

SENATE BILL NO. 1152

September 07, 2022, Introduced by Senator SCHMIDT and referred to the Committee on Economic and Small Business Development.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending the title and sections 2, 8, 13, 13b, 13c, 14, 14a, 15, and 16 (MCL 125.2652, 125.2658, 125.2663, 125.2663b, 125.2663c, 125.2664, 125.2664a, 125.2665, and 125.2666), the title as amended by 2003 PA 259, sections 2, 13c, and 14a as amended by 2021 PA 138, sections 8, 13, 13b, 15, and 16 as amended by 2020 PA 259, and section 14 as amended by 2016 PA 471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

1 An act to authorize municipalities to create a brownfield
2 redevelopment authority to facilitate the implementation of
3 brownfield plans; to create brownfield redevelopment zones; to
4 promote the revitalization, redevelopment, and reuse of certain
5 property, including, but not limited to, **previously developed**, tax
6 reverted, blighted, or functionally obsolete property; **to promote**
7 **the utilization of certain property for housing assistance and**
8 **development**; to prescribe the powers and duties of brownfield
9 redevelopment authorities; to permit the issuance of bonds and
10 other evidences of indebtedness by an authority; to authorize the
11 acquisition and disposal of certain property; to authorize certain
12 funds; to prescribe certain powers and duties of certain state
13 officers and agencies; and to authorize and permit the use of
14 certain tax increment financing.

15 Sec. 2. As used in this act:

16 (a) "Authority" means a brownfield redevelopment authority
17 created under this act.

18 (b) "Baseline environmental assessment" means that term as
19 defined in part 201 or 213.

20 (c) "Blighted" means property that meets any of the following
21 criteria as determined by the governing body:

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

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

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

29 (iv) Has had the utilities, plumbing, heating, or sewerage

1 permanently disconnected, destroyed, removed, or rendered
2 ineffective so that the property is unfit for its intended use.

3 (v) Is **previously developed or** tax reverted property owned by
4 a ~~qualified local governmental unit, by a county, municipality~~ or
5 by this state. The sale, lease, or transfer of **previously developed**
6 **or** tax reverted property by a ~~qualified local governmental unit,~~
7 ~~county, municipality~~ or this state after the property's inclusion
8 in a brownfield plan ~~shall~~**does** not result in the loss to the
9 property of the status as blighted property for purposes of this
10 act.

11 (vi) Is property owned by or under the control of a land bank
12 fast track authority, whether or not located within a qualified
13 local governmental unit. Property included within a brownfield plan
14 ~~prior to~~**before** the date it meets the requirements of this
15 subdivision to be eligible property ~~shall be~~**is** considered to
16 become eligible property as of the date the property is determined
17 to have been or becomes qualified as, or is combined with, other
18 eligible property. The sale, lease, or transfer of the property by
19 a land bank fast track authority after the property's inclusion in
20 a brownfield plan ~~shall~~**does** not result in the loss to the property
21 of the status as blighted property for purposes of this act.

22 (vii) Has substantial buried subsurface demolition debris
23 present so that the property is unfit for its intended use.

24 (d) "Board" means the ~~governing body of~~**board that supervises**
25 **and controls** an authority **under section 5.**

26 (e) "Brownfield plan" means a plan that meets the requirements
27 of ~~section~~**sections** 13 and ~~section~~13b and is adopted under section
28 14.

29 (f) "Captured taxable value" means the amount in 1 year by

1 which the current taxable value of an eligible property subject to
2 a brownfield plan, including the taxable value or assessed value,
3 as appropriate, of the property for which specific taxes are paid
4 in lieu of property taxes, exceeds the initial taxable value of
5 that eligible property. The state tax commission shall prescribe
6 the method for calculating captured taxable value.

7 (g) "Chief executive officer" means the mayor of a city, the
8 village manager of a village, the township supervisor of a
9 township, or the county executive of a county or, if the county
10 does not have an elected county executive, the chairperson of the
11 county board of commissioners.

12 (h) "Combined brownfield plan" means a brownfield plan that
13 also includes the information necessary to submit the plan to the
14 department, **Michigan state housing development authority**, or
15 Michigan strategic fund under section 15(20).

16 (i) "Construction period tax capture revenues" means funds
17 equal to the amount of income tax levied and imposed in a calendar
18 year ~~upon~~^{on} wages paid to individuals physically present and
19 working within the eligible property for the construction,
20 renovation, or other improvement of eligible property that is an
21 eligible activity within a transformational brownfield plan. As
22 used in this subdivision, "wages" means that term as defined in
23 section 3401 of the internal revenue code of 1986, 26 USC 3401. To
24 calculate the amount of construction period tax capture revenues
25 for a calendar year under a transformational brownfield plan, the
26 state treasurer shall do all of the following:

27 (i) Require the owner or developer of the eligible property to
28 report the total taxable wages paid to individuals for the
29 construction, renovation, or other improvement of eligible property

1 that is an eligible activity within the transformational brownfield
2 plan. The wages reported under this subparagraph ~~shall~~**must** exclude
3 any wages paid to employees of the owner or developer.

4 (ii) Multiply the amount under subparagraph (i) by the effective
5 rate as determined by the state treasurer at which the income tax
6 is levied on an individual in this state. The state treasurer shall
7 estimate the effective rate by taking into account the effect of
8 any exemptions, additions, subtractions, and credits allowable
9 under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1
10 to 206.532. The state treasurer may require the owner or developer
11 to submit any information necessary for the calculation under this
12 subparagraph.

13 (iii) The wage information and other information required under
14 this subdivision ~~shall~~**must** be provided to the department of
15 treasury by the owner or developer in a manner prescribed by the
16 state treasurer. The state treasurer may require the owner or
17 developer to provide a review or reconciliation of the wages by an
18 independent auditing firm.

19 (j) "Corrective action" means that term as defined in part 111
20 or part 213.

21 (k) "Department" means the department of environment, Great
22 Lakes, and energy.

23 (l) "Department specific activities" means baseline
24 environmental assessments, due care activities, response
25 activities, and other environmentally related actions that are
26 eligible activities and are identified as a part of a brownfield
27 plan that are in addition to the minimum due care activities
28 required by part 201, including, but not limited to:

29 (i) Response activities that are more protective of the public

1 health, safety, and welfare and the environment than required by
 2 section 20107a, 20114, or 21304c of the natural resources and
 3 environmental protection act, 1994 PA 451, MCL 324.20107a,
 4 324.20114, and 324.21304c.

5 (ii) Removal and closure of underground storage tanks pursuant
 6 to part 211 or 213.

7 (iii) Disposal of solid waste, as defined in part 115 of the
 8 natural resources and environmental protection act, 1994 PA 451,
 9 MCL 324.11501 to 324.11554, from the eligible property, ~~provided it~~
 10 **if the solid waste** was not generated or accumulated by the
 11 authority or the developer.

12 (iv) Dust control related to construction activities.

13 (v) Removal and disposal of lake or river sediments exceeding
 14 part 201 criteria from, at, or related to an economic development
 15 project where the upland property is either a facility or would
 16 become a facility as a result of the deposition of dredged spoils.

17 (vi) Industrial cleaning.

18 (vii) Sheeting and shoring necessary for the removal of
 19 materials exceeding part 201 criteria at projects requiring a
 20 permit pursuant to part 301, 303, or 325 of the natural resources
 21 and environmental protection act, 1994 PA 451, MCL 324.30101 to
 22 324.30113, MCL 324.30301 to 324.30328, ~~or~~**and** MCL 324.32501 to
 23 324.32515a.

24 (viii) Lead, mold, or asbestos abatement when lead, mold, or
 25 asbestos pose an imminent and significant threat to human health.

26 (ix) Environmental insurance.

27 (m) "Due care activities" means those response activities
 28 identified as part of a brownfield plan that are necessary to allow
 29 the owner or operator of an eligible property in the plan to comply

1 with the requirements of section 20107a or 21304c of the natural
2 resources and environmental protection act, 1994 PA 451, MCL
3 324.20107a and 324.21304c.

4 (n) "Economic opportunity zone" means 1 or more parcels of
5 property that meet all of the following:

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

7 (ii) That contain or contained a manufacturing operation **or an**
8 **enclosed mall** that consists or consisted of ~~500,000~~ **300,000** or more
9 square feet.

10 (iii) That are located in a municipality ~~that has a population~~
11 ~~of 30,000 or less and~~ that is contiguous to a qualified local
12 governmental unit.

13 (o) "Eligible activities" or "eligible activity" means 1 or
14 more of the following:

15 (i) For all eligible properties, eligible activities include
16 all of the following:

17 (A) Department specific activities.

18 (B) Relocation of public buildings or operations for economic
19 development purposes.

20 (C) Reasonable costs of environmental insurance.

21 (D) Reasonable costs incurred to develop and prepare
22 brownfield plans, combined brownfield plans, or work plans for the
23 eligible property, including legal and consulting fees that are not
24 in the ordinary course of acquiring and developing real estate.

25 (E) Reasonable costs of brownfield plan and work plan
26 implementation, including, but not limited to, tracking and
27 reporting of data and plan compliance and the reasonable costs
28 incurred to estimate and determine actual costs incurred, whether
29 those costs are incurred by a municipality, authority, or private

1 developer.

2 (F) Demolition of structures that is not a response activity,
3 including removal of manufactured debris composed of discarded,
4 unused, or unusable manufactured by-products left on the site by a
5 previous owner. The removal of the manufactured by-products left on
6 the site described in this sub-subparagraph is not eligible for
7 interest reimbursement under sub-subparagraph (H).

8 (G) Lead, asbestos, or mold abatement.

9 (H) Except as otherwise provided in sub-subparagraph (F), the
10 repayment of principal of and interest on any obligation issued by
11 an authority to pay the costs of eligible activities attributable
12 to an eligible property.

13 **(ii) For eligible property located in a community that has**
14 **identified a specific housing need and has absorption data or job**
15 **growth data included in the brownfield plan and referenced in the**
16 **resolution establishing the authority, eligible activities include**
17 **all of the following:**

18 (A) The activities described in subparagraph (i).

19 (B) Housing assistance activities.

20 (C) Housing development activities.

21 (D) Infrastructure improvements that directly benefit eligible
22 property and support housing assistance activities or housing
23 development activities.

24 (E) Site preparation that is not a response activity and that
25 supports housing assistance activities or housing development
26 activities.

27 **(iii) ~~(ii)~~ For eligible properties located in a qualified local**
28 **governmental unit, ~~of government,~~ or an economic opportunity zone,**
29 **or that ~~is~~ are a former mill, eligible activities include all of**

1 **the following:**

2 (A) The activities described in subparagraph (i).

3 (B) Infrastructure improvements that directly benefit eligible
4 property.

5 (C) Site preparation that is not a response activity.

6 **(iv)** ~~(iii)~~ For eligible properties that are owned by or under the
7 control of a land bank fast track authority, or a qualified local
8 **governmental** unit ~~of government~~ or authority, eligible activities
9 include **all of the following:**

10 (A) The eligible activities described in subparagraphs (i), ~~and~~
11 (ii), **and (iii)**.

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

18 (C) Assistance to a ~~qualified local governmental unit~~
19 **municipality** or authority in clearing or quieting title to, or
20 selling or otherwise conveying, property owned by or under the
21 control of a ~~qualified local governmental unit~~ **municipality** or
22 authority or the acquisition of property by a qualified local
23 governmental unit or authority if the acquisition of the property
24 is for economic development purposes.

25 **(v)** ~~(iv)~~ For eligible activities on eligible property that is
26 included in a transformational brownfield plan, any demolition,
27 construction, restoration, alteration, renovation, or improvement
28 of buildings or site improvements on eligible property, including
29 infrastructure improvements that directly benefit eligible

1 property.

2 (p) "Eligible property" means, except as otherwise provided in
 3 ~~this subdivision, subparagraph (vii)~~, property for which eligible
 4 activities are identified under a brownfield plan that was used or
 5 is currently used for commercial, industrial, public, or
 6 residential purposes, including personal property located on the
 7 property, to the extent included in the brownfield plan, and that
 8 ~~is-meets~~ 1 or more of the following **conditions listed in**
 9 **subparagraphs (i) to (vi):**

10 (i) Is in a qualified local governmental unit and is a facility
 11 or a site or property as those terms are defined in part 213,
 12 historic resource, functionally obsolete, or blighted and includes
 13 parcels that are adjacent or contiguous to that property if the
 14 development of the adjacent and contiguous parcels is estimated to
 15 increase the captured taxable value of that property.

16 (ii) Is not in a qualified local governmental unit and is a
 17 facility, historic resource, functionally obsolete, blighted, or a
 18 site or property as those terms are defined in part 213, and
 19 includes parcels that are adjacent or contiguous to that property
 20 if the development of the adjacent and contiguous parcels is
 21 estimated to increase the captured taxable value of that property.

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

24 (iv) Is a transit-oriented development or transit-oriented
 25 property.

26 (v) Is located in a qualified local governmental unit and
 27 contains a targeted redevelopment area.

28 (vi) Is undeveloped property that was eligible property in a
 29 previously approved brownfield plan abolished under section 14(8).

1 (vii) Eligible property does not include qualified agricultural
2 property exempt under section 7ee of the general property tax act,
3 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
4 district for school operating purposes to the extent provided under
5 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

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

9 (r) "Facility" means that term as defined in part 201.

10 (s) "Fiscal year" means the fiscal year of the authority.

11 (t) "Former mill" means a former mill that has not been used
12 for industrial purposes for the immediately preceding 2 years, that
13 is not located in a qualified local governmental unit, that is a
14 facility or is a site or a property as those terms are defined in
15 part 213, functionally obsolete, or blighted, and that is located
16 within 15 miles of a river that is a federal superfund site listed
17 under the comprehensive environmental response, compensation and
18 liability act of 1980, 42 USC 9601 to 9675, and that is located in
19 a municipality with a population of less than 10,000.

20 (u) "Functionally obsolete" means that the property is unable
21 to be used to adequately perform the function for which it was
22 intended due to a substantial loss in value resulting from factors
23 such as overcapacity, changes in technology, deficiencies or
24 superadequacies in design, or other similar factors that affect the
25 property itself or the property's relationship with other
26 surrounding property.

27 (v) "Governing body" means the elected body having legislative
28 powers of a municipality creating an authority under this act.

29 (w) "Historic resource" means that term as defined in section

1 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

2 (x) "Housing assistance activities" means 1 or more of the
3 following:

4 (i) A subsidy to an income qualified purchaser household equal
5 to the difference between the community's average home sale price
6 over the immediately preceding 12 months and that income qualified
7 purchaser household's maximum available mortgage capacity.

8 (ii) Reimbursement provided to a homeowner for qualified
9 rehabilitation and weatherization costs.

