

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4159**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2, 8, 13, 13b, 15, and 16 (MCL 125.2652,
125.2658, 125.2663, 125.2663b, 125.2665, and 125.2666), section 2
as amended by 2018 PA 203, section 8 as amended by 2016 PA 471, and
sections 13, 13b, 15, and 16 as amended by 2017 PA 46.

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
- 5 defined in part 201 or 213.
- 6 (c) "Blighted" means property that meets any of the following



1 criteria as determined by the governing body:

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

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

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

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

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

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



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

3 (d) "Board" means the governing body of an authority.

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

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

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

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

21 (i) "Construction period tax capture revenues" means funds
22 equal to the amount of income tax levied and imposed in a calendar
23 year upon wages paid to individuals physically present and working
24 within the eligible property for the construction, renovation, or
25 other improvement of eligible property that is an eligible activity
26 within a transformational brownfield plan. As used in this
27 subdivision, "wages" means that term as defined in section 3401 of
28 the internal revenue code of 1986, 26 USC 3401. To calculate the
29 amount of construction period tax capture revenues for a calendar



1 year under a transformational brownfield plan, the state treasurer
2 shall do all of the following:

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

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

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

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

26 (k) "Department" means the department of ~~environmental~~
27 ~~quality~~. **environment, Great Lakes, and energy.**

28 (l) "Department specific activities" means baseline
29 environmental assessments, due care activities, response



1 activities, and other environmentally related actions that are
2 eligible activities and are identified as a part of a brownfield
3 plan that are in addition to the minimum due care activities
4 required by part 201, including, but not limited to:

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

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

12 (iii) Disposal of solid waste, as defined in part 115 of the
13 natural resources and environmental protection act, 1994 PA 451,
14 MCL 324.11501 to 324.11554, from the eligible property, provided it
15 was not generated or accumulated by the authority or the developer.

16 (iv) Dust control related to construction activities.

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

21 (vi) Industrial cleaning.

22 (vii) Sheeting and shoring necessary for the removal of
23 materials exceeding part 201 criteria at projects requiring a
24 permit pursuant to part 301, 303, or 325 of the natural resources
25 and environmental protection act, 1994 PA 451, MCL 324.30101 to
26 324.30113, MCL 324.30301 to 324.30328, or MCL 324.32501 to
27 324.32515a.

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



1 **(ix) Environmental insurance.**

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

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

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

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

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

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

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

20 (A) Department specific activities.

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

23 (C) Reasonable costs of environmental insurance.

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

28 (E) Reasonable costs of brownfield plan and work plan
29 implementation, including, but not limited to, tracking and



1 reporting of data and plan compliance and the reasonable costs
2 incurred to estimate and determine actual costs incurred, whether
3 those costs are incurred by a municipality, authority, or private
4 developer.

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

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

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

16 (ii) For eligible properties located in a qualified local unit
17 of government, or an economic opportunity zone, or that is a former
18 mill, eligible activities include:

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

20 (B) Infrastructure improvements that directly benefit eligible
21 property.

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

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

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

28 (B) Assistance to a land bank fast track authority in clearing
29 or quieting title to, or selling or otherwise conveying, property



1 owned by or under the control of a land bank fast track authority
2 or the acquisition of property by the land bank fast track
3 authority if the acquisition of the property is for economic
4 development purposes.

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

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

17 (p) "Eligible property" means, except as otherwise provided in
18 this subdivision, property for which eligible activities are
19 identified under a brownfield plan that was used or is currently
20 used for commercial, industrial, public, or residential purposes,
21 including personal property located on the property, to the extent
22 included in the brownfield plan, and that is 1 or more of the
23 following:

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



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

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

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

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

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

15 (vii) Eligible property does not include qualified agricultural
16 property exempt under section 7ee of the general property tax act,
17 1893 PA 206, MCL 211.7ee, from the tax levied by a local school
18 district for school operating purposes to the extent provided under
19 section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

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

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

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

25 (t) "Former mill" means a former mill that has not been used
26 for industrial purposes for the immediately preceding 2 years, that
27 is not located in a qualified local governmental unit, that is a
28 facility or is a site or a property as those terms are defined in
29 part 213, functionally obsolete, or blighted, and that is located



