

SENATE BILL NO. 289

April 25, 2023, Introduced by Senators MOSS, SINGH, BRINKS, HUIZENGA, WOJNO, MCDONALD RIVET, BELLINO, VICTORY, HERTEL, SHINK and MCCANN and referred to the Committee on Economic and Community Development.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 2, 8a, 11, 13, 13b, 13c, 14a, 15, and 16 (MCL 125.2652, 125.2658a, 125.2661, 125.2663, 125.2663b, 125.2663c, 125.2664a, 125.2665, and 125.2666), section 2 as amended by 2022 PA 178, sections 8a and 11 as amended by 2017 PA 46, sections 13, 13b, 15, and 16 as amended by 2020 PA 259, and sections 13c and 14a as amended by 2021 PA 138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

1 (a) "Authority" means a brownfield redevelopment authority
2 created under this act.

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

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

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

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

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

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

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

24 (vi) Is property owned by or under the control of a land bank
25 fast track authority, whether or not located within a qualified
26 local governmental unit. Property included within a brownfield plan
27 ~~prior to~~**before** the date it meets the requirements of this
28 subdivision to be eligible property ~~shall be~~**is** considered to
29 become eligible property as of the date the property is determined

1 to have been or becomes qualified as, or is combined with, other
 2 eligible property. The sale, lease, or transfer of the property by
 3 a land bank fast track authority after the property's inclusion in
 4 a brownfield plan ~~shall~~**does** not result in the loss to the property
 5 of the status as blighted property for purposes of this act.

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

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

10 (e) "Brownfield plan" means a plan that meets the requirements
 11 of ~~section~~**sections** 13 and ~~section~~13b and is adopted under section
 12 14.

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

20 (g) "Chief executive officer" means the mayor of a city, the
 21 village manager of a village, the township supervisor of a
 22 township, or the county executive of a county or, if the county
 23 does not have an elected county executive, the chairperson of the
 24 county board of commissioners.

25 (h) "Combined brownfield plan" means a brownfield plan that
 26 also includes the information necessary to submit the plan to the
 27 department or Michigan strategic fund under section 15(20).

28 (i) "Construction period tax capture revenues" means funds
 29 equal to the amount of income tax levied and imposed in a calendar

1 year ~~upon~~**on** wages paid to individuals physically present and
2 working within the eligible property for the construction,
3 renovation, or other improvement of eligible property that is an
4 eligible activity within a transformational brownfield plan. As
5 used in this subdivision, "wages" means that term as defined in
6 section 3401 of the internal revenue code of 1986, 26 USC 3401. To
7 calculate the amount of construction period tax capture revenues
8 for a calendar year under a transformational brownfield plan, the
9 state treasurer shall do all of the following:

10 (i) Require the owner or developer of the eligible property to
11 report the total taxable wages paid to individuals for the
12 construction, renovation, or other improvement of eligible property
13 that is an eligible activity within the transformational brownfield
14 plan. The wages reported under this subparagraph ~~shall~~**must** exclude
15 any wages paid to employees of the owner or developer.

16 (ii) Multiply the amount under subparagraph (i) by the effective
17 rate as determined by the state treasurer at which the income tax
18 is levied on an individual in this state. The state treasurer shall
19 estimate the effective rate by taking into account the effect of
20 any exemptions, additions, subtractions, and credits allowable
21 under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1
22 to 206.532. The state treasurer may require the owner or developer
23 to submit any information necessary for the calculation under this
24 subparagraph.

25 (iii) The wage information and other information required under
26 this subdivision ~~shall~~**must** be provided to the department of
27 treasury by the owner or developer in a manner prescribed by the
28 state treasurer. The state treasurer may require the owner or
29 developer to provide a review or reconciliation of the wages by an

1 independent auditing firm.

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

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

6 (l) "Department specific activities" means baseline
7 environmental assessments, due care activities, response
8 activities, and other environmentally related actions that are
9 eligible activities and are identified as a part of a brownfield
10 plan that are in addition to the minimum due care activities
11 required by part 201, including, but not limited to:

12 (i) Response activities that are more protective of the public
13 health, safety, and welfare and the environment than required by
14 section 20107a, 20114, or 21304c of the natural resources and
15 environmental protection act, 1994 PA 451, MCL 324.20107a,
16 324.20114, and 324.21304c.

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

19 (iii) Disposal of solid waste, as defined in part 115 of the
20 natural resources and environmental protection act, 1994 PA 451,
21 MCL 324.11501 to ~~324.11554~~, **324.11587**, from the eligible property,
22 ~~provided it if the solid waste~~ was not generated or accumulated by
23 the authority or the developer.

24 (iv) Dust control related to construction activities.

25 (v) Removal and disposal of lake or river sediments exceeding
26 part 201 criteria from, at, or related to an economic development
27 project ~~where~~ **if** the upland property is either a facility or would
28 become a facility as a result of the deposition of dredged spoils.

29 (vi) Industrial cleaning.

1 (vii) Sheeting and shoring necessary for the removal of
 2 materials exceeding part 201 criteria at projects requiring a
 3 permit pursuant to part 301, 303, or 325 of the natural resources
 4 and environmental protection act, 1994 PA 451, MCL 324.30101 to
 5 324.30113, ~~MCL~~324.30301 to 324.30328, ~~or MCL~~**and** 324.32501 to
 6 324.32515a.

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

9 (ix) Environmental insurance.

10 (m) "Due care activities" means those response activities
 11 identified as part of a brownfield plan that are necessary to allow
 12 the owner or operator of an eligible property in the plan to comply
 13 with the requirements of section 20107a or 21304c of the natural
 14 resources and environmental protection act, 1994 PA 451, MCL
 15 324.20107a and 324.21304c.

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

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

19 (ii) That contain or contained a manufacturing operation that
 20 consists or consisted of 500,000 or more square feet.

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

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

26 (i) For all eligible properties, eligible activities include
 27 all of the following:

28 (A) Department specific activities.

29 (B) Relocation of public buildings or operations for economic

1 development purposes.

2 (C) Reasonable costs of environmental insurance.

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

7 (E) Reasonable costs of brownfield plan and work plan
8 implementation, including, but not limited to, tracking and
9 reporting of data and plan compliance and the reasonable costs
10 incurred to estimate and determine actual costs incurred, whether
11 those costs are incurred by a municipality, authority, or private
12 developer.

13 (F) Demolition of structures that is not a response activity,
14 including removal of manufactured debris composed of discarded,
15 unused, or unusable manufactured by-products left on the site by a
16 previous owner. The removal of the manufactured by-products left on
17 the site described in this sub-subparagraph is not eligible for
18 interest reimbursement under sub-subparagraph (H).

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

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

24 (ii) For eligible properties located in a qualified local
25 **governmental** unit, ~~of government,~~ or an economic opportunity zone,
26 or that ~~is~~**are** a former mill, eligible activities include **all of**
27 **the following:**

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

29 (B) Infrastructure improvements that directly benefit eligible

1 property.

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

3 (iii) For eligible properties that are owned by or under the
4 control of a land bank fast track authority, or a qualified local
5 unit of government or authority, eligible activities include **all of**
6 **the following:**

7 (A) The eligible activities described in subparagraphs (i) and
8 (ii).

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

15 (C) Assistance to a qualified local governmental unit or
16 authority in clearing or quieting title to, or selling or otherwise
17 conveying, property owned by or under the control of a qualified
18 local governmental unit or authority or the acquisition of property
19 by a qualified local governmental unit or authority if the
20 acquisition of the property is for economic development purposes.

21 (iv) For eligible activities on eligible property that is
22 included in a transformational brownfield plan, any demolition,
23 construction, restoration, alteration, renovation, or improvement
24 of buildings or site improvements on eligible property, including
25 infrastructure improvements that directly benefit eligible
26 property.

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

1 blighted, the following additional activities:

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

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

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

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

28 (iv) Is a transit-oriented development or transit-oriented
29 property.

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

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

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

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

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

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

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

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

1 surrounding property.

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

4 (w) "Historic resource" means that term as defined in section
5 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

6 (x) "Income tax" means the tax levied and imposed under part 1
7 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

8 (y) "Income tax capture revenues" means, with respect to each
9 eligible property subject to a transformational brownfield plan,
10 funds equal to the amount for each tax year by which the aggregate
11 income tax from individuals residing within the eligible property
12 subject to a transformational brownfield plan exceeds the initial
13 income tax value. Subject to subparagraph (iii), the state treasurer
14 shall calculate annually the income tax capture revenues associated
15 with each transformational brownfield plan. In calculating income
16 tax capture revenues, the state treasurer shall subtract from the
17 aggregate amount of income tax credits under sections 255, 265,
18 266, and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL
19 206.255, 206.265, 206.266, and 206.501 to 206.532. The state
20 treasurer shall require the owner or developer of the eligible
21 property to provide to the department of treasury all of the
22 following information at the end of each calendar year, including
23 the year in which the resolution adding that eligible property in
24 the transformational brownfield plan is adopted:

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

27 (ii) Any other information that may be necessary to calculate
28 the income tax capture revenues. The information required under
29 this subdivision ~~shall~~**must** be provided in a manner prescribed by

1 the state treasurer.