10 (iii) Reimbursement provided to a developer to fill a financing
11 gap associated with the development of housing units priced for
12 income qualified households and to assist with costs related to
13 infrastructure improvements and site preparation that is not a
14 response activity and that directly benefits new housing
15 development for income qualified households on eligible property.

16 (iv) Reimbursement provided to owners of rental housing units
17 for qualified rehabilitation.

18 (y) "Housing development activities" means 1 or more of the
19 following:

20 (i) Reimbursement provided to owners of rental housing units
21 for qualified rehabilitation.

22 (ii) Costs for public infrastructure and safety improvements,
23 including parks and public facilities, directly related to a
24 housing project.

25 (iii) Costs of demolition and renovation of existing buildings
26 and site preparation, to the extent necessary to accommodate an
27 income qualified purchaser household or income qualified renting
28 household.

29 (iv) Temporary household relocation costs for an income

1 qualified household for a period not to exceed 1 year.

2 (z) "Income qualified household" means a person, a family, or
 3 unrelated persons living together whose annual household income is
 4 not more than 120% of the area median income. As used in this
 5 subdivision:

6 (i) "Area median income" means the median income for the area
 7 as determined under section 8 of the United States housing act of
 8 1937, 42 USC 1437f, adjusted for family size.

9 (ii) "Household income" means all income received by all
 10 individuals in a household while members of the household.

11 (aa) "Income qualified purchaser household" means a purchaser
 12 who is, or who is a member of, an income qualified household.

13 (bb) "Income qualified renting household" means a renter who
 14 is, or who is a member of, an income qualified household.

15 (cc) ~~(x)~~ "Income tax" means the tax levied and imposed under
 16 part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to
 17 206.532.

18 (dd) ~~(y)~~ "Income tax capture revenues" means, with respect to
 19 each eligible property subject to a transformational brownfield
 20 plan, funds equal to the amount for each tax year by which the
 21 aggregate income tax from individuals residing within the eligible
 22 property subject to a transformational brownfield plan exceeds the
 23 initial income tax value. Subject to subparagraph (iii), the state
 24 treasurer shall calculate annually the income tax capture revenues
 25 associated with each transformational brownfield plan. In
 26 calculating income tax capture revenues, the state treasurer shall
 27 subtract from the aggregate amount of income tax credits under
 28 sections 255, 265, 266, and chapter 9 of the income tax act of
 29 1967, 1967 PA 281, MCL 206.255, 206.265, 206.266, and 206.501 to

1 206.532. The state treasurer shall require the owner or developer
2 of the eligible property to provide to the department of treasury
3 all of the following information at the end of each calendar year,
4 including the year in which the resolution adding that eligible
5 property in the transformational brownfield plan is adopted:

6 (i) A list of addresses for all residential units, rental or
7 owner-occupied, within the eligible property.

8 (ii) Any other information that may be necessary to calculate
9 the income tax capture revenues. The information required under
10 this subdivision ~~shall~~**must** be provided in a manner prescribed by
11 the state treasurer.

12 (iii) Notwithstanding anything to the contrary in this
13 subdivision, ~~in lieu~~**instead** of the reporting and calculation
14 methods otherwise provided for, the owner or developer of a
15 transformational brownfield project site may elect to utilize a
16 safe harbor method of calculating income tax capture revenues.
17 Under this safe harbor method, the Michigan strategic fund shall
18 establish a safe harbor amount of annual income tax capture
19 revenues for each eligible property ~~at the time~~**when** the Michigan
20 strategic fund approves the transformational brownfield plan, and
21 those amounts shall serve as the basis for the transmittal of
22 income tax capture revenues to the owner or developer of the
23 transformational project site under section 8a(4). The Michigan
24 strategic fund shall establish the safe harbor amount for an
25 eligible property by imputing a standard annual taxable income for
26 households residing within the eligible property or portion of the
27 eligible property. The safe harbor is effective only to the extent
28 that the residential units within the eligible property or portion
29 of the eligible property are actively leased or, in the case of

1 units made available for sale, sold in an arms-length transaction.
 2 Imputations as to standard household taxable income may vary based
 3 on location and other relevant factors. The Michigan strategic fund
 4 may adjust the safe harbor amount for an eligible property, or
 5 portion of the eligible property, after the time of
 6 transformational brownfield plan approval as required to reflect
 7 changes in the transformational brownfield plan for the
 8 transformational project site that may occur after approval of the
 9 transformational brownfield plan, ~~provided that~~ **if** those changes
 10 ~~may do~~ not result in an aggregate increase in the level of income
 11 tax capture revenues from the amount initially established. The
 12 owner or developer of the transformational project site may ~~make~~
 13 ~~the election~~ **elect** to utilize the safe harbor method of accounting
 14 at any time ~~prior to~~ **before** the first reimbursement of income tax
 15 capture revenues under the transformational brownfield plan. ~~7~~
 16 ~~provided that an~~ **An election to utilize the safe harbor method of**
 17 **accounting**, once made, cannot be rescinded.

18 (ee) ~~(z)~~ "Industrial cleaning" means cleaning or removal of
 19 contaminants from within a structure necessary to achieve the
 20 intended use of the property.

21 (ff) ~~(aa)~~ "Infrastructure improvements" means a street, road,
 22 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
 23 sewage treatment plant, property designed to reduce, eliminate, or
 24 prevent the spread of identified soil or groundwater contamination,
 25 drainage system, waterway, waterline, water storage facility, rail
 26 line, utility line or pipeline, transit-oriented development,
 27 transit-oriented property, or other similar or related structure or
 28 improvement, together with necessary easements for the structure or
 29 improvement, owned or used by a public agency or functionally

1 connected to similar or supporting property owned or used by a
 2 public agency, or designed and dedicated to use by, for the benefit
 3 of, or for the protection of the health, welfare, or safety of the
 4 public generally, whether or not used by a single business entity,
 5 ~~provided that if~~ any road, street, or bridge ~~shall be~~ **is**
 6 continuously open to public access and ~~that other property shall be~~
 7 **is** located in public easements or rights-of-way and sized to
 8 accommodate reasonably foreseeable development of eligible property
 9 in adjoining areas. Infrastructure improvements also include 1 or
 10 more of the following whether publicly or privately owned or
 11 operated or located on public or private property:

12 (i) Underground parking.

13 (ii) Multilevel parking structures.

14 (iii) Urban stormwater management systems.

15 **(gg)** ~~(bb)~~ "Initial income tax value" means, with respect to
 16 each eligible property subject to a transformational brownfield
 17 plan, the aggregate amount of income tax less credits under
 18 sections 255, 265, 266, and chapter 9 of the income tax act of
 19 1967, 1967 PA 281, MCL 206.255, 206.265, 206.266, and 206.501 to
 20 206.532, from individuals residing within the eligible property for
 21 the tax year in which the resolution adding that eligible property
 22 in the transformational brownfield plan is adopted.

23 **(hh)** ~~(ee)~~ "Initial taxable value" means the taxable value of
 24 an eligible property identified in and subject to a brownfield plan
 25 at the time the resolution adding that eligible property in the
 26 brownfield plan is adopted, as shown either by the most recent
 27 assessment roll for which equalization has been completed at the
 28 time the resolution is adopted or, if provided by the brownfield
 29 plan, by the next assessment roll for which equalization will be

1 completed following the date the resolution adding that eligible
2 property in the brownfield plan is adopted. Property exempt from
3 taxation at the time the initial taxable value is determined shall
4 be included with the initial taxable value of zero. Property for
5 which a specific tax is paid in lieu of property tax ~~shall~~**is** not
6 ~~be~~ considered exempt from taxation. The state tax commission shall
7 prescribe the method for calculating the initial taxable value of
8 property for which a specific tax was paid in lieu of property tax.
9 The initial assessed value may be modified by lowering the initial
10 assessed value once during the term of the brownfield plan through
11 an amendment as provided in section 14 after the tax increment
12 financing plan fails to generate captured taxes for 3 consecutive
13 years due to declines in assessed value.

14 **(ii)** ~~(dd)~~ "Initial withholding tax value" means, with respect
15 to each eligible property subject to a transformational brownfield
16 plan, the amount of income tax withheld under part 3 of the income
17 tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from
18 individuals employed within the eligible property for the calendar
19 year in which the resolution adding the eligible property to the
20 plan is adopted. The initial withholding tax value ~~shall~~**does** not
21 include construction period tax capture revenues.

22 **(jj)** ~~(ee)~~ "Land bank fast track authority" means an authority
23 created under the land bank fast track act, 2003 PA 258, MCL
24 124.751 to 124.774.

25 **(kk)** ~~(ff)~~ "Local taxes" means all taxes levied other than
26 taxes levied for school operating purposes.

27 **(ll)** "Michigan state housing development authority" means the
28 Michigan state housing development authority created in section 21
29 of the state housing development authority act of 1966, 1966 PA

1 346, MCL 125.1421.

2 (mm) ~~(gg)~~ "Michigan strategic fund" means the Michigan
3 strategic fund created under the Michigan strategic fund act, 1984
4 PA 270, MCL 125.2001 to 125.2094.

5 (nn) ~~(hh)~~ "Mixed-use" means a real estate project with planned
6 integration of some combination of retail, office, residential, or
7 hotel uses.

8 (oo) ~~(ii)~~ "Municipality" means all of the following:

9 (i) A city.

10 (ii) A village.

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

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

16 (v) A county.

17 (pp) ~~(jj)~~ "Owned by or under the control of" means that a land
18 bank fast track authority, **a municipality**, or a qualified local
19 **governmental** unit ~~of government~~ has 1 or more of the following:

20 (i) An ownership interest in the property.

21 (ii) A tax lien on the property.

22 (iii) A tax deed to the property.

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

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

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

28 (qq) ~~(kk)~~ "Part 111", "part 201", "part 211", or "part 213"
29 means that part as described as follows:

1 (i) Part 111 of the natural resources and environmental
2 protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

3 (ii) Part 201 of the natural resources and environmental
4 protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

5 (iii) Part 211 of the natural resources and environmental
6 protection act, 1994 PA 451, MCL 324.21101 to 324.21113.

7 (iv) Part 213 of the natural resources and environmental
8 protection act, 1994 PA 451, MCL 324.21301a to 324.21334.

9 **(rr)** ~~(ll)~~ "Qualified local governmental unit" means that term
10 as defined in the obsolete property rehabilitation act, 2000 PA
11 146, MCL 125.2781 to 125.2797.

12 **(ss)** "Qualified rehabilitation" means rehabilitation of
13 existing structures that is necessary to make a housing unit
14 suitable for sale to an income qualified purchaser household or
15 rent to an income qualified renting household.

16 **(tt)** ~~(mm)~~ "Qualified taxpayer" means that term as defined in
17 sections 38d and 38g of former 1975 PA 228, or section 437 of the
18 Michigan business tax act, 2007 PA 36, MCL 208.1437, or a recipient
19 of a community revitalization incentive as described in section 90a
20 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

21 **(uu)** ~~(nn)~~ "Release" means that term as defined in part 201 or
22 part 213.

23 **(vv)** ~~(oo)~~ "Response activity" means either of the following:

24 (i) Response activity as that term is defined in part 201.

25 (ii) Corrective action.

26 **(ww)** ~~(pp)~~ "Specific taxes" means ~~a~~ **all of the following:**

27 (i) **A** tax levied under **any of the following:**

28 **(A)** 1974 PA 198, MCL 207.551 to 207.572. ~~;~~ ~~the~~

29 **(B)** **The** commercial redevelopment act, 1978 PA 255, MCL 207.651

1 to 207.668. ~~the~~

2 (C) The enterprise zone act, 1985 PA 224, MCL 125.2101 to
3 125.2123. ~~the~~

4 (D) 1953 PA 189, MCL 211.181 to 211.182. ~~the~~

5 (E) The technology park development act, 1984 PA 385, MCL
6 207.701 to 207.718. ~~the~~

7 (F) The obsolete property rehabilitation act, 2000 PA 146, MCL
8 125.2781 to 125.2797. ~~the~~

9 (G) The neighborhood enterprise zone act, 1992 PA 147, MCL
10 207.771 to 207.786. ~~the~~

11 (H) The commercial rehabilitation act, 2005 PA 210, MCL
12 207.841 to 207.856. ~~or that~~

13 (ii) That portion of the tax levied under the tax reverted
14 clean title act, 2003 PA 260, MCL 211.1021 to 211.1025a, that is
15 not required to be distributed to a land bank fast track authority.

16 (xx) ~~(qq)~~ "State brownfield redevelopment fund" means the
17 state brownfield redevelopment fund created in section 8a.

18 (yy) ~~(rr)~~ "Targeted redevelopment area" means not fewer than
19 40 and not more than 500 contiguous parcels of real property
20 located in a qualified local governmental unit and designated as a
21 targeted redevelopment area by resolution of the governing body and
22 approved by the Michigan strategic fund. A qualified local
23 governmental unit is limited to designating no more than 2 targeted
24 redevelopment areas for the purposes of this section in a calendar
25 year. The Michigan strategic fund may approve no more than 5
26 targeted redevelopment areas for the purposes of this section in a
27 calendar year.

28 (zz) ~~(ss)~~ "Tax increment revenues" means the amount of ad
29 valorem property taxes and specific taxes attributable to the

1 application of the levy of all taxing jurisdictions ~~upon~~**on** the
 2 captured taxable value of each parcel of eligible property subject
 3 to a brownfield plan and personal property located on that
 4 property, regardless of whether those taxes began to be levied
 5 after the brownfield plan was adopted. Tax increment revenues do
 6 not include any of the following:

7 (i) Ad valorem property taxes specifically levied for the
 8 payment of principal of and interest on either obligations approved
 9 by the electors or obligations pledging the unlimited taxing power
 10 of the local governmental unit, and specific taxes attributable to
 11 those ad valorem property taxes.

12 (ii) For tax increment revenues attributable to eligible
 13 property, ~~also exclude~~ the amount of ad valorem property taxes or
 14 specific taxes captured by a downtown development authority under
 15 part 2 of the recodified tax increment financing act, 2018 PA 57,
 16 MCL 125.4201 to 125.4230, tax increment finance authority under the
 17 tax increment finance authority act, ~~part~~, part 3 of the recodified
 18 tax increment financing act, 2018 PA 57, MCL 125.4301 to 125.4329,
 19 corridor improvement authority under part 6 of the recodified tax
 20 increment financing act, 2018 PA 57, MCL 125.4602 to 125.4629, or
 21 local development finance authority under part 4 of the recodified
 22 tax increment financing act, 2018 PA 57, MCL 125.4401 to 125.4420,
 23 if those taxes were captured by these other authorities on the date
 24 that eligible property became subject to a brownfield plan under
 25 this act, **unless these other authorities agree to forgo their taxes**
 26 **in support of the brownfield plan.**

27 (iii) Ad valorem property taxes levied under 1 or more of the
 28 following or specific taxes attributable to those ad valorem
 29 property taxes:

1 (A) The zoological authorities act, 2008 PA 49, MCL 123.1161
2 to 123.1183.

