

**SUBSTITUTE FOR
SENATE BILL NO. 671**

A bill to amend 1996 PA 381, entitled
"Brownfield redevelopment financing act,"
by amending sections 2, 13c, and 14a (MCL 125.2652, 125.2663c, and
125.2664a), section 2 as amended by 2020 PA 259 and sections 13c
and 14a as added 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
7 criteria as determined by the governing body:

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

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

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

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

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

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

29 (vii) Has substantial buried subsurface demolition debris

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

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

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

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

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

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

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

1 shall do all of the following:

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

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

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

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

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

27 (l) "Department specific activities" means baseline
28 environmental assessments, due care activities, response
29 activities, and other environmentally related actions that are

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

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

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

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

15 (iv) Dust control related to construction activities.

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

20 (vi) Industrial cleaning.

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

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

29 (ix) Environmental insurance.

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

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

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

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

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

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

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

19 (A) Department specific activities.

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

22 (C) Reasonable costs of environmental insurance.

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

27 (E) Reasonable costs of brownfield plan and work plan
28 implementation, including, but not limited to, tracking and
29 reporting of data and plan compliance and the reasonable costs

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

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

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

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

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

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

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

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

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

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

27 (B) Assistance to a land bank fast track authority in clearing
28 or quieting title to, or selling or otherwise conveying, property
29 owned by or under the control of a land bank fast track authority

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

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

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

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

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

29 (ii) Is not in a qualified local governmental unit and is a

1 facility, historic resource, functionally obsolete, blighted, or a
2 site or property as those terms are defined in part 213, and
3 includes parcels that are adjacent or contiguous to that property
4 if the development of the adjacent and contiguous parcels is
5 estimated to increase the captured taxable value of that property.

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

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

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

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

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

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

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

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

24 (t) "Former mill" means a former mill that has not been used
25 for industrial purposes for the immediately preceding 2 years, that
26 is not located in a qualified local governmental unit, that is a
27 facility or is a site or a property as those terms are defined in
28 part 213, functionally obsolete, or blighted, and that is located
29 within 15 miles of a river that is a federal superfund site listed

1 under the comprehensive environmental response, compensation and
 2 liability act of 1980, 42 USC 9601 to 9675, and that is located in
 3 a municipality with a population of less than 10,000.

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

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

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

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

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

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

5 (i) A list of ~~individuals domiciled~~ **addresses for all**
 6 **residential units, rental or owner-occupied**, within the eligible
 7 property.

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

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

14 (iii) Notwithstanding anything to the contrary in this
 15 subdivision, in lieu of the reporting and calculation methods
 16 otherwise provided for, the owner or developer of a
 17 transformational brownfield project site may elect to utilize a
 18 safe harbor method of calculating income tax capture revenues.
 19 Under this safe harbor method, the Michigan strategic fund shall
 20 establish a safe harbor amount of annual income tax capture
 21 revenues for each eligible property at the time the Michigan
 22 strategic fund approves the transformational brownfield plan, and
 23 those amounts shall serve as the basis for the transmittal of
 24 income tax capture revenues to the owner or developer of the
 25 transformational project site under section 8a(4). The Michigan
 26 strategic fund shall establish the safe harbor amount for an
 27 eligible property by imputing a standard annual taxable income for
 28 households residing within the eligible property or portion of the
 29 eligible property. The safe harbor is effective only to the extent

1 that the residential units within the eligible property or portion
2 of the eligible property are actively leased or, in the case of
3 units made available for sale, sold in an arms-length transaction.
4 Imputations as to standard household taxable income may vary based
5 on location and other relevant factors. The Michigan strategic fund
6 may adjust the safe harbor amount for an eligible property, or
7 portion of the eligible property, after the time of
8 transformational brownfield plan approval as required to reflect
9 changes in the transformational brownfield plan for the
10 transformational project site that may occur after approval of the
11 transformational brownfield plan, provided that those changes may
12 not result in an aggregate increase in the level of income tax
13 capture revenues from the amount initially established. The owner
14 or developer of the transformational project site may make the
15 election to utilize the safe harbor method of accounting at any
16 time prior to the first reimbursement of income tax capture
17 revenues under the transformational brownfield plan, provided that
18 an election, once made, cannot be rescinded.

