

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 289**

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:
- 2 (a) "Authority" means a brownfield redevelopment authority
- 3 created under this act.
- 4 (b) "Baseline environmental assessment" means that term as



1 defined in part 201 or 213.

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

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

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

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

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

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

21 (vi) Is property owned by or under the control of a land bank
22 fast track authority, whether or not located within a qualified
23 local governmental unit. Property included within a brownfield plan
24 ~~prior to~~**before** the date it meets the requirements of this
25 subdivision to be eligible property ~~shall be~~**is** considered to
26 become eligible property as of the date the property is determined
27 to have been or becomes qualified as, or is combined with, other
28 eligible property. The sale, lease, or transfer of the property by
29 a land bank fast track authority after the property's inclusion in



1 a brownfield plan ~~shall~~**does** not result in the loss to the property
2 of the status as blighted property for purposes of this act.

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

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

7 (e) "Brownfield plan" means a plan that meets the requirements
8 of ~~section~~**sections** 13 and ~~section~~13b and is adopted under section
9 14.

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

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

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

25 (i) "Construction period tax capture revenues" means funds
26 equal to the amount of income tax levied and imposed in a calendar
27 year ~~upon~~**on** wages paid to individuals physically present and
28 working within the eligible property for the construction,
29 renovation, or other improvement of eligible property that is an



1 eligible activity within a transformational brownfield plan. As
2 used in this subdivision, "wages" means that term as defined in
3 section 3401 of the internal revenue code of 1986, 26 USC 3401. To
4 calculate the amount of construction period tax capture revenues
5 for a calendar year under a transformational brownfield plan, the
6 state treasurer shall do all of the following:

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

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

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

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



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

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

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

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

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

21 (iv) Dust control related to construction activities.

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

26 (vi) Industrial cleaning.

27 (vii) Sheet piling and shoring necessary for the removal of
28 materials exceeding part 201 criteria at projects requiring a
29 permit pursuant to part 301, 303, or 325 of the natural resources



1 and environmental protection act, 1994 PA 451, MCL 324.30101 to
2 324.30113, ~~MCL~~ 324.30301 to 324.30328, ~~or MCL~~ and 324.32501 to
3 324.32515a.

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

6 (ix) Environmental insurance.

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

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

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

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

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

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

23 (i) For all eligible properties, eligible activities include
24 all of the following:

25 (A) Department specific activities.

26 (B) Relocation of public buildings or operations for economic
27 development purposes.

28 (C) Reasonable costs of environmental insurance.

29 (D) Reasonable costs incurred to develop and prepare



1 brownfield plans, combined brownfield plans, or work plans for the
2 eligible property, including legal and consulting fees that are not
3 in the ordinary course of acquiring and developing real estate.

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

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

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

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

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

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

26 (B) Infrastructure improvements that directly benefit eligible
27 property.

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

29 (iii) For eligible properties that are owned by or under the



1 control of a land bank fast track authority, or a qualified local
2 unit of government or authority, eligible activities include **all of**
3 **the following:**

4 (A) The eligible activities described in subparagraphs (i) and
5 (ii).

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

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

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

24 (v) For eligible activities on eligible property that is a
25 qualified facility that is not located in a qualified local
26 governmental unit and that is a facility, functionally obsolete, or
27 blighted, the following additional activities:

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

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

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

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

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

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

29 (vi) Is undeveloped property that was eligible property in a



1 previously approved brownfield plan abolished under section 14(8).

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

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

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

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

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

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

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



1 (w) "Historic resource" means that term as defined in section
2 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

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

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

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

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

28 (iii) Notwithstanding anything to the contrary in this
29 subdivision, ~~in lieu~~**instead** of the reporting and calculation



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



1 at any time ~~prior to~~ **before** the first reimbursement of income tax
 2 capture revenues under the transformational brownfield plan. ~~7~~
 3 ~~provided that an~~ **An election to utilize the safe harbor method of**
 4 **accounting**, once made, cannot be rescinded.

5 (z) "Industrial cleaning" means cleaning or removal of
 6 contaminants from within a structure necessary to achieve the
 7 intended use of the property.

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

28 (i) Underground parking.

29 (ii) Multilevel parking structures.



1 (iii) Urban stormwater management systems.

