

SENATE BILL NO. 671

September 30, 2021, Introduced by Senators HORN, HOLLIER and SCHMIDT and referred to the Committee on Economic and Small Business Development.

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

1 defined in part 201 or 213.

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

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

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

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

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

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

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

1 shall not result in the loss to the property of the status as
2 blighted property for purposes of this act.

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

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

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

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

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

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

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

1 the internal revenue code of 1986, 26 USC 3401. To calculate the
2 amount of construction period tax capture revenues for a calendar
3 year under a transformational brownfield plan, the state treasurer
4 shall do all of the following:

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

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

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

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

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

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

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

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

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

(iv) Dust control related to construction activities.

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

(vi) Industrial cleaning.

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

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

3 (ix) Environmental insurance.

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

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

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

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

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

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

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

22 (A) Department specific activities.

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

25 (C) Reasonable costs of environmental insurance.

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

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

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

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

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

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

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

22 (B) Infrastructure improvements that directly benefit eligible
23 property.

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

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

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

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

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

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

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

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

1 development of the adjacent and contiguous parcels is estimated to
2 increase the captured taxable value of that property.

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

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

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

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

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

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

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

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

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

27 (t) "Former mill" means a former mill that has not been used
28 for industrial purposes for the immediately preceding 2 years, that
29 is not located in a qualified local governmental unit, that is a

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

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

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

16 (w) "Historic resource" means that term as defined in section
17 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.

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

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

1 206.501 to 206.532. The state treasurer shall require the owner or
2 developer of the eligible property to provide to the department of
3 treasury all of the following information at the end of each
4 calendar year, including the year in which the resolution adding
5 that eligible property in the transformational brownfield plan is
6 adopted:

7 (i) A list of individuals domiciled within the eligible
8 property.

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

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

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

18 (aa) "Infrastructure improvements" means a street, road,
19 sidewalk, parking facility, pedestrian mall, alley, bridge, sewer,
20 sewage treatment plant, property designed to reduce, eliminate, or
21 prevent the spread of identified soil or groundwater contamination,
22 drainage system, waterway, waterline, water storage facility, rail
23 line, utility line or pipeline, transit-oriented development,
24 transit-oriented property, or other similar or related structure or
25 improvement, together with necessary easements for the structure or
26 improvement, owned or used by a public agency or functionally
27 connected to similar or supporting property owned or used by a
28 public agency, or designed and dedicated to use by, for the benefit
29 of, or for the protection of the health, welfare, or safety of the

1 public generally, whether or not used by a single business entity,
2 provided that any road, street, or bridge shall be continuously
3 open to public access and that other property shall be located in
4 public easements or rights-of-way and sized to accommodate
5 reasonably foreseeable development of eligible property in
6 adjoining areas. Infrastructure improvements also include 1 or more
7 of the following whether publicly or privately owned or operated or
8 located on public or private property:

9 (i) Underground parking.

10 (ii) Multilevel parking structures.

11 (iii) Urban stormwater management systems.

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

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

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

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

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

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

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

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

1 hotel uses.

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

3 (i) A city.

4 (ii) A village.

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

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

10 (v) A county.

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

14 (i) An ownership interest in the property.

15 (ii) A tax lien on the property.

16 (iii) A tax deed to the property.

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

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

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

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

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

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

28 (iii) Part 211 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.21101 to 324.21113.

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

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

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

12 (nn) "Release" means that term as defined in part 201 or part
13 213.

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

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

16 (ii) Corrective action.

17 (pp) "Specific taxes" means a tax levied under 1974 PA 198,
18 MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA
19 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224,
20 MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the
21 technology park development act, 1984 PA 385, MCL 207.701 to
22 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
23 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
24 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
25 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax
26 levied under the tax reverted clean title act, 2003 PA 260, MCL
27 211.1021 to 211.1025a, that is not required to be distributed to a
28 land bank fast track authority.

29 (qq) "State brownfield redevelopment fund" means the state

1 brownfield redevelopment fund created in section 8a.

