that is captured and used  
2 under a brownfield plan and all tax increment finance plans under  
3 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance  
4 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local  
5 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,  
6 shall not be greater than the combination of the plans' percentage  
7 capture and use of all local taxes levied for purposes other than  
8 for the payment of principal of and interest on either obligations  
9 approved by the electors or obligations pledging the unlimited  
10 taxing power of the local unit of government. This subsection shall  
11 apply only when taxes levied for school operating purposes are  
12 subject to capture under section 15.

13 (3) Except as provided in this subsection and subsections (5),  
14 (15), and (16), tax increment revenues related to a brownfield plan  
15 shall be used only for costs of eligible activities attributable to  
16 the eligible property, the captured taxable value of which produces  
17 the tax increment revenues, including the cost of principal of and  
18 interest on any obligation issued by the authority to pay the costs  
19 of eligible activities attributable to the eligible property, and  
20 the reasonable costs of preparing a brownfield plan or a work plan  
21 for the eligible property, including the actual cost of the review  
22 of the work plan under section 15. For property owned or under the  
23 control of a land bank fast track authority, tax increment revenues  
24 related to a brownfield plan may be used for eligible activities  
25 attributable to any eligible property owned or under the control of  
26 the land bank fast track authority, the cost of principal of and  
27 interest on any obligation issued by the authority to pay the costs

1 of eligible activities, the reasonable costs of preparing a work  
2 plan, and the actual cost of the review of the work plan under  
3 section 15. Except as provided in subsection (18), tax increment  
4 revenues captured from taxes levied by this state under the state  
5 education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes  
6 levied by a local school district shall not be used for eligible  
7 activities described in section 2(m)(iv)(E).

8 (4) Except as provided in subsection (5), a brownfield plan  
9 shall not authorize the capture of tax increment revenue from  
10 eligible property after the year in which the total amount of tax  
11 increment revenues captured is equal to the sum of the costs  
12 permitted to be funded with tax increment revenues under this act.

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

1 operating purposes in an amount not greater than the tax increment  
2 revenues levied for school operating purposes captured from the  
3 eligible property by the authority for the purposes authorized  
4 under subsection (3). Excess tax increment revenues from taxes  
5 levied for school operating purposes for eligible activities  
6 authorized under subsection (15) by the Michigan economic growth  
7 authority shall not be captured for deposit in the local site  
8 remediation revolving fund.

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

12 (7) Costs of eligible activities attributable to eligible  
13 property include all costs that are necessary or related to a  
14 release from the eligible property, including eligible activities  
15 on properties affected by a release from the eligible property. For  
16 purposes of this subsection, "release" means that term as defined  
17 in section 20101 of the natural resources and environmental  
18 protection act, 1994 PA 451, MCL 324.20101.

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

1 priority:

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

4 (b) One of the following:

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

13 (ii) If this state undertakes a cost recovery action, this  
14 state shall deposit the remaining recovered funds into the  
15 revitalization revolving loan fund established under section 20108a  
16 of the natural resources and environmental protection act, 1994 PA  
17 451, MCL 324.20108a.

18 (iii) If this state and an authority each undertake a cost  
19 recovery action, undertake a cost recovery action jointly, or 1 on  
20 behalf of the other, the amount of any remaining recovered funds  
21 shall be deposited pursuant to subparagraphs (i) and (ii) in the  
22 proportion that the tax increment revenues being recovered  
23 represent local taxes and taxes levied for school operating  
24 purposes, respectively.

25 (9) Approval of the brownfield plan or an amendment to a  
26 brownfield plan shall be in accordance with the notice and approval  
27 provisions of this section and section 14.

1           (10) Before approving a brownfield plan for an eligible  
2 property, the governing body shall hold a public hearing on the  
3 brownfield plan. By resolution, the governing body may delegate the  
4 public hearing process to the authority or to a subcommittee of the  
5 governing body subject to final approval by the governing body.  
6 Notice of the time and place of the hearing shall be given by  
7 publication twice in a newspaper of general circulation designated  
8 by the municipality, not less than 10 or more than 40 days before  
9 the date set for the hearing.