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

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

20 (dd) ~~(ee)~~ "Initial taxable value" means the taxable value of
21 an eligible property identified in and subject to a brownfield plan
22 at the time the resolution adding that eligible property in the
23 brownfield plan is adopted, as shown either by the most recent
24 assessment roll for which equalization has been completed at the
25 time the resolution is adopted or, if provided by the brownfield
26 plan, by the next assessment roll for which equalization will be
27 completed following the date the resolution adding that eligible
28 property in the brownfield plan is adopted. Property exempt from
29 taxation at the time the initial taxable value is determined shall



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

11 **(ee)** ~~(dd)~~ "Initial withholding tax value" means, with respect
 12 to each eligible property subject to a transformational brownfield
 13 plan, the amount of income tax withheld under ~~part 3~~ **chapter 17** of
 14 the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~
 15 **206.715**, from individuals employed within the eligible property for
 16 the calendar year in which the resolution adding the eligible
 17 property to the plan is adopted. The initial withholding tax value
 18 ~~shall-~~**does** not include construction period tax capture revenues.

19 **(ff)** ~~(ee)~~ "Land bank fast track authority" means an authority
 20 created under the land bank fast track act, 2003 PA 258, MCL
 21 124.751 to 124.774.

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

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

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



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

2 (i) A city.

3 (ii) A village.

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

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

9 (v) A county.

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

13 (i) An ownership interest in the property.

14 (ii) A tax lien on the property.

15 (iii) A tax deed to the property.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

20 (ii) Corrective action.

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

23 (ss) "Sales and use tax capture revenues" means, with respect
24 to each eligible property subject to a transformational brownfield
25 plan, the amount for each calendar year by which the sales tax and
26 use tax collected from persons within the eligible property exceeds
27 the initial sales and use tax value. For persons with multiple
28 business locations, the applicable amount of sales tax and use tax
29 for purposes of this act is only the sales tax and use tax



1 collections attributable to the business location within the
 2 eligible property. To calculate sales and use tax capture revenues
 3 for a calendar year under a transformational brownfield plan, the
 4 state treasurer or the Michigan strategic fund shall do all of the
 5 following:

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

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

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

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

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

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

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

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

27 (C) ~~The~~ enterprise zone act, 1985 PA 224, MCL 125.2101 to
 28 125.2123. ~~;~~

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



1 **(E) The** technology park development act, 1984 PA 385, MCL
2 207.701 to 207.718. ~~;~~ ~~the~~

3 **(F) The** obsolete property rehabilitation act, 2000 PA 146, MCL
4 125.2781 to 125.2797. ~~;~~ ~~the~~

5 **(G) The** neighborhood enterprise zone act, 1992 PA 147, MCL
6 207.771 to 207.786. ~~;~~ ~~the~~

7 **(H) The** commercial rehabilitation act, 2005 PA 210, MCL
8 207.841 to 207.856. ~~;~~ ~~or that~~

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

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

14 **(vv) ~~(ss)~~** "Targeted redevelopment area" means not fewer than
15 40 and not more than 500 contiguous parcels of real property
16 located in a qualified local governmental unit and designated as a
17 targeted redevelopment area by resolution of the governing body and
18 approved by the Michigan strategic fund. A qualified local
19 governmental unit is limited to designating no more than 2 targeted
20 redevelopment areas for the purposes of this section in a calendar
21 year. The Michigan strategic fund may approve no more than 5
22 targeted redevelopment areas for the purposes of this section in a
23 calendar year.

24 **(ww) ~~(tt)~~** "Tax increment revenues" means the amount of ad
25 valorem property taxes and specific taxes attributable to the
26 application of the levy of all taxing jurisdictions ~~upon~~ **on** the
27 captured taxable value of each parcel of eligible property subject
28 to a brownfield plan and personal property located on that
29 property, regardless of whether those taxes began to be levied



1 after the brownfield plan was adopted. Tax increment revenues do
2 not include any of the following:

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

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

22 (iii) Ad valorem property taxes levied under 1 or more of the
23 following or specific taxes attributable to those ad valorem
24 property taxes:

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

27 (B) The art institute authorities act, 2010 PA 296, MCL
28 123.1201 to 123.1229.

29 **(xx)** ~~(uu)~~ "Taxable value" means the value determined under



1 section 27a of the general property tax act, 1893 PA 206, MCL
2 211.27a.

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

5 (i) The taxes levied by a local school district for operating
6 purposes.

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

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

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

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

26 (ii) In a municipality that is not a county and that has a
27 population of ~~at least~~**not less than** 150,000 and not more than
28 599,999, \$100,000,000.00.

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



1 population of ~~at least~~ **not less than** 100,000 and not more than
 2 149,999, \$75,000,000.00.

3 (iv) In a municipality that is not a county and that has a
 4 population of ~~at least~~ **not less than** 50,000 and not more than
 5 99,999, \$50,000,000.00.

6 (v) In a municipality that is not a county and that has a
 7 population of ~~at least~~ **not less than** 25,000 and not more than
 8 49,999, \$25,000,000.00.