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

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

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

25 (ii) For tax increment revenues attributable to eligible
26 property also exclude the amount of ad valorem property taxes or
27 specific taxes captured by a downtown development authority under
28 part 2 of the recodified tax increment financing act, 2018 PA 57,
29 MCL 125.4201 to 125.4230, tax increment finance authority under the

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

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

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

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

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

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

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

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

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

27 (vv) "Transformational brownfield plan" means a brownfield
28 plan that meets the requirements of section 13c and is adopted
29 under section 14a and, as designated by resolution of the governing

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

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

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

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

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

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

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

(ww) "Transit-oriented development" means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented property that promotes transit ridership or

1 passenger rail use as determined by the board and approved by the
2 municipality in which it is located.

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

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

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

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

28 (iii) The Michigan strategic fund shall include the following
29 provisions in the development or reimbursement agreement for any

1 transformational brownfield plan that utilizes withholding tax
2 capture revenues:

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

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

12 **(iv) In determining the amount of withholding tax capture**
13 **revenue, the state treasurer shall develop guidelines that provide**
14 **that the amount of withholding tax capture revenue attributable to**
15 **an individual for the amount of withholding reported under**
16 **subparagraph (ii) must be based on the percentage that the**
17 **individual is employed on-site versus working from a remote**
18 **location.**

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

22 (aaa) "Zone" means, for an authority established before June
23 6, 2000, a brownfield redevelopment zone designated under this act.

24 Sec. 13c. (1) Subject to the approval of the governing body
25 and Michigan strategic fund under section 14a, the board may
26 implement a transformational brownfield plan. The transformational
27 brownfield plan may consist of a single development on eligible
28 property or a series of developments on eligible property that are
29 part of a related program of investment, whether or not located on

1 contiguous parcels, and may be amended to apply to additional
2 parcels of eligible property. Each amendment to a transformational
3 brownfield plan shall be approved by the governing body of the
4 municipality in which it is located and the Michigan strategic fund
5 and shall be consistent with the approval requirements in this
6 section.

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

18 (3) A transformational brownfield plan is a brownfield plan
19 and, except as otherwise provided, is subject to sections 13, 13a,
20 13b, 14, and 15 of this act. In addition to the information
21 required under section 13(2), a transformational brownfield plan
22 shall contain all of the following:

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

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

29 (c) An estimate of the amount of construction period tax

1 capture revenues, withholding tax capture revenues, and income tax
2 capture revenues expected to be generated for each year of the
3 transformational brownfield plan from the eligible property.

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

8 (4) Subject to section ~~14a(8)~~, **14a(7)**, the transformational
9 brownfield plan may provide for the use of part or all of the tax
10 increment revenues, construction period tax capture revenues,
11 withholding tax capture revenues, and income tax capture revenues.
12 The portion of tax increment revenues, construction period tax
13 capture revenues, withholding tax capture revenues, and income tax
14 capture revenues to be used may vary over the duration of the
15 transformational brownfield plan, but the portion intended to be
16 used shall be clearly stated in the transformational brownfield
17 plan.

18 (5) Approval of a transformational brownfield plan, or an
19 amendment to a transformational brownfield plan, shall be in
20 accordance with the notice, approval, and public hearing
21 requirements of sections 14 and 14a, except that the governing body
22 shall provide notice to the Michigan strategic fund not less than
23 30 days before the hearing on a transformational brownfield plan.

24 (6) If a transformational brownfield plan authorizes the use
25 of construction period tax capture revenues, withholding tax
26 capture revenues, or income tax capture revenues, approval of a
27 combined brownfield plan or work plan by the Michigan strategic
28 fund and a written development or reimbursement agreement between
29 the owner or developer of the eligible property, the authority, and

1 the Michigan strategic fund are required. If a plan authorizes the
2 use of tax increment revenues for eligible activities under section
3 2(o)(iv) other than eligible activities described in section 13b,
4 approval of a work plan or combined brownfield plan by the Michigan
5 strategic fund to use tax increment revenues for those additional
6 eligible activities is required. A work plan or combined brownfield
7 plan under this subsection shall be consolidated with a work plan
8 or combined brownfield plan under section 13b(4). The eligible
9 activities to be conducted shall be consistent with the work plan
10 submitted by the authority to the Michigan strategic fund.