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

22 (aa) "Infrastructure improvements" means a street, road,
23 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
24 sewage treatment plant, property designed to reduce, eliminate, or
25 prevent the spread of identified soil or groundwater contamination,
26 drainage system, waterway, waterline, water storage facility, rail
27 line, utility line or pipeline, transit-oriented development,
28 transit-oriented property, or other similar or related structure or
29 improvement, together with necessary easements for the structure or

1 improvement, owned or used by a public agency or functionally
 2 connected to similar or supporting property owned or used by a
 3 public agency, or designed and dedicated to use by, for the benefit
 4 of, or for the protection of the health, welfare, or safety of the
 5 public generally, whether or not used by a single business entity,
 6 provided that any road, street, or bridge shall be continuously
 7 open to public access and that other property shall be located in
 8 public easements or rights-of-way and sized to accommodate
 9 reasonably foreseeable development of eligible property in
 10 adjoining areas. Infrastructure improvements also include 1 or more
 11 of the following whether publicly or privately owned or operated or
 12 located on public or private property:

13 (i) Underground parking.

14 (ii) Multilevel parking structures.

15 (iii) Urban stormwater management systems.

16 (bb) "Initial income tax value" means, **with respect to each**
 17 **eligible property subject to a transformational brownfield plan,**
 18 the aggregate amount of income tax less credits under sections 255,
 19 265, 266, and chapter 9 of the income tax act of 1967, 1967 PA 281,
 20 MCL 206.255, 206.265, 206.266, and 206.501 to 206.532, from
 21 individuals ~~domiciled~~**residing** within the eligible property ~~subject~~
 22 ~~to a transformational brownfield plan~~ for the tax year in which the
 23 resolution adding that eligible property in the transformational
 24 brownfield plan is adopted.

25 (cc) "Initial taxable value" means the taxable value of an
 26 eligible property identified in and subject to a brownfield plan at
 27 the time the resolution adding that eligible property in the
 28 brownfield plan is adopted, as shown either by the most recent
 29 assessment roll for which equalization has been completed at the

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

16 (dd) "Initial withholding tax value" means, **with respect to**
 17 **each eligible property subject to a transformational brownfield**
 18 **plan**, the amount of income tax withheld under part 3 of the income
 19 tax act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from
 20 individuals employed within the eligible property ~~subject to a~~
 21 ~~transformational brownfield plan~~ for the calendar year in which the
 22 resolution adding the eligible property to the plan is adopted. ~~For~~
 23 ~~purposes of this act, an individual is employed within the eligible~~
 24 ~~property if the eligible property is the individual's principal~~
 25 ~~place of employment.~~ The initial withholding tax value shall not
 26 include construction period tax capture revenues.

27 (ee) "Land bank fast track authority" means an authority
 28 created under the land bank fast track act, 2003 PA 258, MCL
 29 124.751 to 124.774.

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

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

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

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

10 (i) A city.

11 (ii) A village.

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

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

17 (v) A county.

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

21 (i) An ownership interest in the property.

22 (ii) A tax lien on the property.

23 (iii) A tax deed to the property.

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

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

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

29 (kk) "Part 111", "part 201", "part 211", or "part 213" means

1 that part as described as follows:

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

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

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

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

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

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

18 (nn) "Release" means that term as defined in part 201 or part
19 213.

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

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

22 (ii) Corrective action.

23 (pp) "Specific taxes" means a tax levied under 1974 PA 198,
24 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
25 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
26 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
27 technology park development act, 1984 PA 385, MCL 207.701 to
28 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
29 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA

1 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
2 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
3 levied under the tax reverted clean title act, 2003 PA 260, MCL
4 211.1021 to 211.1025a, that is not required to be distributed to a
5 land bank fast track authority.

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

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

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

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

1 those ad valorem property taxes.

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

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

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

21 (B) The art institute authorities act, 2010 PA 296, MCL
22 123.1201 to 123.1229.

23 (tt) "Taxable value" means the value determined under section
24 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

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

29 (ii) The taxes levied under the state education tax act, 1993

1 PA 331, MCL 211.901 to 211.906.

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

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

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

19 (ii) In a municipality that is not a county and that has a
20 population of at least 150,000 and not more than 599,999,
21 \$100,000,000.00.

22 (iii) In a municipality that is not a county and that has a
23 population of at least 100,000 and not more than 149,999,
24 \$75,000,000.00.

25 (iv) In a municipality that is not a county and that has a
26 population of at least 50,000 and not more than 99,999,
27 \$50,000,000.00.