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

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

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

19 (ccc) "Use tax" means the tax levied under the use tax act,
 20 1937 PA 94, MCL 205.91 to 205.111, including both the local
 21 community stabilization share and the state share as those terms
 22 are defined in section 2c of the use tax act, 1937 PA 94, MCL
 23 205.92c.

24 (ddd) ~~(zz)~~ "Withholding tax capture revenues" means, with
 25 respect to each eligible property subject to a transformational
 26 brownfield plan, the amount for each calendar year by which the
 27 income tax withheld under ~~part 3~~ **chapter 17** of the income tax act
 28 of 1967, 1967 PA 281, MCL 206.701 to ~~206.713,~~ **206.715**, from
 29 individuals employed within the eligible property exceeds the



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

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

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

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

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

28 (B) That reimbursement of withholding tax capture revenues is
 29 limited to amounts that are reported in accordance with ~~part 3~~



1 **chapter 17** of the income tax act of 1967, 1967 PA 281, MCL 206.701
 2 to ~~206.713~~, **206.715**, and this state has no obligation with respect
 3 to withholding tax capture revenues that are not reported or paid.

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



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

12 **(eee)** ~~(aaa)~~ "Work plan" means a plan that describes each
 13 individual activity to be conducted to complete eligible activities
 14 and the associated costs of each individual activity.

15 **(fff)** ~~(bbb)~~ "Zone" means, for an authority established before
 16 June 6, 2000, a brownfield redevelopment zone designated under this
 17 act.

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

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

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

29 (b) The proceeds from repayment of a loan, including interest



1 on those repayments, under subsection (3) (c) (vi) .

2 (c) Interest on funds deposited into the state brownfield
3 redevelopment fund.

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

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

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

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

11 (ii) The department to implement this act.

12 (iii) The department to implement part 196 of the natural
13 resources and environmental protection act, 1994 PA 451, MCL
14 324.19601 to 324.19616.

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

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

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

26 (i) The Michigan strategic fund shall create and operate a
27 grant and loan program to provide grants and loans to fund eligible
28 activities described in section 13b(4) on eligible property. The
29 Michigan strategic fund shall develop and use a detailed



1 application, approval, and compliance process adopted by resolution
2 of the board of the Michigan strategic fund. This process ~~shall~~
3 **must** be published and available on the Michigan strategic fund
4 website. Program standards, guidelines, templates, or any other
5 forms to implement the grant and loan program ~~shall~~**must** be
6 approved by the board of the Michigan strategic fund. The Michigan
7 strategic fund may delegate its approval authority under this
8 subsection to a designee.

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

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

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

28 (v) After the Michigan strategic fund and the applicant have
29 entered into a written agreement under subparagraph (iv), the



1 Michigan strategic fund shall distribute the proceeds to the
2 applicant according to the terms of the written agreement.

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

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

12 (4) The state treasurer shall deposit annually from the
13 general fund into the state brownfield redevelopment fund an amount
14 equal to the construction period tax capture revenues, withholding
15 tax capture revenues, ~~and~~ income tax capture revenues, **and sales**
16 **and use tax capture revenues** due to be transmitted under all
17 transformational brownfield plans. The department of treasury shall
18 distribute the construction period tax capture revenues,
19 withholding tax capture revenues, ~~and~~ income tax capture revenues,
20 **and sales and use tax capture revenues** to an authority, or to the
21 owner or developer of the eligible property to which the revenues
22 are attributable, in accordance with section 16(8) and the terms of
23 the written development or reimbursement agreement for each
24 transformational brownfield plan. Amounts transferred into the
25 state brownfield redevelopment fund attributable to a specific
26 transformational brownfield plan ~~shall~~**must** be accounted for
27 separately within the state brownfield redevelopment fund and ~~shall~~
28 **must** not be used for any other purpose or activity under this
29 section or for any transformational brownfield plan other than the



1 plan to which the revenues are attributable or for the additional
 2 administrative costs under this section associated with the
 3 implementation of a transformational brownfield plan.

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

6 (a) Contributions, contractual payments, or appropriations to
 7 the authority for the performance of its functions or to pay the
 8 costs of a brownfield plan of the authority.

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

13 (c) Subject to the limitations imposed under sections 8, 13,
 14 13b, and 15, 1 or both of the following:

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

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

19 (d) Proceeds of revenue bonds and notes issued under section
 20 12.

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

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

27 (g) Money obtained from all other sources approved by the
 28 governing body of the municipality or otherwise authorized by law
 29 for use by the authority or the municipality to finance activities



1 authorized under this act.

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



1 than the percentage of local tax increment revenues that are
 2 captured under the brownfield plan relating to that parcel of
 3 eligible property.