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

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

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

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

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

18 (y) "Income tax capture revenues" means funds equal to the
19 amount for each tax year by which the aggregate income tax from
20 individuals domiciled within the eligible property subject to a
21 transformational brownfield plan exceeds the initial income tax
22 value. The state treasurer shall calculate annually the income tax
23 capture revenues associated with each transformational brownfield
24 plan. In calculating income tax capture revenues, the state
25 treasurer shall subtract from the aggregate amount of income tax
26 credits under sections 255, 265, 266, and chapter 9 of the income
27 tax act of 1967, 1967 PA 281, MCL 206.255, 206.265, 206.266, and
28 206.501 to 206.532. The state treasurer shall require the owner or
29 developer of the eligible property to provide to the department of



1 treasury all of the following information at the end of each
2 calendar year, including the year in which the resolution adding
3 that eligible property in the transformational brownfield plan is
4 adopted:

5 (i) A list of individuals domiciled within the eligible
6 property.

7 (ii) The addresses of those individuals identified in
8 subparagraph (i).

9 (iii) Any other information that may be necessary to calculate
10 the income tax capture revenues. The information required under
11 this subdivision shall be provided in a manner prescribed by the
12 state treasurer.

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

16 (aa) "Infrastructure improvements" means a street, road,
17 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
18 sewage treatment plant, property designed to reduce, eliminate, or
19 prevent the spread of identified soil or groundwater contamination,
20 drainage system, waterway, waterline, water storage facility, rail
21 line, utility line or pipeline, transit-oriented development,
22 transit-oriented property, or other similar or related structure or
23 improvement, together with necessary easements for the structure or
24 improvement, owned or used by a public agency or functionally
25 connected to similar or supporting property owned or used by a
26 public agency, or designed and dedicated to use by, for the benefit
27 of, or for the protection of the health, welfare, or safety of the
28 public generally, whether or not used by a single business entity,
29 provided that any road, street, or bridge shall be continuously



1 open to public access and that other property shall be located in
 2 public easements or rights-of-way and sized to accommodate
 3 reasonably foreseeable development of eligible property in
 4 adjoining areas. Infrastructure improvements also include 1 or more
 5 of the following whether publicly or privately owned or operated or
 6 located on public or private property:

7 (i) Underground parking.

8 (ii) Multilevel parking structures.

9 (iii) Urban stormwater management systems.

10 (bb) "Initial income tax value" means the aggregate amount of
 11 income tax less credits under sections 255, 265, 266, and chapter 9
 12 of the income tax act of 1967, 1967 PA 281, MCL 206.255, 206.265,
 13 206.266, and 206.501 to 206.532, from individuals domiciled within
 14 the eligible property subject to a transformational brownfield plan
 15 for the tax year in which the resolution adding that eligible
 16 property in the transformational brownfield plan is adopted.

17 (cc) "Initial taxable value" means the taxable value of an
 18 eligible property identified in and subject to a brownfield plan at
 19 the time the resolution adding that eligible property in the
 20 brownfield plan is adopted, as shown either by the most recent
 21 assessment roll for which equalization has been completed at the
 22 time the resolution is adopted or, if provided by the brownfield
 23 plan, by the next assessment roll for which equalization will be
 24 completed following the date the resolution adding that eligible
 25 property in the brownfield plan is adopted. Property exempt from
 26 taxation at the time the initial taxable value is determined shall
 27 be included with the initial taxable value of zero. Property for
 28 which a specific tax is paid in lieu of property tax shall not be
 29 considered exempt from taxation. The state tax commission shall



1 prescribe the method for calculating the initial taxable value of
 2 property for which a specific tax was paid in lieu of property tax.
 3 The initial assessed value may be modified by lowering the initial
 4 assessed value once during the term of the brownfield plan through
 5 an amendment as provided in section 14 after the tax increment
 6 financing plan fails to generate captured ~~assessed value~~ **taxes** for
 7 3 consecutive years due to declines in assessed value.

8 (dd) "Initial withholding tax value" means the amount of
 9 income tax withheld under part 3 of the income tax act of 1967,
 10 1967 PA 281, MCL 206.701 to 206.713, from individuals employed
 11 within the eligible property subject to a transformational
 12 brownfield plan for the calendar year in which the resolution
 13 adding the eligible property to the plan is adopted. For purposes
 14 of this act, an individual is employed within the eligible property
 15 if the eligible property is the individual's principal place of
 16 employment. The initial withholding tax value shall not include
 17 construction period tax capture revenues.