2 (iii) 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 brownfield project site may elect to utilize a
6 safe harbor method of calculating income tax capture revenues.
7 Under this safe harbor method, the Michigan strategic fund shall
8 establish a safe harbor amount of annual income tax capture
9 revenues for each eligible property ~~at the time~~ **when** the Michigan
10 strategic fund approves the transformational brownfield plan, and
11 those amounts shall serve as the basis for the transmittal of
12 income tax capture revenues to the owner or developer of the
13 transformational project site under section 8a(4). The Michigan
14 strategic fund shall establish the safe harbor amount for an
15 eligible property by imputing a standard annual taxable income for
16 households residing within the eligible property or portion of the
17 eligible property. The safe harbor is effective only to the extent
18 that the residential units within the eligible property or portion
19 of the eligible property are actively leased or, in the case of
20 units made available for sale, sold in an arms-length transaction.
21 Imputations as to standard household taxable income may vary based
22 on location and other relevant factors. The Michigan strategic fund
23 may adjust the safe harbor amount for an eligible property, or
24 portion of the eligible property, after the time of
25 transformational brownfield plan approval as required to reflect
26 changes in the transformational brownfield plan for the
27 transformational project site that may occur after approval of the
28 transformational brownfield plan, ~~provided that~~ **if** those changes
29 ~~may~~ **do** not result in an aggregate increase in the level of income

1 tax capture revenues from the amount initially established. The
 2 owner or developer of the transformational project site may ~~make~~
 3 ~~the election~~ **elect** to utilize the safe harbor method of accounting
 4 at any time ~~prior to~~ **before** the first reimbursement of income tax
 5 capture revenues under the transformational brownfield plan. ~~τ~~
 6 ~~provided that an~~ **An election to utilize the safe harbor method of**
 7 **accounting**, once made, cannot be rescinded.

8 (z) "Industrial cleaning" means cleaning or removal of
 9 contaminants from within a structure necessary to achieve the
 10 intended use of the property.

11 (aa) "Infrastructure improvements" means a street, road,
 12 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
 13 sewage treatment plant, property designed to reduce, eliminate, or
 14 prevent the spread of identified soil or groundwater contamination,
 15 drainage system, waterway, waterline, water storage facility, rail
 16 line, utility line or pipeline, transit-oriented development,
 17 transit-oriented property, or other similar or related structure or
 18 improvement, together with necessary easements for the structure or
 19 improvement, owned or used by a public agency or functionally
 20 connected to similar or supporting property owned or used by a
 21 public agency, or designed and dedicated to use by, for the benefit
 22 of, or for the protection of the health, welfare, or safety of the
 23 public generally, whether or not used by a single business entity,
 24 ~~provided that if~~ any road, street, or bridge ~~shall be~~ **is**
 25 continuously open to public access and ~~that other property shall be~~
 26 **is** located in public easements or rights-of-way and sized to
 27 accommodate reasonably foreseeable development of eligible property
 28 in adjoining areas. Infrastructure improvements also include 1 or
 29 more of the following whether publicly or privately owned or

1 operated or located on public or private property:

2 (i) Underground parking.

3 (ii) Multilevel parking structures.

4 (iii) Urban stormwater management systems.

5 (bb) "Initial income tax value" means, with respect to each
6 eligible property subject to a transformational brownfield plan,
7 the aggregate amount of income tax less credits under sections 255,
8 265, 266, and chapter 9 of the income tax act of 1967, 1967 PA 281,
9 MCL 206.255, 206.265, 206.266, and 206.501 to 206.532, from
10 individuals residing within the eligible property for the tax year
11 in which the resolution adding that eligible property in the
12 transformational brownfield plan is adopted.

13 (cc) "Initial sales and use tax value" means, with respect to
14 each eligible property subject to a transformational brownfield
15 plan, the aggregate amount of sales tax and use tax collected from
16 persons located within the eligible property for the tax year in
17 which the resolution adding that eligible property in the
18 transformational brownfield plan is adopted. For persons with
19 multiple business locations, the applicable amount of sales tax and
20 use tax for purposes of this act is only the sales tax and use tax
21 collections attributable to the business location within the
22 eligible property.

23 (dd) ~~(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~~**is** 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 **(ee)** ~~(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~~**chapter 17** of
 17 the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~
 18 **206.715**, from individuals employed within the eligible property for
 19 the calendar year in which the resolution adding the eligible
 20 property to the plan is adopted. The initial withholding tax value
 21 ~~shall~~**does** not include construction period tax capture revenues.

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

27 **(hh)** ~~(gg)~~ "Michigan strategic fund" means the Michigan
 28 strategic fund created under the Michigan strategic fund act, 1984
 29 PA 270, MCL 125.2001 to 125.2094.

1 **(ii)** ~~(hh)~~ "Mixed-use" means a real estate project with planned
 2 integration of some combination of retail, office, residential, or
 3 hotel uses.

4 **(jj)** ~~(ii)~~ "Municipality" means all of the following:

5 (i) A city.

6 (ii) A village.

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

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

12 (v) A county.

13 **(kk)** ~~(jj)~~ "Owned by or under the control of" means that a land
 14 bank fast track authority or a qualified local **governmental** unit ~~of~~
 15 ~~government~~ has 1 or more of the following:

16 (i) An ownership interest in the property.

17 (ii) A tax lien on the property.

18 (iii) A tax deed to the property.

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

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

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

24 **(ll)** ~~(kk)~~ "Part 111", "part 201", "part 211", or "part 213"
 25 means that part as described as follows:

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

28 (ii) Part 201 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

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

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

6 (mm) ~~(ll)~~ "Qualified facility" means a landfill facility area
7 of 15 or more contiguous acres that is located in a city and that
8 contains, contained, or is adjacent to a landfill, a material
9 recycling facility, or an asphalt plant that is no longer in
10 operation.

11 (nn) ~~(mm)~~ "Qualified local governmental unit" means that term
12 as defined in the obsolete property rehabilitation act, 2000 PA
13 146, MCL 125.2781 to 125.2797.

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

19 (pp) ~~(oo)~~ "Release" means that term as defined in part 201 or
20 part 213.

21 (qq) ~~(pp)~~ "Response activity" means either of the following:

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

23 (ii) Corrective action.

24 (rr) "Sales tax" means the tax levied under the general sales
25 tax act, 1933 PA 167, MCL 205.51 to 205.78.

26 (ss) "Sales and use tax capture revenues" means, with respect
27 to each eligible property subject to a transformational brownfield
28 plan, the amount for each calendar year by which the sales tax and
29 use tax collected from persons within the eligible property exceeds

1 the initial sales and use tax value. For persons with multiple
 2 business locations, the applicable amount of sales tax and use tax
 3 for purposes of this act is only the sales tax and use tax
 4 collections attributable to the business location within the
 5 eligible property. To calculate sales and use tax capture revenues
 6 for a calendar year under a transformational brownfield plan, the
 7 state treasurer or the Michigan strategic fund shall do all of the
 8 following:

9 (i) The state treasurer shall develop methods and processes
 10 that are necessary for each applicable person within the eligible
 11 property to report the amount of sales and use tax from that
 12 location.

13 (ii) The Michigan strategic fund shall include all of the
 14 following provisions in the development or reimbursement agreement
 15 for any transformational brownfield plan that utilizes sales and
 16 use tax capture revenues:

17 (A) That the owner or developer of the eligible property shall
 18 require each applicable person occupying the eligible property to
 19 comply with the reporting requirements under this section through a
 20 contract requirement, lease requirement, or other similar means.

21 (B) That reimbursement of sales and use tax capture revenues
 22 is limited to amounts that are reported in accordance with this
 23 section, and this state has no obligation with respect to sales and
 24 use tax capture revenues that are not reported or paid.

25 (tt) ~~(qq)~~ "Specific taxes" means ~~a~~ all of the following:

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

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

28 (B) The commercial redevelopment act, 1978 PA 255, MCL 207.651
 29 to 207.668. ~~;~~ the

1 **(C) The** enterprise zone act, 1985 PA 224, MCL 125.2101 to
2 125.2123. ~~;~~

3 **(D)** 1953 PA 189, MCL 211.181 to 211.182. ~~;~~ ~~the~~

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

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

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

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

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

15 **(uu)** ~~(rr)~~ "State brownfield redevelopment fund" means the
16 state brownfield redevelopment fund created in section 8a.

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

27 **(ww)** ~~(tt)~~ "Tax increment revenues" means the amount of ad
28 valorem property taxes and specific taxes attributable to the
29 application of the levy of all taxing jurisdictions ~~upon~~ ~~on~~ the

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

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

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

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

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

1 (B) The art institute authorities act, 2010 PA 296, MCL
2 123.1201 to 123.1229.

3 **(xx)** ~~(uu)~~ "Taxable value" means the value determined under
4 section 27a of the general property tax act, 1893 PA 206, MCL
5 211.27a.

6 **(yy)** ~~(vv)~~ "Taxes levied for school operating purposes" means
7 all of the following:

8 (i) The taxes levied by a local school district for operating
9 purposes.

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

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

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

27 (i) In a municipality that is not a county and that has a
28 population of ~~at least~~**not less than** 600,000, \$500,000,000.00.

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

1 population of ~~at least~~**not less than** 150,000 and not more than
 2 599,999, \$100,000,000.00.

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

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

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

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

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

19 (bbb) ~~(yy)~~"Transit-oriented property" means property that
 20 houses a transit station in a manner that promotes transit
 21 ridership or passenger rail use.

22 (ccc) "Use tax" means the tax levied under the use tax act,
 23 1937 PA 94, MCL 205.91 to 205.111, including both the local
 24 community stabilization share and the state share as those terms
 25 are defined in section 2c of the use tax act, 1937 PA 94, MCL
 26 205.92c.

