SENATE BILL NO. 668

October 30, 2025, Introduced by Senator ALBERT and referred to Committee on Government Operations.

A bill to amend 1996 PA 381, entitled

"Brownfield redevelopment financing act,"

by amending sections 2, 8a, 14a, and 15b (MCL 125.2652, 125.2658a, 125.2664a, and 125.2665b), sections 2, 8a, and 14a as amended by 2023 PA 90 and section 15b as added by 2020 PA 279.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 324.11587, from the eligible property, if the solid waste 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 if 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*) Sheeting 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, 324.30301 to 324.30328, and 324.32501 to 324.32515a.

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

(*ix*) Environmental insurance.

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

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

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

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

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

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

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

(A) Department specific activities.

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

(C) Reasonable costs of environmental insurance.

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

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

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

(G) Lead, asbestos, or mold abatement.

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

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

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

(B) Housing development activities.

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

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

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

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

(B) Infrastructure improvements that directly benefit eligible property.

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

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

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

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

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

(*v*) For eligible activities on eligible property that is included in a transformational brownfield plan, any demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property, including infrastructure improvements that directly benefit eligible property.

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

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

(B) Infrastructure improvements that directly benefit eligible property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) "Former mill" means a former mill that has not been used for industrial purposes for the immediately preceding 2 years, that is not located in a qualified local governmental unit, that is a facility or is a site or a property as those terms are defined in part 213, functionally obsolete, or blighted, and that is located within 15 miles of a river that is a federal superfund site listed under the comprehensive environmental response, compensation and liability act of 1980, 42 USC 9601 to 9675, and that is located in a municipality with a population of less than 10,000.

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

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

(w) "Historic resource" means ~~that term as defined in section 90a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090a.~~**a publicly or privately owned historic building, structure, site, object, feature, or open space, either man-made or natural, individually listed or located within and contributing to a historic district designated by the National Register of Historic Places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.**

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

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

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

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

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

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

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

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

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

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

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

(*i*) "Area median income" means the median income for the area as determined under section 8 of the United States housing act of

1937, 42 USC 1437f, adjusted for family size.

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

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

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

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

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

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

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

(*iii*) Notwithstanding anything to the contrary in this subdivision, instead of the reporting and calculation methods otherwise provided for, the owner or developer of a transformational brownfield project site may elect to utilize a safe harbor method of calculating income tax capture revenues. Under this safe harbor method, the Michigan strategic fund shall establish a safe harbor amount of annual income tax capture revenues for each eligible property when the Michigan strategic fund approves the transformational brownfield plan, and those amounts shall serve as the basis for the transmittal of income tax capture revenues to the owner or developer of the transformational project site under section 8a(4). The Michigan strategic fund shall establish the safe harbor amount for an eligible property by imputing a standard annual taxable income for households residing within the eligible property or portion of the eligible property. The safe harbor is effective only to the extent that the residential units within the eligible property or portion of the eligible property are actively leased or, in the case of units made available for sale, sold in an arms-length transaction. Imputations as to standard household taxable income may vary based on location and other relevant factors. The Michigan strategic fund may adjust the safe harbor amount for an eligible property, or portion of the eligible property, after the time of transformational brownfield plan approval as required to reflect changes in the transformational brownfield plan for the transformational project site that may occur after approval of the transformational brownfield plan, if those changes do not result in an aggregate increase in the level of income tax capture revenues from the amount initially established. The owner or developer of the transformational project site may elect to utilize the safe harbor method of accounting at any time before the first reimbursement of income tax capture revenues under the transformational brownfield plan. An election to utilize the safe harbor method of accounting, once made, cannot be rescinded.

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

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

(*i*) Underground parking.

(*ii*) Multilevel parking structures.

(*iii*) Urban stormwater management systems.

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

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

(ii) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is adopted. Property exempt from taxation at the time the initial taxable value is determined is included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax is not considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax. The initial assessed value may be modified by lowering the initial assessed value once during the term of the brownfield plan through an amendment as provided in section 14 after the tax increment financing plan fails to generate captured taxes for 3 consecutive years due to declines in assessed value.