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

21 (ff) "Local taxes" means all taxes levied other than taxes
 22 levied for school operating purposes.

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

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

29 (ii) "Municipality" means all of the following:



1 (i) A city.

2 (ii) A village.

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

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

8 (v) A county.

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

12 (i) An ownership interest in the property.

13 (ii) A tax lien on the property.

14 (iii) A tax deed to the property.

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

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

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

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

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

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

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

28 (iv) Part 213 of the natural resources and environmental



1 protection act, 1994 PA 451, MCL 324.21301a to 324.21334.

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

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

10 (nn) "Release" means that term as defined in part 201 or part
11 213.

12 (oo) "Response activity" means either of the following:

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

14 (ii) Corrective action.

15 (pp) "Specific taxes" means a tax levied under 1974 PA 198,
16 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
17 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
18 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
19 technology park development act, 1984 PA 385, MCL 207.701 to
20 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
21 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
22 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
23 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
24 levied under the tax reverted clean title act, 2003 PA 260, MCL
25 211.1021 to 211.1025a, that is not required to be distributed to a
26 land bank fast track authority.

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

29 (rr) "Targeted redevelopment area" means not fewer than 40 and



1 not more than 500 contiguous parcels of real property located in a
 2 qualified local governmental unit and designated as a targeted
 3 redevelopment area by resolution of the governing body and approved
 4 by the Michigan strategic fund. A qualified local governmental unit
 5 is limited to designating no more than 2 targeted redevelopment
 6 areas for the purposes of this section in a calendar year. The
 7 Michigan strategic fund may approve no more than 5 targeted
 8 redevelopment areas for the purposes of this section in a calendar
 9 year.

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

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

23 (ii) For tax increment revenues attributable to eligible
 24 property also exclude the amount of ad valorem property taxes or
 25 specific taxes captured by a downtown development authority under
 26 ~~1975 PA 197, MCL 125.1651 to 125.1681, part 2 of the recodified tax~~
 27 **increment financing act, 2018 PA 57, MCL 125.4201 to 125.4230**, tax
 28 increment finance authority under the tax increment finance
 29 authority act, ~~1980 PA 450, MCL 125.1801 to 125.1830, part 3 of the~~



1 **recodified tax increment financing act, 2018 PA 57, MCL 125.4301 to**
 2 **125.4329, corridor improvement authority ~~under the corridor~~**
 3 **~~improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899,~~**
 4 **part 6 of the recodified tax increment financing act, 2018 PA 57,**
 5 **MCL 125.4602 to 125.4629, or local development finance authority**
 6 **~~under the local development financing act, 1986 PA 281, MCL~~**
 7 **~~125.2151 to 125.2174, part 4 of the recodified tax increment~~**
 8 **financing act, 2018 PA 57, MCL 125.4401 to 125.4420, if those taxes**
 9 **were captured by these other authorities on the date that eligible**
 10 **property became subject to a brownfield plan under this act.**

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

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

16 (B) The art institute authorities act, 2010 PA 296, MCL
 17 123.1201 to 123.1229.

18 (tt) "Taxable value" means the value determined under section
 19 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

20 (uu) "Taxes levied for school operating purposes" means all of
 21 the following:

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

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

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

28 (vv) "Transformational brownfield plan" means a brownfield
 29 plan that meets the requirements of section 13c and is adopted



1 under section 14a and, as designated by resolution of the governing
 2 body and approved by the Michigan strategic fund, will have a
 3 transformational impact on local economic development and community
 4 revitalization based on the extent of brownfield redevelopment and
 5 growth in population, commercial activity, and employment that will
 6 result from the plan. To be designated a transformational
 7 brownfield plan, a transformational brownfield plan under this
 8 subdivision shall be for mixed-use development and shall be
 9 expected to result in the following levels of capital investment:

10 (i) In a municipality that is not a county and that has a
 11 population of at least 600,000, \$500,000,000.00.

12 (ii) In a municipality that is not a county and that has a
 13 population of at least 150,000 and not more than 599,999,
 14 \$100,000,000.00.

15 (iii) In a municipality that is not a county and that has a
 16 population of at least 100,000 and not more than 149,999,
 17 \$75,000,000.00.