11 (7) Upon approval of the transformational brownfield plan by
12 the governing body and Michigan strategic fund, and the execution
13 of the written development or reimbursement agreement, the transfer
14 and distribution of construction period tax capture revenues,
15 withholding tax capture revenues, and income tax capture revenues
16 as specified in this act and in the plan shall be binding on this
17 state and the collection and transmission of the amount of tax
18 increment revenues as specified in this act and in the plan shall
19 be binding on all taxing units levying ad valorem property taxes or
20 specific taxes against property subject to the transformational
21 brownfield plan.

22 (8) A transformational brownfield plan shall not authorize the
23 capture or use of tax increment revenues, construction period tax
24 capture revenues, withholding tax capture revenues, or income tax
25 capture revenues after the year in which the total amount of the
26 revenue captured under the transformational brownfield plan is
27 equal to the sum of the costs permitted to be funded with the
28 revenue under the transformational brownfield plan.

29 (9) The brownfield authority and Michigan strategic fund may

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

21 (10) Eligible activities conducted on eligible property prior
22 to approval of the transformational brownfield plan may be
23 reimbursed from tax increment revenues, construction period tax
24 capture revenues, withholding tax capture revenues, and income tax
25 capture revenues if those costs and the eligible property are
26 subsequently included in a transformational brownfield plan
27 approved by the governing body and Michigan strategic fund, a
28 combined brownfield plan or work plan approved by the Michigan
29 strategic fund, and a written development or reimbursement

1 agreement under subsection (6). Reimbursement under this subsection
2 shall be limited to eligible expenses incurred within 90 days of
3 the approval of the transformational brownfield plan by the
4 Michigan strategic fund.

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

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

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

29 (b) For developments under affiliated ownership, the

1 developments are reasonably contiguous and are part of a program of
 2 investment in a logically defined geography, including, but not
 3 limited to, a downtown district as defined in section 1 of 1975 PA
 4 ~~197, MCL 125.1651,~~ **201 of the recodified tax increment financing**
 5 **act, 2018 PA 57, MCL 125.4201,** or a principal shopping district or
 6 business improvement district as defined in section 1 of 1961 PA
 7 120, MCL 125.981, and including areas that are logically related to
 8 those districts and that will promote infill development.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 constitute a public purpose, it shall reject the transformational
2 brownfield plan.

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

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

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

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

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

24 ~~(e) Whether, based on an economic and fiscal impact analysis,~~
25 ~~the transformational brownfield plan will result in an overall~~
26 ~~positive fiscal impact to this state.~~

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

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

4 (4) Within 90 days of the completion of an administratively
 5 complete application and the analysis required under ~~subsections~~
 6 **subsection** (5), ~~and (6)~~, the Michigan strategic fund shall approve
 7 or reject the transformational brownfield plan, or approve it with
 8 modification, by resolution based on the criteria in subsection
 9 (3).

10 (5) In determining whether to approve a transformational
 11 brownfield plan under subsection (3)(c) and (d), the Michigan
 12 strategic fund shall conduct a financial and underwriting analysis
 13 of the developments included in the plan. The analysis shall
 14 consider both projected rental rates at the time of project
 15 delivery and potential increases in rental rates over time. The
 16 Michigan strategic fund shall not approve the use of construction
 17 period tax capture revenues, withholding tax capture revenues, and
 18 income tax capture revenues beyond the amount determined to be
 19 necessary for the project to be economically viable. The Michigan
 20 strategic fund shall develop standardized underwriting criteria for
 21 determining economic viability. The Michigan strategic fund shall
 22 take into account the impact of the sales and use tax exemptions
 23 under section 4d(n) of the general sales tax act, 1933 PA 167, MCL
 24 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL
 25 205.94dd, in determining the amount of construction period tax
 26 capture revenues, withholding tax capture revenues, and income tax
 27 capture revenues required for the project to be economically
 28 viable. The Michigan strategic fund shall ensure that each
 29 transformational brownfield plan includes a significant equity

1 contribution from the owner or developer as determined by the fund.

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

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

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

13 ~~(6) (7)~~ The Michigan strategic fund shall require an
 14 independent, third-party underwriting analysis under subsection
 15 (3) (d) and ~~an independent, third party fiscal and economic impact~~
 16 ~~analysis under subsection (3) (c) for any plan that proposes to use~~
 17 ~~more than \$1,500,000.00~~ **\$10,000,000.00** in any year in withholding
 18 tax capture revenues and income tax capture revenues, as determined
 19 by the first full year of tax capture under the plan. The cost of
 20 the independent, third-party ~~fiscal and economic impact~~
 21 **underwriting** analysis shall be paid by the owner or developer of
 22 the eligible property. The Michigan strategic fund shall consult
 23 with the state treasurer prior to approving any transformational
 24 brownfield plan subject to this subsection. ~~The state treasurer~~
 25 ~~must concur that there is an overall positive fiscal impact to this~~
 26 ~~state in order for the transformational brownfield plan to be~~
 27 ~~approved.~~ Nothing in this subsection shall limit the ability of the
 28 Michigan strategic fund to utilize independent, third-party
 29 analyses on plans not subject to this subsection.

1 (7) ~~(8)~~—The Michigan strategic fund may not approve a
 2 transformational brownfield plan that proposes to use more than 50%
 3 of the withholding tax capture revenues or 50% of the income tax
 4 capture revenues unless the income tax capture revenues are
 5 attributable to the election under section 13c(13). The Michigan
 6 strategic fund may modify the amount of withholding tax capture
 7 revenues and income tax capture revenues before approving a
 8 transformational brownfield plan in order to bring the
 9 transformational brownfield plan into compliance with ~~subsections~~
 10 **subsection** (5). ~~and (6)~~.

11 (8) ~~(9)~~—The Michigan strategic fund shall require the owner or
 12 developer of the eligible property to certify the actual capital
 13 investment, as determined in accordance with section 2(o)(iv) and
 14 section 2(vv), upon the completion of construction and before the
 15 commencement of reimbursement from withholding tax capture
 16 revenues, income tax capture revenues, or tax increment revenues,
 17 for the plan or the distinct phase or project within the plan for
 18 which reimbursement will be provided. If the actual capital
 19 investment is less than the amount included in the plan, the
 20 Michigan strategic fund shall review the determination under
 21 subsection (5) and may modify the amount of reimbursement if, and
 22 to the extent, such a modification is necessary to maintain
 23 compliance with subsection (5). The transformational brownfield
 24 plan, work plan, and development and reimbursement agreement shall
 25 include provisions to enforce the requirements and remedies under
 26 this subsection. If the actual level of capital investment does not
 27 meet the applicable minimum investment requirement under section
 28 2(vv) and is outside of the safe harbor under subsection ~~(16)~~,
 29 **(15)**, the Michigan strategic fund may take 1 of the following

1 remedial actions:

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

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

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

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

15 (9) ~~(10)~~ Upon approval by the Michigan strategic fund, the
16 minimum investment requirements in section 2(vv) and limitation
17 under subsection ~~(23)(a)~~ **(22)(a)** and (b) may be waived if the
18 transformational brownfield plan meets 1 of the following criteria:

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

1 (b) Is for eligible property in a municipality that was
 2 subject to a state of emergency under the emergency management act,
 3 1976 PA 390, MCL 30.401 to 30.421, issued for drinking water
 4 contamination.