27 (ddd) ~~(zz)~~"Withholding tax capture revenues" means, with
 28 respect to each eligible property subject to a transformational
 29 brownfield plan, the amount for each calendar year by which the

1 income tax withheld under ~~part 3~~**chapter 17** of the income tax act
 2 of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~**206.715**, from
 3 individuals employed within the eligible property exceeds the
 4 initial withholding tax value. Withholding tax capture revenues
 5 ~~shall do~~ not include income tax from individuals domiciled within
 6 the eligible property or construction period tax capture revenues.
 7 To calculate withholding tax capture revenues for a calendar year
 8 under a transformational brownfield plan, the state treasurer or
 9 the Michigan strategic fund shall do all of the following:

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

16 (ii) The state treasurer shall develop methods and processes
 17 that are necessary for each employer occupying the eligible
 18 property to report the amount of withholding under ~~part 3~~**chapter**
 19 **17** of the income tax act of 1967, 1967 PA 281, MCL 206.701 to
 20 ~~206.713,~~**206.715**, from individuals employed within the eligible
 21 property.

22 (iii) The Michigan strategic fund shall include the following
 23 provisions in the development or reimbursement agreement for any
 24 transformational brownfield plan that utilizes withholding tax
 25 capture revenues:

26 (A) That the owner or developer of the eligible property shall
 27 require each employer occupying the eligible property to comply
 28 with the reporting requirements under this section through a
 29 contract requirement, lease requirement, or other ~~such~~**similar**

1 means.

2 (B) That reimbursement of withholding tax capture revenues is
3 limited to amounts that are reported in accordance with ~~part 3~~
4 **chapter 17** of the income tax act of 1967, 1967 PA 281, MCL 206.701
5 to ~~206.713,~~ **206.715**, and this state has no obligation with respect
6 to withholding tax capture revenues that are not reported or paid.

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

1 factors. The Michigan strategic fund may adjust the safe harbor
 2 amount for an eligible property, or portion of the eligible
 3 property, after the time of plan approval as required to reflect
 4 changes in the transformational brownfield plan for the
 5 transformational project site that may occur after approval of the
 6 transformational brownfield plan, ~~provided that any of~~ **if** those
 7 changes ~~may do~~ not result in an aggregate increase in the level of
 8 withholding tax capture revenues from the amount initially
 9 established. The owner or developer of the transformational project
 10 site may make ~~the election~~ **elect** to utilize the safe harbor method
 11 of accounting at any time ~~prior to~~ **before** the first reimbursement
 12 of withholding tax capture revenues under the plan. ~~, provided that~~
 13 ~~an~~ **An election to utilize the safe harbor method of accounting,**
 14 once made, cannot be rescinded.

15 (eee) ~~(aaa)~~ "Work plan" means a plan that describes each
 16 individual activity to be conducted to complete eligible activities
 17 and the associated costs of each individual activity.

18 (fff) ~~(bbb)~~ "Zone" means, for an authority established before
 19 June 6, 2000, a brownfield redevelopment zone designated under this
 20 act.

21 Sec. 8a. (1) The state brownfield redevelopment fund is
 22 created as a revolving fund within the department of treasury to be
 23 administered as provided in this section. The state treasurer shall
 24 direct the investment of the state brownfield redevelopment fund.
 25 Money in the state brownfield redevelopment fund at the close of
 26 the fiscal year ~~shall remain~~ **remains** in the state brownfield
 27 redevelopment fund and ~~shall~~ **does** not lapse to the general fund.

28 (2) The state treasurer shall credit to the fund money from
 29 the following sources:

1 (a) All amounts deposited into the state brownfield
2 redevelopment fund under subsection (4) and section 13b(14).

3 (b) The proceeds from repayment of a loan, including interest
4 on those repayments, under subsection (3)(c)(vi).

5 (c) Interest on funds deposited into the state brownfield
6 redevelopment fund.

7 (d) Money obtained from any other source authorized by law.

8 (3) The state brownfield redevelopment fund may be used only
9 for the following purposes:

10 (a) Up to 15% of the amounts deposited annually into the state
11 brownfield redevelopment fund may be used to pay administrative
12 costs of all of the following:

13 (i) The Michigan strategic fund to implement this act.

14 (ii) The department to implement this act.

15 (iii) The department to implement part 196 of the natural
16 resources and environmental protection act, 1994 PA 451, MCL
17 324.19601 to 324.19616.

18 (iv) The department of treasury to implement this act.

19 (b) To make deposits into the clean Michigan initiative bond
20 fund under section 19606(2)(d) of the natural resources and
21 environmental protection act, 1994 PA 451, MCL 324.19606, for use
22 in providing grants and loans under section 19608(1)(a)(iv) of the
23 natural resources and environmental protection act, 1994 PA 451,
24 MCL 324.19608.

25 (c) To fund a grant and loan program created and operated by
26 the Michigan strategic fund for the costs of eligible activities
27 described in section 13b(4) on eligible properties. The grant and
28 loan program ~~shall~~**must** provide for all of the following:

29 (i) The Michigan strategic fund shall create and operate a

1 grant and loan program to provide grants and loans to fund eligible
2 activities described in section 13b(4) on eligible property. The
3 Michigan strategic fund shall develop and use a detailed
4 application, approval, and compliance process adopted by resolution
5 of the board of the Michigan strategic fund. This process ~~shall~~
6 **must** be published and available on the Michigan strategic fund
7 website. Program standards, guidelines, templates, or any other
8 forms to implement the grant and loan program ~~shall~~**must** be
9 approved by the board of the Michigan strategic fund. The Michigan
10 strategic fund may delegate its approval authority under this
11 subsection to a designee.

12 (ii) A person may apply to the Michigan strategic fund for
13 approval of a grant or loan to fund eligible activities described
14 in section 13b(4) on eligible property.

15 (iii) The Michigan strategic fund shall approve or deny an
16 application not more than 60 days after receipt of an
17 administratively complete application. If the application is
18 neither approved nor denied within 60 days, it ~~shall~~**must** be
19 considered by the board of the Michigan strategic fund, or its
20 designee if delegated, for action at, or by, the next regularly
21 scheduled board meeting. The Michigan strategic fund may delegate
22 the approval or denial of an application to the chairperson of the
23 Michigan strategic fund or other designees determined by the board.

24 (iv) ~~When~~**If** an application is approved under this subsection,
25 the Michigan strategic fund shall enter into a written agreement
26 with the applicant. The written agreement ~~shall~~**must** provide all
27 the conditions imposed on the applicant and the terms of the grant
28 or loan. The written agreement ~~shall~~**must** also provide for
29 penalties if the applicant fails to comply with the provisions of

1 the written agreement.

2 (v) After the Michigan strategic fund and the applicant have
3 entered into a written agreement under subparagraph (iv), the
4 Michigan strategic fund shall distribute the proceeds to the
5 applicant according to the terms of the written agreement.

6 (vi) Any proceeds from repayment of a loan, including interest
7 on those repayments, under this subsection ~~shall~~**must** be paid into
8 the state brownfield redevelopment fund or to the fund from which
9 the loan was generated, as ~~defined in subsection (3) (b) and~~
10 ~~(c)~~**described in subdivision (b) and this subdivision.**

11 (d) To distribute construction period tax capture revenues,
12 withholding tax capture revenues, ~~and~~ income tax capture revenues,
13 **and sales and use tax capture revenues** in accordance with a
14 transformational brownfield plan under subsection (4).

15 (4) The state treasurer shall deposit annually from the
16 general fund into the state brownfield redevelopment fund an amount
17 equal to the construction period tax capture revenues, withholding
18 tax capture revenues, ~~and~~ income tax capture revenues, **and sales**
19 **and use tax capture revenues** due to be transmitted under all
20 transformational brownfield plans. The department of treasury shall
21 distribute the construction period tax capture revenues,
22 withholding tax capture revenues, ~~and~~ income tax capture revenues,
23 **and sales and use tax capture revenues** to an authority, or to the
24 owner or developer of the eligible property to which the revenues
25 are attributable, in accordance with section 16(8) and the terms of
26 the written development or reimbursement agreement for each
27 transformational brownfield plan. Amounts transferred into the
28 state brownfield redevelopment fund attributable to a specific
29 transformational brownfield plan ~~shall~~**must** be accounted for

1 separately within the state brownfield redevelopment fund and ~~shall~~
2 **must** not be used for any other purpose or activity under this
3 section or for any transformational brownfield plan other than the
4 plan to which the revenues are attributable or for the additional
5 administrative costs under this section associated with the
6 implementation of a transformational brownfield plan.

7 Sec. 11. The activities of the authority ~~shall~~**must** be
8 financed from 1 or more of the following sources:

9 (a) Contributions, contractual payments, or appropriations to
10 the authority for the performance of its functions or to pay the
11 costs of a brownfield plan of the authority.

12 (b) Revenues from a property, building, or facility owned,
13 leased, licensed, or operated by the authority or under its
14 control, subject to the limitations imposed ~~upon~~**on** the authority
15 by trusts or other agreements.

16 (c) Subject to the limitations imposed under sections 8, 13,
17 13b, and 15, 1 or both of the following:

18 (i) Tax increment revenues received under a brownfield plan
19 established under sections 13 and 14.

20 (ii) Proceeds of tax increment bonds and notes issued under
21 section 17.

22 (d) Proceeds of revenue bonds and notes issued under section
23 12.

24 (e) Revenue available in the local brownfield revolving fund
25 for the costs described in section 8.

26 (f) Construction period tax capture revenues, withholding tax
27 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
28 **use tax capture revenues** received under a transformational
29 brownfield plan established under sections 13c and 14a.

1 (g) Money obtained from all other sources approved by the
2 governing body of the municipality or otherwise authorized by law
3 for use by the authority or the municipality to finance activities
4 authorized under this act.