18 (iv) In a municipality that is not a county and that has a
 19 population of at least 50,000 and not more than 99,999,
 20 \$50,000,000.00.

21 (v) In a municipality that is not a county and that has a
 22 population of at least 25,000 and not more than 49,999,
 23 \$25,000,000.00.

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

26 (ww) "Transit-oriented development" means infrastructure
 27 improvements that are located within 1/2 mile of a transit station
 28 or transit-oriented property that promotes transit ridership or
 29 passenger rail use as determined by the board and approved by the



1 municipality in which it is located.

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

5 (yy) "Withholding tax capture revenues" means the amount for
6 each calendar year by which the income tax withheld under part 3 of
7 the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713,
8 from individuals employed within the eligible property subject to a
9 transformational brownfield plan exceeds the initial withholding
10 tax value. Withholding tax capture revenues shall not include
11 income tax from individuals domiciled within the eligible property
12 or construction period tax capture revenues. To calculate
13 withholding tax capture revenues for a calendar year under a
14 transformational brownfield plan, the state treasurer or the
15 Michigan strategic fund shall do all of the following:

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

22 (ii) The state treasurer shall develop methods and processes
23 that are necessary for each employer occupying the eligible
24 property to report the amount of withholding under part 3 of the
25 income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from
26 individuals employed within the eligible property.

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



1 capture revenues:

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

6 (B) That reimbursement of withholding tax capture revenues is
7 limited to amounts that are reported in accordance with part 3 of
8 the income tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713,
9 and this state has no obligation with respect to withholding tax
10 capture revenues that are not reported or paid.

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

16 Sec. 8. (1) An authority may establish a local brownfield
17 revolving fund. A local brownfield revolving fund shall consist of
18 funds deposited from the following sources:

19 (a) Funds appropriated or otherwise made available from public
20 or private sources.

21 (b) Local tax and school operating tax increment revenue
22 captured in excess of the amount authorized for eligible expenses
23 under section 13(4) only when all of the following conditions are
24 met:

25 (i) The excess capture occurs during the time of capture for
26 the purpose of paying the costs permitted under section 13(4), or
27 for not more than 5 years after the time that capture is required
28 for the purpose of paying the costs permitted under section 13(4),
29 or both.



1 (ii) The excess local tax ~~excess~~-capture shall not exceed the
2 total of the cost of eligible activities approved in the brownfield
3 plan.

4 (iii) The excess capture of taxes for school operating purposes
5 shall not exceed the total of the cost of eligible department
6 specific activities approved in the applicable brownfield plan,
7 combined brownfield plan, or work plan. **The total excess tax
8 capture shall not exceed the total of the cost of eligible
9 activities approved in the brownfield plan.**

10 (iv) Excess tax increment revenues from taxes levied for school
11 operating purposes for eligible activities authorized under section
12 13b(4) by the Michigan strategic fund shall not be captured for
13 deposit in the local brownfield revolving fund.

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

17 (3) The tax increment revenues from eligible property for
18 deposit in the local brownfield revolving fund may include tax
19 increment revenues attributable to taxes levied for school
20 operating purposes in an amount not greater than the tax increment
21 revenues levied for school operating purposes captured from the
22 eligible property pursuant to section 13(4).

23 (4) The local brownfield revolving fund may be used only to
24 pay the costs of eligible activities on ~~eligible~~-property that is
25 located within the municipality **and meets at least 1 of the
26 conditions under section 2(o). However, activities outlined in
27 section 13b(8) may be conducted and funded on prospective
28 properties.**

29 (5) An authority or a municipality on behalf of an authority



1 may incur an obligation for the purpose of funding a local
2 brownfield revolving fund.

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

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

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

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

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



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

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

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

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

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

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



1 obsolete and the underlying basis for that opinion.

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

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

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

23 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
 24 213.332.

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

27 (3) When taxes levied for school operating purposes are
 28 subject to capture under section 15, the percentage of school
 29 operating tax increment revenues captured relating to a parcel of



1 eligible property under a brownfield plan shall not be greater than
 2 the percentage of local tax increment revenues that are captured
 3 under the brownfield plan relating to that parcel of eligible
 4 property.