(jj) "Initial withholding tax value" means, with respect to each eligible property subject to a transformational brownfield plan, the amount of income tax withheld under chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~ **206.718,** from individuals employed within the eligible property for the calendar year in which the resolution adding the eligible property to the plan is adopted. The initial withholding tax value does not include construction period tax capture revenues.

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

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

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

(nn) "Michigan strategic fund" means **either of the following, as applicable:**

(*i*) Until the effective date of the economic development fair competition and free enterprise act, the Michigan strategic fund created under ~~the Michigan strategic fund act,~~ **former** 1984 PA 270. ~~, MCL 125.2001 to 125.2094.~~

(*ii*) Beginning on the effective date of the economic development fair competition and free enterprise act, the bureau of fair competition and free enterprise created in section 7 of the economic development fair competition and free enterprise act.

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

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

(*i*) A city.

(*ii*) A village.

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

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

(*v*) A county.

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

(*i*) An ownership interest in the property.

(*ii*) A tax lien on the property.

(*iii*) A tax deed to the property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*ii*) Corrective action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(eee) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions on the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property, regardless of whether those taxes began to be levied after the brownfield plan was adopted. Tax increment revenues also include the amount of any payment in lieu of taxes under section 15a(3) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, paid on an eligible property subject to a brownfield plan, less the amount of property taxes levied on the eligible property subject to the brownfield plan for the year the eligible property became subject to the brownfield plan. Tax increment revenues do not include any of the following:

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

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

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

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

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

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

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

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

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

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

(hhh) "Transformational brownfield plan" means a brownfield plan that meets the requirements of section 13c and is adopted 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 must be for mixed-use development unless waived by the Michigan strategic fund as provided under section 14a(26) and must 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 not less than 600,000, $500,000,000.00.

(*ii*) In a municipality that is not a county and that has a population of not less than 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 not less than 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 not less than 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 not less than 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.

(iii) "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 passenger rail use as determined by the board and approved by the municipality in which it is located.

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

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

(*lll*) "Withholding tax capture revenues" means, with respect to each eligible property subject to a transformational brownfield plan, the amount for each calendar year by which the income tax withheld under chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~ **206.718**, from individuals employed within the eligible property exceeds the initial withholding tax value. Withholding tax capture revenues do not include income tax from individuals domiciled within the eligible property or construction period tax capture revenues. To calculate withholding tax capture revenues for a calendar year under a transformational brownfield plan, the state treasurer or the Michigan strategic fund shall do all of the following:

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

(*ii*) The state treasurer shall develop methods and processes that are necessary for each employer occupying the eligible property to report the amount of withholding under chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~

206.718, from individuals employed within the eligible property.

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

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

(B) That reimbursement of withholding tax capture revenues is limited to amounts that are reported in accordance with chapter 17 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to ~~206.715,~~ **206.718**, and this state has no obligation with respect to withholding tax capture revenues that are not reported or paid.

(*iv*) Notwithstanding anything to the contrary in this subdivision, instead of the reporting and calculation methods otherwise provided for, the owner or developer of a transformational project site may elect to utilize a safe harbor method of calculating withholding tax capture revenues. Under this safe harbor method, the Michigan strategic fund shall establish a safe harbor amount of annual withholding tax capture revenues for each eligible property when the Michigan strategic fund approves the transformational brownfield plan, and those amounts shall serve as the basis for the transmittal of withholding tax capture revenues to the owner or developer of the transformational project site under section 8a(4). The Michigan strategic fund shall establish the safe harbor amount for an eligible property by imputing a standard level of employee occupancy that corresponds to the size and use of the eligible property or portion of the eligible property and a safe harbor average annual taxable wage for the individuals employed within the eligible property or portion of the eligible property. The safe harbor is effective only to the extent the eligible property or portion of the eligible property is actively occupied, as evidenced by the existence of a binding lease agreement or similar instrument. Imputations as to occupancy and wages may vary between projects based on location, the type and use of the eligible property, and other relevant factors. The Michigan strategic fund may adjust the safe harbor amount for an eligible property, or portion of the eligible property, after the time of plan approval as required to reflect changes in the transformational brownfield plan for the transformational project site that may occur after approval of the transformational brownfield plan, if those changes do not result in an aggregate increase in the level of withholding tax capture revenues from the amount initially established. The owner or developer of the transformational project site may elect to utilize the safe harbor method of accounting at any time before the first reimbursement of withholding tax capture revenues under the plan. An election to utilize the safe harbor method of accounting, once made, cannot be rescinded.