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

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

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

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

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

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



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

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

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

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

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

28 (i) **Infrastructure** improvements that directly benefit eligible
29 property. ~~demolition~~



1 (ii) **Demolition** of structures that is not response activity. ~~7~~
2 lead,

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

5 (iv) **Site** preparation that is not response activity. ~~7~~
6 relocation

7 (v) **Relocation** of public buildings or operations for economic
8 development purposes. ~~7-or acquisition~~

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

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

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

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

25 (e) The department's approval is not required for the capture
26 of taxes levied for school operating purposes for eligible
27 activities described in this section.

28 (5) If a brownfield plan includes the use of taxes levied for
29 school operating purposes captured from eligible property for



1 department specific activities, a combined brownfield plan or a
 2 work plan must be approved by the department with the exception of
 3 those activities identified in subsections (8) and (9).

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

5 (a) Use taxes captured from eligible property to pay for
 6 eligible activities conducted before approval of the brownfield
 7 plan.

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

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

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

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



1 associated work plan, combined brownfield plan, and development or
2 reimbursement agreement.

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

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

8 (i) Reasonable and actual administrative and operating expenses
9 of the authority.

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

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

19 (iv) Reasonable cost of brownfield plan or work plan
20 implementation, including, but not limited to, tracking and
21 reporting data and plan compliance.

22 (b) Taxes levied for school operating purposes may be used for
23 1 or more of the following administrative and operating purposes:

24 (i) Reasonable costs of developing and preparing brownfield
25 plans, combined brownfield plans, or work plans for which tax
26 increment revenues may be used under section 13(4), including, but
27 not limited to, legal and consulting fees that are not in the
28 ordinary course of acquiring and developing real estate, not to
29 exceed \$30,000.00.



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

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

8 (i) For authorities that have 5 or fewer active projects,
9 \$100,000.00.

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

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

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

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

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

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

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

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

26 (x) For authorities that have 99 or more active projects,
27 \$1,000,000.00.

28 (d) ~~Nothing contained in this~~**This** subsection ~~shall~~**does not**
29 limit the amount of funds that may be granted, loaned, or expended



1 by a local brownfield revolving fund for eligible activities.

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

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

14 (ii) The authority enters into a written agreement with 1 or
 15 more other authorities to administer 1 or more administrative
 16 operations of those other authorities.

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

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

26 (b) Completing a baseline environmental assessment.

27 (c) Preparing a plan for compliance with sections 20107a and
 28 21304c of the natural resources and environmental protection act,
 29 1994 PA 451, MCL 324.20107a and 324.21304c.



1 (d) Performing pre-demolition and building hazardous materials
2 surveys.

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

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

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

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

22 (c) For tax increment revenues attributable to taxes levied
23 for school operating purposes, eligible activities described in
24 subsection (4) and conducted on eligible property or prospective
25 eligible properties ~~prior to~~**before** approval of the brownfield
26 plan, if those costs and the eligible property are subsequently
27 included in a brownfield plan approved by the authority and a
28 combined brownfield plan or work plan approved by the Michigan
29 strategic fund.



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

6 (e) Reasonable cost of brownfield plan or work plan
7 implementation, including, but not limited to, tracking and
8 reporting of data and plan compliance.

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

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

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

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

29 (b) If an authority reimburses a person or entity under this



1 section for an advance for the payment or reimbursement of the cost
 2 of department specific activities and interest thereon included in
 3 a combined brownfield plan or a work plan approved by the
 4 department, the authority may capture taxes levied for school
 5 operating purposes and local taxes for the payment of that
 6 interest.

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

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

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



1 education tax act, 1993 PA 331, MCL 211.901 to 211.906, that are
2 captured under the brownfield plan until the expiration of the
3 earlier of the following:

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

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

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

9 (ii) The date excess capture is terminated under subsection
10 (16).

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

23 (16) The brownfield plan ~~shall~~**must** include a proposed
24 beginning date of capture. If the actual beginning date of capture
25 of tax increment revenues is later than 5 years following the date
26 of the adoption of the brownfield plan resolution, then the maximum
27 number of years of capture will decrease. The end date of capture
28 must be no later than 35 years after the date of the adoption of
29 the brownfield plan resolution. The authority may amend the



1 beginning date of capture of tax increment revenues for a
 2 particular eligible property as long as the authority has not begun
 3 to reimburse eligible activities from the capture of tax increment
 4 revenues from that eligible property. Any tax increment revenues
 5 captured from an eligible property before the beginning date of
 6 capture of tax increment revenues for that eligible property ~~shall~~
 7 **must** revert proportionately to the respective tax bodies.

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

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



1 which the revenues are attributable, including the cost of
 2 principal of and interest on any obligation to pay the cost of the
 3 eligible activities.