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

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

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

13 (5) A brownfield plan ~~shall not~~ **may only** authorize the capture
 14 of tax increment revenue from eligible property ~~after~~ **until** the
 15 year in which the total amount of tax increment revenues captured
 16 is equal to the sum of the costs permitted to be funded with tax
 17 increment revenues under this act or **for not more than** 30 years
 18 from the beginning date of the capture of the tax increment
 19 revenues for that eligible property, whichever occurs first. ~~7~~
 20 ~~except that a~~ **A** brownfield plan may authorize the capture of
 21 additional local and school operating tax increment revenue from an
 22 eligible property ~~if~~ **for the local brownfield revolving fund**
 23 **created under section 8 during** 1 or more of the following
 24 ~~apply~~ **time frames:**

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

28 (b) For not more than 5 years after the date specified in
 29 subdivision (a). ~~7 for payment to the local brownfield revolving~~



1 ~~fund created under section 8.~~

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

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

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

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

23 (a) A combined brownfield plan or a work plan shall be
24 approved by the Michigan strategic fund and a development agreement
25 or reimbursement agreement between the municipality or authority
26 and an owner or developer of eligible property is required before
27 such tax increment may be used for infrastructure improvements that
28 directly benefit eligible property, demolition of structures that
29 is not response activity, lead, mold, or asbestos abatement that is



1 not a department specific activity, site preparation that is not
2 response activity, relocation of public buildings or operations for
3 economic development purposes, or acquisition of property by a land
4 bank fast track authority if acquisition of the property is for
5 economic development purposes.

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

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

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

19 (e) The department's approval is not required for the capture
20 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) ~~For eligible activities not described in subsection (4),~~
7 ~~an authority shall not use~~ Use taxes levied for school operating
8 purposes captured from eligible property ~~unless the eligible~~
9 ~~activities to be conducted on the eligible property are eligible~~
10 ~~department specific activities, consistent with a combined~~
11 ~~brownfield plan or a work plan approved by the department after~~
12 ~~July 24, 1996.~~ **for activities other than those identified in**
13 **subsections (4), (5), and (12).**

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

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



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

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

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

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

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

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

19 (b) Taxes levied for school operating purposes may be used for
20 1 or more of the following administrative and operating purposes:

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

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



1 (c) In each fiscal year of the authority, the amount of tax
 2 increment revenues attributable to local taxes that an authority
 3 can use for the purposes described in subdivisions (a) and (b)
 4 shall be determined as follows:

5 (i) For authorities that have 5 or fewer active projects,
 6 \$100,000.00.

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

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

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

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

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

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

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

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

23 **(x) For authorities that have 99 or more active projects,**
 24 **\$1,000,000.00.**

25 (d) Nothing contained in this subsection shall limit the
 26 amount of funds that may be granted, loaned, or expended by a local
 27 brownfield revolving fund for eligible activities.

28 (e) As used in this subsection, "active project" means a



1 project in which the authority is currently capturing taxes under
2 this act. The amounts of tax increment revenues attributable to
3 local taxes listed in this subsection that an authority can use for
4 the purposes described in this subsection may be increased by 2%
5 for each written agreement entered into by an authority in either
6 of the following situations up to a total maximum increase of 10%:

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

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

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

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

23 (b) Completing a baseline environmental assessment.

24 (c) Preparing a plan for compliance with sections 20107a and
25 21304c of the natural resources and environmental protection act,
26 1994 PA 451, MCL 324.20107a and 324.21304c.

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

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



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

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

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

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

26 (d) **Reasonable cost 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 and consulting fees that are not in the**



1 ordinary course of acquiring and developing real estate.

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

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

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

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

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

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



1 operating purposes and local taxes for the payment of that
2 interest.

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

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

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

29 (a) Twenty-five years of capture of tax increment revenues



1 from such eligible property included in the brownfield plan.

2 (b) The later of:

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

5 (ii) The date excess capture is terminated under subsection
6 (16).