3 (B) The art institute authorities act, 2010 PA 296, MCL
4 123.1201 to 123.1229.

5 (aaa) ~~(tt)~~ "Taxable value" means the value determined under
6 section 27a of the general property tax act, 1893 PA 206, MCL
7 211.27a.

8 (bbb) ~~(uu)~~ "Taxes levied for school operating purposes" means
9 all of the following:

10 (i) The taxes levied by a local school district for operating
11 purposes.

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

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

16 (ccc) ~~(vv)~~ "Transformational brownfield plan" means a
17 brownfield plan that meets the requirements of section 13c and is
18 adopted under section 14a and, as designated by resolution of the
19 governing body and approved by the Michigan strategic fund, will
20 have a transformational impact on local economic development and
21 community revitalization based on the extent of brownfield
22 redevelopment and growth in population, commercial activity, and
23 employment that will result from the plan. To be designated a
24 transformational brownfield plan, a transformational brownfield
25 plan under this subdivision ~~shall~~ **must** be for mixed-use development
26 unless waived by the Michigan strategic fund as provided under
27 section 14a(26) and ~~shall~~ **must** be expected to result in the
28 following levels of capital investment:

29 (i) In a municipality that is not a county and that has a

1 population of at least 600,000, \$500,000,000.00.

2 (ii) In a municipality that is not a county and that has a
3 population of at least 150,000 and not more than 599,999,
4 \$100,000,000.00.

5 (iii) In a municipality that is not a county and that has a
6 population of at least 100,000 and not more than 149,999,
7 \$75,000,000.00.

8 (iv) In a municipality that is not a county and that has a
9 population of at least 50,000 and not more than 99,999,
10 \$50,000,000.00.

11 (v) In a municipality that is not a county and that has a
12 population of at least 25,000 and not more than 49,999,
13 \$25,000,000.00.

14 (vi) In a municipality that is not a county and that has a
15 population of less than 25,000, \$15,000,000.00.

16 (ddd) ~~(ww)~~ "Transit-oriented development" means infrastructure
17 improvements that are located within 1/2 mile of a transit station
18 or transit-oriented property that promotes transit ridership or
19 passenger rail use as determined by the board and approved by the
20 municipality in which it is located.

21 (eee) ~~(xx)~~ "Transit-oriented property" means property that
22 houses a transit station in a manner that promotes transit
23 ridership or passenger rail use.

24 (fff) ~~(yy)~~ "Withholding tax capture revenues" means, with
25 respect to each eligible property subject to a transformational
26 brownfield plan, the amount for each calendar year by which the
27 income tax withheld under part 3 of the income tax act of 1967,
28 1967 PA 281, MCL 206.701 to 206.713, from individuals employed
29 within the eligible property exceeds the initial withholding tax

1 value. Withholding tax capture revenues shall not include income
2 tax from individuals domiciled within the eligible property or
3 construction period tax capture revenues. To calculate withholding
4 tax capture revenues for a calendar year under a transformational
5 brownfield plan, the state treasurer or the Michigan strategic fund
6 shall do all of the following:

7 (i) The state treasurer shall require the owner or developer of
8 the eligible property to provide the department of treasury with
9 notice not more than 10 days from the date an employer commences or
10 terminates occupancy within the eligible property. As used in this
11 subdivision, "employer" means that term as defined in section 8 of
12 the income tax act of 1967, 1967 PA 281, MCL 206.8.

13 (ii) The state treasurer shall develop methods and processes
14 that are necessary for each employer occupying the eligible
15 property to report the amount of withholding under part 3 of the
16 income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from
17 individuals employed within the eligible property.

18 (iii) The Michigan strategic fund shall include the following
19 provisions in the development or reimbursement agreement for any
20 transformational brownfield plan that utilizes withholding tax
21 capture revenues:

22 (A) That the owner or developer of the eligible property shall
23 require each employer occupying the eligible property to comply
24 with the reporting requirements under this section through a
25 contract requirement, lease requirement, or other such means.

26 (B) That reimbursement of withholding tax capture revenues is
27 limited to amounts that are reported in accordance with part 3 of
28 the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713,
29 and this state has no obligation with respect to withholding tax

1 capture revenues that are not reported or paid.

2 (iv) Notwithstanding anything to the contrary in this
3 subdivision, ~~in lieu~~ **instead** of the reporting and calculation
4 methods otherwise provided for, the owner or developer of a
5 transformational project site may elect to utilize a safe harbor
6 method of calculating withholding tax capture revenues. Under this
7 safe harbor method, the Michigan strategic fund shall establish a
8 safe harbor amount of annual withholding tax capture revenues for
9 each eligible property at the time the Michigan strategic fund
10 approves the transformational brownfield plan, and those amounts
11 shall serve as the basis for the transmittal of withholding tax
12 capture revenues to the owner or developer of the transformational
13 project site under section 8a(4). The Michigan strategic fund shall
14 establish the safe harbor amount for an eligible property by
15 imputing a standard level of employee occupancy that corresponds to
16 the size and use of the eligible property or portion of the
17 eligible property and a safe harbor average annual taxable wage for
18 the individuals employed within the eligible property or portion of
19 the eligible property. The safe harbor ~~shall be~~ **is** effective only
20 to the extent the eligible property or portion of the eligible
21 property is actively occupied, as evidenced by the existence of a
22 binding lease agreement or similar instrument. Imputations as to
23 occupancy and wages may vary between projects based on location,
24 the type and use of the eligible property, and other relevant
25 factors. The Michigan strategic fund may adjust the safe harbor
26 amount for an eligible property, or portion of the eligible
27 property, after the time of plan approval as required to reflect
28 changes in the transformational brownfield plan for the
29 transformational project site that may occur after approval of the

1 transformational brownfield plan, ~~provided that any of~~ **if** those
 2 changes ~~may do~~ not result in an aggregate increase in the level of
 3 withholding tax capture revenues from the amount initially
 4 established. The owner or developer of the transformational project
 5 site may ~~make the election~~ **elect** to utilize the safe harbor method
 6 of accounting at any time ~~prior to~~ **before** the first reimbursement
 7 of withholding tax capture revenues under the plan. ~~, provided that~~
 8 ~~an~~ **An election to utilize the safe harbor method of accounting,**
 9 once made, cannot be rescinded.

10 **(ggg)** ~~(zz)~~ "Work plan" means a plan that describes each
 11 individual activity to be conducted to complete eligible activities
 12 and the associated costs of each individual activity.

13 **(hhh)** ~~(aaa)~~ "Zone" means, for an authority established before
 14 June 6, 2000, a brownfield redevelopment zone designated under this
 15 act.

16 Sec. 8. (1) An authority may establish a local brownfield
 17 revolving fund. A local brownfield revolving fund shall consist of
 18 funds deposited from the following sources:

19 (a) Funds appropriated or otherwise made available from public
 20 or private sources.

21 (b) Local tax and school operating tax increment revenue
 22 captured in excess of the amount authorized for eligible expenses
 23 under section 13(4) only ~~when~~ **if** all of the following conditions
 24 are met:

25 (i) The excess capture occurs during the time of capture for
 26 the purpose of paying the costs permitted under section 13(4), or
 27 for not more than 5 years after the time that capture is required
 28 for the purpose of paying the costs permitted under section 13(4),
 29 or both.

1 (ii) The excess local tax capture shall not exceed the total of
2 the cost of eligible activities approved in the brownfield plan.

3 (iii) The excess capture of taxes for school operating purposes
4 shall not exceed the total of the cost of eligible department
5 specific activities approved in the applicable brownfield plan,
6 combined brownfield plan, or work plan. The total excess tax
7 capture shall not exceed the total of the cost of eligible
8 activities approved in the brownfield plan.

9 (iv) Excess tax increment revenues from taxes levied for school
10 operating purposes for eligible activities authorized under section
11 13b(4) by the Michigan strategic fund **or the Michigan state housing**
12 **development authority** shall not be captured for deposit in the
13 local brownfield revolving fund.

14 (2) The capture of school operating tax increment revenue
15 described in subsection (1)(b) is subject to the 50% capture
16 specified in section 13b(14).

17 (3) The tax increment revenues from eligible property for
18 deposit in the local brownfield revolving fund may include tax
19 increment revenues attributable to taxes levied for school
20 operating purposes in an amount not greater than the tax increment
21 revenues levied for school operating purposes captured from the
22 eligible property pursuant to section 13(4).

23 (4) The local brownfield revolving fund may be used only to
24 pay the costs of eligible activities on property that is located
25 within the municipality and meets at least 1 of the conditions
26 under section 2(o). However, activities outlined in section 13b(8)
27 may be conducted and funded on prospective properties.

28 (5) An authority or a municipality on behalf of an authority
29 may incur an obligation for the purpose of funding a local

1 brownfield revolving fund.

2 Sec. 13. (1) When adopting a brownfield plan, the board shall
3 comply with the notice and approval provisions of section 14.

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

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

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

26 (c) An estimate of the captured taxable value and tax
27 increment revenues for each year of the plan from the eligible
28 property. The plan may provide for the use of part or all of the
29 captured taxable value, including deposits in the local brownfield

1 revolving fund, but the portion intended to be used ~~shall~~**must** be
2 clearly stated in the plan. The plan ~~shall~~**must** not provide either
3 for an exclusion from captured taxable value of a portion of the
4 captured taxable value or for an exclusion of the tax levy of 1 or
5 more taxing jurisdictions unless the tax levy is excluded from tax
6 increment revenues in section ~~2(ss)~~**2(zz)**, or unless the tax levy
7 is excluded from capture under section 15.

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

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

14 (f) The proposed beginning date and duration of capture of tax
15 increment revenues for each eligible property as determined under
16 section 13b(16).

17 (g) An estimate of the future tax revenues of all taxing
18 jurisdictions in which the eligible property is located to be
19 generated during the term of the plan.

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

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

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

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

22 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
 23 213.332.

24 (m) Other material that the authority or governing body
 25 considers pertinent to the brownfield plan.

26 (3) ~~When~~**If** taxes levied for school operating purposes are
 27 subject to capture under section 15, the percentage of school
 28 operating tax increment revenues captured relating to a parcel of
 29 eligible property under a brownfield plan ~~shall~~**must** not be greater

1 than the percentage of local tax increment revenues that are
 2 captured under the brownfield plan relating to that parcel of
 3 eligible property, **unless there is another approved local**
 4 **contribution to the project that provides a value reasonably**
 5 **equivalent to that percentage of local capture.**

6 (4) Except as **otherwise** provided in subsection (5) and
 7 sections 8, 13b(4) and (5), and 13c(12), tax increment revenues
 8 related to a brownfield plan ~~shall~~**must** be used only for 1 or more
 9 of the following:

10 (a) Costs of eligible activities attributable to the eligible
 11 property that produces the tax increment revenues.

12 (b) Eligible activities attributable to any eligible property
 13 for property that is owned by or under the control of a land bank
 14 fast track authority or a qualified local unit of government.

15 (5) A brownfield plan may only authorize the capture of tax
 16 increment revenue from eligible property until the year in which
 17 the total amount of tax increment revenues captured is equal to the
 18 sum of the costs permitted to be funded with tax increment revenues
 19 under this act or for not more than 30 years from the beginning
 20 date of the capture of the tax increment revenues for that eligible
 21 property, whichever occurs first. A brownfield plan may authorize
 22 the capture of additional local and school operating tax increment
 23 revenue from an eligible property for the local brownfield
 24 revolving fund created under section 8 during 1 or more of the
 25 following time frames:

26 (a) The time of capture described in this subsection for the
 27 purpose of paying the costs permitted under subsection (4) or
 28 section 13b(4).

29 (b) For not more than 5 years after the date specified in

1 subdivision (a).

2 Sec. 13b. (1) An authority shall not expend tax increment
3 revenues to acquire or prepare eligible property unless the
4 acquisition or preparation is an eligible activity.

5 (2) An authority shall not enter into agreements with the
6 taxing jurisdictions and the governing body of the municipality to
7 share a portion of the taxes captured from an eligible property
8 under this act, **unless the agreement is related to another**
9 **authority forgoing tax capture in support of a brownfield plan.**

10 ~~Upon~~ **On** adoption of the plan, the collection and transmission of
11 the amount of tax increment revenues as specified in this act ~~shall~~
12 ~~be~~ **are** binding on all taxing units levying ad valorem property
13 taxes or specific taxes against property located in the zone.

14 (3) Tax increment revenues captured from taxes levied by this
15 state under the state education tax act, 1993 PA 331, MCL 211.901
16 to 211.906, or taxes levied by a local school district ~~shall~~ **must**
17 not be used to assist a land bank fast track authority with
18 clearing or quieting title, acquiring, selling, or conveying
19 property, except as provided in subsection (4).

20 (4) If a brownfield plan includes the use of taxes levied for
21 school operating purposes captured from an eligible property for
22 eligible activities that are not department specific activities,
23 then 1 or more of the following apply:

24 (a) A combined brownfield plan or a work plan ~~shall~~ **must** be
25 approved by the Michigan strategic fund and a development agreement
26 or reimbursement agreement between the municipality or authority
27 and an owner or developer of eligible property is required before
28 such tax increment may be used for ~~infrastructure~~ **any of the**
29 **following:**

1 **(i) Infrastructure** improvements that directly benefit eligible
2 property. demolition

3 **(ii) Demolition** of structures that is not response activity.
4 lead

5 **(iii) Lead**, mold, or asbestos abatement that is not a department
6 specific activity. site

7 **(iv) Site** preparation that is not response activity.
8 relocation

9 **(v) Relocation** of public buildings or operations for economic
10 development purposes. or acquisition

11 **(vi) Acquisition** of property by a land bank fast track
12 authority if acquisition of the property is for economic
13 development purposes.

14 **(vii) If subdivision (b) does not apply, housing assistance**
15 **activities or housing development activities.**

16 **(b) If 50% or more of the project, based on square footage, is**
17 **dedicated to residential use, and the work plan or combined**
18 **brownfield plan is requesting reimbursement for housing assistance**
19 **activities or housing development activities, the work plan or**
20 **combined brownfield plan must be approved by the Michigan state**
21 **housing development authority and a development agreement or**
22 **reimbursement agreement between the municipality or authority and**
23 **an owner or developer of eligible property that stipulates price**
24 **and income monitoring for residential units is required before such**
25 **tax increment may be used for housing assistance activities or**
26 **housing development activities.**

27 **(c) ~~(b)~~ Approval of a combined brownfield plan or a work plan**
28 **by the Michigan strategic fund in the manner required under section**
29 **15(12) to (14) or (20) is required ~~in order to~~ use the tax**

1 increment revenues to assist a land bank fast track authority or
2 qualified local governmental unit with clearing or quieting title,
3 acquiring, selling, or conveying property.