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

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

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

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

29 (c) An estimate of the captured taxable value and tax

1 increment revenues for each year of the plan from the eligible
2 property. The plan may provide for the use of part or all of the
3 captured taxable value, including deposits in the local brownfield
4 revolving fund, but the portion intended to be used ~~shall~~**must** be
5 clearly stated in the plan. The plan ~~shall~~**must** not provide either
6 for an exclusion from captured taxable value of a portion of the
7 captured taxable value or for an exclusion of the tax levy of 1 or
8 more taxing jurisdictions unless the tax levy is excluded from tax
9 increment revenues in section ~~2(ss)~~**2 (ww)**, or unless the tax levy
10 is excluded from capture under section 15.

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

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

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

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

23 (h) A legal description of the eligible property to which the
24 plan applies, a map showing the location and dimensions of each
25 eligible property, a statement of the characteristics that qualify
26 the property as eligible property, and a statement of whether
27 personal property is included as part of the eligible property. If
28 the project is on property that is functionally obsolete, the
29 taxpayer shall include, with the application, an affidavit signed

1 by a level 3 or level 4 assessor, that states that it is the
 2 assessor's expert opinion that the property is functionally
 3 obsolete and the underlying basis for that opinion.

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

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

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

25 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
 26 213.332.

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

29 (3) ~~When~~**If** taxes levied for school operating purposes are

1 subject to capture under section 15, the percentage of school
2 operating tax increment revenues captured relating to a parcel of
3 eligible property under a brownfield plan ~~shall~~**must** not be greater
4 than the percentage of local tax increment revenues that are
5 captured under the brownfield plan relating to that parcel of
6 eligible property.

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

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

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

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

28 (a) The time of capture described in this subsection for the
29 purpose of paying the costs permitted under subsection (4) or

1 section 13b(4).

2 (b) For not more than 5 years after the date specified in
3 subdivision (a).

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

7 (2) An authority shall not enter into agreements with the
8 taxing jurisdictions and the governing body of the municipality to
9 share a portion of the taxes captured from an eligible property
10 under this act. ~~Upon~~**On** adoption of the plan, the collection and
11 transmission of the amount of tax increment revenues as specified
12 in this act ~~shall be~~**are** binding on all taxing units levying ad
13 valorem property taxes or specific taxes against property located
14 in the zone.

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

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

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

1 following:

2 (i) **Infrastructure** improvements that directly benefit eligible
3 property. ~~or demolition~~

4 (ii) **Demolition** of structures that is not response activity. ~~or~~
5 ~~lead~~

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

8 (iv) **Site** preparation that is not response activity. ~~or~~
9 ~~relocation~~

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

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

15 (b) Approval of a combined brownfield plan or a work plan by
16 the Michigan strategic fund in the manner required under section
17 15(12) to (14) or (20) is required ~~in order~~ to use the tax
18 increment revenues to assist a land bank fast track authority or
19 qualified local governmental unit with clearing or quieting title,
20 acquiring, selling, or conveying property.

21 (c) The combined brownfield plan or work plan to be submitted
22 to the Michigan strategic fund under this subsection ~~shall~~ **must** be
23 in a form prescribed by the Michigan strategic fund.

24 (d) The eligible activities to be conducted and described in
25 this subsection ~~shall~~ **must** be consistent with the combined
26 brownfield plan or work plan submitted by the authority to the
27 Michigan strategic fund.

28 (e) The department's approval is not required for the capture
29 of taxes levied for school operating purposes for eligible

1 activities described in this section.

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

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

8 (a) Use taxes captured from eligible property to pay for
9 eligible activities conducted before approval of the brownfield
10 plan.

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

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

18 (d) Use construction period tax capture revenues, withholding
19 tax capture revenues, ~~or~~ income tax capture revenues, **or sales and**
20 **use tax capture revenues** to pay for eligible activities conducted
21 before approval of the transformational brownfield plan except for
22 costs described in section 13c(10).

23 (e) Use construction period tax capture revenues, withholding
24 tax capture revenues, ~~and~~ income tax capture revenues, **and sales**
25 **and use tax capture revenues** for any expense other than as provided
26 for in section 13c(2), except for the reasonable costs for
27 preparing a transformational brownfield plan and the additional
28 administrative and operating expenses of the authority or
29 municipality as are specifically associated with the implementation

1 of a transformational brownfield plan. For purposes of this
2 subsection, the reasonable costs of preparing a transformational
3 brownfield plan include the reasonable costs of preparing an
4 associated work plan, combined brownfield plan, and development or
5 reimbursement agreement.

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

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

11 (i) Reasonable and actual administrative and operating expenses
12 of the authority.

13 (ii) Department specific activities conducted by or on behalf
14 of the authority related directly to work conducted on prospective
15 eligible properties ~~prior to~~ **before** approval of the brownfield
16 plan.

17 (iii) Reasonable costs of developing and preparing brownfield
18 plans, combined plans, or work plans for which tax increment
19 revenues may be used under subsection (4), including, but not
20 limited to, legal and consulting fees that are not in the ordinary
21 course of acquiring and developing real estate.

22 (iv) Reasonable cost of brownfield plan or work plan
23 implementation, including, but not limited to, tracking and
24 reporting data and plan compliance.

25 (b) Taxes levied for school operating purposes may be used for
26 1 or more of the following administrative and operating purposes:

27 (i) Reasonable costs of developing and preparing brownfield
28 plans, combined brownfield plans, or work plans for which tax
29 increment revenues may be used under section 13(4), including, but

1 not limited to, legal and consulting fees that are not in the
 2 ordinary course of acquiring and developing real estate, not to
 3 exceed \$30,000.00.

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

7 (c) In each fiscal year of the authority, the amount of tax
 8 increment revenues attributable to local taxes that an authority
 9 ~~can~~**may** use for the purposes described in subdivisions (a) and (b)
 10 ~~shall be~~**is** determined as follows:

11 (i) For authorities that have 5 or fewer active projects,
 12 \$100,000.00.

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

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

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

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

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

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

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

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

29 (x) For authorities that have 99 or more active projects,

1 \$1,000,000.00.

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

5 (e) As used in this subsection, "active project" means a
6 project ~~in-for~~ which the authority is currently capturing taxes
7 under this act. The amounts of tax increment revenues attributable
8 to local taxes listed in this subsection that an authority can use
9 for the purposes described in this subsection may be increased by
10 2% for each written agreement entered into by an authority in
11 either of the following situations up to a total maximum increase
12 of 10%:

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

17 (ii) The authority enters into a written agreement with 1 or
18 more other authorities to administer 1 or more administrative
19 operations of those other authorities.

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

24 (a) Site investigation activities required to conduct a
25 baseline environmental assessment and to evaluate compliance with
26 sections 20107a and 21304c of the natural resources and
27 environmental protection act, 1994 PA 451, MCL 324.20107a and
28 324.21304c.

29 (b) Completing a baseline environmental assessment.

1 (c) Preparing a plan for compliance with sections 20107a and
 2 21304c of the natural resources and environmental protection act,
 3 1994 PA 451, MCL 324.20107a and 324.21304c.

4 (d) Performing pre-demolition and building hazardous materials
 5 surveys.

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

7 (9) The limitations of subsections (4), (5), and (6) ~~upon~~**on**
 8 the use of local taxes and taxes levied for school operating
 9 purposes ~~shall~~**do** not apply to the following costs and expenses:

10 (a) For tax increment revenues attributable to taxes levied
 11 for school operating purposes, eligible activities associated with
 12 unanticipated response activities conducted on eligible property if
 13 that eligible property has been included in a brownfield plan, ~~if~~
 14 the department is consulted in writing on the unanticipated
 15 response activities before they are conducted, and the costs of
 16 those activities are subsequently included in a brownfield plan,
 17 combined brownfield plan or a work plan or amendment approved by
 18 the authority and approved by the department.

19 (b) For tax increment revenues attributable to local taxes,
 20 any eligible activities conducted on eligible property or
 21 prospective eligible properties ~~prior to~~**before** approval of the
 22 brownfield plan, if those costs and the eligible property are
 23 subsequently included in a brownfield plan approved by the
 24 authority.

25 (c) For tax increment revenues attributable to taxes levied
 26 for school operating purposes, eligible activities described in
 27 subsection (4) and conducted on eligible property or prospective
 28 eligible properties ~~prior to~~**before** approval of the brownfield
 29 plan, if those costs and the eligible property are subsequently

1 included in a brownfield plan approved by the authority and a
2 combined brownfield plan or work plan approved by the Michigan
3 strategic fund.

4 (d) Reasonable cost of developing and preparing brownfield
5 plans, combined brownfield plans, or work plans for which tax
6 increment revenues may be used under section 13(4), including, but
7 not limited to, legal and consulting fees that are not in the
8 ordinary course of acquiring and developing real estate.

9 (e) Reasonable cost of brownfield plan or work plan
10 implementation, including, but not limited to, tracking and
11 reporting of data and plan compliance.

12 (10) An authority shall not use taxes levied for school
13 operating purposes captured from eligible property for response
14 activities that benefit a party responsible for an activity causing
15 a release under section 20126 or 21323a of the natural resources
16 and environmental protection act, 1994 PA 451, MCL 324.20126 and
17 324.21323a, except that a municipality that established the
18 authority may use taxes levied for school operating purposes
19 captured from eligible property for response activities associated
20 with a landfill.

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

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

28 (a) If an authority reimburses a person or entity under this
29 section for an advance for the payment or reimbursement of the cost

1 of eligible activities and interest thereon, the authority may
2 capture local taxes for the payment of that interest.

3 (b) 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 department specific activities and interest thereon included in
6 a combined brownfield plan or a work plan approved by the
7 department, the authority may capture taxes levied for school
8 operating purposes and local taxes for the payment of that
9 interest.