4 (3) A transformational brownfield plan is a brownfield plan
 5 and, except as otherwise provided, is subject to sections 13, 13a,
 6 13b, 14, and 15. ~~of this act.~~ In addition to the information
 7 required under section 13(2), a transformational brownfield plan
 8 ~~shall~~**must** contain all of the following:

9 (a) The basis for designating the plan as a transformational
 10 brownfield plan under section ~~2(vv)~~**2(z)**.

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

15 (c) An estimate of the amount of construction period tax
 16 capture revenues, withholding tax capture revenues, ~~and~~ income tax
 17 capture revenues, **and sales and use tax capture revenues** expected
 18 to be generated for each year of the transformational brownfield
 19 plan from the eligible property.

20 (d) The beginning date and duration of capture of construction
 21 period tax capture revenues, withholding tax capture revenues, ~~and~~
 22 income tax capture revenues, **and sales and use tax capture revenues**
 23 for each eligible property as determined under subsections (8) and
 24 (11).

25 (4) Subject to section 14a(7), the transformational brownfield
 26 plan may provide for the use of part or all of the tax increment
 27 revenues, construction period tax capture revenues, withholding tax
 28 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
 29 **use tax capture revenues.** The portion of tax increment revenues,



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

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

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



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

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

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



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

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

28 (11) The duration of the capture of withholding tax capture
 29 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**



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



1 body and Michigan strategic fund determine that the developer of
 2 the related program of investment has proceeded in good faith and
 3 made reasonable and substantial progress in the implementation of
 4 the related program of investment.

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

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

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

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

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

28 (13) ~~Where~~ **If** undeveloped property included in a
 29 transformational brownfield plan has been designated as a



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

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

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

26 (c) A city levying a city income tax under the city income tax
27 act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each
28 tax year the amount of revenue the city collected as a result of
29 the operation of this subsection and shall enter into a binding



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

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

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

24 (15) ~~Nothing in this~~ **This** act ~~is intended to~~ **does not** preclude
 25 an authority established by a county from seeking approval of a
 26 brownfield plan as a transformational brownfield plan. In the event
 27 that an authority established by a county seeks approval of a plan
 28 that extends into more than 1 of its component local units of
 29 government and that plan includes eligible property in more than 1



1 municipality that is not a county, the minimum investment
2 requirements of section ~~2(vv) shall~~ **2(zz) must** be established with
3 reference to combined population of the municipalities that are not
4 a county in which the eligible property is located.

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

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

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

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

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

29 (c) Whether the costs of eligible activities proposed are



1 reasonable and necessary to carry out the purposes of this act.

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

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

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

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

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



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

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



1 (7) Except as otherwise provided in this subsection, the
 2 Michigan strategic fund may not approve a transformational
 3 brownfield plan that proposes to use more than 50% of the
 4 withholding tax capture revenues or 50% of the income tax capture
 5 revenues. The Michigan strategic fund may modify the amount of
 6 withholding tax capture revenues and income tax capture revenues
 7 before approving a transformational brownfield plan ~~in order to~~
 8 bring the transformational brownfield plan into compliance with
 9 subsection (5). The Michigan strategic fund may approve a
 10 transformational brownfield plan that proposes to use more than 50%
 11 of the income tax capture revenues if 1 of the following applies:

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

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

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



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

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

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

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

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

27 (9) ~~Upon~~**On** approval by the Michigan strategic fund, the
 28 minimum investment requirements in section ~~2(vv)~~**2(zz)** and
 29 limitation under subsection (22) (a) and (b) may be waived if the



1 transformational brownfield plan meets 1 of the following criteria:

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

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

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

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

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



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

6 (11) The Michigan strategic fund may not approve more than 5
 7 transformational brownfield plans under subsection (9) in a
 8 calendar year, except that if the Michigan strategic fund approves
 9 fewer than 5 plans in a calendar year under subsection (9), the
 10 unused approval authority ~~shall carry~~ **carries** forward into future
 11 calendar years and ~~remain~~ **remains** available until December 31,
 12 2027. The Michigan strategic fund also shall not approve more than
 13 5 transformational brownfield plans under subsection (9) in any
 14 individual city, village, or township ~~prior to~~ **before** December 31,
 15 2022.

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

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



1 amendment adds eligible property and the Michigan strategic fund
 2 determines that approving the addition as an amendment would be
 3 inconsistent with the purposes of this act.