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

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

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

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

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

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

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

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

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

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

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

(*ii*) The department to implement this act.

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

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

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

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

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

(*ii*) A person may apply to the Michigan strategic fund for approval of a grant or loan to fund eligible activities described in section 13b(4) on eligible property.

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

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

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

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

(d) To distribute construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues in accordance with a transformational brownfield plan under subsection (4).

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

(4) The state treasurer shall deposit annually from the general fund into the state brownfield redevelopment fund an amount equal to the construction period tax capture revenues, withholding

tax capture revenues, income tax capture revenues, and sales and use tax capture revenues due to be transmitted under all transformational brownfield plans. The department of treasury shall distribute the construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues to an authority, or to the owner or developer of the eligible property to which the revenues are attributable, in accordance with section 16(8) and the terms of the written development or reimbursement agreement for each transformational brownfield plan. Amounts transferred into the state brownfield redevelopment fund attributable to a specific transformational brownfield plan must be accounted for separately within the state brownfield redevelopment fund and must not be used for any other purpose or activity under this section or for any transformational brownfield plan other than the plan to which the revenues are attributable or for the additional administrative costs under this section associated with the implementation of a transformational brownfield plan.

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

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

(3) If the governing body determines that the transformational brownfield plan constitutes a public purpose, the governing body

may then approve or reject the transformational brownfield plan, or approve it with modification, by resolution based on all of the following considerations:

(a) Whether the transformational brownfield plan meets the requirements of section 2(hhh), which must include a determination that the transformational brownfield plan is calculated to, and has the reasonable likelihood to, 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 transformational brownfield plan.

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

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

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

(e) Whether the transformational brownfield plan takes into account the **following** criteria ~~described in section 90b(4) of the Michigan strategic fund act, 1984 PA 270, MCL 125.2090b.~~**to the extent reasonably applicable:**

(*i*) The importance of the transformational brownfield plan to the community in which it is located.

(*ii*) If the transformational brownfield plan will act as a catalyst for additional revitalization of the community in which it is located.

(*iii*) The amount of local community and financial support for the transformational brownfield plan.

(*iv*) The applicant's financial need for the tax capture revenues under the transformational brownfield plan.

(*v*) The extent of reuse of vacant buildings, reuse of historic resources, and redevelopment of blighted property.

(*vi*) Creation of jobs.

(*vii*) The level of private sector and other contributions, including, but not limited to, federal funds and federal tax credits.

(*viii*) Whether the transformational brownfield plan is financially and economically sound.

(*ix*) Whether the transformational brownfield plan will increase the density of the area.

(*x*) Whether the transformational brownfield plan promotes mixed-use development and walkable communities.

(*xi*) Whether the transformational brownfield plan will convert abandoned public buildings to private use.

(*xii*) Whether the transformational brownfield plan promotes sustainable development.

(*xiii*) Whether the transformational brownfield plan involves the rehabilitation of a historic resource.

(*xiv*) Whether the transformational brownfield plan addresses areawide redevelopment.

(*xv*) Whether the transformational brownfield plan addresses underserved markets of commerce.

(*xvi*) The level and extent of environmental contamination.

(*xvii*) If the rehabilitation of the historic resource will meet

the federal Secretary of the Interior's standards for rehabilitation under 36 CFR part 67 and related guidelines for rehabilitating historic buildings, when applied after engaging in discussions with the state historic preservation office.

(*xviii*) Whether the transformational brownfield plan will compete with or affect existing Michigan businesses within the same industry.

(*xix*) Any other additional criteria approved by the Michigan strategic fund that are specific to each individual transformational brownfield plan and are consistent with the intent of this act.

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

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

(5) In determining whether to approve a transformational brownfield plan under subsection (3)(c) and (d), the Michigan strategic fund shall conduct a financial and underwriting analysis of the developments included in the plan. The analysis must consider both projected rental rates at the time of project delivery and potential increases in rental rates over time. The Michigan strategic fund shall not approve the use of construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues beyond the amount determined to be necessary for the project to be

economically viable. The Michigan 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, income tax capture revenues, and sales and use 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) The Michigan strategic fund shall require an independent, third-party underwriting analysis under subsection (3)(d) for any plan that proposes to use more than $10,000,000.00 in any year in withholding tax capture revenues, income tax capture revenues, and sales and use tax capture revenues, as determined by the first full year of tax capture under the plan. The cost of the independent, third-party underwriting analysis must be paid by the owner or developer of the eligible property. In addition to the independent, third-party underwriting analysis, the Michigan strategic fund shall require an independent, third-party analysis of the sales and use tax capture revenue estimates for any plan that includes sales and use tax capture revenues. The cost of the independent, third-party analysis must be paid by the owner or developer of the eligible property. The Michigan strategic fund shall consult with the state treasurer before approving any transformational brownfield plan subject to this subsection. This subsection does not limit the ability of the Michigan strategic fund to utilize

independent, third-party analyses on plans not subject to this subsection.

(7) 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. The Michigan strategic fund may modify the amount of withholding tax capture revenues and income tax capture revenues before approving a transformational brownfield plan to bring the transformational brownfield plan into compliance with subsection (5). 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 must be provided to the Michigan strategic fund, in which case the Michigan strategic fund may approve a transformational brownfield plan that proposes to use up to 100% of the income tax capture revenues, subject to the underwriting and financial analysis required under subsection (5).

(8) The Michigan strategic fund shall require the owner or developer of the eligible property to certify the actual capital investment, as determined in accordance with section 2(o)(*v*) and (hhh), on the completion of construction and before the commencement of reimbursement from withholding tax capture revenues, income tax capture revenues, sales and use tax capture

revenues, or tax increment revenues, for the plan or the distinct phase or project within the plan for which reimbursement will be provided. If the actual capital investment is less than the amount included in the plan, the Michigan strategic fund shall review the determination under subsection (5) and may modify the amount of reimbursement if, and to the extent, such a modification is necessary to maintain compliance with subsection (5). The transformational brownfield plan, work plan, and development and reimbursement agreement must include provisions to enforce the requirements and remedies under this subsection. If the actual level of capital investment does not meet the applicable minimum investment requirement under section 2(hhh) and is outside of the safe harbor under subsection (15), the Michigan strategic fund may take 1 of the following remedial actions:

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

(b) For a plan that consists of distinct phases or projects, if the failure to meet the minimum investment threshold is the result of failure to undertake additional distinct phases or 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, income tax capture revenues, and sales and use 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) On approval by the Michigan strategic fund, the minimum

investment requirements in section 2(hhh) and limitation under subsection (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 Michigan 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, division A of 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(hhh)(*vi*), as determined in accordance with subsection (15), if the Michigan strategic fund determines that the redevelopment is not economically feasible absent the transformational brownfield plan.

(10) In determining whether a plan under subsection (9) has a

transformational impact for purposes of section 2(hhh) 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) The Michigan strategic fund may not approve more than 5 transformational brownfield plans under subsection (9) in a calendar year, except that if the Michigan strategic fund approves fewer than 5 plans in a calendar year under subsection (9), the unused approval authority carries forward into future calendar years and remains available until December 31, 2027. The Michigan strategic fund also shall not approve more than 5 transformational brownfield plans under subsection (9) in any individual city, village, or township before December 31, 2022.