28 (v) In a municipality that is not a county and that has a
29 population of at least 25,000 and not more than 49,999,

1 \$25,000,000.00.

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

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

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

12 (yy) "Withholding tax capture revenues" means, **with respect to**
13 **each eligible property subject to a transformational brownfield**
14 **plan**, the amount for each calendar year by which the income tax
15 withheld under part 3 of the income tax act of 1967, 1967 PA 281,
16 MCL 206.701 to 206.713, from individuals employed within the
17 eligible property ~~subject to a transformational brownfield plan~~
18 exceeds the initial withholding tax value. Withholding tax capture
19 revenues shall not include income tax from individuals domiciled
20 within the eligible property or construction period tax capture
21 revenues. To calculate withholding tax capture revenues for a
22 calendar year under a transformational brownfield plan, the state
23 treasurer or the Michigan strategic fund shall do all of the
24 following:

25 (i) The state treasurer shall require the owner or developer of
26 the eligible property to provide the department of treasury with
27 notice not more than 10 days from the date an employer commences or
28 terminates occupancy within the eligible property. As used in this
29 subdivision, "employer" means that term as defined in section 8 of

1 the income tax act of 1967, 1967 PA 281, MCL 206.8.

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

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

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

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

20 (iv) **Notwithstanding anything to the contrary in this**
21 **subdivision, in lieu of the reporting and calculation methods**
22 **otherwise provided for, the owner or developer of a**
23 **transformational project site may elect to utilize a safe harbor**
24 **method of calculating withholding tax capture revenues. Under this**
25 **safe harbor method, the Michigan strategic fund shall establish a**
26 **safe harbor amount of annual withholding tax capture revenues for**
27 **each eligible property at the time the Michigan strategic fund**
28 **approves the transformational brownfield plan, and those amounts**
29 **shall serve as the basis for the transmittal of withholding tax**

1 capture revenues to the owner or developer of the transformational
2 project site under section 8a(4). The Michigan strategic fund shall
3 establish the safe harbor amount for an eligible property by
4 imputing a standard level of employee occupancy that corresponds to
5 the size and use of the eligible property or portion of the
6 eligible property and a safe harbor average annual taxable wage for
7 the individuals employed within the eligible property or portion of
8 the eligible property. The safe harbor shall be effective only to
9 the extent the eligible property or portion of the eligible
10 property is actively occupied, as evidenced by the existence of a
11 binding lease agreement or similar instrument. Imputations as to
12 occupancy and wages may vary between projects based on location,
13 the type and use of the eligible property, and other relevant
14 factors. The Michigan strategic fund may adjust the safe harbor
15 amount for an eligible property, or portion of the eligible
16 property, after the time of plan approval as required to reflect
17 changes in the transformational brownfield plan for the
18 transformational project site that may occur after approval of the
19 transformational brownfield plan, provided that any of those
20 changes may not result in an aggregate increase in the level of
21 withholding tax capture revenues from the amount initially
22 established. The owner or developer of the transformational project
23 site may make the election to utilize the safe harbor method of
24 accounting at any time prior to the first reimbursement of
25 withholding tax capture revenues under the plan, provided that an
26 election, once made, cannot be rescinded.

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

1 (aaa) "Zone" means, for an authority established before June
2 6, 2000, a brownfield redevelopment zone designated under this act.

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

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

26 (3) A transformational brownfield plan is a brownfield plan
27 and, except as otherwise provided, is subject to sections 13, 13a,
28 13b, 14, and 15 of this act. In addition to the information
29 required under section 13(2), a transformational brownfield plan

1 shall contain all of the following:

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

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

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

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

16 (4) Subject to section ~~14a(8)~~, **14a(7)**, the transformational
17 brownfield plan may provide for the use of part or all of the tax
18 increment revenues, construction period tax capture revenues,
19 withholding tax capture revenues, and income tax capture revenues.
20 The portion of tax increment revenues, construction period tax
21 capture revenues, withholding tax capture revenues, and income tax
22 capture revenues to be used may vary over the duration of the
23 transformational brownfield plan, but the portion intended to be
24 used shall be clearly stated in the transformational brownfield
25 plan.

26 (5) Approval of a transformational brownfield plan, or an
27 amendment to a transformational brownfield plan, shall be in
28 accordance with the notice, approval, and public hearing
29 requirements of sections 14 and 14a, except that the governing body

1 shall provide notice to the Michigan strategic fund not less than
2 30 days before the hearing on a transformational brownfield plan.

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

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

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

8 (9) The brownfield authority and Michigan strategic fund may
9 reimburse advances, with or without interest, made by a
10 municipality under section 7(3), a land bank fast track authority,
11 or any other person or entity for costs of eligible activities
12 included within a transformational brownfield plan using tax
13 increment revenues, construction period tax capture revenues,
14 withholding tax capture revenues, or income tax capture revenues
15 attributable to that plan. Upon approval of the Michigan strategic
16 fund, the amount of tax increment revenues, construction period tax
17 capture revenues, withholding tax capture revenues, and income tax
18 capture revenues authorized to be captured under a transformational
19 brownfield plan may include amounts required for the payment of
20 interest under this subsection. A written development or
21 reimbursement agreement shall be entered into under subsection (6)
22 before any reimbursement or payment using tax increment revenues,
23 construction period tax capture revenues, withholding tax capture
24 revenues, or income tax capture revenues may commence. A
25 reimbursement agreement for these purposes and the obligations
26 under that reimbursement agreement shall not be subject to section
27 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101
28 to 141.2821.

29 (10) Eligible activities conducted on eligible property prior

1 to approval of the transformational brownfield plan may be
2 reimbursed from tax increment revenues, construction period tax
3 capture revenues, withholding tax capture revenues, and income tax
4 capture revenues if those costs and the eligible property are
5 subsequently included in a transformational brownfield plan
6 approved by the governing body and Michigan strategic fund, a
7 combined brownfield plan or work plan approved by the Michigan
8 strategic fund, and a written development or reimbursement
9 agreement under subsection (6). Reimbursement under this subsection
10 shall be limited to eligible expenses incurred within 90 days of
11 the approval of the transformational brownfield plan by the
12 Michigan strategic fund.

13 (11) The duration of the capture of withholding tax capture
14 revenues and income tax capture revenues under a transformational
15 brownfield plan for a particular eligible property shall not exceed
16 the lesser of the period authorized under subsection (8) or 20
17 years from the beginning date of the capture of withholding tax
18 capture revenues and income tax capture revenues for that eligible
19 property. The beginning date for the capture of tax increment
20 revenues, withholding tax capture revenues, and income tax capture
21 revenues for an eligible property shall not be later than 5 years
22 following the date the Michigan strategic fund approves the
23 inclusion of the eligible property in a transformational brownfield
24 plan. Subject to the approval of the governing body and Michigan
25 strategic fund, the authority may amend the beginning date of
26 capture of tax increment revenues, withholding tax capture
27 revenues, and income tax capture revenues to a date not later than
28 5 years following the date the Michigan strategic fund approved
29 inclusion of the eligible property in the transformational

1 brownfield plan so long as capture of the revenues under the
2 transformational brownfield plan has not yet commenced.

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

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

8 (b) For developments under affiliated ownership, the
9 developments are reasonably contiguous and are part of a program of
10 investment in a logically defined geography, including, but not
11 limited to, a downtown district as defined in section ~~1 of 1975 PA~~
12 ~~197, MCL 125.1651, 201 of the recodified tax increment financing~~
13 **act, 2018 PA 57, MCL 125.4201**, or a principal shopping district or
14 business improvement district as defined in section 1 of 1961 PA
15 120, MCL 125.981, and including areas that are logically related to
16 those districts and that will promote infill development.

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

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

26 (13) Where undeveloped property included in a transformational
27 brownfield plan has been designated as a renaissance zone under the
28 Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to
29 125.2696, upon the request of the owner or developer of the

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

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

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

24 (c) A city levying a city income tax under the city income tax
25 act, 1964 PA 284, MCL 141.501 to 141.787, shall calculate for each
26 tax year the amount of revenue the city collected as a result of
27 the operation of this subsection and shall enter into a binding
28 reimbursement agreement with the authority, and owner or developer
29 of the eligible property, providing for the payment of the amounts

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

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

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

22 (15) Nothing in this act is intended to preclude an authority
23 established by a county from seeking approval of a brownfield plan
24 as a transformational brownfield plan. In the event that an
25 authority established by a county seeks approval of a plan that
26 extends into more than 1 of its component local units of government
27 and that plan includes eligible property in more than 1
28 municipality that is not a county, the minimum investment
29 requirements of section 2(vv) shall be established with reference

1 to combined population of the municipalities that are not a county
2 in which the eligible property is located.