10 (c) If an authority reimburses a person or entity under this
11 section for an advance for the payment or reimbursement of the cost
12 of eligible activities that are not department specific activities
13 and interest thereon included in a combined brownfield plan or a
14 work plan approved by the Michigan strategic fund, the authority
15 may capture taxes levied for school operating purposes and local
16 taxes for the payment of that interest ~~provided that if~~ the
17 Michigan strategic fund grants an approval for the capture of taxes
18 levied for school operating purposes to pay ~~such that~~ interest.

19 (13) An authority may enter into agreements related to these
20 reimbursements and payments described in this section. A
21 reimbursement agreement for these purposes and the obligations
22 under that reimbursement agreement ~~shall are~~ not ~~be~~ subject to
23 section 13 or the revised municipal finance act, 2001 PA 34, MCL
24 141.2101 to 141.2821.

25 (14) Notwithstanding anything to the contrary in this act, for
26 a brownfield plan that includes the capture of taxes levied for
27 school operating purposes from each eligible property included in a
28 brownfield plan after January 1, 2013, an authority shall pay to
29 the department of treasury at least once annually an amount equal

1 to 50% of the taxes levied under the state education tax act, 1993
2 PA 331, MCL 211.901 to 211.906, including 50% of that portion of
3 specific taxes attributable to, but not levied under, the state
4 education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are
5 captured under the brownfield plan until the expiration of the
6 earlier of the following:

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

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

10 (i) The date of repayment of all eligible expenses relative to
11 such eligible property.

12 (ii) The date excess capture is terminated under subsection
13 (16).

14 (15) The department of treasury shall deposit the amounts
15 described in subsection (14) into the state brownfield
16 redevelopment fund. If an authority makes a payment as required
17 under subsection (14) to the department of treasury, the local
18 taxes levied on that parcel and used to reimburse eligible
19 activities under a brownfield plan ~~shall~~**must** not be increased or
20 decreased due to that payment. If, due to an appeal of any tax
21 assessment, an authority is required to reimburse a taxpayer for
22 any portion of the amount paid to the department of treasury under
23 this subsection, the department of treasury shall reimburse that
24 amount to the authority within 30 days after receiving a request
25 from the authority for reimbursement.

26 (16) The brownfield plan ~~shall~~**must** include a proposed
27 beginning date of capture. If the actual beginning date of capture
28 of tax increment revenues is later than 5 years following the date
29 of the adoption of the brownfield plan resolution, then the maximum

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

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

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

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

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

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

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

18 (c) An estimate of the amount of construction period tax
 19 capture revenues, withholding tax capture revenues, ~~and~~ income tax
 20 capture revenues, **and sales and use tax capture revenues** expected
 21 to be generated for each year of the transformational brownfield
 22 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, **and sales and use tax capture revenues**
 26 for each eligible property as determined under subsections (8) and
 27 (11).

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

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

10 (5) Approval of a transformational brownfield plan, or an
 11 amendment to a transformational brownfield plan, ~~shall~~**must** be in
 12 accordance with the notice, approval, and public hearing
 13 requirements of sections 14 and 14a, except that the governing body
 14 shall provide notice to the Michigan strategic fund not less than
 15 30 days before the hearing on a transformational brownfield plan.

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

1 brownfield plan under section 13b(4). The eligible activities to be
2 conducted ~~shall~~**must** be consistent with the work plan submitted by
3 the authority to the Michigan strategic fund.

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

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

24 (9) The brownfield authority and Michigan strategic fund may
25 reimburse advances, with or without interest, made by a
26 municipality under section 7(3), a land bank fast track authority,
27 or any other person or entity for costs of eligible activities
28 included within a transformational brownfield plan using tax
29 increment revenues, construction period tax capture revenues,

1 withholding tax capture revenues, ~~or~~ income tax capture revenues,
 2 **or sales and use tax capture revenues** attributable to that plan.
 3 ~~Upon~~ **On** approval of the Michigan strategic fund, the amount of tax
 4 increment revenues, construction period tax capture revenues,
 5 withholding tax capture revenues, ~~and~~ income tax capture revenues,
 6 **and sales and use tax capture revenues** authorized to be captured
 7 under a transformational brownfield plan may include amounts
 8 required for the payment of interest under this subsection. A
 9 written development or reimbursement agreement ~~shall~~ **must** be
 10 entered into under subsection (6) before any reimbursement or
 11 payment using tax increment revenues, construction period tax
 12 capture revenues, withholding tax capture revenues, ~~or~~ income tax
 13 capture revenues, **or sales and use tax capture revenues** may
 14 commence. A reimbursement agreement for these purposes and the
 15 obligations under that reimbursement agreement ~~shall~~ **are** not be
 16 subject to section 12 or the revised municipal finance act, 2001 PA
 17 34, MCL 141.2101 to 141.2821.

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

1 brownfield plan by the Michigan strategic fund.

2 (11) The duration of the capture of withholding tax capture
3 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
4 **capture revenues** under a transformational brownfield plan for a
5 particular eligible property ~~shall~~**must** not exceed the lesser of
6 the period authorized under subsection (8) or 20 years from the
7 beginning date of the capture of withholding tax capture revenues,
8 ~~and~~ income tax capture revenues, **and sales and use tax capture**
9 **revenues** for that eligible property. The beginning date for the
10 capture of tax increment revenues, withholding tax capture
11 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
12 **capture revenues** for an eligible property ~~shall~~**must** not be later
13 than 5 years following the date the Michigan strategic fund
14 approves the inclusion of the eligible property in a
15 transformational brownfield plan. Subject to the approval of the
16 governing body and Michigan strategic fund, the authority may amend
17 the beginning date of capture of tax increment revenues,
18 withholding tax capture revenues, ~~and~~ income tax capture revenues,
19 **and sales and use tax capture revenues** to a date not later than 5
20 years following the date the Michigan strategic fund approved
21 inclusion of the eligible property in the transformational
22 brownfield plan ~~so long as~~ **if** capture of the revenues under the
23 transformational brownfield plan has not yet commenced. **Solely with**
24 **respect to a related program of investment as defined in subsection**
25 **(12), subject to the approval of the governing body and Michigan**
26 **strategic fund, the authority may amend the beginning date of**
27 **capture of tax increment revenues, withholding tax capture**
28 **revenues, income tax capture revenues, and sales and use tax**
29 **capture revenues for an eligible property included within a related**

1 program of investment to a date later than 5 years following the
 2 date the Michigan strategic fund approved inclusion of the eligible
 3 property in the transformational brownfield plan if the governing
 4 body and Michigan strategic fund determine that the developer of
 5 the related program of investment has proceeded in good faith and
 6 made reasonable and substantial progress in the implementation of
 7 the related program of investment.

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

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

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

22 (c) For developments under unrelated ownership, in addition to
 23 the criteria described in subdivisions (a) and (b), the
 24 developments are part of a master development plan, area plan, sub-
 25 area plan, or similar development plan that has been approved or
 26 adopted by resolution of the governing body.

27 (d) The designation of the developments as a related program
 28 of investment is consistent with the purposes of this act and is
 29 not a combination of unrelated or minimally related projects

1 calculated to meet the minimum investment threshold.

2 (13) ~~Where~~**If** undeveloped property included in a
3 transformational brownfield plan has been designated as a
4 renaissance zone under the Michigan renaissance zone act, 1996 PA
5 376, MCL 125.2681 to 125.2696, ~~upon~~**on** the request of the owner or
6 developer of the eligible property and the local governmental unit
7 that designated the zone, the Michigan strategic fund, and a city
8 levying a tax under the city income tax act, 1964 PA 284, MCL
9 141.501 to 141.787, may elect under section 9(4) of the Michigan
10 renaissance zone act, 1996 PA 376, MCL 125.2689, to terminate the
11 exemptions, deductions, or credits provided for in section 9(1)(b)
12 and (c) of that act, and reimburse the authority, or owner or
13 developer of the eligible property, an annual amount equal to the
14 revenue collected for each tax year as a result of the termination
15 of the exemptions, deductions, or credits that would otherwise be
16 in effect. In implementing this subsection, all of the following
17 apply:

18 (a) The authority and Michigan strategic fund shall include
19 amounts anticipated to be collected under this subsection in the
20 income tax capture revenues authorized to be used under the
21 transformational brownfield plan and associated work plan or
22 combined brownfield plan.

23 (b) The state treasurer shall calculate for each tax year the
24 amount of revenue ~~the~~**this** state of Michigan collected as a result
25 of the operation of this subsection and shall deposit that amount
26 as income tax capture revenues into the state brownfield
27 redevelopment fund, where the funds ~~shall~~**must** be transmitted in
28 the manner provided for in sections 8a(4) and 16(8).

29 (c) A city levying a city income tax under the city income tax

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

14 (d) The department of treasury may require the owner or
15 developer to submit any information necessary for the calculation
16 of revenue collected pursuant to the operation of this subsection.
17 This state has no obligation for calculating revenues to be
18 collected pursuant to the operation of this subsection ~~where~~ **if** the
19 required information is not reported.

20 (14) The authority and governing body are solely responsible
21 for deciding whether to seek approval of a brownfield plan as a
22 transformational brownfield plan. Nothing in this section or
23 section 14a ~~shall operate~~ **operates** to prejudice or limit
24 consideration of a brownfield plan under sections 13 and 14,
25 including a decision by the Michigan strategic fund not to approve
26 a plan as a transformational brownfield plan.

