

Act No. 89
Public Acts of 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Moss, Singh, Brinks, Huizenga, Wojno, McDonald Rivet, Victory, Hertel, Shink and McCann

ENROLLED SENATE BILL No. 289

AN ACT to amend 1996 PA 381, entitled “An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing,” 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:

Sec. 2. As used in this act:

- (a) “Authority” means a brownfield redevelopment authority created under this act.
- (b) “Baseline environmental assessment” means that term as defined in part 201 or 213.
- (c) “Blighted” means property that meets any of the following criteria as determined by the governing body:
 - (i) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
 - (ii) Is an attractive nuisance to children because of physical condition, use, or occupancy.
 - (iii) Is a fire hazard or is otherwise dangerous to the safety of persons or property.
 - (iv) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
 - (v) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property’s inclusion in a brownfield plan does not result in the loss to the property of the status as blighted property for purposes of this act.
 - (vi) Is property owned by or under the control of a land bank fast track authority, whether or not located within a qualified local governmental unit. Property included within a brownfield plan before the date it meets the requirements of this subdivision to be eligible property is considered to become eligible property as of the date the

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

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

(d) "Board" means the board that supervises and controls an authority under section 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Dust control related to construction activities.

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

(vi) Industrial cleaning.

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

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

(ix) Environmental insurance.

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

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

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

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

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

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

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

(A) Department specific activities.

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

(C) Reasonable costs of environmental insurance.

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

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

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

(G) Lead, asbestos, or mold abatement.

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

(ii) For eligible properties located in a qualified local governmental unit, or an economic opportunity zone, or that are a former mill, eligible activities include all of the following:

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

(B) Infrastructure improvements that directly benefit eligible property.

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

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

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

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

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

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

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

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

(B) Infrastructure improvements that directly benefit eligible property.

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

(p) “Eligible property” means, except as otherwise provided in subparagraph (vii), property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, public, or residential purposes, including personal property located on the property, to the extent included in the brownfield plan, and that meets 1 or more of the following conditions listed in subparagraphs (i) to (vi):

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

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

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

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

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

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

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

(q) “Environmental insurance” means liability insurance for environmental contamination and cleanup that is not otherwise required by state or federal law.

(r) “Facility” means that term as defined in part 201.

(s) “Fiscal year” means the fiscal year of the authority.

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

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

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

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

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

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

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

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

(iii) Notwithstanding anything to the contrary in this subdivision, instead of the reporting and calculation methods otherwise provided for, the owner or developer of a transformational brownfield project site may elect to utilize a safe harbor method of calculating income tax capture revenues. Under this safe harbor method, the Michigan strategic fund shall establish a safe harbor amount of annual income tax capture revenues for each eligible property when the Michigan strategic fund approves the transformational brownfield plan, and those amounts shall serve as the basis for the transmittal of income tax capture revenues to the owner or developer of the transformational project site under section 8a(4). The Michigan strategic fund shall establish the safe harbor amount for an eligible property by imputing a standard annual taxable income for households residing within the eligible property or portion of the eligible property. The safe harbor is effective only to the extent that the residential units within the eligible property or portion of the eligible property are actively leased or, in the case of units made available for sale, sold in an arms-length transaction. Imputations as to standard household taxable income may vary based on location and other relevant factors. The Michigan strategic fund may adjust the safe harbor amount for an eligible property, or portion of the eligible property, after the time of transformational brownfield plan approval as required to reflect changes in the transformational brownfield plan for the transformational project site that may occur after approval of the transformational brownfield plan, if those changes do not result in an aggregate increase in the level of income tax capture revenues from the amount initially established. The owner or developer of the transformational project site may elect to utilize the safe harbor method of accounting at any time before the first reimbursement of income tax capture revenues under the transformational brownfield plan. An election to utilize the safe harbor method of accounting, once made, cannot be rescinded.

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

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

(i) Underground parking.

(ii) Multilevel parking structures.

(iii) Urban stormwater management systems.