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

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

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

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

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

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

29 (d) Whether the amount of captured taxable value, construction

1 period tax capture revenues, withholding tax capture revenues, and
 2 income tax capture revenues estimated to result from adoption of
 3 the transformational brownfield plan are reasonable.

4 ~~(c) Whether, based on an economic and fiscal impact analysis,~~
 5 ~~the transformational brownfield plan will result in an overall~~
 6 ~~positive fiscal impact to this state.~~

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

10 **(f)** ~~(g)~~ Whether subject to subsection ~~(23)(d)~~, **(22)(d)**, the
 11 transformational brownfield plan includes provisions for affordable
 12 housing.

13 (4) Within 90 days of the completion of an administratively
 14 complete application and the analysis required under ~~subsections~~
 15 **subsection** (5), ~~and (6)~~, the Michigan strategic fund shall approve
 16 or reject the transformational brownfield plan, or approve it with
 17 modification, by resolution based on the criteria in subsection
 18 (3).

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

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

~~(6) Except as otherwise provided in this section, the Michigan strategic fund shall not approve a transformational brownfield plan under subsection (3)(c) unless it determines that the transformational brownfield plan will result in an overall positive fiscal impact to this state. In making that determination, the Michigan strategic fund shall take into account both of the following:~~

~~(a) The potential displacement of tax revenue from other areas of this state.~~

~~(b) The effects of the transformational brownfield plan on economic development in the surrounding area.~~

(6) ~~(7)~~ The Michigan strategic fund shall require an independent, third-party underwriting analysis under subsection (3)(d) ~~and an independent, third party fiscal and economic impact analysis under subsection (3)(c)~~ for any plan that proposes to use more than ~~\$1,500,000.00~~ **\$10,000,000.00** in any year in withholding tax capture revenues and income tax capture revenues, as determined by the first full year of tax capture under the plan. The cost of the independent, third-party ~~fiscal and economic impact~~

underwriting analysis shall be paid by the owner or developer of the eligible property. The Michigan strategic fund shall consult with the state treasurer prior to approving any transformational brownfield plan subject to this subsection. ~~The state treasurer must concur that there is an overall positive fiscal impact to this state in order for the transformational brownfield plan to be approved.~~ Nothing in this subsection shall limit the ability of the Michigan strategic fund to utilize independent, third-party analyses on plans not subject to this subsection.

(7) ~~(8) The~~ Except as otherwise provided in this subsection, the Michigan strategic fund may not approve a transformational brownfield plan that proposes to use more than 50% of the withholding tax capture revenues or 50% of the income tax capture revenues. ~~unless the income tax capture revenues are attributable to the election under section 13c(13).~~ The Michigan strategic fund may modify the amount of withholding tax capture revenues and income tax capture revenues before approving a transformational brownfield plan in order to bring the transformational brownfield plan into compliance with ~~subsections~~ **subsection (5).** ~~and (6).~~ **The Michigan strategic fund may approve a transformational brownfield plan that proposes to use more than 50% of the income tax capture revenues if 1 of the following applies:**

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

(b) The applicable eligible properties within the transformational brownfield plan are subject to a written, binding affordable housing agreement with the local governmental unit, which agreement shall be provided to the Michigan strategic fund, in which case the Michigan strategic fund may approve a

1 transformational brownfield plan that proposes to use up to 100% of
 2 the income tax capture revenues, subject to the underwriting and
 3 financial analysis required under subsection (5).

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

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

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

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

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

(9) ~~(10)~~—Upon approval by the Michigan strategic fund, the minimum investment requirements in section 2(vv) and limitation under subsection ~~(23)(a)~~—**(22)(a)** and (b) may be waived if the transformational brownfield plan meets 1 of the following criteria:

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

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

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

(d) Is for eligible property that is located in a city, village, or township with a population of less than 25,000 or that is otherwise eligible for the corresponding population tier in section 2(vv) ~~(vi)~~, as determined in accordance with subsection ~~(16)~~, **(15)**, if the Michigan strategic fund determines that the redevelopment is not economically feasible absent the transformational brownfield plan.

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

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

(12) ~~(13)~~—Except as provided in this subsection, amendments to an approved transformational brownfield plan shall be submitted by the authority to the governing body and to the Michigan strategic fund for approval or rejection following the same notice necessary

1 for approval or rejection of the original transformational
2 brownfield plan. Notice is not required for revisions in the
3 estimates of tax increment revenues, construction period tax
4 capture revenues, withholding tax capture revenues, or income tax
5 capture revenues.

