

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 129

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending the title and sections 2, 8, 8a, 11, 13, 13b, 13c, 14, 14a, 15, and 16 (MCL 125.2652, 125.2658, 125.2658a, 125.2661, 125.2663, 125.2663b, 125.2663c, 125.2664, 125.2664a, 125.2665, and 125.2666), the title as amended by 2003 PA 259, section 2 as amended by 2022 PA 178, sections 8, 13, 13b, 15, and 16 as amended by 2020 PA 259, sections 8a and 11 as amended by 2017 PA 46, sections 13c and 14a as amended by 2021 PA 138, and section 14 as amended by 2016 PA 471.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to authorize municipalities to create a brownfield

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

14 Sec. 2. As used in this act:

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

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

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

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

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

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

28 (iv) Has had the utilities, plumbing, heating, or sewerage
29 permanently disconnected, destroyed, removed, or rendered

1 ineffective so that the property is unfit for its intended use.

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

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

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

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

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

28 (f) "Captured taxable value" means the amount in 1 year by
29 which the current taxable value of an eligible property subject to

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

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

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

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

26 (i) Require the owner or developer of the eligible property to
27 report the total taxable wages paid to individuals for the
28 construction, renovation, or other improvement of eligible property
29 that is an eligible activity within the transformational brownfield

1 plan. The wages reported under this subparagraph ~~shall~~**must** exclude
2 any wages paid to employees of the owner or developer.

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

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

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

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

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

28 (i) Response activities that are more protective of the public
29 health, safety, and welfare and the environment than required by

1 section 20107a, 20114, or 21304c of the natural resources and
2 environmental protection act, 1994 PA 451, MCL 324.20107a,
3 324.20114, and 324.21304c.

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

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

11 (iv) Dust control related to construction activities.

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

16 (vi) Industrial cleaning.

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

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

25 (ix) Environmental insurance.

26 (m) "Due care activities" means those response activities
27 identified as part of a brownfield plan that are necessary to allow
28 the owner or operator of an eligible property in the plan to comply
29 with the requirements of section 20107a or 21304c of the natural

1 resources and environmental protection act, 1994 PA 451, MCL
2 324.20107a and 324.21304c.

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

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

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

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

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

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

16 (A) Department specific activities.

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

19 (C) Reasonable costs of environmental insurance.

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

24 (E) Reasonable costs of brownfield plan and work plan
25 implementation, including, but not limited to, tracking and
26 reporting of data and plan compliance, **including costs to**
27 **implement, monitor, and maintain compliance with the income and**
28 **price monitoring responsibilities associated with housing**
29 **development activities**, and the reasonable costs incurred to

1 estimate and determine actual costs incurred, whether those costs
2 are incurred by a municipality, authority, or private developer.

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

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

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

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

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

20 (B) Housing development activities.

21 (C) Infrastructure improvements that are necessary for housing
22 property and support housing development activities.

23 (D) Site preparation that is not a response activity and that
24 supports housing development activities.

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

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

1 (B) Infrastructure improvements that directly benefit eligible
2 property.

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

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

8 (A) The eligible activities described in subparagraphs (i), ~~and~~
9 (ii), and (iii).

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

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

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

29 (vi) ~~(v)~~ For eligible activities on eligible property that is a

1 qualified facility that is not located in a qualified local
 2 governmental unit and that is a facility, functionally obsolete, or
 3 blighted, the following additional activities:

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

5 (B) Infrastructure improvements that directly benefit eligible
 6 property.

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

8 (p) "Eligible property" means ~~, except either of the~~
 9 **following:**

10 (i) **Except** as otherwise provided in ~~this subdivision, sub-~~
 11 **subparagraph (G)**, property for which eligible activities are
 12 identified under a brownfield plan that was used or is currently
 13 used for commercial, industrial, public, or residential purposes,
 14 including personal property located on the property, **or former**
 15 **dumps, landfills, and other areas filled with nonnative material,**
 16 to the extent included in the brownfield plan, and that ~~is meets~~ 1
 17 or more of the following **conditions listed in sub-subparagraphs (A)**
 18 **to (F):**

19 (A) ~~(i)~~—Is in a qualified local governmental unit and is a
 20 facility or a site or property as those terms are defined in part
 21 213, historic resource, functionally obsolete, or blighted and
 22 includes parcels that are adjacent or contiguous to that property
 23 if the development of the adjacent and contiguous parcels is
 24 estimated to increase the captured taxable value of that property.

25 (B) ~~(ii)~~—Is not in a qualified local governmental unit and is a
 26 facility, historic resource, functionally obsolete, blighted, or a
 27 site or property as those terms are defined in part 213, and
 28 includes parcels that are adjacent or contiguous to that property
 29 if the development of the adjacent and contiguous parcels is

1 estimated to increase the captured taxable value of that property.

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

4 (D) ~~(iv)~~—Is a transit-oriented development or transit-oriented
5 property.

6 (E) ~~(v)~~—Is located in a qualified local governmental unit and
7 contains a targeted redevelopment area.

8 (F) ~~(vi)~~—Is undeveloped property that was eligible property in
9 a previously approved brownfield plan abolished under section
10 14(8).

11 (G) ~~(vii)~~—Eligible property does not include qualified
12 agricultural property exempt under section 7ee of the general
13 property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by
14 a local school district for school operating purposes to the extent
15 provided under section 1211 of the revised school code, 1976 PA
16 451, MCL 380.1211.

17 **(ii) Housing property for which eligible activities are**
18 **identified under a brownfield plan, including personal property**
19 **located on the property, to the extent included in the brownfield**
20 **plan.**

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

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

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

26 (t) "Former mill" means a former mill that has not been used
27 for industrial purposes for the immediately preceding 2 years, that
28 is not located in a qualified local governmental unit, that is a
29 facility or is a site or a property as those terms are defined in

1 part 213, functionally obsolete, or blighted, and that is located
2 within 15 miles of a river that is a federal superfund site listed
3 under the comprehensive environmental response, compensation and
4 liability act of 1980, 42 USC 9601 to 9675, and that is located in
5 a municipality with a population of less than 10,000.

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

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

15 (w) "Historic resource" means that term as defined in section
16 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

17 **(x) "Housing development activities" means 1 or more of the**
18 **following:**

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

21 **(ii) Costs for infrastructure available for public use and**
22 **safety improvements necessary for a housing project.**

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

27 **(iv) Temporary household relocation costs for an income**
28 **qualified household for a period not to exceed 1 year.**

29 **(v) Acquisition cost for blighted or obsolete rental units, to**

1 the extent the acquisition would promote rehabilitation or adaptive
 2 reuse of the blighted or obsolete rental unit to accommodate an
 3 income qualified purchaser household or income qualified renting
 4 household.

5 (vi) Reimbursement provided to a developer to fill a financing
 6 gap associated with the development of housing units priced for
 7 income qualified households and to assist with costs related to
 8 infrastructure improvements and site preparation that are not a
 9 response activity and that are necessary for new housing
 10 development for income qualified households on eligible property.

11 (y) "Housing property" means 1 or more of the following:

12 (i) A property on which 1 or more units of residential housing
 13 are proposed to be constructed, rehabilitated, or otherwise
 14 designed to be used as a dwelling.

15 (ii) One or more units of residential housing proposed to be
 16 constructed or rehabilitated and located in a mixed-use project.

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

21 (i) "Area median income" means the median income for the area
 22 as determined under section 8 of the United States housing act of
 23 1937, 42 USC 1437f, adjusted for family size.

24 (ii) "Household income" means all income received by all
 25 individuals who are not less than 24 years of age when the
 26 household income is determined and who reside in a household while
 27 members of the household.

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

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

3 **(cc) ~~(x)~~**"Income tax" means the tax levied and imposed under
 4 part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to
 5 206.532.

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

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

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

29 *(iii)* Notwithstanding anything to the contrary in this

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

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

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

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

29 (i) Underground parking.

1 (ii) Multilevel parking structures.

2 (iii) Urban stormwater management systems.

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

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

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

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

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

20 (kk) ~~(ee)~~ "Land bank fast track authority" means an authority
 21 created under the land bank fast track act, 2003 PA 258, MCL
 22 124.751 to 124.774.

23 (ll) ~~(ff)~~ "Local taxes" means all taxes levied other than taxes
 24 levied for school operating purposes.