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

15 (15) The determination as to whether a transformational
 16 brownfield plan complies with the minimum investment requirements
 17 in section ~~2(vv) shall~~**2(zz) must** be made with reference to the
 18 most recent decennial census data available at the time of approval
 19 by the authority. A plan in a municipality that exceeds a
 20 population tier under section ~~2(vv) 2(zz)~~ by not more than 10% of
 21 the maximum population for that tier ~~shall, upon is, on~~ election of
 22 the authority, ~~be~~ subject to the investment requirement for that
 23 tier. A transformational brownfield plan that is expected to result
 24 in, or does result in, a total capital investment that is within
 25 10% of the applicable minimum investment requirement ~~shall be is~~
 26 considered to satisfy the applicable requirement under section
 27 ~~2(vv) 2(zz)~~.

28 (16) For purposes of a transformational brownfield plan,
 29 determination as to whether property is functionally obsolete ~~as~~



1 ~~defined under section 2(u)~~ may include considerations of economic
 2 obsolescence as determined in accordance with the Michigan state
 3 tax commission's assessor's manual.

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

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

11 (19) The Michigan strategic fund shall not commit, and the
 12 department of treasury shall not disburse, more than ~~\$40,000,000.00~~
 13 **\$80,000,000.00** in total annual tax capture. ~~For purposes of~~ **As used**
 14 **in** this subsection, "total annual tax capture" means the total
 15 annual amount of income tax capture revenues, ~~and withholding tax~~
 16 capture revenues, **and sales and use tax capture revenues** that may
 17 be reimbursed each calendar year under all transformational
 18 brownfield plans. ~~If the amount committed or disbursed in a~~
 19 ~~calendar year is less than \$40,000,000.00, the difference between~~
 20 ~~that amount and \$40,000,000.00 shall be available to be committed~~
 21 ~~or disbursed in subsequent calendar years and shall be in addition~~
 22 ~~to the annual limit otherwise applicable.~~**In addition to the**
 23 **\$80,000,000.00 annual limit, both of the following provisions**
 24 **apply:**

25 (a) **With respect to the availability of uncommitted amounts,**
 26 **if an amount authorized to be committed for a calendar year has not**
 27 **been committed, the uncommitted amount for that calendar year**
 28 **remains available to be committed and disbursed in a subsequent**
 29 **calendar year and is in addition to the annual limits otherwise**



1 applicable. However, not more than \$30,000,000.00 may be committed
 2 or disbursed in any calendar year above the \$80,000,000.00 annual
 3 limit as a result of the operation of this subdivision, and all
 4 commitments and disbursements under this subdivision remain subject
 5 to the overall limitation in subsection (20).

6 (b) With respect to the availability of committed but
 7 undisbursed amounts, if an amount has been committed under an
 8 approved transformational brownfield plan for a calendar year but
 9 has not been disbursed, the undisbursed amount for that year is
 10 available to be disbursed in a subsequent calendar year and is in
 11 addition to the annual limit otherwise applicable.

12 (20) The Michigan strategic fund shall not commit, and the
 13 department of treasury shall not disburse, a total amount of income
 14 tax capture revenues, ~~and withholding tax capture revenues, and~~
 15 **sales and use tax capture revenues** that exceeds
 16 ~~\$800,000,000.00.~~ **\$1,600,000,000.00.**

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



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

16 (22) The Michigan strategic fund shall comply with all of the
 17 following:

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

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

26 (c) Ensure an equitable geographic distribution of plans
 27 approved under this subsection, which ~~shall~~ **must** achieve a balance
 28 between the needs of municipalities of differing sizes and
 29 differing geographic areas of the state. Subject to the receipt of



1 qualified transformational brownfield plans meeting the criteria
 2 under this section and section 13c, the Michigan strategic fund
 3 shall ~~set a target that not less than 35% of the total~~
 4 ~~transformational brownfield plans approved under this act prior to~~
 5 ~~December 31, 2027 will be located in cities, villages, and~~
 6 ~~townships with a population of less than 100,000.~~ **ensure that both**
 7 **of the following requirements are met:**

8 (i) **Not less than 33% and not more than 38% of the total**
 9 **transformational brownfield plans approved under this act before**
 10 **December 31, 2027 will be located in cities, villages, and**
 11 **townships with a population of less than 100,000.**

12 (ii) **Not less than 33% and not more than 38% of the total**
 13 **transformational brownfield plans approved under this act before**
 14 **December 31, 2027 will be located in cities, villages, and**
 15 **townships with a population of not less than 100,000 and not more**
 16 **than 225,000.**

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

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

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



1 and work plan on an administrative basis, ~~provided that~~ **if** those
 2 changes do not result in any increase in the aggregate total amount
 3 of reimbursement authorized under the initial transformational
 4 brownfield plan. The authority of the Michigan strategic fund to
 5 administratively amend transformational brownfield plans and work
 6 plans under this subsection also applies to transformational
 7 brownfield plans and work plans entered into before ~~the effective~~
 8 ~~date of the amendatory act that added this sentence.~~ **December 27,**
 9 **2021.**

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

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

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

22 (a) A copy of the brownfield plan.

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

27 (c) A summary of available information on the historical and
 28 current use of each eligible property, including a brief summary of
 29 site conditions and what is known about environmental contamination



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

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

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

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

13 (a) An unconditional approval.

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

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

29 (d) A denial if the property is not an eligible property under



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

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

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

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



1 and the environment, the department's considerations may include,
2 but are not limited to, all of the following:

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

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

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

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

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



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

6 (5) The department may issue a written response to a work plan
 7 more than 60 days but less than 6 months after receipt of a request
 8 for approval. If the department issues a written response under
 9 this subsection, the authority is not required to conduct
 10 individual activities that are in addition to the individual
 11 activities included in the work plan as it was submitted for
 12 approval and failure to conduct these additional activities ~~shall~~
 13 **does** not affect the authority's ability to capture taxes under
 14 section 13b for the eligible activities described in the work plan
 15 initially submitted under subsection (4). In addition, at the
 16 option of the authority, these additional individual activities
 17 ~~shall be~~ **are** considered part of the work plan of the authority and
 18 approved for purposes of section 13b. However, any response by the
 19 department under this subsection that identifies additional
 20 individual activities that must be carried out to satisfy part 201
 21 or part 213 must be satisfactorily completed for the activities to
 22 be considered acceptable for the purposes of compliance with part
 23 201 or part 213.

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



1 for that portion of the work plan to be considered approved for
2 purposes of section 13b, unless 1 or more of the following
3 conditions apply:

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

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

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

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

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

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



1 the following for each eligible property:

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

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

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

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

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

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

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

25 (11) ~~Upon~~**An authority may not submit a request for approval**
26 **of a work plan for a transformational brownfield plan until all**
27 **required financial analyses are complete.** On receipt of a request
28 for approval of a work plan, the Michigan strategic fund shall
29 provide 1 of the following written responses to the requesting



1 authority within 60 days following receipt of a request for
 2 approval or within 7 days following the first meeting of the board
 3 after the 60-day period following receipt of the request for
 4 approval, whichever is later:

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

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

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

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

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

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

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

26 (d) The overall benefit to the public.

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

29 (f) Creation of jobs.



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

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

5 (i) The level of private sector contribution.

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

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

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

16 (m) Any other criteria that the Michigan strategic fund
17 considers appropriate for the determination of eligibility or for
18 approval of the work plan.

19 (13) If the Michigan strategic fund fails to provide a written
20 response under subsection (11) within 60 days following receipt of
21 a request for approval of a work plan or within 7 days following
22 the first meeting of the board after the 60-day period following
23 receipt of the request for approval of a work plan, whichever is
24 later, or 90 days following receipt of a request for approval in
25 the case of a transformational brownfield plan or within 7 days
26 following the first meeting of the board after the 90-day period
27 following receipt of a request for approval in the case of a
28 transformational brownfield plan, whichever is later, the eligible
29 activities ~~shall be~~ **are** considered approved and the authority may



1 proceed with the eligible activities described in sections 13b(4)
2 and 13c(6) as outlined in the work plan as submitted for approval.

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

5 (15) The Michigan strategic fund shall submit a report each
6 year to each member of the legislature as provided in section
7 16(4).

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

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

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

23 (19) If a brownfield plan includes the capture of taxes levied
24 for school operating purposes, the chairperson of the Michigan
25 strategic fund may approve, without a meeting of the fund board,
26 combined brownfield plans and work plans that address eligible
27 activities described in section 13b(4) totaling an amount of
28 \$1,000,000.00 or less according to subsections (10), (11), (12),
29 (13), and (14) that include reimbursement of taxes levied for



1 school operating purposes.

2 (20) ~~In lieu~~ **Instead** of seeking approval of a work plan under
3 section 13b(4) or (6) (c) or section 13c(6), an authority may seek
4 approval of a combined brownfield plan from the department or
5 Michigan strategic fund under this subsection as follows:

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

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

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

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

29 (c) The department shall review a combined brownfield plan



1 according to subdivision (e). The Michigan strategic fund shall
 2 review a combined brownfield plan according to subdivision (f).

3 ~~Upon~~ **An authority may not submit a request for approval of**
 4 **a combined brownfield plan for a transformational brownfield plan**
 5 **until all required financial analyses are complete.** On receipt of a
 6 combined brownfield plan under subdivision (b), the department or
 7 Michigan strategic fund shall provide 1 of the following written
 8 responses to the requesting authority within 60 days or, in the
 9 case of a transformational brownfield plan, within 90 days:

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

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

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

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

23 (f) The Michigan strategic fund shall consider the criteria
 24 identified in subsection (12) to the extent reasonably applicable
 25 to the type of activities proposed as part of a combined brownfield
 26 plan when approving or denying the combined brownfield plan and, in
 27 the case of a transformational brownfield plan, shall also consider
 28 the criteria described in section 14a(3).