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

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

(dd) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is adopted. Property exempt from taxation at the time the initial taxable value is determined is included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax is not considered exempt from

taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax. The initial assessed value may be modified by lowering the initial assessed value once during the term of the brownfield plan through an amendment as provided in section 14 after the tax increment financing plan fails to generate captured taxes for 3 consecutive years due to declines in assessed value.

(ee) "Initial withholding tax value" means, with respect to each eligible property subject to a transformational brownfield plan, the amount of income tax withheld under chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.715, from individuals employed within the eligible property for the calendar year in which the resolution adding the eligible property to the plan is adopted. The initial withholding tax value does not include construction period tax capture revenues.

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

(gg) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(hh) "Michigan strategic fund" means the Michigan strategic fund created under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

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

(jj) "Municipality" means all of the following:

(i) A city.

(ii) A village.

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

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

(v) A county.

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

(i) An ownership interest in the property.

(ii) A tax lien on the property.

(iii) A tax deed to the property.

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

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

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

(ll) "Part 111", "part 201", "part 211", or "part 213" means that part as described as follows:

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

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

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

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

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

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

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

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

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

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

(ii) Corrective action.

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

(ss) "Sales and use tax capture revenues" means, with respect to each eligible property subject to a transformational brownfield plan, the amount for each calendar year by which the sales tax and use tax collected from persons within the eligible property exceeds the initial sales and use tax value. For persons with multiple business locations, the applicable amount of sales tax and use tax for purposes of this act is only the sales tax and use tax collections attributable to the business location within the eligible property. To calculate sales and use tax capture revenues for a calendar year under a transformational brownfield plan, the state treasurer or the Michigan strategic fund shall do all of the following:

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

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

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

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

(tt) "Specific taxes" means all of the following:

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

(A) 1974 PA 198, MCL 207.551 to 207.572.

(B) The commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

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

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

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

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

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

(H) The commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856.

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

(uu) "State brownfield redevelopment fund" means the state brownfield redevelopment fund created in section 8a.

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

(ww) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions on the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property, regardless of whether those taxes began to be levied after the brownfield plan was adopted. Tax increment revenues do not include any of the following:

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

(ii) For tax increment revenues attributable to eligible property, the amount of ad valorem property taxes or specific taxes captured by a downtown development authority under part 2 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4201 to 125.4230, tax increment finance authority under part 3 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4301 to 125.4329, corridor improvement authority under part 6 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4602 to 125.4629, or local development finance authority under part 4 of the recodified tax increment financing act, 2018 PA 57, MCL 125.4401 to 125.4420, if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

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

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

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

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

(yy) "Taxes levied for school operating purposes" means all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ddd) "Withholding tax capture revenues" means, with respect to each eligible property subject to a transformational brownfield plan, the amount for each calendar year by which the income tax withheld under chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.715, from individuals employed within the eligible property exceeds the initial withholding tax value. Withholding tax capture revenues do not include income tax from individuals domiciled within the eligible property or construction period tax capture revenues. To calculate withholding tax capture revenues for a calendar year under a transformational brownfield plan, the state treasurer or the Michigan strategic fund shall do all of the following:

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

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

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

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

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

(iv) Notwithstanding anything to the contrary in this subdivision, instead of the reporting and calculation methods otherwise provided for, the owner or developer of a transformational project site may elect to utilize a safe harbor method of calculating withholding tax capture revenues. Under this safe harbor method, the Michigan strategic fund shall establish a safe harbor amount of annual withholding tax capture revenues for each eligible property when the Michigan strategic fund approves the transformational brownfield plan, and those amounts shall serve as the basis for the transmittal of withholding tax capture revenues to the owner or developer of the transformational project site under section 8a(4). The Michigan strategic fund shall establish the safe harbor amount for an eligible property by imputing a standard level of employee occupancy that corresponds to the size and use of the eligible property or portion of the eligible property and a safe harbor average annual taxable wage for the individuals employed within the eligible property or portion of the eligible property. The safe harbor is effective only to the extent the eligible property or portion of the eligible property is actively occupied, as evidenced by the existence of a binding lease agreement or similar instrument. Imputations as to occupancy and wages may vary between projects based on location, the type and use of the eligible property, and other relevant factors. The Michigan strategic fund may adjust the safe harbor amount for an eligible property, or portion of the eligible property, after the time of plan approval as required to reflect changes in the transformational brownfield plan for the transformational project site that may occur after approval of the transformational brownfield plan, if those changes do not result in an aggregate increase in the level of withholding tax capture revenues from the amount initially established. The owner or developer of the transformational project site may make elect to utilize the safe harbor method of accounting at any time before the first reimbursement of withholding tax capture revenues under the plan. An election to utilize the safe harbor method of accounting, once made, cannot be rescinded.