4 (d) ~~(e)~~—The combined brownfield plan or work plan to be
5 submitted to the Michigan strategic fund **or Michigan state housing**
6 **development authority** under this subsection ~~shall~~**must** be in a form
7 prescribed by the Michigan strategic fund **or the Michigan state**
8 **housing development authority, as applicable.**

9 (e) ~~(d)~~—The eligible activities to be conducted and described
10 in this subsection ~~shall~~**must** be consistent with the combined
11 brownfield plan or work plan submitted by the authority to the
12 Michigan strategic fund **or the Michigan state housing development**
13 **authority, or both, as applicable.**

14 (f) ~~(e)~~—The department's approval is not required for the
15 capture of taxes levied for school operating purposes for eligible
16 activities described in this section.

17 (5) If a brownfield plan includes the use of taxes levied for
18 school operating purposes captured from eligible property for
19 department specific activities, a combined brownfield plan or a
20 work plan must be approved by the department with the exception of
21 those activities identified in subsections (8) and (9).

22 (6) An authority shall not do any of the following:

23 (a) Use taxes captured from eligible property to pay for
24 eligible activities conducted before approval of the brownfield
25 plan.

26 (b) Use taxes captured from eligible property to pay for
27 administrative and operating activities of the authority or the
28 municipality on behalf of the authority for activities, other than
29 those identified in subsection (7).

1 (c) Use taxes levied for school operating purposes captured
2 from eligible property for activities other than those identified
3 in subsections (4), (5), and (12).

4 (d) Use construction period tax capture revenues, withholding
5 tax capture revenues, or income tax capture revenues to pay for
6 eligible activities conducted before approval of the
7 transformational brownfield plan except for costs described in
8 section 13c(10).

9 (e) Use construction period tax capture revenues, withholding
10 tax capture revenues, and income tax capture revenues for any
11 expense other than as provided for in section 13c(2), except for
12 the reasonable costs for preparing a transformational brownfield
13 plan and the additional administrative and operating expenses of
14 the authority or municipality as are specifically associated with
15 the implementation of a transformational brownfield plan. For
16 purposes of this subsection, the reasonable costs of preparing a
17 transformational brownfield plan include the reasonable costs of
18 preparing an associated work plan, combined brownfield plan, and
19 development or reimbursement agreement.

20 (7) An authority may use taxes captured from eligible property
21 to pay for the administrative and operating costs under 1 or more
22 of the following:

23 (a) Local taxes captured may be used for 1 or more of the
24 following administrative and operating purposes:

25 (i) Reasonable and actual administrative and operating expenses
26 of the authority.

27 (ii) Department specific activities conducted by or on behalf
28 of the authority related directly to work conducted on prospective
29 eligible properties ~~prior to~~ **before** approval of the brownfield

1 plan.

2 (iii) Reasonable costs of developing and preparing brownfield
3 plans, combined plans, or work plans for which tax increment
4 revenues may be used under subsection (4), including, but not
5 limited to, ~~legal~~ **both of the following:**

6 (A) **Legal** and consulting fees that are not in the ordinary
7 course of acquiring and developing real estate.

8 (B) **Fees and expenses, including licensing, permitting,
9 planning, engineering, architectural, testing, legal, and
10 accounting fees, not described in sub-subparagraph (A).**

11 (iv) Reasonable cost of brownfield plan or work plan
12 implementation, including, but not limited to, tracking and
13 reporting data and plan compliance.

14 (b) Taxes levied for school operating purposes may be used for
15 1 or more of the following administrative and operating purposes:

16 (i) Reasonable costs of developing and preparing brownfield
17 plans, combined brownfield plans, or work plans for which tax
18 increment revenues may be used under section 13(4), including, but
19 not limited to, ~~legal~~ **both of the following:**

20 (A) **Legal** and consulting fees that are not in the ordinary
21 course of acquiring and developing real estate, not to exceed
22 \$30,000.00.

23 (B) **Fees and expenses, including licensing, permitting,
24 planning, engineering, architectural, testing, legal, and
25 accounting fees, not described in sub-subparagraph (A).**

26 (ii) Reasonable costs of brownfield plan or work plan
27 implementation, including, but not limited to, tracking and
28 reporting of data and plan compliance, not to exceed \$30,000.00.

29 (c) In each fiscal year of the authority, the amount of tax

1 increment revenues attributable to local taxes that an authority
 2 ~~can~~**may** use for the purposes described in subdivisions (a) and (b)
 3 ~~shall be~~**is** determined as follows:

4 (i) For authorities that have 5 or fewer active projects,
 5 \$100,000.00.

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

8 (iii) For authorities that have 11 or more but fewer than 16
 9 active projects, \$150,000.00.

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

12 (v) For authorities that have 21 or more but fewer than 26
 13 active projects, \$200,000.00.

14 (vi) For authorities that have 26 or more but fewer than 31
 15 active projects, \$300,000.00.

16 (vii) For authorities that have 31 or more but fewer than 54
 17 active projects, \$500,000.00.

18 (viii) For authorities that have 54 or more but fewer than 74
 19 active projects, \$700,000.00.

20 (ix) For authorities that have 74 or more but fewer than 99
 21 active projects, \$900,000.00.

22 (x) For authorities that have 99 or more active projects,
 23 \$1,000,000.00.

24 (d) ~~Nothing contained in this~~**This** subsection ~~shall~~**does not**
 25 limit the amount of funds that may be granted, loaned, or expended
 26 by a local brownfield revolving fund for eligible activities.

27 (e) As used in this subsection, "active project" means a
 28 project in which the authority is currently capturing taxes under
 29 this act. The amounts of tax increment revenues attributable to

1 local taxes listed in this subsection that an authority can use for
2 the purposes described in this subsection may be increased by 2%
3 for each written agreement entered into by an authority in either
4 of the following situations up to a total maximum increase of 10%:

5 (i) The authority is an authority established by a county and
6 that authority enters into a written agreement with 1 or more
7 municipalities within that county to serve as the only authority
8 for those other municipalities.

9 (ii) The authority enters into a written agreement with 1 or
10 more other authorities to administer 1 or more administrative
11 operations of those other authorities.

12 (8) The limitations of subsections (4), (5), and (6) ~~upon on~~
13 the use of taxes levied for school operating purposes ~~shall do~~ not
14 apply to the costs of 1 or more of the following incurred by a
15 person other than the authority:

16 (a) Site investigation activities required to conduct a
17 baseline environmental assessment and to evaluate compliance with
18 sections 20107a and 21304c of the natural resources and
19 environmental protection act, 1994 PA 451, MCL 324.20107a and
20 324.21304c.

21 (b) Completing a baseline environmental assessment.

22 (c) Preparing a plan for compliance with sections 20107a and
23 21304c of the natural resources and environmental protection act,
24 1994 PA 451, MCL 324.20107a and 324.21304c.

25 (d) Performing pre-demolition and building hazardous materials
26 surveys.

27 (e) Asbestos, mold, and lead surveys.

28 (9) The limitations of subsections (4), (5), and (6) ~~upon on~~
29 the use of local taxes and taxes levied for school operating

1 purposes ~~shall~~**do** not apply to the following costs and expenses:

2 (a) For tax increment revenues attributable to taxes levied
3 for school operating purposes, eligible activities associated with
4 unanticipated response activities conducted on eligible property if
5 that eligible property has been included in a brownfield plan, ~~if~~
6 the department is consulted in writing on the unanticipated
7 response activities before they are conducted, and the costs of
8 those activities are subsequently included in a brownfield plan,
9 combined brownfield plan or a work plan or amendment approved by
10 the authority and approved by the department.

11 (b) For tax increment revenues attributable to local taxes,
12 any eligible activities conducted on eligible property or
13 prospective eligible properties ~~prior to~~**before** approval of the
14 brownfield plan, if those costs and the eligible property are
15 subsequently included in a brownfield plan approved by the
16 authority.

17 (c) For tax increment revenues attributable to taxes levied
18 for school operating purposes, eligible activities described in
19 subsection (4) and conducted on eligible property or prospective
20 eligible properties ~~prior to~~**before** approval of the brownfield
21 plan, if those costs and the eligible property are subsequently
22 included in a brownfield plan approved by the authority and a
23 combined brownfield plan or work plan approved by the Michigan
24 strategic fund **or the Michigan state housing development authority,**
25 **or both, as applicable.**

26 (d) Reasonable cost of developing and preparing brownfield
27 plans, combined brownfield plans, or work plans for which tax
28 increment revenues may be used under section 13(4), including, but
29 not limited to, legal and consulting fees that are not in the

1 ordinary course of acquiring and developing real estate.

2 (e) Reasonable cost of brownfield plan or work plan
3 implementation, including, but not limited to, tracking and
4 reporting of data and plan compliance.

5 (10) An authority shall not use taxes levied for school
6 operating purposes captured from eligible property for response
7 activities that benefit a party responsible for an activity causing
8 a release under section 20126 or 21323a of the natural resources
9 and environmental protection act, 1994 PA 451, MCL 324.20126 and
10 324.21323a, except that a municipality that established the
11 authority may use taxes levied for school operating purposes
12 captured from eligible property for response activities associated
13 with a landfill.

14 (11) A brownfield authority may reimburse advances, with or
15 without interest, made by a municipality under section 7(3), a land
16 bank fast track authority, or any other person or entity for costs
17 of eligible activities with any source of revenue available for use
18 of the brownfield authority under this act.

19 (12) A brownfield authority may capture taxes for the payment
20 of interest, as follows:

21 (a) If an authority reimburses a person or entity under this
22 section for an advance for the payment or reimbursement of the cost
23 of eligible activities and interest thereon, the authority may
24 capture local taxes for the payment of that interest.

25 (b) If an authority reimburses a person or entity under this
26 section for an advance for the payment or reimbursement of the cost
27 of department specific activities and interest thereon included in
28 a combined brownfield plan or a work plan approved by the
29 department, the authority may capture taxes levied for school

1 operating purposes and local taxes for the payment of that
2 interest.

3 (c) If an authority reimburses a person or entity under this
4 section for an advance for the payment or reimbursement of the cost
5 of eligible activities that are not department specific activities
6 and interest thereon included in a combined brownfield plan or a
7 work plan approved by the Michigan strategic fund **or the Michigan**
8 **state housing development authority, or both, as applicable,** the
9 authority may capture taxes levied for school operating purposes
10 and local taxes for the payment of that interest ~~provided that if~~
11 the Michigan strategic fund **or the Michigan state housing**
12 **development authority, as applicable,** grants an approval for the
13 capture of taxes levied for school operating purposes to pay such
14 interest.

15 (13) An authority may enter into agreements related to these
16 reimbursements and payments described in this section. A
17 reimbursement agreement for these purposes and the obligations
18 under that reimbursement agreement ~~shall is~~ not ~~be~~ subject to
19 section 13 or the revised municipal finance act, 2001 PA 34, MCL
20 141.2101 to 141.2821.

21 (14) Notwithstanding anything to the contrary in this act, for
22 a brownfield plan that includes the capture of taxes levied for
23 school operating purposes from each eligible property included in a
24 brownfield plan after January 1, 2013, an authority shall pay to
25 the department of treasury at least once annually an amount equal
26 to 50% of the taxes levied under the state education tax act, 1993
27 PA 331, MCL 211.901 to 211.906, including 50% of that portion of
28 specific taxes attributable to, but not levied under, the state
29 education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are

1 captured under the brownfield plan until the expiration of the
2 earlier of the following:

3 (a) Twenty-five years of capture of tax increment revenues
4 from such eligible property included in the brownfield plan.

5 (b) The later of **the following**:

6 (i) The date of repayment of all eligible expenses relative to
7 such eligible property.

8 (ii) The date excess capture is terminated under subsection
9 (16).

10 (15) ~~The~~ **Except as otherwise provided in this subsection, the**
11 department of treasury shall deposit the amounts described in
12 subsection (14) into the state brownfield redevelopment fund. **If**
13 **the brownfield plan includes housing assistance activities or**
14 **housing development activities, the department of treasury shall**
15 **deposit the amounts described in subsection (14) into the housing**
16 **development fund created in section 23 of the state housing**
17 **development authority act of 1966, 1966 PA 346, MCL 125.1423.** If an
18 authority makes a payment as required under subsection (14) to the
19 department of treasury, the local taxes levied on that parcel and
20 used to reimburse eligible activities under a brownfield plan ~~shall~~
21 **must** not be increased or decreased due to that payment. If, due to
22 an appeal of any tax assessment, an authority is required to
23 reimburse a taxpayer for any portion of the amount paid to the
24 department of treasury under this subsection, the department of
25 treasury shall reimburse that amount to the authority within 30
26 days after receiving a request from the authority for
27 reimbursement.

28 (16) The brownfield plan ~~shall~~ **must** include a proposed
29 beginning date of capture. If the actual beginning date of capture

1 of tax increment revenues is later than 5 years following the date
 2 of the adoption of the brownfield plan resolution, then the maximum
 3 number of years of capture will decrease. The end date of capture
 4 must be no later than 35 years after the date of the adoption of
 5 the brownfield plan resolution. The authority may amend the
 6 beginning date of capture of tax increment revenues for a
 7 particular eligible property as long as the authority has not begun
 8 to reimburse eligible activities from the capture of tax increment
 9 revenues from that eligible property. Any tax increment revenues
 10 captured from an eligible property before the beginning date of
 11 capture of tax increment revenues for that eligible property ~~shall~~
 12 **must** revert proportionately to the respective tax bodies.

13 Sec. 13c. (1) Subject to the approval of the governing body
 14 and Michigan strategic fund under section 14a, the board may
 15 implement a transformational brownfield plan. The transformational
 16 brownfield plan may consist of a single development on eligible
 17 property or a series of developments on eligible property that are
 18 part of a related program of investment, whether or not located on
 19 contiguous parcels, and may be amended to apply to additional
 20 parcels of eligible property. Each amendment to a transformational
 21 brownfield plan ~~shall~~**must** be approved by the governing body of the
 22 municipality in which it is located and the Michigan strategic fund
 23 and ~~shall~~**must** be consistent with the approval requirements in this
 24 section.

25 (2) A transformational brownfield plan may authorize the use
 26 of construction period tax capture revenues, withholding tax
 27 capture revenues, income tax capture revenues, and tax increment
 28 revenues for eligible activities described in section ~~2(o)(iv)~~.
 29 **2(o)(v)**. Except as **otherwise** provided ~~for~~ in section 13b(6)(d), tax

1 increment revenues, construction period tax capture revenues,
2 withholding tax capture revenues, and income tax capture revenues
3 ~~shall~~**must** be used only for the costs of eligible activities
4 included within the transformational brownfield plan to which the
5 revenues are attributable, including the cost of principal of and
6 interest on any obligation to pay the cost of the eligible
7 activities.