27 (15) ~~Nothing in this~~ **This** act is intended to ~~does not~~ **does not** preclude
28 an authority established by a county from seeking approval of a
29 brownfield plan as a transformational brownfield plan. In the event

1 that an authority established by a county seeks approval of a plan
2 that extends into more than 1 of its component local units of
3 government and that plan includes eligible property in more than 1
4 municipality that is not a county, the minimum investment
5 requirements of section ~~2(vv) shall~~ **2(zz) must** be established with
6 reference to combined population of the municipalities that are not
7 a county in which the eligible property is located.

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

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

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

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

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

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

5 (d) Whether the amount of captured taxable value, construction
6 period tax capture revenues, withholding tax capture revenues, ~~and~~
7 income tax capture, **and sales and use tax capture** revenues
8 estimated to result from adoption of the transformational
9 brownfield plan are reasonable.

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

13 (f) Whether subject to subsection ~~(22) (d)~~, **(21) (d)**, the
14 transformational brownfield plan includes provisions for affordable
15 housing.

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

21 (5) In determining whether to approve a transformational
22 brownfield plan under subsection (3) (c) and (d), the Michigan
23 strategic fund shall conduct a financial and underwriting analysis
24 of the developments included in the plan. The analysis ~~shall~~**must**
25 consider both projected rental rates at the time of project
26 delivery and potential increases in rental rates over time. The
27 Michigan strategic fund shall not approve the use of construction
28 period tax capture revenues, withholding tax capture revenues, ~~and~~
29 income tax capture revenues, **and sales and use tax capture revenues**

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

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

28 (7) Except as otherwise provided in this subsection, the
 29 Michigan strategic fund may not approve a transformational

1 brownfield plan that proposes to use more than 50% of the
 2 withholding tax capture revenues or 50% of the income tax capture
 3 revenues. The Michigan strategic fund may modify the amount of
 4 withholding tax capture revenues and income tax capture revenues
 5 before approving a transformational brownfield plan ~~in order to~~
 6 bring the transformational brownfield plan into compliance with
 7 subsection (5). The Michigan strategic fund may approve a
 8 transformational brownfield plan that proposes to use more than 50%
 9 of the income tax capture revenues if 1 of the following applies:

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

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

20 (8) The Michigan strategic fund shall require the owner or
 21 developer of the eligible property to certify the actual capital
 22 investment, as determined in accordance with section 2(o)(iv) and
 23 section ~~2(vv), upon~~**2(zz)**, **on** the completion of construction and
 24 before the commencement of reimbursement from withholding tax
 25 capture revenues, income tax capture revenues, **sales and use tax**
 26 **capture revenues**, or tax increment revenues, for the plan or the
 27 distinct phase or project within the plan for which reimbursement
 28 will be provided. If the actual capital investment is less than the
 29 amount included in the plan, the Michigan strategic fund shall

1 review the determination under subsection (5) and may modify the
 2 amount of reimbursement if, and to the extent, such a modification
 3 is necessary to maintain compliance with subsection (5). The
 4 transformational brownfield plan, work plan, and development and
 5 reimbursement agreement ~~shall~~**must** include provisions to enforce
 6 the requirements and remedies under this subsection. If the actual
 7 level of capital investment does not meet the applicable minimum
 8 investment requirement under section ~~2(vv)~~**2(zz)** and is outside of
 9 the safe harbor under subsection (15), the Michigan strategic fund
 10 may take 1 of the following remedial actions:

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

13 (b) For a plan that consists of distinct phases or projects,
 14 ~~where~~**if** the failure to meet the minimum investment threshold is
 15 the result of failure to undertake additional distinct phases or
 16 projects as provided for in the plan, 1 or more of the following:

17 (i) Permanently rescind the authorization to use tax increment
 18 revenues, construction period tax capture revenues, withholding tax
 19 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
 20 **use tax capture revenues** for the additional distinct phases or
 21 projects in the plan.

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

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

1 (a) Is for eligible property in an area approved by the
 2 **Michigan** state housing development authority as eligible for blight
 3 elimination program funding under the housing finance agency
 4 innovation fund for the hardest hit housing markets authorized
 5 pursuant to the emergency economic stabilization act of 2008,
 6 **division A of** Public Law 110-343, 12 USC 5201 to 5261. For purposes
 7 of this subdivision, an area approved as eligible for blight
 8 elimination program funding means that specific portion or portions
 9 of a municipality where the Michigan state housing development
 10 authority approved the expenditure of blight elimination program
 11 funds pursuant to an application identifying the target areas.

12 (b) Is for eligible property in a municipality that was
 13 subject to a state of emergency under the emergency management act,
 14 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water
 15 contamination.

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

19 (d) Is for eligible property that is located in a city,
 20 village, or township with a population of less than 25,000 or that
 21 is otherwise eligible for the corresponding population tier in
 22 section ~~2(vv)(vi)~~, **2(zz)(vi)**, as determined in accordance with
 23 subsection (15), if the Michigan strategic fund determines that the
 24 redevelopment is not economically feasible absent the
 25 transformational brownfield plan.

26 (10) In determining whether a plan under subsection (9) has a
 27 transformational impact for purposes of section ~~2(vv)~~ **2(zz)** and
 28 subsection (3)(a), the governing body and Michigan strategic fund
 29 shall consider the impact of the transformational brownfield plan

1 in relation to existing investment and development conditions in
 2 the project area and whether the transformational brownfield plan
 3 will act as a catalyst for additional revitalization of the area in
 4 which it is located.

5 (11) The Michigan strategic fund may not approve more than 5
 6 transformational brownfield plans under subsection (9) in a
 7 calendar year, except that if the Michigan strategic fund approves
 8 fewer than 5 plans in a calendar year under subsection (9), the
 9 unused approval authority ~~shall carry~~ **carries** forward into future
 10 calendar years and ~~remain~~ **remains** available until December 31,
 11 2027. The Michigan strategic fund also shall not approve more than
 12 5 transformational brownfield plans under subsection (9) in any
 13 individual city, village, or township ~~prior to~~ **before** December 31,
 14 2022.

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

24 (13) Except as provided in this subsection, an amendment to an
 25 approved transformational brownfield plan under section 13c(1)
 26 ~~shall is~~ not ~~be~~ considered a new plan approval subject to the
 27 limitation in subsection ~~(22)(a).~~ **(21)(a)**. The Michigan strategic
 28 fund may consider an amendment as a new plan approval only ~~where~~ **if**
 29 the amendment adds eligible property and the Michigan strategic

1 fund determines that approving the addition as an amendment would
2 be inconsistent with the purposes of this act.

3 (14) The procedure, adequacy of notice, and findings under
4 this section ~~shall be~~**are** presumptively valid unless contested in a
5 court of competent jurisdiction within 60 days after approval of
6 the transformational brownfield plan by the Michigan strategic
7 fund. An approved amendment to a conclusive transformational
8 brownfield plan ~~shall~~**is** likewise ~~be~~conclusive unless contested
9 within 60 days after approval of the amendment by the Michigan
10 strategic fund. If a resolution adopting an amendment to the
11 transformational brownfield plan is contested, the original
12 resolution adopting the transformational brownfield plan is not
13 open to contest.

14 (15) The determination as to whether a transformational
15 brownfield plan complies with the minimum investment requirements
16 in section ~~2(vv)~~**2(zz)** ~~shall~~**must** be made with reference to the
17 most recent decennial census data available at the time of approval
18 by the authority. A plan in a municipality that exceeds a
19 population tier under section ~~2(vv)~~**2(zz)** by not more than 10% of
20 the maximum population for that tier ~~shall, upon~~**is, on** election of
21 the authority, ~~be~~subject to the investment requirement for that
22 tier. A transformational brownfield plan that is expected to result
23 in, or does result in, a total capital investment that is within
24 10% of the applicable minimum investment requirement ~~shall be~~**is**
25 considered to satisfy the applicable requirement under section
26 ~~2(vv)~~**2(zz)**.

27 (16) For purposes of a transformational brownfield plan,
28 determination as to whether property is functionally obsolete ~~as~~
29 ~~defined under section 2(u)~~may include considerations of economic

1 obsolescence as determined in accordance with the Michigan state
2 tax commission's assessor's manual.

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

6 (18) The Michigan strategic fund shall charge and collect a
7 reasonable application fee as necessary to cover the costs
8 associated with the review and approval of a transformational
9 brownfield plan.

10 (19) The Michigan strategic fund shall not commit, and the
11 department of treasury shall not disburse, more than ~~\$40,000,000.00~~
12 **\$80,000,000.00** in total annual tax capture. ~~For purposes of~~ **As used**
13 **in** this subsection, "total annual tax capture" means the total
14 annual amount of income tax capture revenues, ~~and~~ withholding tax
15 capture revenues, **and sales and use tax capture revenues** that may
16 be reimbursed each calendar year under all transformational
17 brownfield plans. ~~If the amount committed or disbursed in a~~
18 ~~calendar year is less than \$40,000,000.00, the difference between~~
19 ~~that amount and \$40,000,000.00 shall be available to be committed~~
20 ~~or disbursed in subsequent calendar years and shall be in addition~~
21 ~~to the annual limit otherwise applicable.~~

22 ~~(20) The Michigan strategic fund shall not commit, and the~~
23 ~~department of treasury shall not disburse, a total amount of income~~
24 ~~tax capture revenues and withholding tax capture revenues that~~
25 ~~exceeds \$800,000,000.00.~~

26 **(20)** ~~(21)~~ The Michigan strategic fund shall not approve more
27 than a total of \$200,000,000.00 in construction period tax capture
28 revenues. ~~and in projected sales and use tax exemptions under~~
29 ~~section 4d(n) of the general sales tax act, 1933 PA 167, MCL~~