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

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

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

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

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

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

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

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

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

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

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

(ii) The department to implement this act.

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

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

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

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

(i) The Michigan strategic fund shall create and operate a grant and loan program to provide grants and loans to fund eligible activities described in section 13b(4) on eligible property. The Michigan strategic fund shall develop and use a detailed application, approval, and compliance process adopted by resolution of the board of the

Michigan strategic fund. This process must be published and available on the Michigan strategic fund website. Program standards, guidelines, templates, or any other forms to implement the grant and loan program must be approved by the board of the Michigan strategic fund. The Michigan strategic fund may delegate its approval authority under this subsection to a designee.

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

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

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

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

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

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

(4) The state treasurer shall deposit annually from the general fund into the state brownfield redevelopment fund an amount equal to the construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues due to be transmitted under all transformational brownfield plans. The department of treasury shall distribute the construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to an authority, or to the owner or developer of the eligible property to which the revenues are attributable, in accordance with section 16(8) and the terms of the written development or reimbursement agreement for each transformational brownfield plan. Amounts transferred into the state brownfield redevelopment fund attributable to a specific transformational brownfield plan must be accounted for separately within the state brownfield redevelopment fund and must not be used for any other purpose or activity under this section or for any transformational brownfield plan other than the plan to which the revenues are attributable or for the additional administrative costs under this section associated with the implementation of a transformational brownfield plan.

Sec. 11. The activities of the authority must be financed from 1 or more of the following sources:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from the eligible property. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local brownfield revolving fund, but the portion intended to be used must be clearly stated in the plan. The plan must not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(ww), or unless the tax levy is excluded from capture under section 15.

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

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

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

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

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

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

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

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

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

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

(3) If taxes levied for school operating purposes are subject to capture under section 15, the percentage of school operating tax increment revenues captured relating to a parcel of eligible property under a brownfield plan must not be greater than the percentage of local tax increment revenues that are captured under the brownfield plan relating to that parcel of eligible property.

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

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

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

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

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

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

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

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

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

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

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

(i) Infrastructure improvements that directly benefit eligible property.

(ii) Demolition of structures that is not response activity.

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

(iv) Site preparation that is not response activity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Department specific activities conducted by or on behalf of the authority related directly to work conducted on prospective eligible properties before approval of the brownfield plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) This subsection does not limit the amount of funds that may be granted, loaned, or expended by a local brownfield revolving fund for eligible activities.

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

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

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

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

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

(b) Completing a baseline environmental assessment.

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

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

(e) Asbestos, mold, and lead surveys.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The later of the following:

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

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

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

(16) The brownfield plan must include a proposed beginning date of capture. If the actual beginning date of capture of tax increment revenues is later than 5 years following the date of the adoption of the brownfield plan resolution, then the maximum number of years of capture will decrease. The end date of capture must be no later than 35 years after the date of the adoption of the brownfield plan resolution. The authority may amend the beginning date of capture of tax increment revenues for a particular eligible property as long as the authority has not begun to reimburse eligible activities from the capture of tax increment revenues from that eligible property. Any tax increment revenues captured from an eligible property before the beginning date of capture of tax increment revenues for that eligible property must revert proportionately to the respective tax bodies.

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

(2) A transformational brownfield plan may authorize the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, tax increment revenues, and sales and use tax capture revenues for eligible activities described in section 2(o)(iv). Except as otherwise provided in section 13b(6)(d), tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues must be used only for the costs of eligible activities included within the transformational brownfield plan to which the revenues are attributable, including the cost of principal of and interest on any obligation to pay the cost of the eligible activities.