8 (3) A transformational brownfield plan is a brownfield plan
9 and, except as otherwise provided, is subject to sections 13, 13a,
10 13b, 14, and 15. ~~of this act.~~ In addition to the information
11 required under section 13(2), a transformational brownfield plan
12 ~~shall~~**must** contain all of the following:

13 (a) The basis for designating the plan as a transformational
14 brownfield plan under section ~~2(vv)-2~~ **(ccc)** .

15 (b) A description of the costs of the transformational
16 brownfield plan intended to be paid for with construction period
17 tax capture revenues, withholding tax capture revenues, and income
18 tax capture revenues.

19 (c) An estimate of the amount of construction period tax
20 capture revenues, withholding tax capture revenues, and income tax
21 capture revenues expected to be generated for each year of the
22 transformational brownfield plan from the eligible property.

23 (d) The beginning date and duration of capture of construction
24 period tax capture revenues, withholding tax capture revenues, and
25 income tax capture revenues for each eligible property as
26 determined under subsections (8) and (11).

27 (4) Subject to section 14a(7), the transformational brownfield
28 plan may provide for the use of part or all of the tax increment
29 revenues, construction period tax capture revenues, withholding tax

1 capture revenues, and income tax capture revenues. The portion of
 2 tax increment revenues, construction period tax capture revenues,
 3 withholding tax capture revenues, and income tax capture revenues
 4 to be used may vary over the duration of the transformational
 5 brownfield plan, but the portion intended to be used ~~shall~~**must** be
 6 clearly stated in the transformational brownfield plan.

7 (5) Approval of a transformational brownfield plan, or an
 8 amendment to a transformational brownfield plan, ~~shall~~**must** be in
 9 accordance with the notice, approval, and public hearing
 10 requirements of sections 14 and 14a, except that the governing body
 11 shall provide notice to the Michigan strategic fund not less than
 12 30 days before the hearing on a transformational brownfield plan.

13 (6) If a transformational brownfield plan authorizes the use
 14 of construction period tax capture revenues, withholding tax
 15 capture revenues, or income tax capture revenues, approval of a
 16 combined brownfield plan or work plan by the Michigan strategic
 17 fund and a written development or reimbursement agreement between
 18 the owner or developer of the eligible property, the authority, and
 19 the Michigan strategic fund are required. If a plan authorizes the
 20 use of tax increment revenues for eligible activities under section
 21 ~~2(e)(iv)~~**2(o)(v)** other than eligible activities described in section
 22 13b, approval of a work plan or combined brownfield plan by the
 23 Michigan strategic fund to use tax increment revenues for those
 24 additional eligible activities is required. A work plan or combined
 25 brownfield plan under this subsection ~~shall~~**must** be consolidated
 26 with a work plan or combined brownfield plan under section 13b(4).
 27 The eligible activities to be conducted ~~shall~~**must** be consistent
 28 with the work plan submitted by the authority to the Michigan
 29 strategic fund.

1 (7) ~~Upon~~**On** approval of the transformational brownfield plan
2 by the governing body and Michigan strategic fund, and the
3 execution of the written development or reimbursement agreement,
4 the transfer and distribution of construction period tax capture
5 revenues, withholding tax capture revenues, and income tax capture
6 revenues as specified in this act and in the plan ~~shall be~~**are**
7 binding on this state and the collection and transmission of the
8 amount of tax increment revenues as specified in this act and in
9 the plan ~~shall be~~**are** binding on all taxing units levying ad
10 valorem property taxes or specific taxes against property subject
11 to the transformational brownfield plan.

12 (8) A transformational brownfield plan ~~shall~~**must** not
13 authorize the capture or use of tax increment revenues,
14 construction period tax capture revenues, withholding tax capture
15 revenues, or income tax capture revenues after the year in which
16 the total amount of the revenue captured under the transformational
17 brownfield plan is equal to the sum of the costs permitted to be
18 funded with the revenue under the transformational brownfield plan.

19 (9) The brownfield authority and Michigan strategic fund may
20 reimburse advances, with or without interest, made by a
21 municipality under section 7(3), a land bank fast track authority,
22 or any other person or entity for costs of eligible activities
23 included within a transformational brownfield plan using tax
24 increment revenues, construction period tax capture revenues,
25 withholding tax capture revenues, or income tax capture revenues
26 attributable to that plan. ~~Upon~~**On** approval of the Michigan
27 strategic fund, the amount of tax increment revenues, construction
28 period tax capture revenues, withholding tax capture revenues, and
29 income tax capture revenues authorized to be captured under a

1 transformational brownfield plan may include amounts required for
2 the payment of interest under this subsection. A written
3 development or reimbursement agreement ~~shall~~**must** be entered into
4 under subsection (6) before any reimbursement or payment using tax
5 increment revenues, construction period tax capture revenues,
6 withholding tax capture revenues, or income tax capture revenues
7 may commence. A reimbursement agreement for these purposes and the
8 obligations under that reimbursement agreement ~~shall~~**are** not be
9 subject to section 12 or the revised municipal finance act, 2001 PA
10 34, MCL 141.2101 to 141.2821.

11 (10) Eligible activities conducted on eligible property ~~prior~~
12 ~~to~~**before** approval of the transformational brownfield plan may be
13 reimbursed from tax increment revenues, construction period tax
14 capture revenues, withholding tax capture revenues, and income tax
15 capture revenues if those costs and the eligible property are
16 subsequently included in a transformational brownfield plan
17 approved by the governing body and Michigan strategic fund, a
18 combined brownfield plan or work plan approved by the Michigan
19 strategic fund, and a written development or reimbursement
20 agreement under subsection (6). Reimbursement under this subsection
21 ~~shall be~~**is** limited to eligible expenses incurred within 90 days of
22 the approval of the transformational brownfield plan by the
23 Michigan strategic fund.

24 (11) The duration of the capture of withholding tax capture
25 revenues and income tax capture revenues under a transformational
26 brownfield plan for a particular eligible property ~~shall~~**must** not
27 exceed the lesser of the period authorized under subsection (8) or
28 20 years from the beginning date of the capture of withholding tax
29 capture revenues and income tax capture revenues for that eligible

1 property. The beginning date for the capture of tax increment
 2 revenues, withholding tax capture revenues, and income tax capture
 3 revenues for an eligible property ~~shall~~**must** not be later than 5
 4 years following the date the Michigan strategic fund approves the
 5 inclusion of the eligible property in a transformational brownfield
 6 plan. Subject to the approval of the governing body and Michigan
 7 strategic fund, the authority may amend the beginning date of
 8 capture of tax increment revenues, withholding tax capture
 9 revenues, and income tax capture revenues to a date not later than
 10 5 years following the date the Michigan strategic fund approved
 11 inclusion of the eligible property in the transformational
 12 brownfield plan ~~so long as~~**if** capture of the revenues under the
 13 transformational brownfield plan has not yet commenced.

14 (12) For purposes of subsection (1), a series of developments
 15 on parcels that are not contiguous ~~shall be~~**is** considered a related
 16 program of investment if all of the following are met:

17 (a) The developments are proposed to be undertaken
 18 concurrently or in reasonable succession.

19 (b) For developments under affiliated ownership, the
 20 developments are reasonably contiguous and are part of a program of
 21 investment in a logically defined geography, including, but not
 22 limited to, a downtown district as defined in section 201 of the
 23 recodified tax increment financing act, 2018 PA 57, MCL 125.4201,
 24 or a principal shopping district or business improvement district
 25 as defined in section 1 of 1961 PA 120, MCL 125.981, and including
 26 areas that are logically related to those districts and that will
 27 promote infill development.

28 (c) For developments under unrelated ownership, in addition to
 29 the criteria described in subdivisions (a) and (b), the

1 developments are part of a master development plan, area plan, sub-
2 area plan, or similar development plan that has been approved or
3 adopted by resolution of the governing body.

4 (d) The designation of the developments as a related program
5 of investment is consistent with the purposes of this act and is
6 not a combination of unrelated or minimally related projects
7 calculated to meet the minimum investment threshold.

8 (13) ~~Where~~**If** undeveloped property included in a
9 transformational brownfield plan has been designated as a
10 renaissance zone under the Michigan renaissance zone act, 1996 PA
11 376, MCL 125.2681 to 125.2696, upon the request of the owner or
12 developer of the eligible property and the local governmental unit
13 that designated the zone, the Michigan strategic fund, and a city
14 levying a tax under the city income tax act, 1964 PA 284, MCL
15 141.501 to 141.787, may elect under section 9(4) of the Michigan
16 renaissance zone act, 1996 PA 376, MCL 125.2689, to terminate the
17 exemptions, deductions, or credits provided for in section 9(1)(b)
18 and (c) of that act, and reimburse the authority, or owner or
19 developer of the eligible property, an annual amount equal to the
20 revenue collected for each tax year as a result of the termination
21 of the exemptions, deductions, or credits that would otherwise be
22 in effect. In implementing this subsection, all of the following
23 apply:

24 (a) The authority and Michigan strategic fund shall include
25 amounts anticipated to be collected under this subsection in the
26 income tax capture revenues authorized to be used under the
27 transformational brownfield plan and associated work plan or
28 combined brownfield plan.

29 (b) The state treasurer shall calculate for each tax year the

1 amount of revenue ~~the~~**this** state of Michigan collected as a result
2 of the operation of this subsection and shall deposit that amount
3 as income tax capture revenues into the state brownfield
4 redevelopment fund, where the funds ~~shall~~**must** be transmitted in
5 the manner provided for in sections 8a(4) and 16(8).

6 (c) A city levying a city income tax under the city income tax
7 act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each
8 tax year the amount of revenue the city collected as a result of
9 the operation of this subsection and shall enter into a binding
10 reimbursement agreement with the authority, and owner or developer
11 of the eligible property, providing for the payment of the amounts
12 to the authority, or the owner or developer of the eligible
13 property, for eligible activities as provided ~~for~~ in the
14 transformational brownfield plan. City income taxes administered by
15 the department of treasury pursuant to the city income tax act,
16 1964 PA 284, MCL 141.501 to 141.787, ~~shall be~~**are** subject to the
17 procedures of subdivision (b) regarding the calculation and deposit
18 of any revenue collected as a result of the operation of this
19 subsection.

20 (d) The department of treasury may require the owner or
21 developer to submit any information necessary for the calculation
22 of revenue collected pursuant to the operation of this subsection.
23 This state has no obligation for calculating revenues to be
24 collected pursuant to the operation of this subsection ~~where~~**if** the
25 required information is not reported.

26 (14) The authority and governing body are solely responsible
27 for deciding whether to seek approval of a brownfield plan as a
28 transformational brownfield plan. Nothing in this section or
29 section 14a ~~shall operate~~**operates** to prejudice or limit

1 consideration of a brownfield plan under sections 13 and 14,
2 including a decision by the Michigan strategic fund not to approve
3 a plan as a transformational brownfield plan.

4 (15) ~~Nothing in this~~ **This** act ~~is intended to~~ **does not** preclude
5 an authority established by a county from seeking approval of a
6 brownfield plan as a transformational brownfield plan. In the event
7 that an authority established by a county seeks approval of a plan
8 that extends into more than 1 of its component local units of
9 government and that plan includes eligible property in more than 1
10 municipality that is not a county, the minimum investment
11 requirements of section ~~2(vv) shall~~ **2(ccc) must** be established with
12 reference to combined population of the municipalities that are not
13 a county in which the eligible property is located.

14 Sec. 14. (1) Before approving a brownfield plan for an
15 eligible property, the governing body shall hold a public hearing
16 on the brownfield plan. By resolution, the governing body may
17 delegate the public hearing process to the authority or to a
18 subcommittee of the governing body subject to final approval by the
19 governing body.

20 (2) Notice of the time and place of the hearing on a
21 brownfield plan ~~shall~~ **must** contain all of the following:

22 (a) A description of the property to which the plan applies in
23 relation to existing or proposed highways, streets, streams, or
24 otherwise.

25 (b) A statement that maps, plats, and a description of the
26 brownfield plan are available for public inspection at a place
27 designated in the notice and that all aspects of the brownfield
28 plan are open for discussion at the public hearing required by this
29 section.

1 (c) Any other information that the governing body considers
2 appropriate.

3 (3) At the time set for the hearing on the brownfield plan
4 required under subsection (1), the governing body shall ensure that
5 interested persons have an opportunity to be heard and that written
6 communications with reference to the brownfield plan are received
7 and considered. The governing body shall ensure that a record of
8 the public hearing is made and preserved, including all data
9 presented at the hearing.

10 (4) Not less than 10 days before the hearing on the brownfield
11 plan, the governing body shall provide notice of the hearing to the
12 taxing jurisdictions that levy taxes subject to capture under this
13 act. The authority shall notify the taxing jurisdictions of the
14 proposed brownfield plan. At that hearing, an official from a
15 taxing jurisdiction with millage that would be subject to capture
16 under this act has the right to be heard in regard to the adoption
17 of the brownfield plan. Not less than 10 days before the hearing on
18 the brownfield plan, the governing body shall provide notice of the
19 hearing to the department if the brownfield plan involves the use
20 of taxes levied for school operating purposes to pay for eligible
21 activities that require the approval of a combined brownfield plan
22 or a work plan by the department under section 13b(6)(c), **the**
23 **Michigan state housing development authority, or its designee, if**
24 **the brownfield plan involves the use of taxes levied for school**
25 **operating purposes to pay for eligible activities subject to**
26 **13b(4)**, and the Michigan strategic fund, or its designee, if the
27 brownfield plan involves the use of taxes levied for school
28 operating purposes to pay for eligible activities subject to
29 section 13b(4) **other than eligible activities subject to 13b(4)(b).**

1 (5) Not less than 10 days after notice of the proposed
2 brownfield plan is provided to the taxing jurisdictions, the
3 governing body shall determine whether the plan constitutes a
4 public purpose. If the governing body determines that the plan does
5 not constitute a public purpose, the governing body shall reject
6 the plan. If the governing body determines that the plan
7 constitutes a public purpose, the governing body may then approve
8 or reject the plan, or approve it with modification, by resolution,
9 based on the following considerations:

10 (a) Whether the plan meets the requirements of sections 13 and
11 13b.

12 (b) Whether the proposed method of financing the costs of
13 eligible activities is feasible and the authority has the ability
14 to arrange the financing.

15 (c) Whether the costs of eligible activities proposed are
16 reasonable and necessary to carry out the purposes of this act.

17 (d) Whether the amount of captured taxable value estimated to
18 result from adoption of the plan is reasonable.

19 (6) Except as provided in this subsection, amendments to an
20 approved brownfield plan must be submitted by the authority to the
21 governing body for approval or rejection following the same notice
22 necessary for approval or rejection of the original plan. Notice is
23 not required for revisions in the estimates of captured taxable
24 value or tax increment revenues.