6 **(13)** ~~(14)~~—Except as provided in this subsection, an amendment
7 to an approved transformational brownfield plan under section
8 13c(1) shall not be considered a new plan approval subject to the
9 limitation in subsection ~~(23)(a)~~. **(22) (a)**. The Michigan strategic
10 fund may consider an amendment as a new plan approval only where
11 the amendment adds eligible property and the Michigan strategic
12 fund determines that approving the addition as an amendment would
13 be inconsistent with the purposes of this act.

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

25 **(15)** ~~(16)~~—The determination as to whether a transformational
26 brownfield plan complies with the minimum investment requirements
27 in section 2(vv) shall be made with reference to the most recent
28 decennial census data available at the time of approval by the
29 authority. A plan in a municipality that exceeds a population tier

under section 2(vv) by not more than 10% of the maximum population for that tier shall, upon election of the authority, be subject to the investment requirement for that tier. A transformational brownfield plan that is expected to result in, or does result in, a total capital investment that is within 10% of the applicable minimum investment requirement shall be considered to satisfy the applicable requirement under section 2(vv).

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

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

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

(19) ~~(20)~~—The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, more than \$40,000,000.00 in total annual tax capture. For purposes of this subsection, "total annual tax capture" means the total annual amount of income tax capture revenues and withholding tax capture revenues that may be reimbursed each calendar year under all transformational brownfield plans. If the amount committed or disbursed in a calendar year is less than \$40,000,000.00, the difference between that amount and \$40,000,000.00 shall be available to be committed or disbursed in subsequent calendar years

1 and shall be in addition to the annual limit otherwise applicable.

2 **(20)** ~~(21)~~—The Michigan strategic fund shall not commit, and
3 the department of treasury shall not disburse, a total amount of
4 income tax capture revenues and withholding tax capture revenues
5 that exceeds \$800,000,000.00.

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

1 at the time of plan approval and included in the plan. The Michigan
2 strategic fund and department of treasury shall prescribe specific
3 methods for implementing this section within 60 days of the
4 effective date of the amendatory act that added this section.

5 (22) ~~(23)~~—The Michigan strategic fund shall comply with all of
6 the 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 shall carry forward into future calendar years and remain
11 available until December 31, ~~2022~~2027.

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

15 (c) Ensure an equitable geographic distribution of plans
16 approved under this subsection, which shall 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 set a target that not less than 35% of the total
22 transformational brownfield plans approved under this act prior to
23 December 31, ~~2022~~2027 will be located in cities, villages, and
24 townships with a population of less than 100,000.

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

28 (23) ~~(24)~~—In the event of a proposed change in ownership of
29 eligible property subject to a transformational brownfield plan for

1 which reimbursement will continue, the approval of the Michigan
 2 strategic fund is required prior to the assignment or transfer of
 3 the development and reimbursement agreement.

4 **(24)** ~~(25) The Michigan strategic fund shall not provide~~
 5 ~~community revitalization incentives under section 90b of the~~
 6 ~~Michigan strategic fund act, 1984 PA 270, MCL 125.2090b, to any~~
 7 ~~project included in a transformational brownfield plan that has or~~
 8 ~~will receive reimbursement for eligible activities pursuant to~~
 9 ~~section 13c and this section.~~**If the Michigan strategic fund**
 10 **approves a transformational brownfield plan and work plan, and**
 11 **subsequent to that approval, amendments are made to this act, the**
 12 **Michigan strategic fund may amend those plans to make conforming**
 13 **and consistent changes to the approved transformational brownfield**
 14 **plan and work plan on an administrative basis, provided that those**
 15 **changes do not result in any increase in the aggregate total amount**
 16 **of reimbursement authorized under the initial transformational**
 17 **brownfield plan. The authority of the Michigan strategic fund to**
 18 **administratively amend transformational brownfield plans and work**
 19 **plans under this subsection also applies to transformational**
 20 **brownfield plans and work plans entered into before the effective**
 21 **date of the amendatory act that added this sentence.**

22 **(25)** ~~(26) The Michigan strategic fund shall not approve any~~
 23 ~~new transformational brownfield plans after December 31, 2022.~~
 24 **2027. A transformational brownfield plan approved prior to December**
 25 **31, 2022 shall remain in effect and may be amended in accordance**
 26 **with the provisions of this act.**

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

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