(3) A transformational brownfield plan is a brownfield plan and, except as otherwise provided, is subject to sections 13, 13a, 13b, 14, and 15. In addition to the information required under section 13(2), a transformational brownfield plan must contain all of the following:

(a) The basis for designating the plan as a transformational brownfield plan under section 2(zz).

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

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

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

(4) Subject to section 14a(7), the transformational brownfield plan may provide for the use of part or all of the tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues. The portion of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to be used may vary over the duration of the transformational brownfield plan, but the portion intended to be used must be clearly stated in the transformational brownfield plan.

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

(6) If a transformational brownfield plan authorizes the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues, approval of a combined brownfield plan or work plan by the Michigan strategic fund and a written development or reimbursement agreement between the owner or developer of the eligible property, the authority, and the Michigan strategic fund are required. If a plan authorizes the use of tax increment revenues for eligible activities under section 2(o)(iv) other than eligible activities described in section 13b, approval of a work plan or combined brownfield plan by the Michigan strategic fund to use tax increment revenues for those additional eligible activities is required. A work plan or combined brownfield plan under this subsection must be consolidated with a work plan or combined brownfield plan under section 13b(4). The eligible activities to be conducted must be consistent with the work plan submitted by the authority to the Michigan strategic fund.

(7) On approval of the transformational brownfield plan by the governing body and Michigan strategic fund, and the execution of the written development or reimbursement agreement, the transfer and distribution of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues as specified in this act and in the plan are binding on this state and the collection and transmission of the amount of tax increment revenues as specified in this act and in the plan are binding on all taxing units levying ad valorem property taxes or specific taxes against property subject to the transformational brownfield plan.

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

(9) The brownfield authority and Michigan strategic fund may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities included within a transformational brownfield plan using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues attributable to that plan. On approval of the Michigan strategic fund, the amount of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues authorized to be captured under a transformational brownfield plan may include amounts required for the payment of interest under this subsection. A written development or reimbursement agreement must be entered into under subsection (6) before any reimbursement or payment using tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues may commence. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement are not subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

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

(11) The duration of the capture of withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues under a transformational brownfield plan for a particular eligible property must not exceed the lesser of the period authorized under subsection (8) or 20 years from the beginning date of the

capture of withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for that eligible property. The beginning date for the capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for an eligible property must not be later than 5 years following the date the Michigan strategic fund approves the inclusion of the eligible property in a transformational brownfield plan. Subject to the approval of the governing body and Michigan strategic fund, the authority may amend the beginning date of capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to a date not later than 5 years following the date the Michigan strategic fund approved inclusion of the eligible property in the transformational brownfield plan if capture of the revenues under the transformational brownfield plan has not yet commenced. Solely with respect to a related program of investment as defined in subsection (12), subject to the approval of the governing body and Michigan strategic fund, the authority may amend the beginning date of capture of tax increment revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues for an eligible property included within a related program of investment to a date later than 5 years following the date the Michigan strategic fund approved inclusion of the eligible property in the transformational brownfield plan if the governing body and Michigan strategic fund determine that the developer of the related program of investment has proceeded in good faith and made reasonable and substantial progress in the implementation of the related program of investment.

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

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

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

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

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

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

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

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

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

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

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

(15) This act does not preclude an authority established by a county from seeking approval of a brownfield plan as a transformational brownfield plan. In the event that an authority established by a county seeks approval of a plan that extends into more than 1 of its component local units of government and that plan includes eligible property in more than 1 municipality that is not a county, the minimum investment requirements of section 2(zz) must be established with reference to combined population of the municipalities that are not a county in which the eligible property is located.

Sec. 14a. (1) The governing body and Michigan strategic fund shall determine whether to approve a transformational brownfield plan in accordance with this section.