(12) Except as otherwise provided in this subsection, amendments to an approved transformational brownfield plan must be submitted by the authority to the governing body and to the Michigan strategic fund for approval or rejection following the same notice necessary for approval or rejection of the original transformational brownfield plan. Notice is not required for revisions in the estimates of tax increment revenues, construction period tax capture revenues, withholding tax capture revenues, income tax capture revenues, or sales and use tax capture revenues.

(13) Except as provided in this subsection, an amendment to an approved transformational brownfield plan under section 13c(1) is not considered a new plan approval subject to the limitation in subsection (22)(a). The Michigan strategic fund may consider an

amendment as a new plan approval only if the amendment adds eligible property and the Michigan strategic fund determines that approving the addition as an amendment would be inconsistent with the purposes of this act.

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

(15) The determination as to whether a transformational brownfield plan complies with the minimum investment requirements in section 2(hhh) must be made with reference to the most recent decennial census data available at the time of approval by the authority. A plan in a municipality that exceeds a population tier under section 2(hhh) by not more than 10% of the maximum population for that tier is, on election of the authority, 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 is considered to satisfy the applicable requirement under section 2(hhh).

(16) For purposes of a transformational brownfield plan, determination as to whether property is functionally obsolete may include considerations of economic obsolescence as determined in

accordance with the Michigan state tax commission's assessor's manual.

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

(18) 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) The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, more than $80,000,000.00 in total annual tax capture. As used in this subsection, "total annual tax capture" means the total annual amount of income tax capture revenues, withholding tax capture revenues, and sales and use tax capture revenues that may be reimbursed each calendar year under all transformational brownfield plans. In addition to the $80,000,000.00 annual limit, both of the following provisions apply:

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

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

(20) The Michigan strategic fund shall not commit, and the department of treasury shall not disburse, a total amount of income tax capture revenues, withholding tax capture revenues, and sales and use tax capture revenues that exceeds $1,600,000,000.00.

(21) The Michigan strategic fund shall not approve more than a total of $200,000,000.00 in construction period tax capture revenues. The Michigan strategic fund shall project the value of the sales and use tax exemptions under each transformational brownfield plan at the time of plan approval and shall require such information from the owner or developer as is necessary to perform this calculation. The Michigan strategic fund also shall require the owner or developer of the eligible property to report the actual value of the sales and use tax exemptions each tax year of the construction period and at the end of the construction period.

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

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

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

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

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

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

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

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

(24) If the Michigan strategic fund approves a transformational brownfield plan and work plan, and subsequent to that approval, amendments are made to this act, the Michigan strategic fund may amend those plans to make conforming and consistent changes to the approved transformational brownfield plan

and work plan on an administrative basis, if those changes do not result in any increase in the aggregate total amount of reimbursement authorized under the initial transformational brownfield plan. The authority of the Michigan strategic fund to administratively amend transformational brownfield plans and work plans under this subsection also applies to transformational brownfield plans and work plans entered into before December 27, 2021.

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

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

Sec. 15b. (1) Beginning January 1, 2021, and each year thereafter, from the state school aid fund this state shall reimburse each intermediate school district for any tax increment revenues captured by an authority under this act for property taxes levied for operating purposes under section 625a, sections 681 to 690, or sections 1722 to 1729 of the revised school code, 1976 PA 451, MCL 380.625a, 380.681 to 380.690, and 380.1722 to 380.1729.

(2) The amounts reimbursed under subsection (1) shall be used by the intermediate school district only for the purposes for which the property taxes were originally levied.

(3) The Michigan strategic fund ~~and the Michigan economic development corporation~~ shall work with the department of treasury in identifying the amount of tax revenues captured by an authority

that are to be reimbursed under subsection (1).

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 631 of the 103rd Legislature is enacted into law.