10           (11) Notice of the time and place of the hearing on a  
11 brownfield plan shall contain all of the following:

12           (a) A description of the property to which the plan applies in  
13 relation to existing or proposed highways, streets, streams, or  
14 otherwise.

15           (b) A statement that maps, plats, and a description of the  
16 brownfield plan are available for public inspection at a place  
17 designated in the notice and that all aspects of the brownfield  
18 plan are open for discussion at the public hearing required by this  
19 section.

20           (c) Any other information that the governing body considers  
21 appropriate.

22           (12) At the time set for the hearing on the brownfield plan  
23 required under subsection (10), the governing body shall ensure  
24 that interested persons have an opportunity to be heard and that  
25 written communications with reference to the brownfield plan are  
26 received and considered. The governing body shall ensure that a  
27 record of the public hearing is made and preserved, including all

1 data presented at the hearing.

2 (13) Not less than 10 days before the hearing on the  
3 brownfield plan, the governing body shall provide notice of the  
4 hearing to the taxing jurisdictions that levy taxes subject to  
5 capture under this act. The authority shall fully inform the taxing  
6 jurisdictions about the fiscal and economic implications of the  
7 proposed brownfield plan. At that hearing, an official from a  
8 taxing jurisdiction with millage that would be subject to capture  
9 under this act has the right to be heard in regard to the adoption  
10 of the brownfield plan. Not less than 10 days before the hearing on  
11 the brownfield plan, the governing body shall provide notice of the  
12 hearing to the department if the brownfield plan involves the use  
13 of taxes levied for school operating purposes to pay for eligible  
14 activities that require the approval of a work plan by the  
15 department under section 15(1)(a) and the Michigan economic growth  
16 authority, or its designee, if the brownfield plan involves the use  
17 of taxes levied for school operating purposes to pay for eligible  
18 activities subject to subsection (15) or (18).

19 (14) The authority shall not enter into agreements with the  
20 taxing jurisdictions and the governing body of the municipality to  
21 share a portion of the captured taxable value of an eligible  
22 property. Upon adoption of the plan, the collection and  
23 transmission of the amount of tax increment revenues as specified  
24 in this act shall be binding on all taxing units levying ad valorem  
25 property taxes or specific taxes against property located in the  
26 zone.

27 (15) Except as provided by subsection (18), if a brownfield

1 plan includes the capture of taxes levied for school operating  
2 purposes approval of a work plan by the Michigan economic growth  
3 authority before January 1, 2013 to use taxes levied for school  
4 operating purposes and a development agreement or reimbursement  
5 agreement between the municipality or authority and an owner or  
6 developer of eligible property are required if the taxes levied for  
7 school operating purposes will be used for infrastructure  
8 improvements that directly benefit eligible property, demolition of  
9 structures that is not response activity under part 201 of the  
10 natural resources and environmental protection act, 1994 PA 451,  
11 MCL 324.20101 to 324.20142, lead or asbestos abatement, site  
12 preparation that is not response activity under section 20101 of  
13 the natural resources and environmental protection act, 1994 PA  
14 451, MCL 324.20101, relocation of public buildings or operations  
15 for economic development purposes, ~~or~~ acquisition of property by a  
16 land bank fast track authority if acquisition of the property is  
17 for economic development purposes, **OR ACQUISITION OF PROPERTY BY A**  
18 **QUALIFIED LOCAL GOVERNMENTAL UNIT OR AUTHORITY IF ACQUISITION OF**  
19 **THE PROPERTY IS FOR ECONOMIC DEVELOPMENT PURPOSES.** The eligible  
20 activities to be conducted described in this subsection shall be  
21 consistent with the work plan submitted by the authority to the  
22 Michigan economic growth authority. The department's approval is  
23 not required for the capture of taxes levied for school operating  
24 purposes for eligible activities described in this subsection.

25 (16) The limitations of section 15(1) upon use of tax  
26 increment revenues by an authority shall not apply to the following  
27 costs and expenses:



1 (a) In each fiscal year of the authority, the amount described  
2 in subsection (19) for the following purposes for tax increment  
3 revenues attributable to local taxes:

4 (i) Reasonable and actual administrative and operating expenses  
5 of the authority.

6 (ii) Baseline environmental assessments, due care activities,  
7 and additional response activities conducted by or on behalf of the  
8 authority related directly to work conducted on prospective  
9 eligible properties prior to approval of the brownfield plan.

10 (b) Reasonable costs of preparing a work plan or the cost of  
11 the review of a work plan for which tax increment revenues may be  
12 used under section 13(3).

13 (c) For tax increment revenues attributable to local taxes,  
14 reasonable costs of site investigations described in section  
15 15(1)(a)(i), baseline environmental assessments, and due care  
16 activities incurred by a person other than the authority related  
17 directly to work conducted on eligible property or prospective  
18 eligible properties prior to approval of the brownfield plan, if  
19 those costs and the eligible property are included in a brownfield  
20 plan approved by the authority.

21 (17) A brownfield authority may reimburse advances, with or  
22 without interest, made by a municipality under section 7(3), a land  
23 bank fast track authority, or any other person or entity for costs  
24 of eligible activities with any source of revenue available for use  
25 of the brownfield authority under this act. If an authority  
26 reimburses a person or entity under this section for an advance for  
27 the payment or reimbursement of the cost of eligible activities and

1 interest thereon, the authority may capture local taxes for the  
2 payment of that interest. If an authority reimburses a person or  
3 entity under this section for an advance for the payment or  
4 reimbursement of the cost of baseline environmental assessments,  
5 due care, and additional response activities and interest thereon  
6 included in a work plan approved by the department, the authority  
7 may capture taxes levied for school operating purposes and local  
8 taxes for the payment of that interest. If an authority reimburses  
9 a person or entity under this section for an advance for the  
10 payment or reimbursement of the cost of eligible activities that  
11 are not baseline environmental assessments, due care, and  
12 additional response activities and interest thereon included in a  
13 work plan approved by the Michigan economic growth authority, the  
14 authority may capture taxes levied for school operating purposes  
15 and local taxes for the payment of that interest provided that the  
16 Michigan economic growth authority grants an approval for the  
17 capture of taxes levied for school operating purposes to pay such  
18 interest. An authority may enter into agreements related to these  
19 reimbursements and payments. A reimbursement agreement for these  
20 purposes and the obligations under that reimbursement agreement  
21 shall not be subject to section 12 or the revised municipal finance  
22 act, 2001 PA 34, MCL 141.2101 to 141.2821.

23 (18) If a brownfield plan includes the capture of taxes levied  
24 for school operating purposes, approval of a work plan by the  
25 Michigan economic growth authority in the manner required under  
26 section 15(14) to (16) is required in order to use tax increment  
27 revenues attributable to taxes levied for school operating purposes

1 for purposes of eligible activities described in section 2(m) (iv) (E)  
2 for 1 or more parcels of eligible property. The work plan to be  
3 submitted to the Michigan economic growth authority under this  
4 subsection shall be in a form prescribed by the Michigan economic  
5 growth authority. The eligible activities to be conducted and  
6 described in this subsection shall be consistent with the work plan  
7 submitted by the authority to the Michigan economic growth  
8 authority. The department's approval is not required for the  
9 capture of taxes levied for school operating purposes for eligible  
10 activities described in this section.

11 (19) In each fiscal year of the authority, the amount of tax  
12 increment revenues attributable to local taxes that an authority  
13 can use for the purposes described in subsection (16) (a) shall be  
14 determined as follows:

15 (a) For authorities that have 5 or fewer active projects,  
16 \$100,000.00.

17 (b) For authorities that have 6 or more but fewer than 11  
18 active projects, \$125,000.00.

19 (c) For authorities that have 11 or more but fewer than 16  
20 active projects, \$150,000.00.

21 (d) For authorities that have 16 or more but fewer than 21  
22 active projects, \$175,000.00.

23 (e) For authorities that have 21 or more but fewer than 26  
24 active projects, \$200,000.00.

25 (f) For authorities that have 26 or more active projects,  
26 \$300,000.00.

27 (20) As used in subsection (19), "active project" means a

1 project in which the authority is currently capturing taxes under  
2 this act.