25 (mm) **"Michigan state housing development authority" means the**
 26 **Michigan state housing development authority created in section 21**
 27 **of the state housing development authority act of 1966, 1966 PA**
 28 **346, MCL 125.1421.**

29 (nn) ~~(gg)~~ "Michigan strategic fund" means the Michigan

1 strategic fund created under the Michigan strategic fund act, 1984
2 PA 270, MCL 125.2001 to 125.2094.

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

6 **(pp)** ~~(ii)~~ "Municipality" means all of the following:

7 (i) A city.

8 (ii) A village.

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

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

14 (v) A county.

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

18 (i) An ownership interest in the property.

19 (ii) A tax lien on the property.

20 (iii) A tax deed to the property.

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

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

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

26 **(rr)** ~~(kk)~~ "Part 111", "part 201", "part 211", or "part 213"
27 means that part as described as follows:

28 (i) Part 111 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

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

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

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

8 (ss) **"Previously developed property" means property that was**
9 **part of an existing developed residential, commercial, or**
10 **industrial zone and contained a structure serviced by utilities, or**
11 **former dumps, landfills, and other areas filled with nonnative**
12 **material.**

13 (tt) ~~(ll)~~—"Qualified facility" means a landfill facility area
14 of 15 or more contiguous acres that is located in a city and that
15 contains, contained, or is adjacent to a landfill, a material
16 recycling facility, or an asphalt plant that is no longer in
17 operation.

18 (uu) ~~(mm)~~—"Qualified local governmental unit" means that term
19 as defined in the obsolete property rehabilitation act, 2000 PA
20 146, MCL 125.2781 to 125.2797.

21 (vv) **"Qualified rehabilitation" means rehabilitation of**
22 **existing structures that is necessary to make a housing unit**
23 **suitable for sale to an income qualified purchaser household or**
24 **rent to an income qualified renting household. Qualified**
25 **rehabilitation also includes proposed rehabilitation that will**
26 **bring the structure into conformance with minimum local building**
27 **code standards for occupancy or improve the livability of the units**
28 **while meeting minimum local building code standards. As used in**
29 **this subsection, "existing structures" includes any structure**

1 **designed to be used as a dwelling.**

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

7 **(xx)** ~~(oo)~~ "Release" means that term as defined in part 201 or
8 part 213.

9 **(yy)** ~~(pp)~~ "Response activity" means either of the following:

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

11 (ii) Corrective action.

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

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

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

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

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

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

13 (bbb) ~~(cc)~~ "Specific taxes" means ~~a~~ all of the following:

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

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

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

18 (C) The enterprise zone act, 1985 PA 224, MCL 125.2101 to
19 125.2123. ~~;~~

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

21 (E) The technology park development act, 1984 PA 385, MCL
22 207.701 to 207.718. ~~;~~ the

23 (F) The obsolete property rehabilitation act, 2000 PA 146, MCL
24 125.2781 to 125.2797. ~~;~~ the

25 (G) The neighborhood enterprise zone act, 1992 PA 147, MCL
26 207.771 to 207.786. ~~;~~ the

27 (H) The commercial rehabilitation act, 2005 PA 210, MCL
28 207.841 to 207.856. ~~;~~ or that

29 (I) The attainable housing facilities act, 2022 PA 236, MCL

1 207.901 to 207.916.

2 (J) **The residential housing facilities act, 2022 PA 237, MCL**
3 **207.951 to 207.966.**

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

7 (ccc) ~~(rr)~~ "State brownfield redevelopment fund" means the
8 state brownfield redevelopment fund created in section 8a.

9 (ddd) ~~(ss)~~ "Targeted redevelopment area" means not fewer than
10 40 and not more than 500 contiguous parcels of real property
11 located in a qualified local governmental unit and designated as a
12 targeted redevelopment area by resolution of the governing body and
13 approved by the Michigan strategic fund. A qualified local
14 governmental unit is limited to designating no more than 2 targeted
15 redevelopment areas for the purposes of this section in a calendar
16 year. The Michigan strategic fund may approve no more than 5
17 targeted redevelopment areas for the purposes of this section in a
18 calendar year.

19 (eee) ~~(tt)~~ "Tax increment revenues" means the amount of ad
20 valorem property taxes and specific taxes attributable to the
21 application of the levy of all taxing jurisdictions ~~upon~~ **on** the
22 captured taxable value of each parcel of eligible property subject
23 to a brownfield plan and personal property located on that
24 property, regardless of whether those taxes began to be levied
25 after the brownfield plan was adopted. **Tax increment revenues also**
26 **include the amount of any payment in lieu of taxes under section**
27 **15a(3) of the state housing development authority act of 1966, 1966**
28 **PA 346, MCL 125.1415a, paid on an eligible property subject to a**
29 **brownfield plan, less the amount of property taxes levied on the**

1 **eligible property subject to the brownfield plan for the year the**
 2 **eligible property became subject to the brownfield plan.** Tax
 3 increment revenues do not include any of the following:

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

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

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

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

29 (B) The art institute authorities act, 2010 PA 296, MCL

1 123.1201 to 123.1229.

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

5 (ggg) ~~(vv)~~ "Taxes levied for school operating purposes" means
 6 all of the following:

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

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

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

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

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

28 (ii) In a municipality that is not a county and that has a
 29 population of ~~at least~~**not less than** 150,000 and not more than

1 599,999, \$100,000,000.00.

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

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

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

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

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

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

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

26 (lll) ~~(zz)~~"Withholding tax capture revenues" means, with
27 respect to each eligible property subject to a transformational
28 brownfield plan, the amount for each calendar year by which the
29 income tax withheld under ~~part 3~~**chapter 17** of the income tax act

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

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

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

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

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

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

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

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

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

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

20 Sec. 8. (1) An authority may establish a local brownfield
 21 revolving fund. A local brownfield revolving fund ~~shall~~ **may** consist
 22 of funds deposited from the following sources:

23 (a) Funds appropriated or otherwise made available from public
 24 or private sources.

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

29 (i) The excess capture occurs during the time of capture for

1 the purpose of paying the costs permitted under section 13(4), or
 2 for not more than 5 years after the time that capture is required
 3 for the purpose of paying the costs permitted under section 13(4),
 4 or both.

5 (ii) The excess local tax capture ~~shall~~**does** not exceed the
 6 total of the cost of eligible activities approved in the brownfield
 7 plan.

8 (iii) The excess capture of taxes for school operating purposes
 9 ~~shall~~**does** not exceed the total of the cost of eligible department
 10 specific activities approved in the applicable brownfield plan,
 11 combined brownfield plan, or work plan, ~~The~~**and the** total excess
 12 tax capture ~~shall~~**does** not exceed the total of the cost of eligible
 13 activities approved in the brownfield plan.

14 (iv) Excess tax increment revenues from taxes levied for school
 15 operating purposes for eligible activities authorized under section
 16 13b(4) by the Michigan strategic fund ~~shall~~**or the Michigan state**
 17 **housing development authority are** not ~~be~~ captured for deposit in
 18 the local brownfield revolving fund.

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

22 (3) The tax increment revenues from eligible property for
 23 deposit in the local brownfield revolving fund may include tax
 24 increment revenues attributable to taxes levied for school
 25 operating purposes in an amount not greater than the tax increment
 26 revenues levied for school operating purposes captured from the
 27 eligible property pursuant to section 13(4).

28 (4) The local brownfield revolving fund may be used only to
 29 pay the costs of eligible activities on property that is located

1 within the municipality and meets at least 1 of the conditions
2 under section ~~2(e)~~. **2(p)**, **regardless of whether or not the property**
3 **is included in a brownfield plan.** However, activities outlined in
4 section 13b(8) may be conducted and funded on prospective
5 properties.

6 (5) An authority or a municipality on behalf of an authority
7 may incur an obligation for the purpose of funding a local
8 brownfield revolving fund.

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

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

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

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

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

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

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

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

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

2 (ii) The department to implement this act.

3 (iii) The department to implement part 196 of the natural
4 resources and environmental protection act, 1994 PA 451, MCL
5 324.19601 to 324.19616.