29 (g) If the department or Michigan strategic fund issues a



1 written response to a requesting authority under subdivision (d) (i)
 2 or (ii), the governing body or its designee may administratively
 3 approve any modifications to a combined brownfield plan required by
 4 the written response without the need to follow the notice and
 5 approval process required by section 14(6) unless the modifications
 6 add 1 or more parcels of eligible property or increase the maximum
 7 amount of tax increment revenues or, in the case of a
 8 transformational brownfield plan, construction period tax capture
 9 revenues, withholding tax capture revenues, ~~and~~ income tax capture
 10 revenues, **and sales and use tax capture revenues** approved for the
 11 project.

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

17 (i) The approval of a combined brownfield plan by the
 18 department or Michigan strategic fund under this subsection is
 19 final.

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

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

28 (3) The authority shall submit annually to the governing body,
 29 the department, and the Michigan strategic fund a financial report



1 on the status of the activities of the authority for each calendar
2 year. The report ~~shall~~**must** include all of the following:

3 (a) The total amount of local taxes that are approved for
4 capture and the total amount of taxes levied for school operating
5 purposes that are approved for capture for each parcel included in
6 a brownfield plan.

7 (b) The amount and purpose of expenditures of tax increment
8 revenues.

9 (c) The amount and source of tax increment revenues received
10 for each active brownfield plan, including the amount of tax
11 increment revenues captured in the most recent tax year and the
12 cumulative amount of tax increment revenues captured for each
13 brownfield plan.

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

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

18 (f) The amount of actual capital investment made for each
19 project.

20 (g) The amount of tax increment revenues attributable to taxes
21 levied for school operating purposes used for activities described
22 in section 13b(6)(c), section 2(o)(i)(F) and (G), and section
23 2(o)(ii)(B) and (C).

24 (h) The number of residential units constructed or
25 rehabilitated for each project.

26 (i) The amount, by square foot, of new or rehabilitated
27 residential, retail, commercial, or industrial space for each
28 project.

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



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

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

5 (4) The department and the Michigan strategic fund shall
6 collect the financial reports submitted under subsection (3),
7 compile a combined report ~~, which~~ **that** includes the use of local
8 taxes, taxes levied for school operating purposes, and the state
9 brownfield redevelopment fund, based on the information contained
10 in those reports and any additional information considered
11 necessary, and submit annually a report based on that information
12 to each member of the legislature.

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

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

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

25 (6) In addition to any other requirements under this act, not
26 less than once every 3 years beginning not later than June 30,
27 2008, the auditor general shall conduct and report a performance
28 postaudit on the effectiveness of the program established under
29 this act. As part of the performance postaudit, the auditor general



1 shall assess the extent to which the implementation of the program
 2 by the department and the Michigan strategic fund facilitate and
 3 affect the redevelopment or reuse of eligible property and identify
 4 any factors that inhibit the program's effectiveness. The
 5 performance postaudit ~~shall~~**must** also assess the extent to which
 6 the interpretation of statutory language, the development of
 7 guidance or administrative rules, and the implementation of the
 8 program by the department and the Michigan strategic fund is
 9 consistent with the fundamental objective of facilitating and
 10 supporting timely and efficient brownfield redevelopment of
 11 eligible properties.

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

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

23 (a) The state treasurer shall transfer to the state brownfield
 24 redevelopment fund each fiscal year an amount equal to the
 25 construction period tax capture revenues, withholding tax capture
 26 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
 27 **capture revenues** under all approved plans as provided for in
 28 section 8a(4). Funds ~~shall~~**must** be transmitted to the authority, or
 29 owner or developer of the eligible property to which the revenues



1 are attributable, ~~within~~**not later than** 30 days ~~of~~**after** transfer
2 to the state brownfield redevelopment fund.

3 (b) The authority, the department, and the Michigan strategic
4 fund shall follow the reporting requirements of subsections (3),
5 (4), and (5) with respect to all approved transformational
6 brownfield plans, and shall provide information on the amount and
7 use of construction period tax capture revenues, withholding tax
8 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
9 **use tax capture revenues** to the same extent required for tax
10 increment revenues.

11 (c) The owner or developer of active projects included within
12 a transformational brownfield plan shall provide the information
13 required for the authority, the department, and the Michigan
14 strategic fund to satisfy the reporting and audit requirements of
15 this section.