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

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

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

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

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

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

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

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

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

(5) In determining whether to approve a transformational brownfield plan under subsection (3)(c) and (d), the Michigan strategic fund shall conduct a financial and underwriting analysis of the developments included in the plan. The analysis must consider both projected rental rates at the time of project delivery and potential increases in rental rates over time. The Michigan strategic fund shall not approve the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues beyond the amount determined to be necessary for the project to be economically viable. The Michigan strategic fund shall develop standardized underwriting criteria for determining economic viability. The Michigan strategic fund shall take into account the impact of the sales and use tax exemptions under section 4d(n) of the general sales tax act, 1933 PA 167, MCL 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL 205.94dd, in determining the amount of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues required for the project to be economically viable. The Michigan strategic fund shall ensure that each transformational brownfield plan includes a significant equity contribution from the owner or developer as determined by the fund.

(6) The Michigan strategic fund shall require an independent, third-party underwriting analysis under subsection (3)(d) for any plan that proposes to use more than \$10,000,000.00 in any year in withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues, as determined by the first full year of tax capture under the plan. The cost of the independent, third-party underwriting analysis must be paid by the owner or developer of the eligible property. In addition to the independent, third-party underwriting

analysis, the Michigan strategic fund shall require an independent, third-party analysis of the sales and use tax capture revenue estimates for any plan that includes sales and use tax capture revenues. The cost of the independent, third-party analysis must be paid by the owner or developer of the eligible property. The Michigan strategic fund shall consult with the state treasurer before approving any transformational brownfield plan subject to this subsection. This subsection does not limit the ability of the Michigan strategic fund to utilize independent, third-party analyses on plans not subject to this subsection.

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

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

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

(8) The Michigan strategic fund shall require the owner or developer of the eligible property to certify the actual capital investment, as determined in accordance with section 2(o)(iv) and section 2(zz), on the completion of construction and before the commencement of reimbursement from withholding tax capture revenues, income tax capture revenues, sales and use tax capture revenues, or tax increment revenues, for the plan or the distinct phase or project within the plan for which reimbursement will be provided. If the actual capital investment is less than the amount included in the plan, the Michigan strategic fund shall review the determination under subsection (5) and may modify the amount of reimbursement if, and to the extent, such a modification is necessary to maintain compliance with subsection (5). The transformational brownfield plan, work plan, and development and reimbursement agreement must include provisions to enforce the requirements and remedies under this subsection. If the actual level of capital investment does not meet the applicable minimum investment requirement under section 2(zz) and is outside of the safe harbor under subsection (15), the Michigan strategic fund may take 1 of the following remedial actions:

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

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

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

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

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

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

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

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

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

(10) In determining whether a plan under subsection (9) has a transformational impact for purposes of section 2(zz) and subsection (3)(a), the governing body and Michigan strategic fund shall consider the impact of the transformational brownfield plan in relation to existing investment and development conditions in the project area and whether the transformational brownfield plan will act as a catalyst for additional revitalization of the area in which it is located.

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

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

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

(14) The procedure, adequacy of notice, and findings under this section are presumptively valid unless contested in a court of competent jurisdiction within 60 days after approval of the transformational brownfield plan by the Michigan strategic fund. An approved amendment to a conclusive transformational brownfield plan is likewise conclusive unless contested within 60 days after approval of the amendment by the Michigan strategic fund. If a resolution adopting an amendment to the transformational brownfield plan is contested, the original resolution adopting the transformational brownfield plan is not open to contest.

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

(16) For purposes of a transformational brownfield plan, determination as to whether property is functionally obsolete may include considerations of economic obsolescence as determined in accordance with the Michigan state tax commission's assessor's manual.

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

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

(19) The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, more than \$80,000,000.00 in total annual tax capture. As used in this subsection, "total annual tax capture" means the total annual amount of income tax capture revenues, withholding tax capture revenues, and sales and use tax capture revenues that may be reimbursed each calendar year under all transformational brownfield plans. In addition to the \$80,000,000.00 annual limit, both of the following provisions apply:

(a) With respect to the availability of uncommitted amounts, if an amount authorized to be committed for a calendar year has not been committed, the uncommitted amount for that calendar year remains available to be committed and disbursed in a subsequent calendar year and is in addition to the annual limits otherwise applicable. However, not more than \$30,000,000.00 may be committed or disbursed in any calendar year above the \$80,000,000.00 annual limit as a result of the operation of this subdivision, and all commitments and disbursements under this subdivision remain subject to the overall limitation in subsection (20).