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

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

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

17 (i) The Michigan strategic fund shall create and operate a
18 grant and loan program to provide grants and loans to fund eligible
19 activities described in section 13b(4) on eligible property. The
20 Michigan strategic fund shall develop and use a detailed
21 application, approval, and compliance process adopted by resolution
22 of the board of the Michigan strategic fund. This process ~~shall~~
23 **must** be published and available on the Michigan strategic fund
24 website. Program standards, guidelines, templates, or any other
25 forms to implement the grant and loan program ~~shall~~**must** be
26 approved by the board of the Michigan strategic fund. The Michigan
27 strategic fund may delegate its approval authority under this
28 subsection to a designee.

29 (ii) A person may apply to the Michigan strategic fund for

1 approval of a grant or loan to fund eligible activities described
2 in section 13b(4) on eligible property.

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

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

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

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

28 (d) To distribute construction period tax capture revenues,
29 withholding tax capture revenues, ~~and~~ income tax capture revenues,

1 **and sales and use tax capture revenues** in accordance with a
2 transformational brownfield plan under subsection (4).

3 **(e) To distribute revenue deposited in the state brownfield**
4 **redevelopment fund from a brownfield plan that includes housing**
5 **development activities and that was approved by the Michigan state**
6 **housing development authority under section 13b(4) (b) to the**
7 **housing development fund created in section 23 of the state housing**
8 **development authority act of 1966, 1966 PA 346, MCL 125.1423.**

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

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

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

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

10 (c) Subject to the limitations imposed under sections 8, 13,
11 13b, and 15, 1 or both of the following:

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

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

16 (d) Proceeds of revenue bonds and notes issued under section
17 12.

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

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

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

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

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

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

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

23 (c) An estimate of the captured taxable value and tax
24 increment revenues for each year of the plan from the eligible
25 property. The plan may provide for the use of part or all of the
26 captured taxable value, including deposits in the local brownfield
27 revolving fund, but the portion intended to be used ~~shall~~**must** be
28 clearly stated in the plan. The plan ~~shall~~**must** not provide either
29 for an exclusion from captured taxable value of a portion of the

1 captured taxable value or for an exclusion of the tax levy of 1 or
2 more taxing jurisdictions unless the tax levy is excluded from tax
3 increment revenues in section ~~2(ss)~~, **2(eee)**, or unless the tax levy
4 is excluded from capture under section 15.

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

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

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

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

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

27 (i) Estimates of the number of persons residing on each
28 eligible property to which the plan applies and the number of
29 families and individuals to be displaced. If occupied residences

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

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

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

19 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
20 213.332.

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

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

1 **contribution to the project that provides a value reasonably**
2 **equivalent to that percentage of local capture.**

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

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

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

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

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

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

29 Sec. 13b. (1) An authority shall not expend tax increment

1 revenues to acquire or prepare eligible property unless the
2 acquisition or preparation is an eligible activity.

3 (2) An authority shall not enter into agreements with the
4 taxing jurisdictions and the governing body of the municipality to
5 share a portion of the taxes captured from an eligible property
6 under this act, **unless the agreement is related to another tax**
7 **increment finance authority that has been established under the**
8 **recodified tax increment finance act, 2018 PA 57, MCL 125.4101 to**
9 **125.4915, forgoing or transferring its tax capture to allow an**
10 **authority to instead capture and utilize those taxes to pay for the**
11 **eligible activities for an eligible property and only for a period**
12 **of time not to exceed the duration of the plan for that eligible**
13 **property.** ~~Upon~~ **On** adoption of the plan, the collection and
14 transmission of the amount of tax increment revenues as specified
15 in this act ~~shall be~~ **are** binding on all taxing units levying ad
16 valorem property taxes or specific taxes against property located
17 in the zone.

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

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

28 (a) A combined brownfield plan or a work plan ~~shall~~ **must** be
29 approved by the Michigan strategic fund and a development agreement

1 or reimbursement agreement between the municipality or authority
 2 and an owner or developer of eligible property is required before
 3 such tax increment may be used for ~~infrastructure~~**any of the**
 4 **following:**

5 (i) **Infrastructure** improvements that directly benefit eligible
 6 property. ~~demolition~~

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

8
 9 (iii) **Lead**, mold, or asbestos abatement that is not a department
 10 specific activity. ~~site~~

11 (iv) **Site** preparation that is not response activity. ~~relocation~~

12
 13 (v) **Relocation** of public buildings or operations for economic
 14 development purposes. ~~or acquisition~~

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

18 (b) **Except as otherwise provided in this subdivision, if the**
 19 **work plan or combined brownfield plan is requesting reimbursement**
 20 **for housing development activities, the work plan or combined**
 21 **brownfield plan must be approved by the Michigan state housing**
 22 **development authority and a development agreement or reimbursement**
 23 **agreement between the municipality or authority and an owner or**
 24 **developer of eligible property that stipulates price and income**
 25 **monitoring for residential units is required before such tax**
 26 **increment may be used for housing development activities. A work**
 27 **plan or combined brownfield plan is not required to be approved by**
 28 **the Michigan state housing development authority under this**
 29 **subdivision if all of the housing property for which housing**

1 **development activities are identified under the plan will be sold**
 2 **or rented at a market rate and will not be subsidized.**

3 (c) ~~(b)~~ Approval of a combined brownfield plan or a work plan
 4 by the Michigan strategic fund in the manner required under section
 5 15(12) to (14) or (20) is required ~~in order~~ to use the tax
 6 increment revenues to assist a land bank fast track authority or
 7 qualified local governmental unit with clearing or quieting title,
 8 acquiring, selling, or conveying property.

9 (d) ~~(e)~~ The combined brownfield plan or work plan to be
 10 submitted to the Michigan strategic fund **or Michigan state housing**
 11 **development authority** under this subsection ~~shall~~ **must** be in a form
 12 prescribed by the Michigan strategic fund **or the Michigan state**
 13 **housing development authority, as applicable.**

14 (e) ~~(d)~~ The eligible activities to be conducted and described
 15 in this subsection ~~shall~~ **must** be consistent with the combined
 16 brownfield plan or work plan submitted by the authority to the
 17 Michigan strategic fund **or the Michigan state housing development**
 18 **authority, or both, as applicable.**

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

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

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

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

1 plan.

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

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

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

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

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

29 (a) Local taxes captured may be used for 1 or more of the

1 following administrative and operating purposes:

2 (i) Reasonable and actual administrative and operating expenses
 3 of the authority, **including costs to implement, monitor, and**
 4 **maintain compliance with the income and price monitoring**
 5 **responsibilities associated with housing development activities.**

6 (ii) Department specific activities conducted by or on behalf
 7 of the authority related directly to work conducted on prospective
 8 eligible properties ~~prior to~~ **before** approval of the brownfield
 9 plan.

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

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

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

19 (iv) Reasonable cost of brownfield plan or work plan
 20 implementation, including, but not limited to, tracking and
 21 reporting data and plan compliance **and costs to implement, monitor,**
 22 **and maintain compliance with the income and price monitoring**
 23 **responsibilities associated with housing development activities.**

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

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

1 **(A) Legal** and consulting fees that are not in the ordinary
 2 course of acquiring and developing real estate, not to exceed
 3 \$30,000.00.

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

7 (ii) Reasonable costs of brownfield plan or work plan
 8 implementation, including, but not limited to, tracking and
 9 reporting of data and plan compliance, **and costs to implement,**
 10 **monitor, and maintain compliance with the income and price**
 11 **monitoring responsibilities associated with housing development**
 12 **activities, not to exceed ~~\$30,000.00~~-\$50,000.00.**

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

17 (i) For authorities that have 5 or fewer active projects,
 18 ~~\$100,000.00~~**-\$125,000.00.**

19 (ii) For authorities that have 6 or more but fewer than 11
 20 active projects, ~~\$125,000.00~~**-\$165,000.00.**

21 (iii) For authorities that have 11 or more but fewer than 16
 22 active projects, ~~\$150,000.00~~**-\$200,000.00.**

23 (iv) For authorities that have 16 or more but fewer than 21
 24 active projects, ~~\$175,000.00~~**-\$225,000.00.**

25 (v) For authorities that have 21 or more but fewer than 26
 26 active projects, ~~\$200,000.00~~**-\$250,000.00.**

27 (vi) For authorities that have 26 or more but fewer than 31
 28 active projects, ~~\$300,000.00~~**-\$400,000.00.**