~~1 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL~~
~~2 205.94dd.~~ The Michigan strategic fund shall project the value of
~~3 the sales and use tax exemptions under each transformational~~
~~4 brownfield plan at the time of plan approval and shall require such~~
~~5 information from the owner or developer as is necessary to perform~~
~~6 this calculation. The Michigan strategic fund also shall require~~
~~7 the owner or developer of the eligible property to report the~~
~~8 actual value of the sales and use tax exemptions each tax year of~~
~~9 the construction period and at the end of the construction period.~~
~~10 If the value of the actual sales and use tax exemptions and~~
~~11 construction period tax capture revenues under all transformational~~
~~12 brownfield plans exceeds the limit of \$200,000,000.00 under this~~
~~13 subsection by more than a de minimis amount, as determined by the~~
~~14 state treasurer, the state treasurer shall take corrective action~~
~~15 and may reduce future disbursements to achieve compliance with the~~
~~16 aggregate limitation under subsection (20) and this subsection. The~~
~~17 corrective action described in this subsection shall not reduce the~~
~~18 disbursement for an individual plan by an amount that is more than~~
~~19 the amount by which the value of the sales and use tax exemptions~~
~~20 for that plan exceeded the amount projected at the time of plan~~
~~21 approval and included in the plan. The Michigan strategic fund and~~
~~22 department of treasury shall prescribe specific methods for~~
~~23 implementing this section within 60 days of the effective date of~~
~~24 the amendatory act that added this section.~~

~~25 (21) (22)~~ The Michigan strategic fund shall comply with all of
~~26 the following:~~

~~27 (a) Not approve more than 5 transformational brownfield plans~~
~~28 in a calendar year, except that if the Michigan strategic fund~~
~~29 approves fewer than 5 plans in a calendar year, the unused approval~~

1 authority ~~shall carry~~ **carries** forward into future calendar years
2 and ~~remain~~ **remains** available until December 31, 2027.

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

6 (c) Ensure an equitable geographic distribution of plans
7 approved under this subsection, which ~~shall~~ **must** achieve a balance
8 between the needs of municipalities of differing sizes and
9 differing geographic areas of the state. Subject to the receipt of
10 qualified transformational brownfield plans meeting the criteria
11 under this section and section 13c, the Michigan strategic fund
12 shall set a target that not less than 35% of the total
13 transformational brownfield plans approved under this act ~~prior to~~
14 **before** December 31, 2027 will be located in cities, villages, and
15 townships with a population of less than ~~100,000~~ **225,000**.

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

19 **(22)** ~~(23)~~ In the event of a proposed change in ownership of
20 eligible property subject to a transformational brownfield plan for
21 which reimbursement will continue, the approval of the Michigan
22 strategic fund is required ~~prior to~~ **before** the assignment or
23 transfer of the development and reimbursement agreement.

24 **(23)** ~~(24)~~ If the Michigan strategic fund approves a
25 transformational brownfield plan and work plan, and subsequent to
26 that approval, amendments are made to this act, the Michigan
27 strategic fund may amend those plans to make conforming and
28 consistent changes to the approved transformational brownfield plan
29 and work plan on an administrative basis, ~~provided that~~ **if** those

1 changes do not result in any increase in the aggregate total amount
 2 of reimbursement authorized under the initial transformational
 3 brownfield plan. The authority of the Michigan strategic fund to
 4 administratively amend transformational brownfield plans and work
 5 plans under this subsection also applies to transformational
 6 brownfield plans and work plans entered into before ~~the effective~~
 7 ~~date of the amendatory act that added this sentence.~~ **December 27,**
 8 **2021.**

9 **(24)** ~~(25)~~ The Michigan strategic fund shall not approve any
 10 new transformational brownfield plans after December 31, 2027. A
 11 transformational brownfield plan approved ~~prior to~~ **before** December
 12 31, 2022 ~~shall remain~~ **remains** in effect and may be amended in
 13 accordance with ~~the provisions of~~ this act.

14 **(25)** ~~(26)~~ ~~Upon~~ **On** approval by the Michigan strategic fund, the
 15 mixed-use requirement in section 2 ~~(vv)~~ **2 (zz)** may be waived for a
 16 brownfield plan that otherwise meets the location, population, and
 17 minimum investment requirement under section 2 ~~(vv)~~ ~~(vi)~~ **2 (zz) (vi)** .

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

21 (a) A copy of the brownfield plan.

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

26 (c) A summary of available information on the historical and
 27 current use of each eligible property, including a brief summary of
 28 site conditions and what is known about environmental contamination
 29 as that term is defined in section 20101 of the natural resources

1 and environmental protection act, 1994 PA 451, MCL 324.20101.

2 (d) Existing and proposed future zoning for each eligible
3 property.

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

6 (2) ~~Upon~~**On** receipt of a request for approval of a work plan
7 under subsection (1) or a portion of a work plan that pertains to
8 only department specific activities, the department shall review
9 the work plan according to subsection (3) and provide 1 of the
10 following written responses to the requesting authority within 60
11 days:

12 (a) An unconditional approval.

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

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

28 (d) A denial if the property is not an eligible property under
29 this act, if the work plan contemplates the use of taxes levied for

1 school operating purposes prohibited by section 13b(10), or for any
2 specific activity if the activity is prohibited by section
3 13b(6) (a). The department may also deny any activity in a work plan
4 that does not meet the conditions in subsection (3) only if the
5 department cannot respond under ~~subsection (2) (b)~~ **subdivision (b)**
6 or (c). The department shall accompany the denial with a letter
7 that states with specificity the reason for the denial. The
8 department shall respond under ~~subsection (2) (a)~~, **subdivision (a)**,
9 (b), or (c) according to this section for any activities in the
10 work plan that are not denied under this subdivision. If the
11 department denies all or a portion of a work plan under this
12 subdivision, the authority may subsequently resubmit the work plan.

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

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

18 (b) The department specific activities, other than the
19 activities that are exempt from the work plan approval process
20 under section 13b(8), are protective of the public health, safety,
21 and welfare and the environment. The department may approve
22 department specific activities that are more protective of the
23 public health, safety, and welfare and the environment than
24 required by section 20107a of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.20107a, if those
26 activities provide public health or environmental benefit. In
27 review of a work plan that includes department specific activities
28 that are more protective of the public health, safety, and welfare
29 and the environment, the department's considerations may include,

1 but are not limited to, all of the following:

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

4 (ii) The cost to implement activities minimally necessary to
5 achieve due care compliance, the total cost of response activities,
6 and the incremental cost of department specific activities in
7 excess of those activities minimally necessary to achieve due care
8 compliance.

9 (iii) Long-term obligations associated with leaving
10 contamination in place and the value of reducing or eliminating
11 these obligations.

12 (c) The estimated costs for the activities as a whole are
13 reasonable for the stated purpose. Except as **otherwise** provided in
14 subdivision (b), the department shall make the determination in
15 this subdivision only after the department determines that the
16 conditions in subdivisions (a) and (b) have been met.

17 (4) If the department fails to provide a written response
18 under subsection (2) within 60 days after receipt of a request for
19 approval of a work plan, the authority may proceed with the
20 activities as outlined in the work plan as submitted for approval.
21 Except as provided in subsection (5), activities conducted pursuant
22 to a work plan that was submitted to the department for approval
23 but for which the department failed to provide a written response
24 under subsection (2) ~~shall be~~**are** considered approved for the
25 purposes of subsection (1). Within 45 days after receiving
26 additional information requested from the authority under
27 subsection (2)(c), the department shall review the additional
28 information according to subsection (3) and provide 1 of the
29 responses described in subsection (2) to the requesting authority

1 for the specific activity. If the department does not provide a
2 response to the requesting authority within 45 days after receiving
3 the additional information requested under subsection (2)(c), the
4 activity is approved under section 13b.

5 (5) The department may issue a written response to a work plan
6 more than 60 days but less than 6 months after receipt of a request
7 for approval. If the department issues a written response under
8 this subsection, the authority is not required to conduct
9 individual activities that are in addition to the individual
10 activities included in the work plan as it was submitted for
11 approval and failure to conduct these additional activities ~~shall~~
12 **does** not affect the authority's ability to capture taxes under
13 section 13b for the eligible activities described in the work plan
14 initially submitted under subsection (4). In addition, at the
15 option of the authority, these additional individual activities
16 ~~shall be~~**are** considered part of the work plan of the authority and
17 approved for purposes of section 13b. However, any response by the
18 department under this subsection that identifies additional
19 individual activities that must be carried out to satisfy part 201
20 or part 213 must be satisfactorily completed for the activities to
21 be considered acceptable for the purposes of compliance with part
22 201 or part 213.

23 (6) If the department issues a written response under
24 subsection (5) to a work plan and if the department's written
25 response modifies an individual activity proposed by the work plan
26 of the authority in a manner that reduces or eliminates a proposed
27 response activity, the authority must complete those individual
28 activities in accordance with the department's response in order
29 for that portion of the work plan to be considered approved for

1 purposes of section 13b, unless 1 or more of the following
2 conditions apply:

3 (a) Obligations for the individual activity have been issued
4 by the authority, or by a municipality on behalf of the authority,
5 to fund the individual activity ~~prior to~~ **before** issuance of the
6 department's response.

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

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

16 (8) The department shall review the portion of a work plan
17 that includes department specific activities in accordance with
18 subsection (3).

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

27 (10) To seek Michigan strategic fund approval of a work plan
28 under section 13b(4) or 13c(6), the authority shall submit all of
29 the following for each eligible property:

1 (a) A copy of the brownfield plan or the transformational
2 brownfield plan.

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

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

9 (d) Existing and proposed future zoning for each eligible
10 property.

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

13 (f) A separate work plan, or part of a work plan, for each
14 eligible activity described in section 13b(4) to be undertaken. For
15 a transformational brownfield plan, the Michigan strategic fund
16 shall prescribe the form and content for the work plan to address
17 additional eligible activities under section 2(o) (iv).

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

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

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

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

7 (c) A denial and a letter stating with specificity the reason
8 for the denial. If a work plan is denied under this subsection, the
9 **authority may subsequently resubmit the** work plan. ~~may be~~
10 ~~subsequently resubmitted.~~

11 (12) In its review of a work plan under section 13b(4) or
12 13c(6) **for approval or denial**, the Michigan strategic fund shall
13 consider the following criteria to the extent reasonably applicable
14 to the type of activities proposed as part of that work plan when
15 approving or denying a work plan:

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

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

20 (c) Whether the cost for each individual activity is
21 reasonable.

22 (d) The overall benefit to the public.

23 (e) The extent of reuse of vacant buildings and redevelopment
24 of blighted property.

25 (f) Creation of jobs.

26 (g) Whether the eligible property is in an area of high
27 unemployment.

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

1 (i) The level of private sector contribution.

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

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

8 (l) Other state and local incentives available to the
9 developer, landowner, or corporate entity for the project of the
10 developer, landowner, or corporate entity that is included in the
11 work plan.

12 (m) Any other criteria that the Michigan strategic fund
13 considers appropriate for the determination of eligibility or for
14 approval of the work plan.

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

28 (14) The Michigan strategic fund approval of a work plan under
29 sections 13b(4) and 13c(6) is final.

1 (15) The Michigan strategic fund shall submit a report each
2 year to each member of the legislature as provided in section
3 16(4).

4 (16) All taxes levied for school operating purposes that are
5 not used for eligible activities consistent with a combined
6 brownfield plan or a work plan approved by the department or the
7 Michigan strategic fund or for the payment of interest under
8 sections 13 and 13b and that are not deposited in a local
9 brownfield revolving fund ~~shall~~**must** be distributed proportionately
10 between the local school district and the school aid fund.

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

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

19 (19) If a brownfield plan includes the capture of taxes levied
20 for school operating purposes, the chairperson of the Michigan
21 strategic fund may approve, without a meeting of the fund board,
22 combined brownfield plans and work plans that address eligible
23 activities described in section 13b(4) totaling an amount of
24 \$1,000,000.00 or less according to subsections (10), (11), (12),
25 (13), and (14) that include reimbursement of taxes levied for
26 school operating purposes.

27 (20) ~~In lieu~~**Instead** of seeking approval of a work plan under
28 section 13b(4) or (6) (c) or section 13c(6), an authority may seek
29 approval of a combined brownfield plan from the department or

1 Michigan strategic fund under this subsection as follows:

2 (a) To seek approval of a combined brownfield plan under this
 3 subsection, the authority shall, ~~at least~~ **not less than** 30 days
 4 before the hearing on the combined brownfield plan to allow for
 5 consultation between the authority and the department or the
 6 Michigan strategic fund and ~~at least~~ **not less than** 60 days in the
 7 case of a transformational brownfield plan, provide notice that the
 8 authority will be seeking approval of a combined brownfield plan ~~in~~
 9 ~~lieu~~ **instead** of a work plan to 1 or more of the following:

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

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

20 (b) After the governing body approves a combined brownfield
 21 plan, the authority shall submit the combined brownfield plan to
 22 the department under the circumstances described in subdivision
 23 (a) (i) or Michigan strategic fund under the circumstances described
 24 in subdivision (a) (ii).

25 (c) The department shall review a combined brownfield plan
 26 according to subdivision (e). The Michigan strategic fund shall
 27 review a combined brownfield plan according to subdivision (f).

28 (d) ~~Upon~~ **On** receipt of a combined brownfield plan under
 29 subdivision (b), the department or Michigan strategic fund shall

1 provide 1 of the following written responses to the requesting
2 authority within 60 days or, in the case of a transformational
3 brownfield plan, within 90 days:

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

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

10 (iii) A denial and a letter stating with specificity the reason
11 for the denial. If a combined brownfield plan is denied under this
12 subdivision, the combined brownfield plan may be subsequently
13 resubmitted.

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

17 (f) The Michigan strategic fund shall consider the criteria
18 identified in subsection (12) to the extent reasonably applicable
19 to the type of activities proposed as part of a combined brownfield
20 plan when approving or denying the combined brownfield plan and, in
21 the case of a transformational brownfield plan, shall also consider
22 the criteria described in section 14a(3).

23 (g) If the department or Michigan strategic fund issues a
24 written response to a requesting authority under subdivision (d) (i)
25 or (ii), the governing body or its designee may administratively
26 approve any modifications to a combined brownfield plan required by
27 the written response without the need to follow the notice and
28 approval process required by section 14(6) unless the modifications
29 add 1 or more parcels of eligible property or increase the maximum

1 amount of tax increment revenues or, in the case of a
 2 transformational brownfield plan, construction period tax capture
 3 revenues, withholding tax capture revenues, ~~and~~ income tax capture
 4 revenues, **and sales and use tax capture revenues** approved for the
 5 project.

6 (h) If the department or Michigan strategic fund fails to
 7 provide a written response under subdivision (d) within 60 days
 8 after receipt of a complete combined brownfield plan, or 90 days in
 9 the case of a transformational brownfield plan, the eligible
 10 activities ~~shall be~~ **are** considered approved as submitted.

11 (i) The approval of a combined brownfield plan by the
 12 department or Michigan strategic fund under this subsection is
 13 final.

14 Sec. 16. (1) The municipal and county treasurers shall
 15 transmit tax increment revenues to the authority not more than 30
 16 days after tax increment revenues are collected.

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

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

26 (a) The total amount of local taxes that are approved for
 27 capture and the total amount of taxes levied for school operating
 28 purposes that are approved for capture for each parcel included in
 29 a brownfield plan.

1 (b) The amount and purpose of expenditures of tax increment
2 revenues.

3 (c) The amount and source of tax increment revenues received
4 for each active brownfield plan, including the amount of tax
5 increment revenues captured in the most recent tax year and the
6 cumulative amount of tax increment revenues captured for each
7 brownfield plan.

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

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

12 (f) The amount of actual capital investment made for each
13 project.

14 (g) The amount of tax increment revenues attributable to taxes
15 levied for school operating purposes used for activities described
16 in section 13b(6)(c), section 2(o)(i)(F) and (G), and section
17 2(o)(ii)(B) and (C).

18 (h) The number of residential units constructed or
19 rehabilitated for each project.

20 (i) The amount, by square foot, of new or rehabilitated
21 residential, retail, commercial, or industrial space for each
22 project.

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

24 (k) A copy of all brownfield plan amendments approved by the
25 local **governmental** unit. ~~of government.~~

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

28 (4) The department and the Michigan strategic fund shall
29 collect the financial reports submitted under subsection (3),

1 compile a combined report ~~, which~~**that** includes the use of local
2 taxes, taxes levied for school operating purposes, and the state
3 brownfield redevelopment fund, based on the information contained
4 in those reports and any additional information considered
5 necessary, and submit annually a report based on that information
6 to each member of the legislature.

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

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

14 (b) The Michigan strategic fund shall on a quarterly basis
15 post on its website the name, location, and amount of tax increment
16 revenues, including taxes levied for school operating purposes, for
17 each project approved by the Michigan strategic fund under this act
18 during the immediately preceding quarter.

19 (6) In addition to any other requirements under this act, not
20 less than once every 3 years beginning not later than June 30,
21 2008, the auditor general shall conduct and report a performance
22 postaudit on the effectiveness of the program established under
23 this act. As part of the performance postaudit, the auditor general
24 shall assess the extent to which the implementation of the program
25 by the department and the Michigan strategic fund facilitate and
26 affect the redevelopment or reuse of eligible property and identify
27 any factors that inhibit the program's effectiveness. The
28 performance postaudit ~~shall~~**must** also assess the extent to which
29 the interpretation of statutory language, the development of

1 guidance or administrative rules, and the implementation of the
2 program by the department and the Michigan strategic fund is
3 consistent with the fundamental objective of facilitating and
4 supporting timely and efficient brownfield redevelopment of
5 eligible properties.

6 (7) The owner or developer for an active project included
7 within a brownfield plan must annually submit to the authority a
8 report on the status of the project. The report ~~shall~~**must** be in a
9 form developed by the authority and must contain information
10 necessary for the authority to report under subsection (3)(f), (h),
11 (i), (j), and (k). The authority may waive the requirement to
12 submit a report under this subsection. As used in this subsection,
13 "active project" means a project for which the authority is
14 currently capturing taxes under this act.

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

17 (a) The state treasurer shall transfer to the state brownfield
18 redevelopment fund each fiscal year an amount equal to the
19 construction period tax capture revenues, withholding tax capture
20 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
21 **capture revenues** under all approved plans as provided for in
22 section 8a(4). Funds ~~shall~~**must** be transmitted to the authority, or
23 owner or developer of the eligible property to which the revenues
24 are attributable, ~~within~~**not later than** 30 days ~~of~~**after** transfer
25 to the state brownfield redevelopment fund.

26 (b) The authority, the department, and the Michigan strategic
27 fund shall follow the reporting requirements of subsections (3),
28 (4), and (5) with respect to all approved transformational
29 brownfield plans, and shall provide information on the amount and

1 use of construction period tax capture revenues, withholding tax
2 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
3 **use tax capture revenues** to the same extent required for tax
4 increment revenues.

5 (c) The owner or developer of active projects included within
6 a transformational brownfield plan shall provide the information
7 required for the authority, the department, and the Michigan
8 strategic fund to satisfy the reporting and audit requirements of
9 this section.