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

19 (16) The brownfield plan shall include a proposed beginning
20 date of capture. ~~The~~ **If the actual** beginning date of capture of tax
21 increment revenues ~~shall not be~~ **is** later than 5 years following the
22 date of the **adoption of the brownfield plan** resolution, ~~including~~
23 ~~the eligible property in the brownfield plan.~~ **then the maximum**
24 **number of years of capture will decrease. The end date of capture**
25 **must be no later than 35 years after the date of the adoption of**
26 **the brownfield plan resolution.** The authority may amend the
27 beginning date of capture of tax increment revenues for a
28 particular eligible property ~~to a date not later than 5 years~~
29 ~~following the date of the resolution including the eligible~~



~~1 property in the brownfield plan. The authority may not amend the~~
~~2 beginning date of capture of tax increment revenues for a~~
~~3 particular eligible property if **as long as** the authority has **not**~~
~~4 begun to reimburse eligible activities from the capture of tax~~
~~5 increment revenues from that eligible property. Any tax increment~~
~~6 revenues captured from an eligible property before the beginning~~
~~7 date of capture of tax increment revenues for that eligible~~
~~8 property shall revert proportionately to the respective tax bodies.~~
~~9 If an authority amends the beginning date for capture of tax~~
~~10 increment revenues that includes the capture of tax increment~~
~~11 revenues for school operating purposes, then the authority shall~~
~~12 notify the department or the Michigan strategic fund, as~~
~~13 applicable, within 30 days after amending the beginning date.~~

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

17 (a) A copy of the brownfield plan.

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

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

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

29 (e) A brief summary of the proposed redevelopment and future



1 use for each eligible property.

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

8 (a) An unconditional approval.

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

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

24 (d) A denial if the property is not an eligible property under
25 this act, if the work plan contemplates the use of taxes levied for
26 school operating purposes prohibited by section 13b(10), or for any
27 specific activity if the activity is prohibited by section
28 13b(6) (a). The department may also deny any activity in a work plan
29 that does not meet the conditions in subsection (3) only if the



1 department cannot respond under subsection (2) (b) or (c). The
 2 department shall accompany the denial with a letter that states
 3 with specificity the reason for the denial. The department shall
 4 respond under subsection (2) (a), (b), or (c) according to this
 5 section for any activities in the work plan that are not denied
 6 under this subdivision. If the department denies all or a portion
 7 of a work plan under this subdivision, the authority may
 8 subsequently resubmit the work plan.

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

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

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

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

29 (ii) The cost to implement activities minimally necessary to



1 achieve due care compliance, the total cost of response activities,
2 and the incremental cost of department specific activities in
3 excess of those activities minimally necessary to achieve due care
4 compliance.

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

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

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



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

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

28 (a) Obligations for the individual activity have been issued
29 by the authority, or by a municipality on behalf of the authority,



1 to fund the individual activity prior to issuance of the
2 department's response.

3 (b) The individual activity has commenced or payment for the
4 work has been irrevocably obligated prior to issuance of the
5 department's response.

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

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

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

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

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

28 (b) Current ownership information for each eligible property
29 and a summary of available information on proposed future



1 ownership, including the amount of any delinquent taxes, interest,
2 and penalties that may be due.

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

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

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

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

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

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

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

28 (b) A conditional approval that delineates specific necessary
29 modifications to the work plan, including, but not limited to,



1 individual activities to be added or deleted from the work plan and
2 revision of costs.

3 (c) A denial and a letter stating with specificity the reason
4 for the denial. If a work plan is denied under this subsection, the
5 work plan may be subsequently resubmitted.

6 (12) In its review of a work plan under section 13b(4) or
7 13c(6), the Michigan strategic fund shall consider the following
8 criteria to the extent reasonably applicable to the type of
9 activities proposed as part of that work plan when approving or
10 denying a work plan:

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

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

15 (c) Whether the cost for each individual activity is
16 reasonable.

17 (d) The overall benefit to the public.

18 (e) The extent of reuse of vacant buildings and redevelopment
19 of blighted property.

20 (f) Creation of jobs.

21 (g) Whether the eligible property is in an area of high
22 unemployment.

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

25 (i) The level of private sector contribution.

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

29 (k) Whether the project of the developer, landowner, or



1 corporate entity that is included in the work plan is financially
2 and economically sound.

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

7 (m) Any other criteria that the Michigan strategic fund
8 considers appropriate for the determination of eligibility or for
9 approval of the work plan.

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

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

26 (15) The Michigan strategic fund shall submit a report each
27 year to each member of the legislature as provided in section
28 16(4).

29 (16) All taxes levied for school operating purposes that are



1 not used for eligible activities consistent with a combined
2 brownfield plan or a work plan approved by the department or the
3 Michigan strategic fund or for the payment of interest under
4 sections 13 and 13b and that are not deposited in a local
5 brownfield revolving fund shall be distributed proportionately
6 between the local school district and the school aid fund.