29 (vii) For authorities that have 31 or more but fewer than 54

1 active projects, ~~\$500,000.00.~~**\$650,000.00.**

2 (viii) For authorities that have 54 or more but fewer than 74
3 active projects, ~~\$700,000.00.~~**\$900,000.00.**

4 (ix) For authorities that have 74 or more but fewer than 99
5 active projects, ~~\$900,000.00.~~**\$1,400,000.00.**

6 (x) For authorities that have 99 or more active projects,
7 ~~\$1,000,000.00.~~**\$2,000,000.00.**

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

11 (e) As used in this subsection, "active project" means **either**
12 a project ~~in~~**for** which the authority is currently capturing taxes
13 under this act **or a project for which an authority has ongoing**
14 **obligations to implement, monitor, or maintain compliance with the**
15 **income and price monitoring responsibilities associated with**
16 **housing development activities, or both.** The amounts of tax
17 increment revenues attributable to local taxes listed in this
18 subsection that an authority can use for the purposes described in
19 this subsection may be increased by 2% for each written agreement
20 entered into by an authority in either of the following situations
21 up to a total maximum increase of 10%:

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

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

29 (8) The limitations of subsections (4), (5), and (6) ~~upon~~**on**

1 the use of taxes levied for school operating purposes ~~shall do~~ not
 2 apply to the costs of 1 or more of the following incurred by a
 3 person other than the authority:

4 (a) Site investigation activities required to conduct a
 5 baseline environmental assessment and to evaluate compliance with
 6 sections 20107a and 21304c of the natural resources and
 7 environmental protection act, 1994 PA 451, MCL 324.20107a and
 8 324.21304c.

9 (b) Completing a baseline environmental assessment.

10 (c) Preparing a plan for compliance with sections 20107a and
 11 21304c of the natural resources and environmental protection act,
 12 1994 PA 451, MCL 324.20107a and 324.21304c.

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

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

16 **(f) Asbestos, mold, lead, and building hazardous materials**
 17 **abatement and demolition, in an amount not to exceed \$250,000.00.**

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

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

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

7 (c) For tax increment revenues attributable to taxes levied
8 for school operating purposes, eligible activities described in
9 subsection (4) and conducted on eligible property or prospective
10 eligible properties ~~prior to~~ **before** approval of the brownfield
11 plan, if those costs and the eligible property are subsequently
12 included in a brownfield plan approved by the authority and a
13 combined brownfield plan or work plan approved by the Michigan
14 strategic fund **or the Michigan state housing development authority,**
15 **or both, as applicable.**

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

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

24 (10) An authority shall not use taxes levied for school
25 operating purposes captured from eligible property for response
26 activities that benefit a party responsible for an activity causing
27 a release under section 20126 or 21323a of the natural resources
28 and environmental protection act, 1994 PA 451, MCL 324.20126 and
29 324.21323a, except that a municipality that established the

1 authority may use taxes levied for school operating purposes
2 captured from eligible property for response activities associated
3 with a landfill.

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

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

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

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

22 (c) If an authority reimburses a person or entity under this
23 section for an advance for the payment or reimbursement of the cost
24 of eligible activities that are not department specific activities
25 and interest thereon included in a combined brownfield plan or a
26 work plan approved by the Michigan strategic fund **or the Michigan**
27 **state housing development authority, or both, as applicable,** the
28 authority may capture taxes levied for school operating purposes
29 and local taxes for the payment of that interest ~~provided that if~~

1 the Michigan strategic fund **or the Michigan state housing**
 2 **development authority, as applicable,** grants an approval for the
 3 capture of taxes levied for school operating purposes to pay ~~such~~
 4 **that** interest.

5 (13) An authority may enter into agreements related to these
 6 reimbursements and payments described in this section. A
 7 reimbursement agreement for these purposes and the obligations
 8 under that reimbursement agreement ~~shall~~**are** not ~~be~~ subject to
 9 section 13 or the revised municipal finance act, 2001 PA 34, MCL
 10 141.2101 to 141.2821.

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

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

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

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

27 (ii) The date excess capture is terminated under subsection
 28 (16).

29 (15) The department of treasury shall deposit the amounts

1 described in subsection (14) into the state brownfield
 2 redevelopment fund. If an authority makes a payment as required
 3 under subsection (14) to the department of treasury, the local
 4 taxes levied on that parcel and used to reimburse eligible
 5 activities under a brownfield plan ~~shall~~**must** not be increased or
 6 decreased due to that payment. If, due to an appeal of any tax
 7 assessment, an authority is required to reimburse a taxpayer for
 8 any portion of the amount paid to the department of treasury under
 9 this subsection, the department of treasury shall reimburse that
 10 amount to the authority within 30 days after receiving a request
 11 from the authority for reimbursement.

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

26 Sec. 13c. (1) Subject to the approval of the governing body
 27 and Michigan strategic fund under section 14a, the board may
 28 implement a transformational brownfield plan. The transformational
 29 brownfield plan may consist of a single development on eligible

1 property or a series of developments on eligible property that are
 2 part of a related program of investment, whether or not located on
 3 contiguous parcels, and may be amended to apply to additional
 4 parcels of eligible property. Each amendment to a transformational
 5 brownfield plan ~~shall~~**must** be approved by the governing body of the
 6 municipality in which it is located and the Michigan strategic fund
 7 and ~~shall~~**must** be consistent with the approval requirements in this
 8 section.

9 (2) A transformational brownfield plan may authorize the use
 10 of construction period tax capture revenues, withholding tax
 11 capture revenues, income tax capture revenues, ~~and~~ tax increment
 12 revenues, **and sales and use tax capture revenues** for eligible
 13 activities described in section ~~2(e)(iv)~~**2(o)(v)**. Except as
 14 **otherwise** provided ~~for~~ in section 13b(6)(d), tax increment
 15 revenues, construction period tax capture revenues, withholding tax
 16 capture revenues, ~~and~~ income tax capture revenues, ~~shall~~**and sales**
 17 **and use tax capture revenues must** be used only for the costs of
 18 eligible activities included within the transformational brownfield
 19 plan to which the revenues are attributable, including the cost of
 20 principal of and interest on any obligation to pay the cost of the
 21 eligible activities.

22 (3) A transformational brownfield plan is a brownfield plan
 23 and, except as otherwise provided, is subject to sections 13, 13a,
 24 13b, 14, and 15. ~~of this act.~~ In addition to the information
 25 required under section 13(2), a transformational brownfield plan
 26 ~~shall~~**must** contain all of the following:

27 (a) The basis for designating the plan as a transformational
 28 brownfield plan under section ~~2(vv)~~**2(hhh)**.

29 (b) A description of the costs of the transformational

1 brownfield plan intended to be paid for with construction period
 2 tax capture revenues, withholding tax capture revenues, ~~and~~ income
 3 tax capture revenues, **and sales and use tax capture revenues**.

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

9 (d) The beginning date and duration of capture of construction
 10 period tax capture revenues, withholding tax capture revenues, ~~and~~
 11 income tax capture revenues, **and sales and use tax capture revenues**
 12 for each eligible property as determined under subsections (8) and
 13 (11).

14 (4) Subject to section 14a(7), the transformational brownfield
 15 plan may provide for the use of part or all of the tax increment
 16 revenues, construction period tax capture revenues, withholding tax
 17 capture revenues, ~~and~~ income tax capture revenues, **and sales and**
 18 **use tax capture revenues**. The portion of tax increment revenues,
 19 construction period tax capture revenues, withholding tax capture
 20 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
 21 **capture revenues** to be used may vary over the duration of the
 22 transformational brownfield plan, but the portion intended to be
 23 used ~~shall~~**must** be clearly stated in the transformational
 24 brownfield plan.

25 (5) Approval of a transformational brownfield plan, or an
 26 amendment to a transformational brownfield plan, ~~shall~~**must** be in
 27 accordance with the notice, approval, and public hearing
 28 requirements of sections 14 and 14a, except that the governing body
 29 shall provide notice to the Michigan strategic fund not less than

1 30 days before the hearing on a transformational brownfield plan.

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

19 (7) ~~Upon~~ **On** approval of the transformational brownfield plan
 20 by the governing body and Michigan strategic fund, and the
 21 execution of the written development or reimbursement agreement,
 22 the transfer and distribution of construction period tax capture
 23 revenues, withholding tax capture revenues, ~~and~~ income tax capture
 24 revenues, **and sales and use tax capture revenues** as specified in
 25 this act and in the plan ~~shall be~~ **are** binding on this state and the
 26 collection and transmission of the amount of tax increment revenues
 27 as specified in this act and in the plan ~~shall be~~ **are** binding on
 28 all taxing units levying ad valorem property taxes or specific
 29 taxes against property subject to the transformational brownfield

1 plan.