25 (7) The procedure, adequacy of notice, and findings with
26 respect to purpose and captured taxable value ~~shall be~~ **are**
27 presumptively valid unless contested in a court of competent
28 jurisdiction within 60 days after adoption of the resolution
29 adopting the brownfield plan. An amendment, adopted by resolution,

1 to a conclusive plan ~~shall~~**is** likewise ~~be~~conclusive unless
 2 contested within 60 days after adoption of the resolution adopting
 3 the amendment. If a resolution adopting an amendment to the plan is
 4 contested, the original resolution adopting the plan is not
 5 therefore open to contest.

6 (8) A brownfield plan or plan amendment may be abolished or
 7 terminated according to this subsection subject to all of the
 8 following:

9 (a) The governing body may abolish a brownfield plan when it
 10 finds that the purposes for which the plan was established are
 11 accomplished.

12 (b) The governing body may terminate a brownfield plan or plan
 13 amendment for an eligible property if the project for which
 14 eligible activities were identified in the brownfield plan or plan
 15 amendment fails to occur with respect to the eligible property for
 16 at least 2 years following the date of the resolution approving the
 17 brownfield plan or plan amendment, ~~provided that~~**if** the governing
 18 body first does both of the following:

19 (i) Gives 30 days' prior written notice to the developer at its
 20 last known address by certified mail or other method that documents
 21 proof of delivery attempted.

22 (ii) Provides the developer an opportunity to be heard at a
 23 public meeting.

24 (c) If a brownfield plan or plan amendment is terminated under
 25 subdivision (b), the governing body may approve a new brownfield
 26 plan or plan amendment for the eligible property under which tax
 27 increment revenues may be captured for up to the period of time
 28 provided under section 13(5).

29 (d) Notwithstanding anything in this subsection to the

1 contrary, a brownfield plan or plan amendment ~~shall~~**must** not be
2 abolished or terminated until the principal and interest on bonds
3 issued under section 17 and all other obligations to which the tax
4 increment revenues are pledged have been paid or funds sufficient
5 to make the payment have been identified or segregated.

6 Sec. 14a. (1) The governing body and Michigan strategic fund
7 shall determine whether to approve a transformational brownfield
8 plan in accordance with ~~the provisions of~~ this section.

9 (2) The governing body shall make an initial determination as
10 to whether the transformational brownfield plan constitutes a
11 public purpose in accordance with section 14(5). If the governing
12 body determines the transformational brownfield plan does not
13 constitute a public purpose, it shall reject the transformational
14 brownfield plan.

15 (3) If the governing body determines that the transformational
16 brownfield plan constitutes a public purpose, the governing body
17 may then approve or reject the transformational brownfield plan, or
18 approve it with modification, by resolution based on all of the
19 following considerations:

20 (a) Whether the transformational brownfield plan meets the
21 requirements of section ~~2(vv)~~, **2(ccc)**, which must include a
22 determination that the transformational brownfield plan is
23 calculated to, and has the reasonable likelihood to, have a
24 transformational impact on local economic development and community
25 revitalization based on the extent of brownfield redevelopment and
26 growth in population, commercial activity, and employment that will
27 result from the transformational brownfield plan.

28 (b) Whether the transformational brownfield plan meets the
29 requirements of sections 13, 13b, and 13c.

1 (c) Whether the costs of eligible activities proposed are
2 reasonable and necessary to carry out the purposes of this act.

3 (d) Whether the amount of captured taxable value, construction
4 period tax capture revenues, withholding tax capture revenues, and
5 income tax capture revenues estimated to result from adoption of
6 the transformational brownfield plan are reasonable.

7 (e) Whether the transformational brownfield plan takes into
8 account the criteria described in section 90b(4) of the Michigan
9 strategic fund act, 1984 PA 270, MCL 125.2090b.

10 (f) Whether subject to subsection (22) (d), the
11 transformational brownfield plan includes provisions for affordable
12 housing.

13 (4) Within 90 days of the completion of an administratively
14 complete application and the analysis required under subsection
15 (5), the Michigan strategic fund shall approve or reject the
16 transformational brownfield plan, or approve it with modification,
17 by resolution based on the criteria in subsection (3).

18 (5) In determining whether to approve a transformational
19 brownfield plan under subsection (3) (c) and (d), the Michigan
20 strategic fund shall conduct a financial and underwriting analysis
21 of the developments included in the plan. The analysis ~~shall~~**must**
22 consider both projected rental rates at the time of project
23 delivery and potential increases in rental rates over time. The
24 Michigan strategic fund shall not approve the use of construction
25 period tax capture revenues, withholding tax capture revenues, and
26 income tax capture revenues beyond the amount determined to be
27 necessary for the project to be economically viable. The Michigan
28 strategic fund shall develop standardized underwriting criteria for
29 determining economic viability. The Michigan strategic fund shall

1 take into account the impact of the sales and use tax exemptions
 2 under section 4d(n) of the general sales tax act, 1933 PA 167, MCL
 3 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL
 4 205.94dd, in determining the amount of construction period tax
 5 capture revenues, withholding tax capture revenues, and income tax
 6 capture revenues required for the project to be economically
 7 viable. The Michigan strategic fund shall ensure that each
 8 transformational brownfield plan includes a significant equity
 9 contribution from the owner or developer as determined by the fund.

10 (6) The Michigan strategic fund shall require an independent,
 11 third-party underwriting analysis under subsection (3)(d) for any
 12 plan that proposes to use more than \$10,000,000.00 in any year in
 13 withholding tax capture revenues and income tax capture revenues,
 14 as determined by the first full year of tax capture under the plan.
 15 The cost of the independent, third-party underwriting analysis
 16 ~~shall~~**must** be paid by the owner or developer of the eligible
 17 property. The Michigan strategic fund shall consult with the state
 18 treasurer ~~prior to~~**before** approving any transformational brownfield
 19 plan subject to this subsection. ~~Nothing in this~~**This** subsection
 20 ~~shall~~**does not** limit the ability of the Michigan strategic fund to
 21 utilize independent, third-party analyses on plans not subject to
 22 this subsection.

23 (7) Except as otherwise provided in this subsection, the
 24 Michigan strategic fund may not approve a transformational
 25 brownfield plan that proposes to use more than 50% of the
 26 withholding tax capture revenues or 50% of the income tax capture
 27 revenues. The Michigan strategic fund may modify the amount of
 28 withholding tax capture revenues and income tax capture revenues
 29 before approving a transformational brownfield plan ~~in order to~~

1 bring the transformational brownfield plan into compliance with
 2 subsection (5). The Michigan strategic fund may approve a
 3 transformational brownfield plan that proposes to use more than 50%
 4 of the income tax capture revenues if 1 of the following applies:

5 (a) The income tax capture revenues are attributable to the
 6 election under section 13c(13).

7 (b) The applicable eligible properties within the
 8 transformational brownfield plan are subject to a written, binding
 9 affordable housing agreement with the local governmental unit,
 10 which agreement ~~shall~~**must** be provided to the Michigan strategic
 11 fund, in which case the Michigan strategic fund may approve a
 12 transformational brownfield plan that proposes to use up to 100% of
 13 the income tax capture revenues, subject to the underwriting and
 14 financial analysis required under subsection (5).

15 (8) The Michigan strategic fund shall require the owner or
 16 developer of the eligible property to certify the actual capital
 17 investment, as determined in accordance with section ~~2(e)(iv)~~
 18 **2(o)(v)** and ~~section 2(vv)~~, ~~upon~~ **(ccc)**, **on** the completion of
 19 construction and before the commencement of reimbursement from
 20 withholding tax capture revenues, income tax capture revenues, or
 21 tax increment revenues, for the plan or the distinct phase or
 22 project within the plan for which reimbursement will be provided.
 23 If the actual capital investment is less than the amount included
 24 in the plan, the Michigan strategic fund shall review the
 25 determination under subsection (5) and may modify the amount of
 26 reimbursement if, and to the extent, such a modification is
 27 necessary to maintain compliance with subsection (5). The
 28 transformational brownfield plan, work plan, and development and
 29 reimbursement agreement ~~shall~~**must** include provisions to enforce

1 the requirements and remedies under this subsection. If the actual
 2 level of capital investment does not meet the applicable minimum
 3 investment requirement under section ~~2(vv)~~**2(ccc)** and is outside of
 4 the safe harbor under subsection (15), the Michigan strategic fund
 5 may take 1 of the following remedial actions:

6 (a) For a plan that consists of a single development, reduce
 7 the amount of reimbursement under the plan.

8 (b) For a plan that consists of distinct phases or projects,
 9 where the failure to meet the minimum investment threshold is the
 10 result of failure to undertake additional distinct phases or
 11 projects as provided for in the plan, 1 or more of the following:

12 (i) Permanently rescind the authorization to use tax increment
 13 revenues, construction period tax capture revenues, withholding tax
 14 capture revenues, and income tax capture revenues for the
 15 additional distinct phases or projects in the plan.

16 (ii) If the Michigan strategic fund determines that the
 17 applicable owner or developer acted in bad faith, reduce the amount
 18 of reimbursement for completed phases of the plan.

19 (9) ~~Upon~~**On** approval by the Michigan strategic fund, the
 20 minimum investment requirements in section ~~2(vv)~~**2(ccc)** and
 21 limitation under subsection (22) (a) and (b) may be waived if the
 22 transformational brownfield plan meets 1 of the following criteria:

23 (a) Is for eligible property in an area approved by the
 24 **Michigan** state housing development authority as eligible for blight
 25 elimination program funding under the housing finance agency
 26 innovation fund for the hardest hit housing markets authorized
 27 pursuant to the emergency economic stabilization act of 2008,
 28 **division A of** Public Law 110-343, 12 USC 5201 to 5261. For purposes
 29 of this subdivision, an area approved as eligible for blight

1 elimination program funding means that specific portion or portions
2 of a municipality where the Michigan state housing development
3 authority approved the expenditure of blight elimination program
4 funds pursuant to an application identifying the target areas.

5 (b) Is for eligible property in a municipality that was
6 subject to a state of emergency under the emergency management act,
7 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water
8 contamination.

9 (c) Is for eligible property that is a historic resource if
10 the Michigan strategic fund determines the redevelopment is not
11 economically feasible absent the transformational brownfield plan.

12 (d) Is for eligible property that is located in a city,
13 village, or township with a population of less than 25,000 or that
14 is otherwise eligible for the corresponding population tier in
15 section ~~2(vv)(vi)~~, **2(ccc)(vi)**, as determined in accordance with
16 subsection (15), if the Michigan strategic fund determines that the
17 redevelopment is not economically feasible absent the
18 transformational brownfield plan.

19 (10) In determining whether a plan under subsection (9) has a
20 transformational impact for purposes of section ~~2(vv)~~ **2(ccc)** and
21 subsection (3)(a), the governing body and Michigan strategic fund
22 shall consider the impact of the transformational brownfield plan
23 in relation to existing investment and development conditions in
24 the project area and whether the transformational brownfield plan
25 will act as a catalyst for additional revitalization of the area in
26 which it is located.

27 (11) The Michigan strategic fund may not approve more than 5
28 transformational brownfield plans under subsection (9) in a
29 calendar year, except that if the Michigan strategic fund approves

1 fewer than 5 plans in a calendar year under subsection (9), the
2 unused approval authority ~~shall carry~~ **carries** forward into future
3 calendar years and ~~remain~~ **remains** available until December 31,
4 2027. The Michigan strategic fund also shall not approve more than
5 5 transformational brownfield plans under subsection (9) in any
6 individual city, village, or township ~~prior to~~ **before** December 31,
7 2022.

8 (12) Except as **otherwise** provided in this subsection,
9 amendments to an approved transformational brownfield plan ~~shall~~
10 **must** be submitted by the authority to the governing body and to the
11 Michigan strategic fund for approval or rejection following the
12 same notice necessary for approval or rejection of the original
13 transformational brownfield plan. Notice is not required for
14 revisions in the estimates of tax increment revenues, construction
15 period tax capture revenues, withholding tax capture revenues, or
16 income tax capture revenues.

17 (13) Except as provided in this subsection, an amendment to an
18 approved transformational brownfield plan under section 13c(1)
19 ~~shall is~~ not ~~be~~ considered a new plan approval subject to the
20 limitation in subsection (22)(a). The Michigan strategic fund may
21 consider an amendment as a new plan approval only ~~where~~ **if** the
22 amendment adds eligible property and the Michigan strategic fund
23 determines that approving the addition as an amendment would be
24 inconsistent with the purposes of this act.

25 (14) The procedure, adequacy of notice, and findings under
26 this section ~~shall be~~ **are** presumptively valid unless contested in a
27 court of competent jurisdiction within 60 days after approval of
28 the transformational brownfield plan by the Michigan strategic
29 fund. An approved amendment to a conclusive transformational

1 brownfield plan ~~shall~~**is** likewise ~~be~~ conclusive unless contested
 2 within 60 days after approval of the amendment by the Michigan
 3 strategic fund. If a resolution adopting an amendment to the
 4 transformational brownfield plan is contested, the original
 5 resolution adopting the transformational brownfield plan is not
 6 open to contest.

7 (15) The determination as to whether a transformational
 8 brownfield plan complies with the minimum investment requirements
 9 in section ~~2(vv)~~**2(ccc)** shall be made with reference to the most
 10 recent decennial census data available at the time of approval by
 11 the authority. A plan in a municipality that exceeds a population
 12 tier under section ~~2(vv)~~**2(ccc)** by not more than 10% of the maximum
 13 population for that tier shall, ~~upon~~**on** election of the authority,
 14 be subject to the investment requirement for that tier. A
 15 transformational brownfield plan that is expected to result in, or
 16 does result in, a total capital investment that is within 10% of
 17 the applicable minimum investment requirement ~~shall be~~**is**
 18 considered to satisfy the applicable requirement under section
 19 ~~2(vv)~~**2(ccc)**.

20 (16) For purposes of a transformational brownfield plan,
 21 determination as to whether property is functionally obsolete ~~as~~
 22 ~~defined under section 2(u)~~ may include considerations of economic
 23 obsolescence as determined in accordance with the Michigan state
 24 tax commission's assessor's manual.

25 (17) Any positive or negative determination by the Michigan
 26 strategic fund under this section ~~shall~~**must** be supported by
 27 objective analysis and documented in the record of its proceedings.

28 (18) The Michigan strategic fund shall charge and collect a
 29 reasonable application fee as necessary to cover the costs

1 associated with the review and approval of a transformational
2 brownfield plan.

3 (19) The Michigan strategic fund shall not commit, and the
4 department of treasury shall not disburse, more than \$40,000,000.00
5 in total annual tax capture. ~~For purposes of~~ **As used in** this
6 subsection, "total annual tax capture" means the total annual
7 amount of income tax capture revenues and withholding tax capture
8 revenues that may be reimbursed each calendar year under all
9 transformational brownfield plans. If the amount committed or
10 disbursed in a calendar year is less than \$40,000,000.00, the
11 difference between that amount and \$40,000,000.00 ~~shall be~~ **is**
12 available to be committed or disbursed in subsequent calendar years
13 and ~~shall be~~ **is** in addition to the annual limit otherwise
14 applicable.