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

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

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

23 **(11)** ~~(12)~~—The Michigan strategic fund may not approve more
 24 than 5 transformational brownfield plans under subsection ~~(10)~~ **(9)**
 25 in a calendar year, except that if the Michigan strategic fund
 26 approves fewer than 5 plans in a calendar year under subsection
 27 ~~(10)~~, **(9)**, the unused approval authority shall carry forward into
 28 future calendar years and remain available until December 31, ~~2022~~.
 29 **2027**. The Michigan strategic fund also shall not approve more than

1 5 transformational brownfield plans under subsection ~~(10)~~ **(9)** in
 2 any individual city, village, or township prior to December 31,
 3 2022.

4 **(12)** ~~(13)~~—Except as provided in this subsection, amendments to
 5 an approved transformational brownfield plan shall be submitted by
 6 the authority to the governing body and to the Michigan strategic
 7 fund for approval or rejection following the same notice necessary
 8 for approval or rejection of the original transformational
 9 brownfield plan. Notice is not required for revisions in the
 10 estimates of tax increment revenues, construction period tax
 11 capture revenues, withholding tax capture revenues, or income tax
 12 capture revenues.

13 **(13)** ~~(14)~~—Except as provided in this subsection, an amendment
 14 to an approved transformational brownfield plan under section
 15 13c(1) shall not be considered a new plan approval subject to the
 16 limitation in subsection ~~(23)(a)~~ **(22)(a)**. The Michigan strategic
 17 fund may consider an amendment as a new plan approval only where
 18 the amendment adds eligible property and the Michigan strategic
 19 fund determines that approving the addition as an amendment would
 20 be inconsistent with the purposes of this act.

21 **(14)** ~~(15)~~—The procedure, adequacy of notice, and findings
 22 under this section shall be presumptively valid unless contested in
 23 a court of competent jurisdiction within 60 days after approval of
 24 the transformational brownfield plan by the Michigan strategic
 25 fund. An approved amendment to a conclusive transformational
 26 brownfield plan shall likewise be conclusive unless contested
 27 within 60 days after approval of the amendment by the Michigan
 28 strategic fund. If a resolution adopting an amendment to the
 29 transformational brownfield plan is contested, the original

1 resolution adopting the transformational brownfield plan is not
2 open to contest.

3 **(15)** ~~(16)~~—The determination as to whether a transformational
4 brownfield plan complies with the minimum investment requirements
5 in section 2(vv) shall be made with reference to the most recent
6 decennial census data available at the time of approval by the
7 authority. A plan in a municipality that exceeds a population tier
8 under section 2(vv) by not more than 10% of the maximum population
9 for that tier shall, upon election of the authority, be subject to
10 the investment requirement for that tier. A transformational
11 brownfield plan that is expected to result in, or does result in, a
12 total capital investment that is within 10% of the applicable
13 minimum investment requirement shall be considered to satisfy the
14 applicable requirement under section 2(vv).

15 **(16)** ~~(17)~~—For purposes of a transformational brownfield plan,
16 determination as to whether property is functionally obsolete as
17 defined under section 2(u) may include considerations of economic
18 obsolescence as determined in accordance with the Michigan state
19 tax commission's assessor's manual.

20 **(17)** ~~(18)~~—Any positive or negative determination by the
21 Michigan strategic fund under this section shall be supported by
22 objective analysis and documented in the record of its proceedings.

23 **(18)** ~~(19)~~—The Michigan strategic fund shall charge and collect
24 a reasonable application fee as necessary to cover the costs
25 associated with the review and approval of a transformational
26 brownfield plan.

27 **(19)** ~~(20)~~—The Michigan strategic fund shall not commit, and
28 the department of treasury shall not disburse, more than
29 \$40,000,000.00 in total annual tax capture. For purposes of this

1 subsection, "total annual tax capture" means the total annual
2 amount of income tax capture revenues and withholding tax capture
3 revenues that may be reimbursed each calendar year under all
4 transformational brownfield plans. If the amount committed or
5 disbursed in a calendar year is less than \$40,000,000.00, the
6 difference between that amount and \$40,000,000.00 shall be
7 available to be committed or disbursed in subsequent calendar years
8 and shall be in addition to the annual limit otherwise applicable.

9 (20) ~~(21)~~—The Michigan strategic fund shall not commit, and
10 the department of treasury shall not disburse, a total amount of
11 income tax capture revenues and withholding tax capture revenues
12 that exceeds \$800,000,000.00.

13 (21) ~~(22)~~—The Michigan strategic fund shall not approve more
14 than a total of \$200,000,000.00 in construction period tax capture
15 revenues and in projected sales and use tax exemptions under
16 section 4d(n) of the general sales tax act, 1933 PA 167, MCL
17 205.54d, and section 4dd of the use tax act, 1937 PA 94, MCL
18 205.94dd. The Michigan strategic fund shall project the value of
19 the sales and use tax exemptions under each transformational
20 brownfield plan at the time of plan approval and shall require such
21 information from the owner or developer as is necessary to perform
22 this calculation. The Michigan strategic fund also shall require
23 the owner or developer of the eligible property to report the
24 actual value of the sales and use tax exemptions each tax year of
25 the construction period and at the end of the construction period.
26 If the value of the actual sales and use tax exemptions and
27 construction period tax capture revenues under all transformational
28 brownfield plans exceeds the limit of \$200,000,000.00 under this
29 subsection by more than a de minimis amount, as determined by the

1 state treasurer, the state treasurer shall take corrective action
2 and may reduce future disbursements to achieve compliance with the
3 aggregate limitation under subsection ~~(21)~~ **(20)** and this
4 subsection. The corrective action described in this subsection
5 shall not reduce the disbursement for an individual plan by an
6 amount that is more than the amount by which the value of the sales
7 and use tax exemptions for that plan exceeded the amount projected
8 at the time of plan approval and included in the plan. The Michigan
9 strategic fund and department of treasury shall prescribe specific
10 methods for implementing this section within 60 days of the
11 effective date of the amendatory act that added this section.

12 **(22)** ~~(23)~~—The Michigan strategic fund shall comply with all of
13 the following:

14 (a) Not approve more than 5 transformational brownfield plans
15 in a calendar year, except that if the Michigan strategic fund
16 approves fewer than 5 plans in a calendar year, the unused approval
17 authority shall carry forward into future calendar years and remain
18 available until December 31, ~~2022~~ **2027**.

19 (b) Not approve more than 5 transformational brownfield plans
20 in any individual city, village, or township prior to December 31,
21 2022.

22 (c) Ensure an equitable geographic distribution of plans
23 approved under this subsection, which shall achieve a balance
24 between the needs of municipalities of differing sizes and
25 differing geographic areas of the state. Subject to the receipt of
26 qualified transformational brownfield plans meeting the criteria
27 under this section and section 13c, the Michigan strategic fund
28 shall set a target that not less than 35% of the total
29 transformational brownfield plans approved under this act prior to

1 December 31, ~~2022~~**2027** will be located in cities, villages, and
2 townships with a population of less than 100,000.

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

6 **(23)** ~~(24)~~—In the event of a proposed change in ownership of
7 eligible property subject to a transformational brownfield plan for
8 which reimbursement will continue, the approval of the Michigan
9 strategic fund is required prior to the assignment or transfer of
10 the development and reimbursement agreement.

11 **(24)** ~~(25)~~—The Michigan strategic fund shall not provide
12 community revitalization incentives under section 90b of the
13 Michigan strategic fund act, 1984 PA 270, MCL 125.2090b, to any
14 project included in a transformational brownfield plan that has or
15 will receive reimbursement for eligible activities pursuant to
16 section 13c and this section.

17 **(25)** ~~(26)~~—The Michigan strategic fund shall not approve any
18 new transformational brownfield plans after December 31, ~~2022~~.
19 **2027**. A transformational brownfield plan approved prior to December
20 31, 2022 shall remain in effect and may be amended in accordance
21 with the provisions of this act.

22 **(26) Upon approval by the Michigan strategic fund, the mixed-**
23 **use requirement in section 2(vv) may be waived for a brownfield**
24 **plan that otherwise meets the location, population, and minimum**
25 **investment requirement under section 2(vv) (vi) .**