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

11 (18) The party seeking work plan approval and the department
12 can, by mutual agreement, extend the time period for any review
13 described in this section. An agreement described in this
14 subsection shall be documented in writing.

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

23 (20) In lieu of seeking approval of a work plan under section
24 13b(4) or (6) (c) or section 13c(6), an authority may seek approval
25 of a combined brownfield plan from the department or Michigan
26 strategic fund under this subsection as follows:

27 (a) To seek approval of a combined brownfield plan under this
28 subsection, the authority shall, at least 30 days before the
29 hearing on the combined brownfield plan to allow for consultation



1 between the authority and the department or the Michigan strategic
2 fund and at least 60 days in the case of a transformational
3 brownfield plan, provide notice that the authority will be seeking
4 approval of a combined brownfield plan in lieu of a work plan to 1
5 or more of the following:

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

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

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

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

24 (d) Upon receipt of a combined brownfield plan under
25 subdivision (b), the department or Michigan strategic fund shall
26 provide 1 of the following written responses to the requesting
27 authority within 60 days or, in the case of a transformational
28 brownfield plan, within 90 days:

29 (i) An unconditional approval that includes an enumeration of



1 eligible activities and a maximum allowable capture amount.

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

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

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

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

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



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

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

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

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

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

21 (a) ~~The amount and source of tax increment revenues~~
 22 ~~received.~~ **total amount of local taxes that are approved for capture**
 23 **and the total amount of taxes levied for school operating purposes**
 24 **that are approved for capture for each parcel included in a**
 25 **brownfield plan.**

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

28 (c) ~~The amount of principal and interest on all outstanding~~
 29 ~~indebtedness.~~ **and source of tax increment revenues received for each**



1 active brownfield plan, including the amount of tax increment
 2 revenues captured in the most recent tax year and the cumulative
 3 amount of tax increment revenues captured for each brownfield plan.

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

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

8 (f) The amount of actual capital investment made for each
 9 project.

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

14 (h) The number of residential units constructed or
 15 rehabilitated for each project.

16 (i) The amount, by square foot, of new or rehabilitated
 17 residential, retail, commercial, or industrial space for each
 18 project.

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

20 **(k) A copy of all brownfield plan amendments approved by the**
 21 **local unit of government.**

22 **(l)** ~~(k)~~ All additional information that the governing body, the
 23 department, or the Michigan strategic fund considers necessary.

24 (4) The department and the Michigan strategic fund shall
 25 collect the financial reports submitted under subsection (3),
 26 compile a combined report, which includes the use of local taxes,
 27 taxes levied for school operating purposes, and the state
 28 brownfield redevelopment fund, based on the information contained
 29 in those reports and any additional information considered



1 necessary, and submit annually a report based on that information
2 to each member of the legislature.

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

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

10 (b) The Michigan strategic fund shall on a quarterly basis
11 post on its website the name, location, and amount of tax increment
12 revenues, including taxes levied for school operating purposes, for
13 each project approved by the Michigan strategic fund under this act
14 during the immediately 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 and the Michigan strategic fund facilitate and
22 affect the redevelopment or reuse of eligible property and identify
23 any factors that inhibit the program's effectiveness. The
24 performance postaudit shall also assess the extent to which the
25 interpretation of statutory language, the development of guidance
26 or administrative rules, and the implementation of the program by
27 the department and the Michigan strategic fund is consistent with
28 the fundamental objective of facilitating and supporting timely and
29 efficient brownfield redevelopment of eligible properties.



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

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

12 (a) The state treasurer shall transfer to the state brownfield
13 redevelopment fund each fiscal year an amount equal to the
14 construction period tax capture revenues, withholding tax capture
15 revenues, and income tax capture revenues under all approved plans
16 as provided for in section 8a(4). Funds shall be transmitted to the
17 authority, or owner or developer of the eligible property to which
18 the revenues are attributable, within 30 days of transfer to the
19 state brownfield redevelopment fund.

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

27 (c) The owner or developer of active projects included within
28 a transformational brownfield plan shall provide the information
29 required for the authority, the department, and the Michigan



- 1 strategic fund to satisfy the reporting and audit requirements of
- 2 this section.