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

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

(21) The Michigan strategic fund shall not approve more than a total of \$200,000,000.00 in construction period tax capture revenues. The Michigan strategic fund shall project the value of the sales and use tax exemptions under each transformational brownfield plan at the time of plan approval and shall require such information from the owner or developer as is necessary to perform this calculation. The Michigan strategic fund also shall require the owner or developer of the eligible property to report the actual value of the sales and use tax exemptions each tax year of the construction period and at the end of the construction period.

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

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

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

(c) Ensure an equitable geographic distribution of plans approved under this subsection, which must achieve a balance between the needs of municipalities of differing sizes and differing geographic areas of the state. Subject to the receipt of qualified transformational brownfield plans meeting the criteria under this section and section 13c, the Michigan strategic fund shall ensure that both of the following requirements are met:

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

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

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

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

(24) If the Michigan strategic fund approves a transformational brownfield plan and work plan, and subsequent to that approval, amendments are made to this act, the Michigan strategic fund may amend those plans to make conforming and consistent changes to the approved transformational brownfield plan and work plan on an administrative basis, if those changes do not result in any increase in the aggregate total amount of reimbursement authorized under the initial transformational brownfield plan. The authority of the Michigan strategic fund to administratively amend transformational brownfield plans and work plans under this subsection also applies to transformational brownfield plans and work plans entered into before December 27, 2021.

(25) The Michigan strategic fund shall not approve any new transformational brownfield plans after December 31, 2027. A transformational brownfield plan approved before December 31, 2022 remains in effect and may be amended in accordance with this act.

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

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

(a) A copy of the brownfield plan.

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

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

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

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

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

(a) An unconditional approval.

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

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

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

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

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

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

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

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

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

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

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

(5) The department may issue a written response to a work plan more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan as it was submitted for approval and failure to conduct these additional activities does not affect the authority's ability to capture taxes under section 13b for the eligible activities described in the work plan

initially submitted under subsection (4). In addition, at the option of the authority, these additional individual activities are considered part of the work plan of the authority and approved for purposes of section 13b. However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy part 201 or part 213 must be satisfactorily completed for the activities to be considered acceptable for the purposes of compliance with part 201 or part 213.

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

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

(b) The individual activity has commenced or payment for the work has been irrevocably obligated before issuance of the department's response.

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

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

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

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

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

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

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

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

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

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

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

(11) An authority may not submit a request for approval of a work plan for a transformational brownfield plan until all required financial analyses are complete. On receipt of a request for approval of a work plan, the Michigan strategic fund shall provide 1 of the following written responses to the requesting authority within 60 days following receipt of a request for approval or within 7 days following the first meeting of the board after the 60-day period following receipt of the request for approval, whichever is later:

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

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

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the authority may subsequently resubmit the work plan.

