

HOUSE BILL NO. 6216

November 26, 2024, Introduced by Rep. Farhat and referred to the Committee on Economic Development and Small Business.

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 2, 14a, and 16 (MCL 125.2652, 125.2664a, and 125.2666), as amended by 2023 PA 90.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 defined in part 201 or 213.

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

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

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

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

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

14 (v) Is previously developed or tax reverted property owned by
15 a municipality or by this state. The sale, lease, or transfer of
16 previously developed or tax reverted property by a municipality or
17 this state after the property's inclusion in a brownfield plan does
18 not result in the loss to the property of the status as blighted
19 property for purposes of this act.

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

1 property for purposes of this act.

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

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

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

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

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

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

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

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

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

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

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

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

29 (k) "Department" means the department of environment, Great

1 Lakes, and energy.

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

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

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

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

20 (iv) Dust control related to construction activities.

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

25 (vi) Industrial cleaning.

26 (vii) Sheet piling and shoring necessary for the removal of
27 materials exceeding part 201 criteria at projects requiring a
28 permit pursuant to part 301, 303, or 325 of the natural resources
29 and environmental protection act, 1994 PA 451, MCL 324.30101 to

1 324.30113, 324.30301 to 324.30328, and 324.32501 to 324.32515a.

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

4 (ix) Environmental insurance.

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

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

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

14 (ii) That contain or contained a manufacturing operation or an
15 enclosed mall that consists or consisted of 300,000 or more square
16 feet.

17 (iii) That are located in a municipality that is contiguous to a
18 qualified local governmental unit.

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

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

23 (A) Department specific activities.

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

26 (C) Reasonable costs of environmental insurance.

27 (D) Reasonable costs incurred to develop and prepare
28 brownfield plans, combined brownfield plans, or work plans for the
29 eligible property, including legal and consulting fees that are not

1 in the ordinary course of acquiring and developing real estate.

2 (E) Reasonable costs of brownfield plan and work plan
3 implementation, including, but not limited to, tracking and
4 reporting of data and plan compliance, including costs to
5 implement, monitor, and maintain compliance with the income and
6 price monitoring responsibilities associated with housing
7 development activities, and the reasonable costs incurred to
8 estimate and determine actual costs incurred, whether those costs
9 are incurred by a municipality, authority, or private developer.

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

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

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

22 (ii) For housing property located in a community that has
23 identified a specific housing need and has absorption data or job
24 growth data included in the brownfield plan, eligible activities
25 include all of the following:

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

27 (B) Housing development activities.

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

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

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

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

7 (B) Infrastructure improvements that directly benefit eligible
8 property.

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

10 (iv) For eligible properties that are owned by or under the
11 control of a land bank fast track authority, or a municipality or
12 authority, eligible activities include all of the following:

13 (A) The eligible activities described in subparagraphs (i),
14 (ii), and (iii).

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

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

27 (v) For eligible activities on eligible property that is
28 included in a transformational brownfield plan, any demolition,
29 construction, restoration, alteration, renovation, or improvement

1 of buildings or site improvements on eligible property, including
2 infrastructure improvements that directly benefit eligible
3 property.

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

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

9 (B) Infrastructure improvements that directly benefit eligible
10 property.

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

12 (p) "Eligible property" means either of the following:

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

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

27 (B) Is not in a qualified local governmental unit and is a
28 facility, historic resource, functionally obsolete, blighted, or a
29 site or property as those terms are defined in part 213, and

1 includes parcels that are adjacent or contiguous to that property
2 if the development of the adjacent and contiguous parcels is
3 estimated to increase the captured taxable value of that property.

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

6 (D) Is a transit-oriented development or transit-oriented
7 property.

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

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

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

17 (ii) Housing property for which eligible activities are
18 identified under a brownfield plan **implemented under section 13**
19 **only**, including personal property located on the property, to the
20 extent included in the brownfield plan. **Eligible property does not**
21 **include housing property for which eligible activities are**
22 **identified under a transformational brownfield plan implemented**
23 **under section 13c.**

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

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

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

29 (t) "Former mill" means a former mill that has not been used

1 for industrial purposes for the immediately preceding 2 years, that
2 is not located in a qualified local governmental unit, that is a
3 facility or is a site or a property as those terms are defined in
4 part 213, functionally obsolete, or blighted, and that is located
5 within 15 miles of a river that is a federal superfund site listed
6 under the comprehensive environmental response, compensation and
7 liability act of 1980, 42 USC 9601 to 9675, and that is located in
8 a municipality with a population of less than 10,000.

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

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

18 (w) "Historic resource" means that term as defined in section
19 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

20 (x) "Housing development activities" means 1 or more of the
21 following:

22 (i) Reimbursement provided to owners of rental housing units
23 for qualified rehabilitation.

24 (ii) Costs for infrastructure available for public use and
25 safety improvements necessary for a housing project.

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

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

3 (v) Acquisition cost for blighted or obsolete rental units, to
4 the extent the acquisition would promote rehabilitation or adaptive
5 reuse of the blighted or obsolete rental unit to accommodate an
6 income qualified purchaser household or income qualified renting
7 household.

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

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

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

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

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

24 (i) "Area median income" means the median income for the area
25 as determined under section 8 of the United States housing act of
26 1937, 42 USC 1437f, adjusted for family size.

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

1 members of the household.

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

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

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

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

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

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

1 state treasurer.

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

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

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

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

1 (i) Underground parking.

2 (ii) Multilevel parking structures.

3 (iii) Urban stormwater management systems.

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

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

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

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

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

21 (kk) "Land bank fast track authority" means an authority
 22 created under the land bank fast track act, 2003 PA 258, MCL
 23 124.751 to 124.774.

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

26 (mm) "Michigan state housing development authority" means the
 27 Michigan state housing development authority created in section 21
 28 of the state housing development authority act of 1966, 1966 PA
 29 346, MCL 125.1421.

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

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

7 (pp) "Municipality" means all of the following:

8 (i) A city.

9 (ii) A village.

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

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

15 (v) A county.

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

19 (i) An ownership interest in the property.

20 (ii) A tax lien on the property.

21 (iii) A tax deed to the property.

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

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

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

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

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

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

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

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

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

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

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

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

1 this subsection, "existing structures" includes any structure
2 designed to be used as a dwelling.

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

8 (xx) "Release" means that term as defined in part 201 or part
9 213.

10 (yy) "Response activity" means either of the following:

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

12 (ii) Corrective action.

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

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

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

1 location.

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

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

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

14 (bbb) "Specific taxes" means all of the following:

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

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

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

19 (C) The enterprise zone act, 1985 PA 224, MCL 125.2101 to
20 125.2123.

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

22 (E) The technology park development act, 1984 PA 385, MCL
23 207.701 to 207.718.

24 (F) The obsolete property rehabilitation act, 2000 PA 146, MCL
25 125.2781 to 125.2797.

26 (G) The neighborhood enterprise zone act, 1992 PA 147, MCL
27 207.771 to 207.786.

28 (H) The commercial rehabilitation act, 2005 PA 210, MCL
29 207.841 to 207.856.

1 (I) The attainable housing facilities act, 2022 PA 236, MCL
2 207.901 to 207.916.

3 (J) The residential housing facilities act, 2022 PA 237, MCL
4 207.951 to 207.966.

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

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

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

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

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

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

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

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

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

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

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

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

26 (i) In a municipality that is not a county and that has a
27 population of 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 not less than 150,000 and not more than 599,999,

1 \$100,000,000.00.

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

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

8 (v) In a municipality that is not a county and that has a
9 population of not less than 25,000 and not more than 49,999,
10 \$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) "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) "Transit-oriented property" means property that houses a
19 transit station in a manner that promotes transit ridership or
20 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) "Withholding tax capture revenues" means, with respect to
27 each eligible property subject to a transformational brownfield
28 plan, the amount for each calendar year by which the income tax
29 withheld under chapter 17 of the income tax act of 1967, 1967 PA

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

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

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

28 (B) That reimbursement of withholding tax capture revenues is
29 limited to amounts that are reported in accordance with chapter 17

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (5) In determining whether to approve a transformational

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

22 (6) The Michigan strategic fund shall require an independent,
23 third-party underwriting analysis under subsection (3)(d) for any
24 plan that **either** proposes to use more than \$10,000,000.00 in any
25 year in withholding tax capture revenues, income tax capture
26 revenues, and sales and use tax capture revenues, as determined by
27 the first full year of tax capture under the plan **or proposes to**
28 **use the safe harbor method of calculation under section 2(dd)(iii) or**
29 **(lll)(iv) and, the actual capital investment, as determined in**

1 **accordance with section 2(o)(v) and (hhh), is \$100,000,000.00 or**
2 **more.** The cost of the independent, third-party underwriting
3 analysis must be paid by the owner or developer of the eligible
4 property. In addition to the independent, third-party underwriting
5 analysis, the Michigan strategic fund shall require an independent,
6 third-party analysis of the sales and use tax capture revenue
7 estimates for any plan that includes sales and use tax capture
8 revenues. The cost of the independent, third-party analysis must be
9 paid by the owner or developer of the eligible property. The
10 Michigan strategic fund shall consult with the state treasurer
11 before approving any transformational brownfield plan subject to
12 this subsection. This subsection does not limit the ability of the
13 Michigan strategic fund to utilize independent, third-party
14 analyses on plans not subject to this subsection.

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

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

28 (b) The applicable eligible properties within the
29 transformational brownfield plan are subject to a written, binding

1 affordable housing agreement with the local governmental unit,
2 which agreement must be provided to the Michigan strategic fund, in
3 which case the Michigan strategic fund may approve a
4 transformational brownfield plan that proposes to use up to 100% of
5 the income tax capture revenues, subject to the underwriting and
6 financial analysis required under subsection (5).

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

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

29 (b) For a plan that consists of distinct phases or projects,

1 if the failure to meet the minimum investment threshold is the
 2 result of failure to undertake additional distinct phases or
 3 projects as provided for in the plan, 1 or more of the following:

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

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

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

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

27 (b) Is for eligible property in a municipality that was
 28 subject to a state of emergency under the emergency management act,
 29 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water

1 contamination.

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

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

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

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

29 (12) Except as otherwise provided in this subsection,

1 amendments to an approved transformational brownfield plan must be
2 submitted by the authority to the governing body and to the
3 Michigan strategic fund for approval or rejection following the
4 same notice necessary for approval or rejection of the original
5 transformational brownfield plan. Notice is not required for
6 revisions in the estimates of tax increment revenues, construction
7 period tax capture revenues, withholding tax capture revenues,
8 income tax capture revenues, or sales and use tax capture revenues.

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

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

27 (15) The determination as to whether a transformational
28 brownfield plan complies with the minimum investment requirements
29 in section 2(hhh) must be made with reference to the most recent

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

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

15 (17) Any positive or negative determination by the Michigan
 16 strategic fund under this section must be supported by objective
 17 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 ~~\$80,000,000.00~~
 24 **\$110,000,000.00** in total annual tax capture. As used in this
 25 subsection, "total annual tax capture" means the total annual
 26 amount of income tax capture revenues, withholding tax capture
 27 revenues, and sales and use tax capture revenues that may be
 28 reimbursed each calendar year under all transformational brownfield
 29 plans. In addition to the ~~\$80,000,000.00~~ **\$110,000,000.00** annual

1 limit, both of the following provisions apply:

2 (a) With respect to the availability of uncommitted amounts,
3 if an amount authorized to be committed for a calendar year has not
4 been committed, the uncommitted amount for that calendar year
5 remains available to be committed and disbursed in a subsequent
6 calendar year and is in addition to the annual limits otherwise
7 applicable. However, not more than \$30,000,000.00 may be committed
8 or disbursed in any calendar year above the ~~\$80,000,000.00~~
9 **\$110,000,000.00** annual limit as a result of the operation of this
10 subdivision, and all commitments and disbursements under this
11 subdivision remain subject to the overall limitation in subsection
12 (20).

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

19 (20) The Michigan strategic fund shall not commit, and the
20 department of treasury shall not disburse, a total amount of income
21 tax capture revenues, withholding tax capture revenues, and sales
22 and use tax capture revenues that exceeds
23 ~~\$1,600,000,000.00.~~ **\$2,200,000,000.00.**

24 (21) The Michigan strategic fund shall not approve more than a
25 total of \$200,000,000.00 in construction period tax capture
26 revenues. The Michigan strategic fund shall project the value of
27 the sales and use tax exemptions under each transformational
28 brownfield plan at the time of plan approval and shall require such
29 information from the owner or developer as is necessary to perform

1 this calculation. The Michigan strategic fund also shall require
2 the owner or developer of the eligible property to report the
3 actual value of the sales and use tax exemptions each tax year of
4 the construction period and at the end of the construction period.

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

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

12 (b) Not approve more than 5 transformational brownfield plans
13 in any individual city, village, or township before December 31,
14 2022.

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

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

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

1 than 225,000.

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

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

10 (24) If the Michigan strategic fund approves a
11 transformational brownfield plan and work plan, and subsequent to
12 that approval, amendments are made to this act, the Michigan
13 strategic fund may amend those plans to make conforming and
14 consistent changes to the approved transformational brownfield plan
15 and work plan on an administrative basis, if those changes do not
16 result in any increase in the aggregate total amount of
17 reimbursement authorized under the initial transformational
18 brownfield plan. The authority of the Michigan strategic fund to
19 administratively amend transformational brownfield plans and work
20 plans under this subsection also applies to transformational
21 brownfield plans and work plans entered into before December 27,
22 2021.

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

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

1 investment requirement under section 2(hhh) (vi).

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

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

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

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

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

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

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

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

1 (f) The amount of actual capital investment made for each
2 project.

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

7 (h) The number of residential units constructed or
8 rehabilitated for each project.

9 (i) The amount, by square foot, of new or rehabilitated
10 residential, retail, commercial, or industrial space for each
11 project.

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

13 (k) A copy of all brownfield plan amendments approved by the
14 local governmental unit.

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

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

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

28 (a) The department shall on a quarterly basis post on its
29 website the name, location, and amount of tax increment revenues,

1 including taxes levied for school operating purposes, for each
2 project approved by the department under this act during the
3 immediately preceding quarter.

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

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

15 (6) In addition to any other requirements under this act, not
16 less than once every 3 years beginning not later than June 30,
17 2008, the auditor general shall conduct and report a performance
18 postaudit on the effectiveness of the program established under
19 this act. As part of the performance postaudit, the auditor general
20 shall assess the extent to which the implementation of the program
21 by the department, the Michigan state housing development
22 authority, and the Michigan strategic fund facilitate and affect
23 the redevelopment or reuse of eligible property and identify any
24 factors that inhibit the program's effectiveness. The performance
25 postaudit must also assess the extent to which the interpretation
26 of statutory language, the development of guidance or
27 administrative rules, and the implementation of the program by the
28 department, the Michigan state housing development authority, and
29 the Michigan strategic fund is consistent with the fundamental

1 objective of facilitating and supporting timely and efficient
2 brownfield redevelopment of eligible properties.

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

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

14 (a) The state treasurer shall transfer to the state brownfield
15 redevelopment fund each fiscal year an amount equal to the
16 construction period tax capture revenues, withholding tax capture
17 revenues, income tax capture revenues, and sales and use tax
18 capture revenues under all approved plans as provided for in
19 section 8a(4). Funds must be transmitted to the authority, or owner
20 or developer of the eligible property to which the revenues are
21 attributable, not later than ~~30~~45 days after transfer to the state
22 brownfield redevelopment fund.

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

1 revenues.

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

7 (9) If activities of the authority include housing development
8 activities, the report under subsection (3) must also include all
9 of the following:

10 (a) The number of housing units produced.

11 (b) The number of income qualified purchaser households
12 served.

13 (c) The number of income qualified renting households
14 assisted.

15 (d) For the initial reporting period, the prices at which the
16 housing units were sold or rented.

17 (e) Racial and socioeconomic data on the individuals
18 purchasing or renting the housing units, or, if this data is not
19 available, racial and socioeconomic data on the census tract in
20 which the housing units are located.