15 (20) The Michigan strategic fund shall not commit, and the
16 department of treasury shall not disburse, a total amount of income
17 tax capture revenues and withholding tax capture revenues that
18 exceeds \$800,000,000.00.

19 (21) The Michigan strategic fund shall not approve more than a
20 total of \$200,000,000.00 in construction period tax capture
21 revenues and in projected sales and use tax exemptions under
22 section 4d(n) of the general sales tax act, 1933 PA 167, MCL
23 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL
24 205.94dd. The Michigan strategic fund shall project the value of
25 the sales and use tax exemptions under each transformational
26 brownfield plan at the time of plan approval and shall require such
27 information from the owner or developer as is necessary to perform
28 this calculation. The Michigan strategic fund also shall require
29 the owner or developer of the eligible property to report the

1 actual value of the sales and use tax exemptions each tax year of
 2 the construction period and at the end of the construction period.
 3 If the value of the actual sales and use tax exemptions and
 4 construction period tax capture revenues under all transformational
 5 brownfield plans exceeds the limit of \$200,000,000.00 under this
 6 subsection by more than a de minimis amount, as determined by the
 7 state treasurer, the state treasurer shall take corrective action
 8 and may reduce future disbursements to achieve compliance with the
 9 aggregate limitation under subsection (20) and this subsection. The
 10 corrective action described in this subsection ~~shall~~**must** not
 11 reduce the disbursement for an individual plan by an amount that is
 12 more than the amount by which the value of the sales and use tax
 13 exemptions for that plan exceeded the amount projected at the time
 14 of plan approval and included in the plan. The Michigan strategic
 15 fund and department of treasury shall prescribe specific methods
 16 for implementing this section ~~within 60 days of the effective date~~
 17 ~~of the amendatory act that added this section.~~**by September 22,**
 18 **2017.**

19 (22) The Michigan strategic fund shall comply with all of the
 20 following:

21 (a) Not approve more than 5 transformational brownfield plans
 22 in a calendar year, except that if the Michigan strategic fund
 23 approves fewer than 5 plans in a calendar year, the unused approval
 24 authority ~~shall carry~~**carries** forward into future calendar years
 25 and ~~remain~~**remains** available until December 31, 2027.

26 (b) Not approve more than 5 transformational brownfield plans
 27 in any individual city, village, or township ~~prior to~~**before**
 28 December 31, 2022.

29 (c) Ensure an equitable geographic distribution of plans

1 approved under this subsection, which ~~shall~~**must** achieve a balance
2 between the needs of municipalities of differing sizes and
3 differing geographic areas of the state. Subject to the receipt of
4 qualified transformational brownfield plans meeting the criteria
5 under this section and section 13c, the Michigan strategic fund
6 shall set a target that not less than 35% of the total
7 transformational brownfield plans approved under this act ~~prior to~~
8 **before** December 31, 2027 will be located in cities, villages, and
9 townships with a population of less than 100,000.

10 (d) In coordination with the governing body, shall determine
11 the appropriate provisions regarding affordable housing on a plan-
12 by-plan basis.

13 (23) In the event of a proposed change in ownership of
14 eligible property subject to a transformational brownfield plan for
15 which reimbursement will continue, the approval of the Michigan
16 strategic fund is required ~~prior to~~**before** the assignment or
17 transfer of the development and reimbursement agreement.

18 (24) If the Michigan strategic fund approves a
19 transformational brownfield plan and work plan, and subsequent to
20 that approval, amendments are made to this act, the Michigan
21 strategic fund may amend those plans to make conforming and
22 consistent changes to the approved transformational brownfield plan
23 and work plan on an administrative basis, ~~provided that~~**if** those
24 changes do not result in any increase in the aggregate total amount
25 of reimbursement authorized under the initial transformational
26 brownfield plan. The authority of the Michigan strategic fund to
27 administratively amend transformational brownfield plans and work
28 plans under this subsection also applies to transformational
29 brownfield plans and work plans entered into before ~~the effective~~

1 ~~date of the amendatory act that added this sentence.~~ **December 27,**
 2 **2021.**

3 (25) The Michigan strategic fund shall not approve any new
 4 transformational brownfield plans after December 31, 2027. A
 5 transformational brownfield plan approved ~~prior to~~ **before** December
 6 31, 2022 ~~shall remain~~ **remains** in effect and may be amended in
 7 accordance with ~~the provisions of~~ this act.

8 (26) ~~Upon~~ **On** approval by the Michigan strategic fund, the
 9 mixed-use requirement in section 2 ~~(vv)~~ **2 (ccc)** may be waived for a
 10 brownfield plan that otherwise meets the location, population, and
 11 minimum investment requirement under section 2 ~~(vv) (vi)~~ **2 (ccc) (vi)** .

12 Sec. 15. (1) To seek department approval of a work plan under
 13 section 13b(6)(c), the authority shall submit all of the following
 14 for each eligible property:

15 (a) A copy of the brownfield plan.

16 (b) Current ownership information for each eligible property
 17 and a summary of available information on proposed future
 18 ownership, including the amount of any delinquent taxes, interest,
 19 and penalties that may be due.

20 (c) A summary of available information on the historical and
 21 current use of each eligible property, including a brief summary of
 22 site conditions and what is known about environmental contamination
 23 as that term is defined in section 20101 of the natural resources
 24 and environmental protection act, 1994 PA 451, MCL 324.20101.

25 (d) Existing and proposed future zoning for each eligible
 26 property.

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

29 (2) ~~Upon~~ **On** receipt of a request for approval of a work plan

1 under subsection (1) or a portion of a work plan that pertains to
2 only department specific activities, the department shall review
3 the work plan according to subsection (3) and provide 1 of the
4 following written responses to the requesting authority within 60
5 days:

6 (a) An unconditional approval.

7 (b) A conditional approval that delineates specific necessary
8 modifications to the work plan to meet the criteria of subsection
9 (3), including, but not limited to, individual activities to be
10 modified, added, or deleted from the work plan and revision of
11 costs. The department may not condition its approval on deletions
12 from or modifications of the work plan relating to activities to be
13 funded solely by tax increment revenues not attributable to taxes
14 levied for school operating purposes.

15 (c) If the work plan lacks sufficient information for the
16 department to respond under subdivision (a), (b), or (d) for any
17 specific activity, a letter stating with specificity the necessary
18 additions or changes to the work plan to be submitted before that
19 activity will be considered by the department. The department shall
20 respond under subdivision (a), (b), or (d) according to this
21 section for the other activities in the work plan.

22 (d) A denial if the property is not an eligible property under
23 this act, if the work plan contemplates the use of taxes levied for
24 school operating purposes prohibited by section 13b(10), or for any
25 specific activity if the activity is prohibited by section
26 13b(6) (a). The department may also deny any activity in a work plan
27 that does not meet the conditions in subsection (3) only if the
28 department cannot respond under subsection (2) (b) or (c). The
29 department shall accompany the denial with a letter that states

1 with specificity the reason for the denial. The department shall
2 respond under subsection (2) (a), (b), or (c) according to this
3 section for any activities in the work plan that are not denied
4 under this subdivision. If the department denies all or a portion
5 of a work plan under this subdivision, the authority may
6 subsequently resubmit the work plan.

7 (3) The department may approve a work plan if the following
8 conditions have been met:

9 (a) Whether some or all of the activities constitute
10 department specific activities other than activities that are
11 exempt from the work plan approval process under section 13b(8).

12 (b) The department specific activities, other than the
13 activities that are exempt from the work plan approval process
14 under section 13b(8), are protective of the public health, safety,
15 and welfare and the environment. The department may approve
16 department specific activities that are more protective of the
17 public health, safety, and welfare and the environment than
18 required by section 20107a of the natural resources and
19 environmental protection act, 1994 PA 451, MCL 324.20107a, if those
20 activities provide public health or environmental benefit. In
21 review of a work plan that includes department specific activities
22 that are more protective of the public health, safety, and welfare
23 and the environment, the department's considerations may include,
24 but are not limited to, all of the following:

25 (i) Proposed new land use and reliability of restrictions to
26 prevent exposure to contamination.

27 (ii) The cost to implement activities minimally necessary to
28 achieve due care compliance, the total cost of response activities,
29 and the incremental cost of department specific activities in

1 excess of those activities minimally necessary to achieve due care
2 compliance.

3 (iii) Long-term obligations associated with leaving
4 contamination in place and the value of reducing or eliminating
5 these obligations.

6 (c) The estimated costs for the activities as a whole are
7 reasonable for the stated purpose. Except as provided in
8 subdivision (b), the department shall make the determination in
9 this subdivision only after the department determines that the
10 conditions in subdivisions (a) and (b) have been met.

11 (4) If the department fails to provide a written response
12 under subsection (2) within 60 days after receipt of a request for
13 approval of a work plan, the authority may proceed with the
14 activities as outlined in the work plan as submitted for approval.
15 Except as provided in subsection (5), activities conducted pursuant
16 to a work plan that was submitted to the department for approval
17 but for which the department failed to provide a written response
18 under subsection (2) ~~shall be~~ **are** considered approved for the
19 purposes of subsection (1). Within 45 days after receiving
20 additional information requested from the authority under
21 subsection (2)(c), the department shall review the additional
22 information according to subsection (3) and provide 1 of the
23 responses described in subsection (2) to the requesting authority
24 for the specific activity. If the department does not provide a
25 response to the requesting authority within 45 days after receiving
26 the additional information requested under subsection (2)(c), the
27 activity is approved under section 13b.

28 (5) The department may issue a written response to a work plan
29 more than 60 days but less than 6 months after receipt of a request

1 for approval. If the department issues a written response under
2 this subsection, the authority is not required to conduct
3 individual activities that are in addition to the individual
4 activities included in the work plan as it was submitted for
5 approval and failure to conduct these additional activities ~~shall~~
6 **does** not affect the authority's ability to capture taxes under
7 section 13b for the eligible activities described in the work plan
8 initially submitted under subsection (4). In addition, at the
9 option of the authority, these additional individual activities
10 shall be considered part of the work plan of the authority and
11 approved for purposes of section 13b. However, any response by the
12 department under this subsection that identifies additional
13 individual activities that must be carried out to satisfy part 201
14 or part 213 must be satisfactorily completed for the activities to
15 be considered acceptable for the purposes of compliance with part
16 201 or part 213.

17 (6) If the department issues a written response under
18 subsection (5) to a work plan and if the department's written
19 response modifies an individual activity proposed by the work plan
20 of the authority in a manner that reduces or eliminates a proposed
21 response activity, the authority must complete those individual
22 activities in accordance with the department's response in order
23 for that portion of the work plan to be considered approved for
24 purposes of section 13b, unless 1 or more of the following
25 conditions apply:

26 (a) Obligations for the individual activity have been issued
27 by the authority, or by a municipality on behalf of the authority,
28 to fund the individual activity ~~prior to~~ **before** issuance of the
29 department's response.

1 (b) The individual activity has commenced or payment for the
2 work has been irrevocably obligated ~~prior to~~**before** issuance of the
3 department's response.

4 (7) It ~~shall be~~**is** in the sole discretion of an authority to
5 propose to undertake department specific activities under
6 subsection (3)(b) at an eligible property under a brownfield plan.
7 The department shall not require a work plan to include department
8 specific activities that are more protective of public health,
9 safety, welfare, and the environment.

10 (8) The department shall review the portion of a work plan
11 that includes department specific activities in accordance with
12 subsection (3).

13 (9) The department's approval or denial of a work plan
14 submitted under this section constitutes a final decision in regard
15 to the use of taxes levied for school operating purposes but does
16 not restrict an authority's use of tax increment revenues
17 attributable to local taxes to pay for eligible activities under a
18 brownfield plan. If a person is aggrieved by the final decision,
19 the person may appeal under section 631 of the revised judicature
20 act of 1961, 1961 PA 236, MCL 600.631.

21 (10) To seek Michigan strategic fund approval of a work plan
22 under section 13b(4) or 13c(6) **or Michigan state housing**
23 **development authority approval of a work plan under section 13b(4),**
24 the authority shall submit all of the following for each eligible
25 property:

26 (a) A copy of the brownfield plan or the transformational
27 brownfield plan.

28 (b) Current ownership information for each eligible property
29 and a summary of available information on proposed future

1 ownership, including the amount of any delinquent taxes, interest,
2 and penalties that may be due.

3 (c) A summary of available information on the historical and
4 current use of each eligible property.

5 (d) Existing and proposed future zoning for each eligible
6 property.

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

9 (f) A separate work plan, or part of a work plan, for each
10 eligible activity described in section 13b(4) to be undertaken. For
11 a transformational brownfield plan, the Michigan strategic fund
12 shall prescribe the form and content for the work plan to address
13 additional eligible activities under section ~~2(e)(iv)~~ **2(o)(v)**.

14 (g) A copy of the development agreement or reimbursement
15 agreement required under section 13b(4) or 13c(6), which ~~shall~~ **must**
16 include, but is not limited to, a detailed summary of any and all
17 ownership interests, monetary considerations, fees, revenue and
18 cost sharing, charges, or other financial arrangements or other
19 consideration between the parties.

20 **(h) For work plans that include housing assistance activities**
21 **or housing development activities, a summary of proposed income and**
22 **price monitoring responsibilities and related expenses.**

23 (11) ~~Upon~~ **On** receipt of a request for approval of a work plan
24 **or applicable portion of a work plan**, the Michigan strategic fund
25 **or the Michigan state housing development authority** shall provide 1
26 of the following written responses to the requesting authority
27 within 60 days following receipt of a request for approval or
28 within 7 days following the first meeting of the board after the
29 60-day period following receipt of the request for approval,

1 whichever is later:

2 (a) An unconditional approval that includes an enumeration of
3 eligible activities and a maximum allowable capture amount.

4 (b) A conditional approval that delineates specific necessary
5 modifications to the work plan, including, but not limited to,
6 individual activities to be added or deleted from the work plan and
7 revision of costs.

8 (c) A denial and a letter stating with specificity the reason
9 for the denial. If **the Michigan strategic fund or the Michigan**
10 **state housing development authority denies all or a portion of a**
11 **work plan** ~~is denied~~ under this subsection, **the authority may**
12 **subsequently resubmit** the work plan. ~~may be subsequently~~
13 ~~resubmitted.~~

14 (12) In its review of a work plan **or applicable portion of a**
15 **work plan** under section 13b(4) or 13c(6) **for approval or denial,**
16 the Michigan strategic fund **or the Michigan state housing**
17 **development authority** shall consider the following criteria to the
18 extent reasonably applicable to the type of activities proposed as
19 part of that work plan ~~when approving or denying a~~ **or applicable**
20 **portion of that** work plan:

21 (a) Whether the individual activities included in the work
22 plan are sufficient to complete the eligible activity.

23 (b) Whether each individual activity included in the work plan
24 is required to complete the eligible activity.

25 (c) Whether the cost for each individual activity is
26 reasonable.

27 (d) The overall benefit to the public.

28 (e) The extent of reuse of vacant buildings and redevelopment
29 of blighted property.

1 (f) Creation of jobs.

2 (g) Whether the eligible property is in an area of high
3 unemployment.

4 (h) The level and extent of contamination alleviated by or in
5 connection with the eligible activities.

6 (i) The level of private sector contribution.

7 (j) If the developer or projected occupant of the new
8 development is moving from another location in this state, whether
9 the move will create a brownfield.

10 (k) Whether the project of the developer, landowner, or
11 corporate entity that is included in the work plan is financially
12 and economically sound.

13 (l) Other state and local incentives available to the
14 developer, landowner, or corporate entity for the project of the
15 developer, landowner, or corporate entity that is included in the
16 work plan.

17 **(m) If housing assistance activities or housing development**
18 **activities are included in the work plan or applicable portion of**
19 **the work plan, in addition to the other criteria under this**
20 **subsection, all of the following:**

21 **(i) Alignment with the statewide housing plan developed.**

22 **(ii) The capacity of the entity or agency that is monitoring**
23 **price and income, and the duration of the monitoring.**

24 **(iii) Whether the project is located in an economically**
25 **disadvantaged community or low-income census tract.**

26 **(iv) Whether the project will support housing at price points**
27 **that align with the local workforce.**

28 **(v) If the property will be deed restricted to regulate short-**
29 **term rentals or otherwise ensure long-term local housing needs.**

1 (n) ~~(m)~~ Any other criteria that the Michigan strategic fund **or**
 2 **the Michigan state housing development authority** considers
 3 appropriate for the determination of eligibility or for approval of
 4 the work plan **or applicable portion of the work plan.**

5 (13) If the Michigan strategic fund **or the Michigan state**
 6 **housing development authority** fails to provide a written response
 7 under subsection (11) within 60 days following receipt of a request
 8 for approval of a work plan **or applicable portion of a work plan** or
 9 within 7 days following the first meeting of the board after the
 10 60-day period following receipt of the request for approval of a
 11 work plan **or applicable portion of a work plan**, whichever is later,
 12 or 90 days following receipt of a request for approval in the case
 13 of a transformational brownfield plan or within 7 days following
 14 the first meeting of the board after the 90-day period following
 15 receipt of a request for approval in the case of a transformational
 16 brownfield plan, whichever is later, the eligible activities ~~shall~~
 17 ~~be~~**are** considered approved and the authority may proceed with the
 18 eligible activities described in sections 13b(4) and 13c(6) as
 19 outlined in the work plan **or applicable portion of the work plan** as
 20 submitted for approval.

21 (14) The Michigan strategic fund ~~fund's~~ approval of a work
 22 plan under sections 13b(4) and 13c(6) is final. **The Michigan state**
 23 **housing development authority's approval of a work plan under**
 24 **section 13b(4) is final.**

25 (15) The Michigan strategic fund shall submit a report each
 26 year to each member of the legislature as provided in section
 27 16(4).

28 (16) All taxes levied for school operating purposes that are
 29 not used for eligible activities consistent with a combined

1 brownfield plan or a work plan approved by the department, **the**
2 **Michigan state housing development authority**, or the Michigan
3 strategic fund or for the payment of interest under sections 13 and
4 13b and that are not deposited in a local brownfield revolving fund
5 ~~shall~~**must** be distributed proportionately between the local school
6 district and the school aid fund.

7 (17) The department's approval of a work plan under subsection
8 (2) (a) or (b) does not imply an entitlement to reimbursement of the
9 costs of the eligible activities if the work plan is not
10 implemented as approved.

11 (18) The party seeking work plan approval and the department
12 ~~can~~**may**, by mutual agreement, extend the time period for any
13 review described in this section. An agreement described in this
14 subsection ~~shall~~**must** be documented in writing.

15 (19) If a brownfield plan includes the capture of taxes levied
16 for school operating purposes, the chairperson of the Michigan
17 strategic fund may approve, without a meeting of the fund board,
18 combined brownfield plans and work plans that address eligible
19 activities described in section 13b(4), **other than eligible**
20 **activities subject to section 13b(4) (b)**, totaling an amount of
21 \$1,000,000.00 or less according to subsections (10), (11), (12),
22 (13), and (14) that include reimbursement of taxes levied for
23 school operating purposes.

24 (20) ~~In lieu~~**Instead** of seeking approval of a work plan under
25 section 13b(4) or (6) (c) or section 13c(6), an authority may seek
26 approval of a combined brownfield plan from the department,
27 **Michigan state housing development authority**, or Michigan strategic
28 fund under this subsection as follows:

29 (a) To seek approval of a combined brownfield plan under this

1 subsection, the authority shall, at least 30 days before the
2 hearing on the combined brownfield plan to allow for consultation
3 between the authority and the department, **the Michigan state**
4 **housing development authority**, or the Michigan strategic fund and
5 at least 60 days in the case of a transformational brownfield plan,
6 provide notice that the authority will be seeking approval of a
7 combined brownfield plan ~~in lieu~~ **instead** of a work plan to 1 or
8 more of the following:

9 (i) The department, if the combined brownfield plan involves
10 the use of taxes levied for school operating purposes to pay for
11 eligible activities that require approval by the department under
12 section 13b(6) (c).

13 (ii) The Michigan strategic fund, if the combined brownfield
14 plan involves the use of taxes levied for school operating purposes
15 to pay for eligible activities subject to subsection (12) or
16 section 13c(6), **other than eligible activities subject to section**
17 **13b(4) (b)**, or the use of construction period tax capture revenues,
18 withholding tax capture revenues, or income tax capture revenues.

19 (iii) **The Michigan state housing development authority if the**
20 **combined brownfield plan involves the use of taxes levied for**
21 **school operating purposes to pay for eligible activities that**
22 **require approval by the Michigan state housing development**
23 **authority under section 13b(4) (b).**

24 (b) After the governing body approves a combined brownfield
25 plan, the authority shall submit the combined brownfield plan to
26 the department under the circumstances described in subdivision
27 (a) (i), ~~or~~ **the Michigan strategic fund** under the circumstances
28 described in subdivision (a) (ii), **or the Michigan state housing**
29 **development authority under the circumstances described in**

1 **subdivision (a) (iii) .**

2 (c) The department shall review a combined brownfield plan
3 according to subdivision (e). The Michigan strategic fund shall
4 review a combined brownfield plan according to subdivision (f). **The**
5 **Michigan state housing development authority shall review a**
6 **combined brownfield plan according to subdivision (g) .**

7 (d) ~~Upon~~**On** receipt of a combined brownfield plan under
8 subdivision (b), the department, **Michigan state housing development**
9 **authority,** or Michigan strategic fund shall provide 1 of the
10 following written responses to the requesting authority within 60
11 days or, in the case of a transformational brownfield plan, within
12 90 days:

13 (i) An unconditional approval that includes an enumeration of
14 eligible activities and a maximum allowable capture amount.

15 (ii) A conditional approval that delineates specific necessary
16 modifications to the combined brownfield plan, including, but not
17 limited to, individual activities to be added to or deleted from
18 the combined brownfield plan and revision of costs.

19 (iii) A denial and a letter stating with specificity the reason
20 for the denial. If a combined brownfield plan is denied under this
21 subdivision, the combined brownfield plan may be subsequently
22 resubmitted.

23 (e) The department may approve a combined brownfield plan if
24 the authority submits the information identified in subsection (1)
25 and if the conditions identified in subsection (3) are met.

26 (f) The Michigan strategic fund shall consider the criteria
27 identified in subsection (12) to the extent reasonably applicable
28 to the type of activities proposed as part of a combined brownfield
29 plan when approving or denying the combined brownfield plan and, in

1 the case of a transformational brownfield plan, shall also consider
2 the criteria described in section 14a(3).

3 **(g) The Michigan state housing development authority shall**
4 **consider the criteria identified in subsection (12) to the extent**
5 **reasonably applicable to the type of activities proposed as part of**
6 **a combined brownfield plan when approving or denying the combined**
7 **brownfield plan.**

8 **(h) ~~(g)~~**—If the department, **Michigan state housing development**
9 **authority**, or Michigan strategic fund issues a written response to
10 a requesting authority under subdivision (d) (i) or (ii), the
11 governing body or its designee may administratively approve any
12 modifications to a combined brownfield plan required by the written
13 response without the need to follow the notice and approval process
14 required by section 14(6) unless the modifications add 1 or more
15 parcels of eligible property or increase the maximum amount of tax
16 increment revenues or, in the case of a transformational brownfield
17 plan, construction period tax capture revenues, withholding tax
18 capture revenues, and income tax capture revenues approved for the
19 project.

20 **(i) ~~(h)~~**—If the department, **Michigan state housing development**
21 **authority**, or Michigan strategic fund fails to provide a written
22 response under subdivision (d) within 60 days after receipt of a
23 complete combined brownfield plan, or 90 days in the case of a
24 transformational brownfield plan, the eligible activities ~~shall be~~
25 **are** considered approved as submitted.

26 **(j) ~~(i)~~**—The approval of a combined brownfield plan by the
27 department, **Michigan state housing development authority**, or
28 Michigan strategic fund under this subsection is final.

29 Sec. 16. (1) The municipal and county treasurers shall

1 transmit tax increment revenues to the authority not more than 30
2 days after tax increment revenues are collected.

3 (2) The authority shall expend the tax increment revenues
4 received only in accordance with the brownfield plan. All surplus
5 funds not deposited in the local brownfield revolving fund of the
6 authority under section 8 ~~shall~~**must** revert proportionately to the
7 respective taxing bodies, except as provided in section 15(16).

8 (3) The authority shall submit annually to the governing body,
9 the department, and the Michigan strategic fund a financial report
10 on the status of the activities of the authority for each calendar
11 year. The report ~~shall~~**must** include all of the following:

12 (a) The total amount of local taxes that are approved for
13 capture and the total amount of taxes levied for school operating
14 purposes that are approved for capture for each parcel included in
15 a brownfield plan.

16 (b) The amount and purpose of expenditures of tax increment
17 revenues.

18 (c) The amount and source of tax increment revenues received
19 for each active brownfield plan, including the amount of tax
20 increment revenues captured in the most recent tax year and the
21 cumulative amount of tax increment revenues captured for each
22 brownfield plan.

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

25 (e) The captured taxable value realized by the authority for
26 each eligible property subject to the brownfield plan.

27 (f) The amount of actual capital investment made for each
28 project.

29 (g) The amount of tax increment revenues attributable to taxes

1 levied for school operating purposes used for activities described
2 in section 13b(6) (c) ~~and~~ section 2(o) (i) (F) and (G) ~~and section~~
3 ~~2(o) (ii) (B) and (C)~~. **(ii) (B) and (C)**.

4 (h) The number of residential units constructed or
5 rehabilitated for each project.

6 (i) The amount, by square foot, of new or rehabilitated
7 residential, retail, commercial, or industrial space for each
8 project.

9 (j) The number of new jobs created at the project.

10 (k) A copy of all brownfield plan amendments approved by the
11 local unit of government.

12 (l) All additional information that the governing body, the
13 department, or the Michigan strategic fund considers necessary.

14 (4) The department and the Michigan strategic fund shall
15 collect the financial reports submitted under subsection (3),
16 compile a combined report ~~which~~ **that** includes the use of local
17 taxes, taxes levied for school operating purposes, and the state
18 brownfield redevelopment fund, based on the information contained
19 in those reports and any additional information considered
20 necessary, and submit annually a report based on that information
21 to each member of the legislature.

22 (5) Beginning on January 1, 2013, all of the following
23 reporting obligations apply:

24 (a) The department shall on a quarterly basis post on its
25 website the name, location, and amount of tax increment revenues,
26 including taxes levied for school operating purposes, for each
27 project approved by the department under this act during the
28 immediately preceding quarter.

29 (b) The Michigan strategic fund shall on a quarterly basis

1 post on its website the name, location, and amount of tax increment
2 revenues, including taxes levied for school operating purposes, for
3 each project approved by the Michigan strategic fund under this act
4 during the immediately preceding quarter.

5 (6) In addition to any other requirements under this act, not
6 less than once every 3 years beginning not later than June 30,
7 2008, the auditor general shall conduct and report a performance
8 postaudit on the effectiveness of the program established under
9 this act. As part of the performance postaudit, the auditor general
10 shall assess the extent to which the implementation of the program
11 by the department and the Michigan strategic fund facilitate and
12 affect the redevelopment or reuse of eligible property and identify
13 any factors that inhibit the program's effectiveness. The
14 performance postaudit ~~shall~~**must** also assess the extent to which
15 the interpretation of statutory language, the development of
16 guidance or administrative rules, and the implementation of the
17 program by the department and the Michigan strategic fund is
18 consistent with the fundamental objective of facilitating and
19 supporting timely and efficient brownfield redevelopment of
20 eligible properties.

21 (7) The owner or developer for an active project included
22 within a brownfield plan must annually submit to the authority a
23 report on the status of the project. The report ~~shall~~**must** be in a
24 form developed by the authority and must contain information
25 necessary for the authority to report under subsection (3)(f), (h),
26 (i), (j), and (k). The authority may waive the requirement to
27 submit a report under this subsection. As used in this subsection,
28 "active project" means a project for which the authority is
29 currently capturing taxes under this act.

1 (8) For a transformational brownfield plan, all of the
2 following ~~shall~~ also apply:

3 (a) The state treasurer shall transfer to the state brownfield
4 redevelopment fund each fiscal year an amount equal to the
5 construction period tax capture revenues, withholding tax capture
6 revenues, and income tax capture revenues under all approved plans
7 as provided for in section 8a(4). Funds ~~shall~~ **must** be transmitted
8 to the authority, or owner or developer of the eligible property to
9 which the revenues are attributable, within 30 days of transfer to
10 the state brownfield redevelopment fund.

11 (b) The authority, the department, and the Michigan strategic
12 fund shall follow the reporting requirements of subsections (3),
13 (4), and (5) with respect to all approved transformational
14 brownfield plans, and shall provide information on the amount and
15 use of construction period tax capture revenues, withholding tax
16 capture revenues, and income tax capture revenues to the same
17 extent required for tax increment revenues.

18 (c) The owner or developer of active projects included within
19 a transformational brownfield plan shall provide the information
20 required for the authority, the department, and the Michigan
21 strategic fund to satisfy the reporting and audit requirements of
22 this section.

23 **(9) If activities of the authority include housing assistance**
24 **activities or housing development activities, the report under**
25 **subsection (3) must also include all of the following and a copy of**
26 **the report must be provided to the Michigan state housing**
27 **development authority:**

28 **(a) The number of housing units produced.**

29 **(b) The number of income qualified purchaser households**

1 served.

2 (c) The number of income qualified renting households

3 assisted.