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

10 (9) The brownfield authority and Michigan strategic fund may
 11 reimburse advances, with or without interest, made by a
 12 municipality under section 7(3), a land bank fast track authority,
 13 or any other person or entity for costs of eligible activities
 14 included within a transformational brownfield plan using tax
 15 increment revenues, construction period tax capture revenues,
 16 withholding tax capture revenues, ~~or~~ income tax capture revenues,
 17 **or sales and use tax capture revenues** attributable to that plan.
 18 ~~Upon~~**On** approval of the Michigan strategic fund, the amount of tax
 19 increment revenues, construction period tax capture revenues,
 20 withholding tax capture revenues, ~~and~~ income tax capture revenues,
 21 **and sales and use tax capture revenues** authorized to be captured
 22 under a transformational brownfield plan may include amounts
 23 required for the payment of interest under this subsection. A
 24 written development or reimbursement agreement ~~shall~~**must** be
 25 entered into under subsection (6) before any reimbursement or
 26 payment using tax increment revenues, construction period tax
 27 capture revenues, withholding tax capture revenues, ~~or~~ income tax
 28 capture revenues, **or sales and use tax capture revenues** may
 29 commence. A reimbursement agreement for these purposes and the

1 obligations under that reimbursement agreement ~~shall~~**are** not be
 2 subject to section 12 or the revised municipal finance act, 2001 PA
 3 34, MCL 141.2101 to 141.2821.

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

17 (11) The duration of the capture of withholding tax capture
 18 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
 19 **capture revenues** under a transformational brownfield plan for a
 20 particular eligible property ~~shall~~**must** not exceed the lesser of
 21 the period authorized under subsection (8) or 20 years from the
 22 beginning date of the capture of withholding tax capture revenues
 23 ~~and~~ income tax capture revenues, **and sales and use tax capture**
 24 **revenues** for that eligible property. The beginning date for the
 25 capture of tax increment revenues, withholding tax capture
 26 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
 27 **capture revenues** for an eligible property ~~shall~~**must** not be later
 28 than 5 years following the date the Michigan strategic fund
 29 approves the inclusion of the eligible property in a

1 transformational brownfield plan. Subject to the approval of the
2 governing body and Michigan strategic fund, the authority may amend
3 the beginning date of capture of tax increment revenues,
4 withholding tax capture revenues, ~~and~~ income tax capture revenues,
5 **and sales and use tax capture revenues** to a date not later than 5
6 years following the date the Michigan strategic fund approved
7 inclusion of the eligible property in the transformational
8 brownfield plan ~~so long as~~ **if** capture of the revenues under the
9 transformational brownfield plan has not yet commenced. **Solely with**
10 **respect to a related program of investment as defined in subsection**
11 **(12), subject to the approval of the governing body and Michigan**
12 **strategic fund, the authority may amend the beginning date of**
13 **capture of tax increment revenues, withholding tax capture**
14 **revenues, income tax capture revenues, and sales and use tax**
15 **capture revenues for an eligible property included within a related**
16 **program of investment to a date later than 5 years following the**
17 **date the Michigan strategic fund approved inclusion of the eligible**
18 **property in the transformational brownfield plan if the governing**
19 **body and Michigan strategic fund determine that the developer of**
20 **the related program of investment has proceeded in good faith and**
21 **made reasonable and substantial progress in the implementation of**
22 **the related program of investment.**

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

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

28 (b) For developments under affiliated ownership, the
29 developments are reasonably contiguous and are part of a program of

1 investment in a logically defined geography, including, but not
2 limited to, a downtown district as defined in section 201 of the
3 recodified tax increment financing act, 2018 PA 57, MCL 125.4201,
4 or a principal shopping district or business improvement district
5 as defined in section 1 of 1961 PA 120, MCL 125.981, and including
6 areas that are logically related to those districts and that will
7 promote infill development.

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

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

17 (13) ~~Where~~ **If** undeveloped property included in a
18 transformational brownfield plan has been designated as a
19 renaissance zone under the Michigan renaissance zone act, 1996 PA
20 376, MCL 125.2681 to 125.2696, ~~upon~~ **on** the request of the owner or
21 developer of the eligible property and the local governmental unit
22 that designated the zone, the Michigan strategic fund, and a city
23 levying a tax under the city income tax act, 1964 PA 284, MCL
24 141.501 to 141.787, may elect under section 9(4) of the Michigan
25 renaissance zone act, 1996 PA 376, MCL 125.2689, to terminate the
26 exemptions, deductions, or credits provided for in section 9(1)(b)
27 and (c) of that act, and reimburse the authority, or owner or
28 developer of the eligible property, an annual amount equal to the
29 revenue collected for each tax year as a result of the termination

1 of the exemptions, deductions, or credits that would otherwise be
 2 in effect. In implementing this subsection, all of the following
 3 apply:

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

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

15 (c) A city levying a city income tax under the city income tax
 16 act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each
 17 tax year the amount of revenue the city collected as a result of
 18 the operation of this subsection and shall enter into a binding
 19 reimbursement agreement with the authority, and owner or developer
 20 of the eligible property, providing for the payment of the amounts
 21 to the authority, or the owner or developer of the eligible
 22 property, for eligible activities as provided ~~for~~ in the
 23 transformational brownfield plan. City income taxes administered by
 24 the department of treasury pursuant to the city income tax act,
 25 1964 PA 284, MCL 141.501 to 141.787, ~~shall be~~ **are** subject to the
 26 procedures of subdivision (b) regarding the calculation and deposit
 27 of any revenue collected as a result of the operation of this
 28 subsection.

29 (d) The department of treasury may require the owner or

1 developer to submit any information necessary for the calculation
 2 of revenue collected pursuant to the operation of this subsection.
 3 This state has no obligation for calculating revenues to be
 4 collected pursuant to the operation of this subsection ~~where~~**if** the
 5 required information is not reported.

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

13 (15) ~~Nothing in this~~**This** act ~~is intended to~~**does not** preclude
 14 an authority established by a county from seeking approval of a
 15 brownfield plan as a transformational brownfield plan. In the event
 16 that an authority established by a county seeks approval of a plan
 17 that extends into more than 1 of its component local units of
 18 government and that plan includes eligible property in more than 1
 19 municipality that is not a county, the minimum investment
 20 requirements of section ~~2(vv) shall~~**2(hhh) must** be established with
 21 reference to combined population of the municipalities that are not
 22 a county in which the eligible property is located.

23 Sec. 14. (1) Before approving a brownfield plan for an
 24 eligible property, the governing body shall hold a public hearing
 25 on the brownfield plan. By resolution, the governing body may
 26 delegate the public hearing process to the authority or to a
 27 subcommittee of the governing body subject to final approval by the
 28 governing body.

29 (2) Notice of the time and place of the hearing on a

1 brownfield plan ~~shall~~**must** contain all of the following:

2 (a) A description of the property to which the plan applies in
3 relation to existing or proposed highways, streets, streams, or
4 otherwise.

5 (b) A statement that maps, plats, and a description of the
6 brownfield plan are available for public inspection at a place
7 designated in the notice and that all aspects of the brownfield
8 plan are open for discussion at the public hearing required by this
9 section.

10 (c) Any other information that the governing body considers
11 appropriate.

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

19 (4) Not less than 10 days before the hearing on the brownfield
20 plan, the governing body shall provide notice of the hearing to the
21 taxing jurisdictions that levy taxes subject to capture under this
22 act. The authority shall notify the taxing jurisdictions of the
23 proposed brownfield plan. At that hearing, an official from a
24 taxing jurisdiction with millage that would be subject to capture
25 under this act has the right to be heard in regard to the adoption
26 of the brownfield plan. Not less than 10 days before the hearing on
27 the brownfield plan, the governing body shall provide notice of the
28 hearing to the department if the brownfield plan involves the use
29 of taxes levied for school operating purposes to pay for eligible

1 activities that require the approval of a combined brownfield plan
2 or a work plan by the department under section 13b(6) (c), **the**
3 **Michigan state housing development authority, or its designee, if**
4 **the brownfield plan involves the use of taxes levied for school**
5 **operating purposes to pay for eligible activities subject to**
6 **13b(4) (b)**, and the Michigan strategic fund, or its designee, if the
7 brownfield plan involves the use of taxes levied for school
8 operating purposes to pay for eligible activities subject to
9 section 13b(4) **other than eligible activities subject to 13b(4) (b)**.

10 (5) Not less than 10 days after notice of the proposed
11 brownfield plan is provided to the taxing jurisdictions, the
12 governing body shall determine whether the plan constitutes a
13 public purpose. If the governing body determines that the plan does
14 not constitute a public purpose, the governing body shall reject
15 the plan. If the governing body determines that the plan
16 constitutes a public purpose, the governing body may then approve
17 or reject the plan, or approve it with modification, by resolution,
18 based on the following considerations:

19 (a) Whether the plan meets the requirements of sections 13 and
20 13b.

21 (b) Whether the proposed method of financing the costs of
22 eligible activities is feasible and the authority has the ability
23 to arrange the financing.

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

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

28 (6) Except as provided in this subsection, amendments to an
29 approved brownfield plan must be submitted by the authority to the

1 governing body for approval or rejection following the same notice
 2 necessary for approval or rejection of the original plan. Notice is
 3 not required for revisions in the estimates of captured taxable
 4 value or tax increment revenues.

5 (7) The procedure, adequacy of notice, and findings with
 6 respect to purpose and captured taxable value ~~shall be~~ **are**
 7 presumptively valid unless contested in a court of competent
 8 jurisdiction within 60 days after adoption of the resolution
 9 adopting the brownfield plan. An amendment, adopted by resolution,
 10 to a conclusive plan ~~shall is~~ likewise ~~be~~ **is** conclusive unless
 11 contested within 60 days after adoption of the resolution adopting
 12 the amendment. If a resolution adopting an amendment to the plan is
 13 contested, the original resolution adopting the plan is not
 14 therefore open to contest.

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

18 (a) The governing body may abolish a brownfield plan ~~when~~ **if**
 19 it finds that the purposes for which the plan was established are
 20 accomplished.

21 (b) The governing body may terminate a brownfield plan or plan
 22 amendment for an eligible property if the project for which
 23 eligible activities were identified in the brownfield plan or plan
 24 amendment fails to occur with respect to the eligible property for
 25 ~~at least~~ **not less than** 2 years following the date of the resolution
 26 approving the brownfield plan or plan amendment, ~~provided that~~ **if**
 27 the governing body first does both of the following:

28 (i) Gives 30 days' prior written notice to the developer at its
 29 last known address by certified mail or other method that documents

1 proof of delivery attempted.

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

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

9 (d) Notwithstanding anything in this subsection to the
10 contrary, a brownfield plan or plan amendment ~~shall~~**must** not be
11 abolished or terminated until the principal and interest on bonds
12 issued under section 17 and all other obligations to which the tax
13 increment revenues are pledged have been paid or funds sufficient
14 to make the payment have been identified or segregated.

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

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

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

29 (a) Whether the transformational brownfield plan meets the

1 requirements of section ~~2(vv)~~, **2(hhh)**, which must include a
 2 determination that the transformational brownfield plan is
 3 calculated to, and has the reasonable likelihood to, have a
 4 transformational impact on local economic development and community
 5 revitalization based on the extent of brownfield redevelopment and
 6 growth in population, commercial activity, and employment that will
 7 result from the transformational brownfield plan.

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

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

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

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

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

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

28 (5) In determining whether to approve a transformational
 29 brownfield plan under subsection (3)(c) and (d), the Michigan

1 strategic fund shall conduct a financial and underwriting analysis
 2 of the developments included in the plan. The analysis ~~shall~~**must**
 3 consider both projected rental rates at the time of project
 4 delivery and potential increases in rental rates over time. The
 5 Michigan strategic fund shall not approve the use of construction
 6 period tax capture revenues, withholding tax capture revenues, ~~and~~
 7 income tax capture revenues, **and sales and use tax capture revenues**
 8 beyond the amount determined to be necessary for the project to be
 9 economically viable. The Michigan strategic fund shall develop
 10 standardized underwriting criteria for determining economic
 11 viability. The Michigan strategic fund shall take into account the
 12 impact of the sales and use tax exemptions under section 4d(n) of
 13 the general sales tax act, 1933 PA 167, MCL 205.54d, and section
 14 4dd of the use tax act, 1937 PA 94, MCL 205.94dd, in determining
 15 the amount of construction period tax capture revenues, withholding
 16 tax capture revenues, ~~and~~ income tax capture revenues, **and sales**
 17 **and use tax capture revenues** required for the project to be
 18 economically viable. The Michigan strategic fund shall ensure that
 19 each transformational brownfield plan includes a significant equity
 20 contribution from the owner or developer as determined by the fund.

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

1 **strategic fund shall require an independent, third-party analysis**
 2 **of the sales and use tax capture revenue estimates for any plan**
 3 **that includes sales and use tax capture revenues. The cost of the**
 4 **independent, third-party analysis must be paid by the owner or**
 5 **developer of the eligible property.** The Michigan strategic fund
 6 shall consult with the state treasurer ~~prior to~~**before** approving
 7 any transformational brownfield plan subject to this subsection.
 8 ~~Nothing in this~~**This** subsection ~~shall~~**does not** limit the ability of
 9 the Michigan strategic fund to utilize independent, third-party
 10 analyses on plans not subject to this subsection.

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

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

24 (b) The applicable eligible properties within the
 25 transformational brownfield plan are subject to a written, binding
 26 affordable housing agreement with the local governmental unit,
 27 which agreement ~~shall~~**must** be provided to the Michigan strategic
 28 fund, in which case the Michigan strategic fund may approve a
 29 transformational brownfield plan that proposes to use up to 100% of

1 the income tax capture revenues, subject to the underwriting and
2 financial analysis required under subsection (5).

3 (8) The Michigan strategic fund shall require the owner or
4 developer of the eligible property to certify the actual capital
5 investment, as determined in accordance with section ~~2(o)(iv)~~
6 **2(o)(v)** and ~~section 2(vv)~~, upon ~~(hhh)~~, **on** the completion of
7 construction and before the commencement of reimbursement from
8 withholding tax capture revenues, income tax capture revenues,
9 **sales and use tax capture revenues**, or tax increment revenues, for
10 the plan or the distinct phase or project within the plan for which
11 reimbursement will be provided. If the actual capital investment is
12 less than the amount included in the plan, the Michigan strategic
13 fund shall review the determination under subsection (5) and may
14 modify the amount of reimbursement if, and to the extent, such a
15 modification is necessary to maintain compliance with subsection
16 (5). The transformational brownfield plan, work plan, and
17 development and reimbursement agreement ~~shall~~ **must** include
18 provisions to enforce the requirements and remedies under this
19 subsection. If the actual level of capital investment does not meet
20 the applicable minimum investment requirement under section ~~2(vv)~~
21 **2(hhh)** and is outside of the safe harbor under subsection (15), the
22 Michigan strategic fund may take 1 of the following remedial
23 actions:

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

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

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

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

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

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

24 (b) Is for eligible property in a municipality that was
 25 subject to a state of emergency under the emergency management act,
 26 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water
 27 contamination.

28 (c) Is for eligible property that is a historic resource if
 29 the Michigan strategic fund determines the redevelopment is not

1 economically feasible absent the transformational brownfield plan.

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

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

17 (11) The Michigan strategic fund may not approve more than 5
18 transformational brownfield plans under subsection (9) in a
19 calendar year, except that if the Michigan strategic fund approves
20 fewer than 5 plans in a calendar year under subsection (9), the
21 unused approval authority ~~shall carry~~ **carries** forward into future
22 calendar years and ~~remain~~ **remains** available until December 31,
23 2027. The Michigan strategic fund also shall not approve more than
24 5 transformational brownfield plans under subsection (9) in any
25 individual city, village, or township ~~prior to~~ **before** December 31,
26 2022.

27 (12) Except as **otherwise** provided in this subsection,
28 amendments to an approved transformational brownfield plan ~~shall~~
29 **must** be submitted by the authority to the governing body and to the

1 Michigan strategic fund for approval or rejection following the
 2 same notice necessary for approval or rejection of the original
 3 transformational brownfield plan. Notice is not required for
 4 revisions in the estimates of tax increment revenues, construction
 5 period tax capture revenues, withholding tax capture revenues, ~~or~~
 6 income tax capture revenues, **or sales and use tax capture revenues.**

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

15 (14) The procedure, adequacy of notice, and findings under
 16 this section ~~shall-be-~~**are** presumptively valid unless contested in a
 17 court of competent jurisdiction within 60 days after approval of
 18 the transformational brownfield plan by the Michigan strategic
 19 fund. An approved amendment to a conclusive transformational
 20 brownfield plan ~~shall-is~~ likewise ~~be-~~conclusive unless contested
 21 within 60 days after approval of the amendment by the Michigan
 22 strategic fund. If a resolution adopting an amendment to the
 23 transformational brownfield plan is contested, the original
 24 resolution adopting the transformational brownfield plan is not
 25 open to contest.

26 (15) The determination as to whether a transformational
 27 brownfield plan complies with the minimum investment requirements
 28 in section ~~2(vv)-shall-~~**2(hhh) must** be made with reference to the
 29 most recent decennial census data available at the time of approval

1 by the authority. A plan in a municipality that exceeds a
 2 population tier under section ~~2(vv)-2(hhh)~~ by not more than 10% of
 3 the maximum population for that tier ~~shall, upon~~ **is, on** election of
 4 the authority, ~~be~~ subject to the investment requirement for that
 5 tier. A transformational brownfield plan that is expected to result
 6 in, or does result in, a total capital investment that is within
 7 10% of the applicable minimum investment requirement ~~shall be~~ **is**
 8 considered to satisfy the applicable requirement under section
 9 ~~2(vv)-2(hhh)~~ .

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

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

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

22 (19) The Michigan strategic fund shall not commit, and the
 23 department of treasury shall not disburse, more than ~~\$40,000,000.00~~
 24 **\$80,000,000.00** in total annual tax capture. ~~For purposes of~~ **As used**
 25 **in** this subsection, "total annual tax capture" means the total
 26 annual amount of income tax capture revenues, ~~and~~ withholding tax
 27 capture revenues, **and sales and use tax capture revenues** that may
 28 be reimbursed each calendar year under all transformational
 29 brownfield plans. ~~If the amount committed or disbursed in a~~

1 ~~calendar year is less than \$40,000,000.00, the difference between~~
2 ~~that amount and \$40,000,000.00 shall be available to be committed~~
3 ~~or disbursed in subsequent calendar years and shall be in addition~~
4 ~~to the annual limit otherwise applicable.~~**In addition to the**
5 **\$80,000,000.00 annual limit, both of the following provisions**
6 **apply:**

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

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

23 (20) The Michigan strategic fund shall not commit, and the
24 department of treasury shall not disburse, a total amount of income
25 tax capture revenues, ~~and~~ withholding tax capture revenues, **and**
26 **sales and use tax capture revenues** that exceeds
27 ~~\$800,000,000.00.~~ **\$1,600,000,000.00.**

28 (21) The Michigan strategic fund shall not approve more than a
29 total of \$200,000,000.00 in construction period tax capture

1 ~~revenues. and in projected sales and use tax exemptions under~~
2 ~~section 4d(n) of the general sales tax act, 1933 PA 167, MCL~~
3 ~~205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL~~
4 ~~205.94dd.~~ The Michigan strategic fund shall project the value of
5 the sales and use tax exemptions under each transformational
6 brownfield plan at the time of plan approval and shall require such
7 information from the owner or developer as is necessary to perform
8 this calculation. The Michigan strategic fund also shall require
9 the owner or developer of the eligible property to report the
10 actual value of the sales and use tax exemptions each tax year of
11 the construction period and at the end of the construction period.
12 ~~If the value of the actual sales and use tax exemptions and~~
13 ~~construction period tax capture revenues under all transformational~~
14 ~~brownfield plans exceeds the limit of \$200,000,000.00 under this~~
15 ~~subsection by more than a de minimis amount, as determined by the~~
16 ~~state treasurer, the state treasurer shall take corrective action~~
17 ~~and may reduce future disbursements to achieve compliance with the~~
18 ~~aggregate limitation under subsection (20) and this subsection. The~~
19 ~~corrective action described in this subsection shall not reduce the~~
20 ~~disbursement for an individual plan by an amount that is more than~~
21 ~~the amount by which the value of the sales and use tax exemptions~~
22 ~~for that plan exceeded the amount projected at the time of plan~~
23 ~~approval and included in the plan. The Michigan strategic fund and~~
24 ~~department of treasury shall prescribe specific methods for~~
25 ~~implementing this section within 60 days of the effective date of~~
26 ~~the amendatory act that added this section.~~

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

29 (a) Not approve more than 5 transformational brownfield plans

1 in a calendar year, except that if the Michigan strategic fund
 2 approves fewer than 5 plans in a calendar year, the unused approval
 3 authority ~~shall carry~~ **carries** forward into future calendar years
 4 and ~~remain~~ **remains** available until December 31, 2027.

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

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

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

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

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

1 by-plan basis.

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

7 (24) If the Michigan strategic fund approves a
8 transformational brownfield plan and work plan, and subsequent to
9 that approval, amendments are made to this act, the Michigan
10 strategic fund may amend those plans to make conforming and
11 consistent changes to the approved transformational brownfield plan
12 and work plan on an administrative basis, ~~provided that if~~ those
13 changes do not result in any increase in the aggregate total amount
14 of reimbursement authorized under the initial transformational
15 brownfield plan. The authority of the Michigan strategic fund to
16 administratively amend transformational brownfield plans and work
17 plans under this subsection also applies to transformational
18 brownfield plans and work plans entered into before ~~the effective~~
19 ~~date of the amendatory act that added this sentence.~~**December 27,**
20 **2021.**

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

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

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

4 (a) A copy of the brownfield plan.

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

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

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

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

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

24 (a) An unconditional approval.

25 (b) A conditional approval that delineates specific necessary
26 modifications to the work plan to meet the criteria of subsection
27 (3), including, but not limited to, individual activities to be
28 modified, added, or deleted from the work plan and revision of
29 costs. The department may not condition its approval on deletions

1 from or modifications of the work plan relating to activities to be
 2 funded solely by tax increment revenues not attributable to taxes
 3 levied for school operating purposes.

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

11 (d) A denial if the property is not an eligible property under
 12 this act, if the work plan contemplates the use of taxes levied for
 13 school operating purposes prohibited by section 13b(10), or for any
 14 specific activity if the activity is prohibited by section
 15 13b(6) (a). The department may also deny any activity in a work plan
 16 that does not meet the conditions in subsection (3) only if the
 17 department cannot respond under ~~subsection (2) (b)~~ **subdivision (b)**
 18 or (c). The department shall accompany the denial with a letter
 19 that states with specificity the reason for the denial. The
 20 department shall respond under ~~subsection (2) (a)~~, **subdivision (a)**,
 21 (b), or (c) according to this section for any activities in the
 22 work plan that are not denied under this subdivision. If the
 23 department denies all or a portion of a work plan under this
 24 subdivision, the authority may subsequently resubmit the work plan.

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

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

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

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

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

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

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

29 (4) If the department fails to provide a written response

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

17 (5) The department may issue a written response to a work plan
18 more than 60 days but less than 6 months after receipt of a request
19 for approval. If the department issues a written response under
20 this subsection, the authority is not required to conduct
21 individual activities that are in addition to the individual
22 activities included in the work plan as it was submitted for
23 approval and failure to conduct these additional activities ~~shall~~
24 **does** not affect the authority's ability to capture taxes under
25 section 13b for the eligible activities described in the work plan
26 initially submitted under subsection (4). In addition, at the
27 option of the authority, these additional individual activities
28 ~~shall be~~**are** considered part of the work plan of the authority and
29 approved for purposes of section 13b. However, any response by the

1 department under this subsection that identifies additional
2 individual activities that must be carried out to satisfy part 201
3 or part 213 must be satisfactorily completed for the activities to
4 be considered acceptable for the purposes of compliance with part
5 201 or part 213.

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

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

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

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

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

1 subsection (3).

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

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

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

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

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

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

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

27 (f) A separate work plan, or part of a work plan, for each
28 eligible activity described in section 13b(4) to be undertaken. For
29 a transformational brownfield plan, the Michigan strategic fund

1 shall prescribe the form and content for the work plan to address
2 additional eligible activities under section ~~2(e)-(iv)~~. **2(o)(v)**.

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

9 **(h) For work plans that include housing development**
10 **activities, a summary of proposed income and price monitoring**
11 **responsibilities and related expenses.**

12 ~~Upon~~ **(11) An authority may not submit a request for approval**
13 **of a work plan for a transformational brownfield plan until all**
14 **required financial analyses are complete. On** receipt of a request
15 for approval of a work plan, the Michigan strategic fund **or the**
16 **Michigan state housing development authority** shall provide 1 of the
17 following written responses to the requesting authority within 60
18 days following receipt of a request for approval or within 7 days
19 following the first meeting of the board after the 60-day period
20 following receipt of the request for approval, whichever is later:

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

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

27 (c) A denial and a letter stating with specificity the reason
28 for the denial. If **the Michigan strategic fund or the Michigan**
29 **state housing development authority denies** a work plan ~~is denied~~

1 under this subsection, **the authority may subsequently resubmit** the
2 work plan. ~~may be subsequently resubmitted.~~

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

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

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

13 (c) Whether the cost for each individual activity is
14 reasonable.

15 (d) The overall benefit to the public.

16 (e) The extent of reuse of vacant buildings and redevelopment
17 of blighted property.

18 (f) Creation of jobs.

19 (g) Whether the eligible property is in an area of high
20 unemployment.

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

23 (i) The level of private sector contribution.

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

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

1 (l) Other state and local incentives available to the
2 developer, landowner, or corporate entity for the project of the
3 developer, landowner, or corporate entity that is included in the
4 work plan.

5 (m) **If housing development activities are included in the work**
6 **plan, in addition to the other criteria under this subsection, all**
7 **of the following may be considered:**

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

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

11 (iii) **Whether the project will support housing at price points**
12 **that align with the local workforce.**

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

15 (n) ~~(m)~~—Any other criteria that the Michigan strategic fund **or**
16 **the Michigan state housing development authority** considers
17 appropriate for the determination of eligibility or for approval of
18 the work plan.

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

1 ~~be~~**are** considered approved and the authority may proceed with the
2 eligible activities described in sections 13b(4) and 13c(6) as
3 outlined in the work plan as submitted for approval.

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

8 (15) The Michigan strategic fund shall submit a report each
9 year to each member of the legislature as provided in section
10 16(4).

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

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

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

27 (19) If a brownfield plan includes the capture of taxes levied
28 for school operating purposes, the chairperson of the Michigan
29 strategic fund may approve, without a meeting of the fund board,

1 combined brownfield plans and work plans that address eligible
 2 activities described in section 13b(4), **other than eligible**
 3 **activities subject to section 13b(4) (b)**, totaling an amount of
 4 \$1,000,000.00 or less according to subsections (10), (11), (12),
 5 (13), and (14) that include reimbursement of taxes levied for
 6 school operating purposes.

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

12 (a) To seek approval of a combined brownfield plan under this
 13 subsection, the authority shall, ~~at least~~ **not less than** 30 days
 14 before the hearing on the combined brownfield plan to allow for
 15 consultation between the authority and the department, **the Michigan**
 16 **state housing development authority**, or the Michigan strategic fund
 17 and ~~at least~~ **not less than** 60 days in the case of a
 18 transformational brownfield plan, provide notice that the authority
 19 will be seeking approval of a combined brownfield plan ~~in lieu~~
 20 **instead** of a work plan to 1 or more of the following:

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

25 (ii) The Michigan strategic fund, if the combined brownfield
 26 plan involves the use of taxes levied for school operating purposes
 27 to pay for eligible activities subject to subsection (12) or
 28 section 13c(6), **other than eligible activities subject to section**
 29 **13b(4) (b)**, or the use of construction period tax capture revenues,

1 withholding tax capture revenues, ~~or~~ income tax capture revenues,
2 or sales and use tax capture revenues.

3 (iii) The Michigan state housing development authority if the
4 combined brownfield plan involves the use of taxes levied for
5 school operating purposes to pay for eligible activities that
6 require approval by the Michigan state housing development
7 authority under section 13b(4)(b).

8 (b) After the governing body approves a combined brownfield
9 plan, the authority shall submit the combined brownfield plan to
10 the department under the circumstances described in subdivision
11 (a)(i), ~~or the~~ Michigan strategic fund under the circumstances
12 described in subdivision (a)(ii), or the Michigan state housing
13 development authority under the circumstances described in
14 subdivision (a)(iii).

15 (c) The department shall review a combined brownfield plan
16 according to subdivision (e). The Michigan strategic fund shall
17 review a combined brownfield plan according to subdivision (f). **The**
18 **Michigan state housing development authority shall review a**
19 **combined brownfield plan according to subdivision (g).**

20 (d) ~~Upon~~ **An authority may not submit a request for approval of**
21 **a combined brownfield plan for a transformational brownfield plan**
22 **until all required financial analyses are complete. On** receipt of a
23 combined brownfield plan under subdivision (b), the department,
24 **Michigan state housing development authority,** or Michigan strategic
25 fund shall provide 1 of the following written responses to the
26 requesting authority within 60 days or, in the case of a
27 transformational brownfield plan, within 90 days:

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

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

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

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

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

18 **(g) The Michigan state housing development authority shall**
19 **consider the criteria identified in subsection (12) to the extent**
20 **reasonably applicable to the type of activities proposed as part of**
21 **a combined brownfield plan when approving or denying the combined**
22 **brownfield plan.**

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

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

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

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

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

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

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

28 (a) The total amount of local taxes that are approved for
 29 capture and the total amount of taxes levied for school operating

1 purposes that are approved for capture for each parcel included in
2 a brownfield plan.

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

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

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

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

14 (f) The amount of actual capital investment made for each
15 project.

16 (g) The amount of tax increment revenues attributable to taxes
17 levied for school operating purposes used for activities described
18 in section 13b(6)(c), section 2(o)(i)(F) and (G), and section
19 ~~2(o)(ii)(B) and (C)~~ **2(o)(iii)(B) and (C)**.

20 (h) The number of residential units constructed or
21 rehabilitated for each project.

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

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

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

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

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

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

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

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

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

28 (6) In addition to any other requirements under this act, not
29 less than once every 3 years beginning not later than June 30,

1 2008, the auditor general shall conduct and report a performance
2 postaudit on the effectiveness of the program established under
3 this act. As part of the performance postaudit, the auditor general
4 shall assess the extent to which the implementation of the program
5 by the department, **the Michigan state housing development**
6 **authority**, and the Michigan strategic fund facilitate and affect
7 the redevelopment or reuse of eligible property and identify any
8 factors that inhibit the program's effectiveness. The performance
9 postaudit ~~shall~~**must** also assess the extent to which the
10 interpretation of statutory language, the development of guidance
11 or administrative rules, and the implementation of the program by
12 the department, **the Michigan state housing development authority**,
13 and the Michigan strategic fund is consistent with the fundamental
14 objective of facilitating and supporting timely and efficient
15 brownfield redevelopment of eligible properties.

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

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

27 (a) The state treasurer shall transfer to the state brownfield
28 redevelopment fund each fiscal year an amount equal to the
29 construction period tax capture revenues, withholding tax capture

1 revenues, ~~and~~ income tax capture revenues, **and sales and use tax**
2 **capture revenues** under all approved plans as provided for in
3 section 8a(4). Funds ~~shall~~ **must** be transmitted to the authority, or
4 owner or developer of the eligible property to which the revenues
5 are attributable, ~~within~~ **not later than** 30 days ~~of~~ **after** transfer
6 to the state brownfield redevelopment fund.

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

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

20 (9) **If activities of the authority include housing development**
21 **activities, the report under subsection (3) must also include all**
22 **of the following:**

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

24 (b) **The number of income qualified purchaser households**
25 **served.**

26 (c) **The number of income qualified renting households**
27 **assisted.**

28 (d) **For the initial reporting period, the prices at which the**
29 **housing units were sold or rented.**

1 (e) Racial and socioeconomic data on the individuals
2 purchasing or renting the housing units, or, if this data is not
3 available, racial and socioeconomic data on the census tract in
4 which the housing units are located.