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

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

- (b) Whether each individual activity included in the work plan is required to complete the eligible activity.
 - (c) Whether the cost for each individual activity is reasonable.
 - (d) The overall benefit to the public.
 - (e) The extent of reuse of vacant buildings and redevelopment of blighted property.
 - (f) Creation of jobs.
 - (g) Whether the eligible property is in an area of high unemployment.
 - (h) The level and extent of contamination alleviated by or in connection with the eligible activities.
 - (i) The level of private sector contribution.
 - (j) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.
 - (k) Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound.
 - (l) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.
 - (m) Any other criteria that the Michigan strategic fund considers appropriate for the determination of eligibility or for approval of the work plan.
- (13) If the Michigan strategic fund fails to provide a written response under subsection (11) within 60 days following receipt of a request for approval of a work plan or within 7 days following the first meeting of the board after the 60-day period following receipt of the request for approval of a work plan, whichever is later, or 90 days following receipt of a request for approval in the case of a transformational brownfield plan or within 7 days following the first meeting of the board after the 90-day period following receipt of a request for approval in the case of a transformational brownfield plan, whichever is later, the eligible activities are considered approved and the authority may proceed with the eligible activities described in sections 13b(4) and 13c(6) as outlined in the work plan as submitted for approval.
- (14) The Michigan strategic fund approval of a work plan under sections 13b(4) and 13c(6) is final.
- (15) The Michigan strategic fund shall submit a report each year to each member of the legislature as provided in section 16(4).
- (16) All taxes levied for school operating purposes that are not used for eligible activities consistent with a combined brownfield plan or a work plan approved by the department or the Michigan strategic fund or for the payment of interest under sections 13 and 13b and that are not deposited in a local brownfield revolving fund must be distributed proportionately between the local school district and the school aid fund.
- (17) The department's approval of a work plan under subsection (2)(a) or (b) does not imply an entitlement to reimbursement of the costs of the eligible activities if the work plan is not implemented as approved.
- (18) The party seeking work plan approval and the department may, by mutual agreement, extend the time period for any review described in this section. An agreement described in this subsection must be documented in writing.
- (19) If a brownfield plan includes the capture of taxes levied for school operating purposes, the chairperson of the Michigan strategic fund may approve, without a meeting of the fund board, combined brownfield plans and work plans that address eligible activities described in section 13b(4) totaling an amount of \$1,000,000.00 or less according to subsections (10), (11), (12), (13), and (14) that include reimbursement of taxes levied for school operating purposes.
- (20) Instead of seeking approval of a work plan under section 13b(4) or (6)(c) or section 13c(6), an authority may seek approval of a combined brownfield plan from the department or Michigan strategic fund under this subsection as follows:
- (a) To seek approval of a combined brownfield plan under this subsection, the authority shall, not less than 30 days before the hearing on the combined brownfield plan to allow for consultation between the authority and the department or the Michigan strategic fund and not less than 60 days in the case of a transformational brownfield plan, provide notice that the authority will be seeking approval of a combined brownfield plan instead of a work plan to 1 or more of the following:
 - (i) The department, if the combined brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require approval by the department under section 13b(6)(c).

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

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

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

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

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

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

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

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

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

(g) If the department or Michigan strategic fund issues a written response to a requesting authority under subdivision (d)(i) or (ii), the governing body or its designee may administratively approve any modifications to a combined brownfield plan required by the written response without the need to follow the notice and approval process required by section 14(6) unless the modifications add 1 or more parcels of eligible property or increase the maximum amount of tax increment revenues or, in the case of a transformational brownfield plan, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues approved for the project.

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

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

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

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

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

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

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

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

- (d) The initial taxable value of all eligible property subject to the brownfield plan.
- (e) The captured taxable value realized by the authority for each eligible property subject to the brownfield plan.
- (f) The amount of actual capital investment made for each project.
- (g) The amount of tax increment revenues attributable to taxes levied for school operating purposes used for activities described in section 13b(6)(c), section 2(o)(i)(F) and (G), and section 2(o)(ii)(B) and (C).
- (h) The number of residential units constructed or rehabilitated for each project.
- (i) The amount, by square foot, of new or rehabilitated residential, retail, commercial, or industrial space for each project.
- (j) The number of new jobs created at the project.
- (k) A copy of all brownfield plan amendments approved by the local governmental unit.
- (l) All additional information that the governing body, the department, or the Michigan strategic fund considers necessary.

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

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

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

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

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

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

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

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

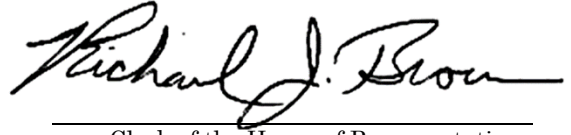
(b) The authority, the department, and the Michigan strategic fund shall follow the reporting requirements of subsections (3), (4), and (5) with respect to all approved transformational brownfield plans, and shall provide information on the amount and use of construction period tax capture revenues,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

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor