

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1210

A bill to amend 1996 PA 381, entitled "Brownfield redevelopment financing act," by amending sections 2, 4, 8, 13, 15, and 16 (MCL 125.2652, 125.2654, 125.2658, 125.2663, 125.2665, and 125.2666), section 2 as amended by 2010 PA 246, section 4 as amended by 2005 PA 101, section 8 as amended by 2000 PA 145, section 13 as amended by 2010 PA 288, section 15 as amended by 2007 PA 201, and section 16 as amended by 2007 PA 203, and by adding section 8a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Additional response activities" means response activities
3 identified as part of a brownfield plan that are in addition to
4 baseline environmental assessment activities and due care
5 activities for an eligible property.

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

3 (c) "Baseline environmental assessment" means that term as
4 defined in section 20101 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.20101.

6 (d) "Baseline environmental assessment activities" means those
7 response activities identified as part of a brownfield plan that
8 are necessary to complete a baseline environmental assessment for
9 an eligible property in the brownfield plan.

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

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

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

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

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

22 (v) Is tax reverted property owned by a qualified local
23 governmental unit, by a county, or by this state. The sale, lease,
24 or transfer of tax reverted property by a qualified local
25 governmental unit, county, or this state after the property's
26 inclusion in a brownfield plan shall not result in the loss to the
27 property of the status as blighted property for purposes of this

1 act.

2 (vi) Is property owned or under the control of a land bank fast
3 track authority, ~~under the land bank fast track act,~~ whether or not
4 located within a qualified local governmental unit. Property
5 included within a brownfield plan prior to the date it meets the
6 requirements of this subdivision to be eligible property shall be
7 considered to become eligible property as of the date the property
8 is determined to have been or becomes qualified as, or is combined
9 with, other eligible property. The sale, lease, or transfer of the
10 property by a land bank fast track authority after the property's
11 inclusion in a brownfield plan shall not result in the loss to the
12 property of the status as blighted property for purposes of this
13 act.

14 (vii) Has substantial subsurface demolition debris buried on
15 site so that the property is unfit for its intended use.

16 (f) "Board" means the governing body of an authority.

17 (g) "Brownfield plan" means a plan that meets the requirements
18 of section 13 and is adopted under section 14.

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

26 (i) "Chief executive officer" means the mayor of a city, the
27 village manager of a village, the township supervisor of a

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1 township, or the county executive of a county or, if the county
2 does not have an elected county executive, the chairperson of the
3 county board of commissioners.

4 (J) "COMBINED BROWNFIELD PLAN" MEANS A BROWNFIELD PLAN THAT
5 ALSO INCLUDES THE INFORMATION NECESSARY TO SUBMIT THE PLAN TO THE
6 DEPARTMENT OR MICHIGAN STRATEGIC FUND UNDER SECTION 15(25).

7 (K) ~~(j)~~"Department" means the department of ~~natural resources~~
8 ~~and environment~~. ENVIRONMENTAL QUALITY.

9 (L) ~~(k)~~"Due care activities" means those response activities
10 identified as part of a brownfield plan that are necessary to allow
11 the owner or operator of an eligible property in the plan to comply
12 with the requirements of section 20107a of the natural resources
13 and environmental protection act, 1994 PA 451, MCL 324.20107a.

14 (M) ~~(l)~~"Economic opportunity zone" means 1 or more parcels of
15 property that meet all of the following:

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

17 (ii) That contain [OR CONTAINED] a manufacturing facility that
18 consists [OR CONSISTED] of
19 500,000 or more square feet.

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

23 (N) ~~(m)~~"Eligible activities" or "eligible activity" means 1
24 or more of the following:

25 (i) Baseline environmental assessment activities.

26 (ii) Due care activities.

27 (iii) Additional response activities.

(iv) For eligible activities on eligible property that was used

1 or is currently used for commercial, industrial, or residential
2 purposes that is in a qualified local governmental unit, that is
3 owned or under the control of a land bank fast track authority, or
4 that is located in an economic opportunity zone, and is a facility,
5 **HISTORIC RESOURCE**, functionally obsolete, or blighted, and except
6 for purposes of section 38d of former 1975 PA 228, the following
7 additional activities:

8 (A) Infrastructure improvements that directly benefit eligible
9 property.

10 (B) Demolition of structures that is not response activity
11 under section 20101 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.20101.

13 (C) Lead or asbestos abatement.

14 (D) Site preparation that is not response activity under
15 section 20101 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.20101.

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

23 (F) Assistance to a qualified local governmental unit or
24 authority in clearing or quieting title to, or selling or otherwise
25 conveying, property owned or under the control of a qualified local
26 governmental unit or authority or the acquisition of property by a
27 qualified local governmental unit or authority if the acquisition

1 of the property is for economic development purposes.

2 (v) Relocation of public buildings or operations for economic
3 development purposes.

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

8 (A) Infrastructure improvements that directly benefit eligible
9 property.

10 (B) Demolition of structures that is not response activity
11 under section 20101 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.20101.

13 (C) Lead or asbestos abatement.

14 (D) Site preparation that is not response activity under
15 section 20101 of the natural resources and environmental protection
16 act, 1994 PA 451, MCL 324.20101.

17 (vii) For eligible activities on eligible property that is not
18 located in a qualified local governmental unit and that is a
19 facility, **HISTORIC RESOURCE**, functionally obsolete, or blighted,
20 the following additional activities:

21 (A) Demolition of structures that is not response activity
22 under section 20101 of the natural resources and environmental
23 protection act, 1994 PA 451, MCL 324.20101.

24 (B) Lead or asbestos abatement.

25 (viii) Reasonable costs of developing and preparing brownfield
26 plans, **COMBINED BROWNFIELD PLANS**, and work plans.

27 (ix) For property that is not located in a qualified local

1 governmental unit and that is a facility, functionally obsolete, or
2 blighted, that is a former mill that has not been used for
3 industrial purposes for the immediately preceding 2 years, that is
4 located along a river that is a federal superfund site listed under
5 the comprehensive environmental response, compensation, and
6 liability act of 1980, 42 USC 9601 to 9675, and that is located in
7 a city with a population of less than 10,000 persons, the following
8 additional activities:

9 (A) Infrastructure improvements that directly benefit the
10 property.

11 (B) Demolition of structures that is not response activity
12 under section 20101 of the natural resources and environmental
13 protection act, 1994 PA 451, MCL 324.20101.

14 (C) Lead or asbestos abatement.

15 (D) Site preparation that is not response activity under
16 section 20101 of the natural resources and environmental protection
17 act, 1994 PA 451, MCL 324.20101.

18 (x) For eligible activities on eligible property that is
19 located north of the 45th parallel, that is a facility,
20 functionally obsolete, or blighted, and the owner or operator of
21 which makes new capital investment of \$250,000,000.00 or more in
22 this state, the following additional activities:

23 (A) Demolition of structures that is not response activity
24 under section 20101 of the natural resources and environmental
25 protection act, 1994 PA 451, MCL 324.20101.

26 (B) Lead or asbestos abatement.

27 (xi) Reasonable costs of environmental insurance.

1 (O) ~~(n)~~ Except as otherwise provided in this subdivision,
 2 "eligible property" means property for which eligible activities
 3 are identified under a brownfield plan that was used or is
 4 currently used for commercial, industrial, public, or residential
 5 purposes, including personal property located on the property, to
 6 the extent included in the brownfield plan, and that is 1 or more
 7 of the following:

8 (i) Is in a qualified local governmental unit and is a
 9 facility, **HISTORIC RESOURCE**, functionally obsolete, or blighted and
 10 includes parcels that are adjacent or contiguous to that property
 11 if the development of the adjacent and contiguous parcels is
 12 estimated to increase the captured taxable value of that property.

13 (ii) Is not in a qualified local governmental unit and is a
 14 facility, and includes parcels that are adjacent or contiguous to
 15 that property if the development of the adjacent and contiguous
 16 parcels is estimated to increase the captured taxable value of that
 17 property.

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

20 (iv) Is not in a qualified local governmental unit, is a
 21 qualified facility, and is a facility, functionally obsolete, or
 22 blighted, if the eligible activities on the property are limited to
 23 the eligible activities identified in subdivision ~~(m) (vi)~~. **(N) (vi)** .

24 (v) Is not in a qualified local governmental unit and is a
 25 facility, **HISTORIC RESOURCE**, functionally obsolete, or blighted, if
 26 the eligible activities on the property are limited to the eligible
 27 activities identified in subdivision ~~(m) (vii)~~. **(N) (vii)** .

1 (vi) Is not in a qualified local governmental unit and is a
 2 facility, functionally obsolete, or blighted, if the eligible
 3 activities on the property are limited to the eligible activities
 4 identified in subdivision ~~(m)-(ix)~~. **(N) (ix)** .

5 (vii) Is located north of the 45th parallel, is a facility,
 6 functionally obsolete, or blighted, and the owner or operator makes
 7 new capital investment of \$250,000,000.00 or more in this state.
 8 Eligible property does not include qualified agricultural property
 9 exempt under section 7ee of the general property tax act, 1893 PA
 10 206, MCL 211.7ee, from the tax levied by a local school district
 11 for school operating purposes to the extent provided under section
 12 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

13 (viii) Is a transit-oriented development.

14 (ix) Is a transit-oriented facility.

15 **(x) IS LOCATED IN A QUALIFIED LOCAL GOVERNMENTAL UNIT AND**
 16 **CONTAINS A TARGETED REDEVELOPMENT AREA, AS DESIGNATED BY RESOLUTION**
 17 **OF THE GOVERNING BODY AND APPROVED BY THE MICHIGAN STRATEGIC FUND,**
 18 **OF NOT LESS THAN 40 AND NOT MORE THAN 500 CONTIGUOUS PARCELS. A**
 19 **QUALIFIED LOCAL GOVERNMENTAL UNIT IS LIMITED TO DESIGNATING NO MORE**
 20 **THAN 2 TARGETED REDEVELOPMENT AREAS FOR THE PURPOSES OF THIS**
 21 **SECTION IN A CALENDAR YEAR. THE MICHIGAN STRATEGIC FUND MAY APPROVE**
 22 **NO MORE THAN 5 REDEVELOPMENT AREAS FOR THE PURPOSES OF THIS SECTION**
 23 **IN A CALENDAR YEAR.**

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

27 **(Q)** ~~(p)~~—"Facility" means that term as defined in section 20101

1 of the natural resources and environmental protection act, 1994 PA
2 451, MCL 324.20101.

3 (R) ~~(q)~~—"Fiscal year" means the fiscal year of the authority.

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

11 (T) ~~(s)~~—"Governing body" means the elected body having
12 legislative powers of a municipality creating an authority under
13 this act.

14 (U) **"HISTORIC RESOURCE" MEANS THAT TERM AS DEFINED IN SECTION**
15 **90A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2090A.**

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

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 STORM WATER MANAGEMENT SYSTEMS.

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

27 (x) ~~(v)~~—"Land bank fast track authority" means an authority

1 created under the land bank fast track act, 2003 PA 258, MCL
2 124.751 to 124.774.

3 (Y) ~~(w)~~ "Local taxes" means all taxes levied other than taxes
4 levied for school operating purposes.

5 (Z) "MICHIGAN STRATEGIC FUND" MEANS THE MICHIGAN STRATEGIC
6 FUND CREATED UNDER THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,
7 MCL 125.2001 TO 125.2094.

8 (AA) ~~(x)~~ "Municipality" means all of the following:

9 (i) A city.

10 (ii) A village.

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

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

16 (v) A county.

17 (BB) ~~(y)~~ "Owned or under the control of" means that a land
18 bank fast track authority has 1 or more of the following:

19 (i) An ownership interest in the property.

20 (ii) A tax lien on the property.

21 (iii) A tax deed to the property.

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

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

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

27 (CC) ~~(z)~~ "Qualified facility" means a landfill facility area

1 of 140 or more contiguous acres that is located in a city and that
2 contains a landfill, a material recycling facility, and an asphalt
3 plant that are no longer in operation.

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

7 (EE) ~~(bb)~~—"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 (FF) ~~(cc)~~—"Response activity" means **EITHER OF THE FOLLOWING:**

13 (i) **RESPONSE ACTIVITY AS** that term ~~as~~ **IS** defined in section
14 20101 of the natural resources and environmental protection act,
15 1994 PA 451, MCL 324.20101.

16 (ii) **CORRECTIVE ACTION AS THAT TERM IS DEFINED IN SECTION 21302**
17 **OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA**
18 **451, MCL 324.21302.**

19 (GG) ~~(dd)~~—"Specific taxes" means a tax levied under 1974 PA
20 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978
21 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA
22 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182;
23 the technology park development act, 1984 PA 385, MCL 207.701 to
24 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL
25 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA
26 147, MCL 207.771 to 207.786; the commercial rehabilitation act,
27 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax

1 levied under the tax reverted clean title act, 2003 PA 260, MCL
2 211.1021 to 211.1026, that is not required to be distributed to a
3 land bank fast track authority.

4 **(HH) "STATE BROWNFIELD REDEVELOPMENT FUND" MEANS THE STATE**
5 **BROWNFIELD REDEVELOPMENT FUND CREATED IN SECTION 8A.**

6 **(II) ~~(ee)~~**—"Tax increment revenues" means the amount of ad
7 valorem property taxes and specific taxes attributable to the
8 application of the levy of all taxing jurisdictions upon the
9 captured taxable value of each parcel of eligible property subject
10 to a brownfield plan and personal property located on that
11 property, **REGARDLESS OF WHETHER THOSE TAXES BEGAN TO BE LEVIED**
12 **AFTER THE BROWNFIELD PLAN WAS ADOPTED.** Tax increment revenues
13 exclude ad valorem property taxes specifically levied for the
14 payment of principal of and interest on either obligations approved
15 by the electors or obligations pledging the unlimited taxing power
16 of the local governmental unit, and specific taxes attributable to
17 those ad valorem property taxes. Tax increment revenues
18 attributable to eligible property also exclude the amount of ad
19 valorem property taxes or specific taxes captured by a downtown
20 development authority, tax increment finance authority, or local
21 development finance authority if those taxes were captured by these
22 other authorities on the date that eligible property became subject
23 to a brownfield plan under this act.

24 **(JJ) ~~(ff)~~**—"Taxable value" means the value determined under
25 section 27a of the general property tax act, 1893 PA 206, MCL
26 211.27a.

27 **(KK) ~~(gg)~~**—"Taxes levied for school operating purposes" means

1 all of the following:

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

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

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

8 **(II)** ~~(hh)~~—"Transit-oriented development" means infrastructure
9 improvements that are located within 1/2 mile of a transit station
10 or transit-oriented facility that promotes transit ridership or
11 passenger rail use as determined by the board and approved by the
12 municipality in which it is located.

13 **(MM)** ~~(ii)~~—"Transit-oriented facility" means a facility that
14 houses a transit station in a manner that promotes transit
15 ridership or passenger rail use.

16 **(NN)** ~~(jj)~~—"Work plan" means a plan that describes each
17 individual activity to be conducted to complete eligible activities
18 and the associated costs of each individual activity.

19 **(OO)** ~~(kk)~~—"Zone" means, for an authority established before
20 June 6, 2000, a brownfield redevelopment zone designated under this
21 act.

22 Sec. 4. (1) A governing body may declare by resolution adopted
23 by a majority of its members elected and serving its intention to
24 create and provide for the operation of an authority.

25 (2) In the resolution of intent, the governing body shall set
26 a date for holding a public hearing on the adoption of a proposed
27 resolution creating the authority. ~~Notice of the public hearing~~

1 ~~shall be published twice in a newspaper of general circulation in~~
2 ~~the municipality, not less than 20 nor more than 40 days before the~~
3 ~~date of the hearing.~~ The notice **OF THE PUBLIC HEARING** shall state
4 the date, time, and place of the hearing. At that hearing, a
5 citizen, taxpayer, official from a taxing jurisdiction whose
6 millage may be subject to capture under a brownfield plan, or
7 property owner of the municipality has the right to be heard in
8 regard to the establishment of the authority.

9 (3) Not more than 30 days after the public hearing, if the
10 governing body intends to proceed with the establishment of the
11 authority, the governing body shall adopt, by majority vote of its
12 members elected and serving, a resolution establishing the
13 authority. The adoption of the resolution is subject to all
14 applicable statutory or charter provisions with respect to the
15 approval or disapproval by the chief executive or other officer of
16 the municipality and the adoption of a resolution over his or her
17 veto. This resolution shall be filed with the secretary of state
18 promptly after its adoption.

19 (4) The proceedings establishing an authority shall be
20 presumptively valid unless contested in a court of competent
21 jurisdiction within 60 days after the filing of the resolution with
22 the secretary of state.

23 (5) The exercise by an authority of the powers conferred by
24 this act shall be considered to be an essential governmental
25 function and benefit to, and a legitimate public purpose of, the
26 state, the authority, and the municipality or units.

27 (6) If the board implements or modifies a brownfield plan that

1 contains a qualified facility, the governing body shall mail notice
2 of that implementation or modification to each taxing jurisdiction
3 that levies ad valorem property taxes in the municipality. Not more
4 than 60 days after receipt of that notice, the governing body of a
5 taxing jurisdiction levying ad valorem property taxes that would
6 otherwise be subject to capture may exempt its taxes from capture
7 by adopting a resolution to that effect and filing a copy with the
8 clerk of the municipality in which the qualified facility is
9 located. The resolution takes effect when filed with that clerk and
10 remains effective until a copy of a resolution rescinding that
11 resolution is filed with that clerk.

12 Sec. 8. (1) An authority may establish a local site
13 remediation revolving fund. A local site remediation revolving fund
14 shall consist of money available under section 13(5) and may also
15 consist of money appropriated or otherwise made available from
16 public or private sources. ~~An authority shall separately account~~
17 ~~for money deposited to the fund that is directly derived from tax~~
18 ~~increment revenues levied for school operating purposes.~~

19 (2) The local site remediation revolving fund may be used only
20 to pay the costs of eligible activities on eligible property that
21 is located within the municipality.

22 (3) An authority or a municipality on behalf of an authority
23 may incur an obligation for the purpose of funding a local site
24 remediation revolving fund.

25 **SEC. 8A. (1) THE STATE BROWNFIELD REDEVELOPMENT FUND IS**
26 **CREATED AS A REVOLVING FUND WITHIN THE DEPARTMENT OF TREASURY TO BE**
27 **ADMINISTERED AS PROVIDED IN THIS SECTION. THE STATE TREASURER SHALL**

1 DIRECT THE INVESTMENT OF THE STATE BROWNFIELD REDEVELOPMENT FUND.
2 MONEY IN THE STATE BROWNFIELD REDEVELOPMENT FUND AT THE CLOSE OF
3 THE FISCAL YEAR SHALL REMAIN IN THE STATE BROWNFIELD REDEVELOPMENT
4 FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

5 (2) THE STATE TREASURER SHALL CREDIT TO THE FUND MONEY FROM
6 THE FOLLOWING SOURCES:

7 (A) ALL AMOUNTS DEPOSITED INTO THE STATE BROWNFIELD
8 REDEVELOPMENT FUND UNDER SECTION 13(21).

9 (B) THE PROCEEDS FROM REPAYMENT OF A LOAN, INCLUDING INTEREST
10 ON THOSE REPAYMENTS, UNDER SUBSECTION (5)(F).

11 (C) INTEREST ON FUNDS DEPOSITED INTO THE STATE BROWNFIELD
12 REDEVELOPMENT FUND.

13 (D) MONEY OBTAINED FROM ANY OTHER SOURCE AUTHORIZED BY LAW.

14 (3) THE STATE BROWNFIELD REDEVELOPMENT FUND MAY BE USED ONLY
15 FOR THE FOLLOWING PURPOSES:

16 (A) TO PAY ADMINISTRATIVE COSTS OF ALL OF THE FOLLOWING:

17 (i) THE MICHIGAN STRATEGIC FUND TO IMPLEMENT THIS ACT.

18 (ii) THE DEPARTMENT TO IMPLEMENT THIS ACT.

19 (iii) THE DEPARTMENT TO IMPLEMENT PART 196 OF THE NATURAL
20 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
21 324.19601 TO 324.19616.

22 (B) TO FUND A GRANT AND LOAN PROGRAM FOR THE COSTS OF ELIGIBLE
23 ACTIVITIES DESCRIBED IN SECTION 13(15) ON ELIGIBLE PROPERTY AS
24 PROVIDED IN SUBSECTION (5).

25 (C) TO MAKE DEPOSITS INTO THE CLEAN MICHIGAN INITIATIVE BOND
26 FUND UNDER SECTION 19606(2)(D) OF THE NATURAL RESOURCES AND
27 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.19606, FOR USE

1 IN PROVIDING GRANTS AND LOANS UNDER PART 196 OF THE NATURAL
2 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
3 324.19601 TO 324.19616.

4 (4) NOT MORE THAN 15% OF THE AMOUNTS DEPOSITED ANNUALLY INTO
5 THE STATE BROWNFIELD REDEVELOPMENT FUND MAY BE USED FOR PURPOSES OF
6 SUBSECTION (3) (A) .

7 (5) THE STATE BROWNFIELD REDEVELOPMENT FUND MAY BE USED TO
8 FUND A GRANT AND LOAN PROGRAM FOR THE COSTS OF ELIGIBLE ACTIVITIES
9 DESCRIBED IN SECTION 13(15) ON ELIGIBLE PROPERTY UNDER THIS
10 SUBSECTION. THE GRANT AND LOAN PROGRAM SHALL PROVIDE FOR ALL OF THE
11 FOLLOWING:

12 (A) THE MICHIGAN STRATEGIC FUND SHALL CREATE AND OPERATE A
13 GRANT AND LOAN PROGRAM TO PROVIDE GRANTS AND LOANS TO FUND ELIGIBLE
14 ACTIVITIES DESCRIBED IN SECTION 13(15) ON ELIGIBLE PROPERTY. THE
15 MICHIGAN STRATEGIC FUND SHALL DEVELOP AND USE A DETAILED
16 APPLICATION, APPROVAL, AND COMPLIANCE PROCESS ADOPTED BY RESOLUTION
17 OF THE BOARD OF THE MICHIGAN STRATEGIC FUND. THIS PROCESS SHALL BE
18 PUBLISHED AND AVAILABLE ON THE MICHIGAN STRATEGIC FUND WEBSITE.
19 PROGRAM STANDARDS, GUIDELINES, TEMPLATES, OR ANY OTHER FORMS TO
20 IMPLEMENT THE GRANT AND LOAN PROGRAM SHALL BE APPROVED BY THE BOARD
21 OF THE MICHIGAN STRATEGIC FUND. THE MICHIGAN STRATEGIC FUND MAY
22 DELEGATE ITS APPROVAL AUTHORITY UNDER THIS SUBSECTION TO A
23 DESIGNEE.

24 (B) A PERSON MAY APPLY TO THE MICHIGAN STRATEGIC FUND FOR
25 APPROVAL OF A GRANT OR LOAN TO FUND ELIGIBLE ACTIVITIES DESCRIBED
26 IN SECTION 13(15) ON ELIGIBLE PROPERTY.

27 (C) THE MICHIGAN STRATEGIC FUND SHALL APPROVE OR DENY AN

1 APPLICATION NOT MORE THAN 90 DAYS AFTER RECEIPT OF AN
2 ADMINISTRATIVELY COMPLETE APPLICATION. IF THE APPLICATION IS
3 NEITHER APPROVED NOR DENIED WITHIN 90 DAYS, IT SHALL BE CONSIDERED
4 BY THE BOARD OF THE MICHIGAN STRATEGIC FUND, OR ITS DESIGNEE IF
5 DELEGATED, FOR ACTION AT, OR BY, THE NEXT REGULARLY SCHEDULED BOARD
6 MEETING. THE MICHIGAN STRATEGIC FUND MAY DELEGATE THE APPROVAL OR
7 DENIAL OF AN APPLICATION TO THE CHAIRPERSON OF THE MICHIGAN
8 STRATEGIC FUND OR OTHER DESIGNEES DETERMINED BY THE BOARD.

9 (D) WHEN AN APPLICATION IS APPROVED UNDER THIS SUBSECTION, THE
10 MICHIGAN STRATEGIC FUND SHALL ENTER INTO A WRITTEN AGREEMENT WITH
11 THE APPLICANT. THE WRITTEN AGREEMENT SHALL PROVIDE ALL THE
12 CONDITIONS IMPOSED ON THE APPLICANT AND THE TERMS OF THE GRANT OR
13 LOAN. THE WRITTEN AGREEMENT SHALL ALSO PROVIDE FOR PENALTIES IF THE
14 APPLICANT FAILS TO COMPLY WITH THE PROVISIONS OF THE WRITTEN
15 AGREEMENT.

16 (E) AFTER THE MICHIGAN STRATEGIC FUND AND THE APPLICANT HAVE
17 ENTERED INTO A WRITTEN AGREEMENT UNDER SUBDIVISION (D), THE
18 MICHIGAN STRATEGIC FUND SHALL DISTRIBUTE THE PROCEEDS TO THE
19 APPLICANT ACCORDING TO THE TERMS OF THE WRITTEN AGREEMENT.

20 (F) ANY PROCEEDS FROM REPAYMENT OF A LOAN, INCLUDING INTEREST
21 ON THOSE REPAYMENTS, UNDER THIS SUBSECTION SHALL BE PAID INTO THE
22 STATE BROWNFIELD REDEVELOPMENT FUND.

23 Sec. 13. (1) Subject to section 15, the board may implement a
24 brownfield plan. The brownfield plan may apply to 1 or more parcels
25 of eligible property whether or not those parcels of eligible
26 property are contiguous and may be amended to apply to additional
27 parcels of eligible property. Except as otherwise authorized by

1 this act, if more than 1 eligible property is included within the
2 plan, the tax increment revenues under the plan shall be determined
3 individually for each eligible property. Each plan or an amendment
4 to a plan shall be approved by the governing body of the
5 municipality and shall contain all of the following:

6 (a) A description of the costs of the plan intended to be paid
7 for with the tax increment revenues or, for a plan for eligible
8 properties qualified on the basis that the property is owned or
9 under the control of a land bank fast track authority, a listing of
10 all eligible activities that may be conducted for 1 or more of the
11 eligible properties subject to the plan.

12 (b) A brief summary of the eligible activities that are
13 proposed for each eligible property or, for a plan for eligible
14 properties qualified on the basis that the property is owned or
15 under the control of a land bank fast track authority, a brief
16 summary of eligible activities conducted for 1 or more of the
17 eligible properties subject to the plan.

18 (c) An estimate of the captured taxable value and tax
19 increment revenues for each year of the plan from the eligible
20 property. The plan may provide for the use of part or all of the
21 captured taxable value, including deposits in the local site
22 remediation revolving fund, but the portion intended to be used
23 shall be clearly stated in the plan. The plan shall not provide
24 either for an exclusion from captured taxable value of a portion of
25 the captured taxable value or for an exclusion of the tax levy of 1
26 or more taxing jurisdictions unless the tax levy is excluded from
27 tax increment revenues in section ~~2(dd)~~, **2(II)**, or unless the tax

1 levy is excluded from capture under section 15.

2 (d) The method by which the costs of the plan will be
3 financed, including a description of any advances made or
4 anticipated to be made for the costs of the plan from the
5 municipality.

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

8 ~~(f) The duration of the brownfield plan for eligible
9 activities on a particular eligible property which shall not exceed
10 30 years following the beginning date of the capture of tax
11 increment revenues for that particular eligible property. Each plan
12 amendment shall also contain the duration of capture of tax
13 increment revenues including the beginning date of the capture of
14 tax increment revenues, which beginning date shall be identified in
15 the brownfield plan and which beginning date shall not be later
16 than 5 years following the date of the resolution approving the
17 plan amendment related to a particular eligible property and which
18 duration shall not exceed the lesser of the period authorized under
19 subsections (4) and (5) or 30 years from the beginning date of the
20 capture of tax increment revenues. The date for the beginning of
21 capture of tax increment revenues from a particular eligible
22 property may be amended by the authority but not to a date later
23 than 5 years after the date of the resolution adopting the plan for
24 that eligible property. If a project fails to occur for which
25 eligible activities on a particular eligible property were
26 identified in a plan, the date for the beginning of capture of tax
27 increment revenues from that eligible property may be amended by~~

~~1 the authority for eligible activities associated with a new project
2 but not to a date later than 5 years after the date of the
3 resolution amending the plan for that new project. The authority
4 may not amend the date for the beginning of capture of tax
5 increment revenues for a particular eligible property if the
6 authority has begun to reimburse eligible activities from the
7 capture of tax increment revenues from that eligible property. Any
8 tax increment revenues captured from an eligible property before
9 the beginning date of capture of tax increment revenues for that
10 eligible property shall revert proportionately to the respective
11 tax bodies. The authority may not amend the date for the beginning
12 of capture if that amendment would lead to the duration of capture
13 of tax increment revenues being longer than 30 years or the period
14 authorized under subsections (4) and (5). If the date for the
15 beginning of capture of tax increment revenues is amended by the
16 authority and that plan includes the capture of tax increment
17 revenues for school operating purposes, then the authority that
18 amended that plan shall notify the department and the Michigan
19 economic growth authority within 30 days of the approval of the
20 amendment.~~**THE BEGINNING DATE AND DURATION OF CAPTURE OF TAX
21 INCREMENT REVENUES FOR EACH ELIGIBLE PROPERTY AS DETERMINED UNDER
22 SUBSECTION (22).**

23 (g) An estimate of the impact of tax increment financing on
24 the revenues of all taxing jurisdictions in which the eligible
25 property is located.

26 (h) A legal description of the eligible property to which the
27 plan applies, a map showing the location and dimensions of each

1 eligible property, a statement of the characteristics that qualify
2 the property as eligible property, and a statement of whether
3 personal property is included as part of the eligible property. If
4 the project is on property that is functionally obsolete, the
5 taxpayer shall include, with the application, an affidavit signed
6 by a level 3 or level 4 assessor, that states that it is the
7 assessor's expert opinion that the property is functionally
8 obsolete and the underlying basis for that opinion.

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

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

24 (k) Provision for the costs of relocating persons displaced by
25 implementation of the plan, and financial assistance and
26 reimbursement of expenses, including litigation expenses and
27 expenses incident to the transfer of title, in accordance with the

1 standards and provisions of the uniform relocation assistance and
2 real property acquisition policies act of 1970, Public Law 91-646.

3 (l) A strategy for compliance with 1972 PA 227, MCL 213.321 to
4 213.332.

5 (m) A description of proposed use of the local site
6 remediation revolving fund.

7 (n) Other material that the authority or governing body
8 considers pertinent.

9 (2) The percentage of all taxes levied on a parcel of eligible
10 property for school operating expenses that is captured and used
11 under a brownfield plan and all tax increment finance plans under
12 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance
13 authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local
14 development financing act, 1986 PA 281, MCL 125.2151 to 125.2174,
15 shall not be greater than the combination of the plans' percentage
16 capture and use of all local taxes levied for purposes other than
17 for the payment of principal of and interest on either obligations
18 approved by the electors or obligations pledging the unlimited
19 taxing power of the local unit of government. This subsection shall
20 apply only when taxes levied for school operating purposes are
21 subject to capture under section 15.

22 (3) Except as provided in this subsection and subsections (5),
23 (15), and (16), tax increment revenues related to a brownfield plan
24 shall be used only for costs of eligible activities attributable to
25 the eligible property, the captured taxable value of which produces
26 the tax increment revenues, including the cost of principal of and
27 interest on any obligation issued by the authority to pay the costs

1 of eligible activities attributable to the eligible property, and
 2 the reasonable costs of preparing a brownfield plan, **COMBINED**
 3 **BROWNFIELD PLAN**, or a work plan for the eligible property. ~~,~~
 4 ~~including the actual cost of the review of the work plan under~~
 5 ~~section 15.~~ For property owned or under the control of a land bank
 6 fast track authority, tax increment revenues related to a
 7 brownfield plan may be used for eligible activities attributable to
 8 any eligible property owned or under the control of the land bank
 9 fast track authority, the cost of principal of and interest on any
 10 obligation issued by the authority to pay the costs of eligible
 11 activities, the reasonable costs of preparing a **COMBINED BROWNFIELD**
 12 **PLAN OR** work plan. ~~, and the actual cost of the review of the work~~
 13 ~~plan under section 15.~~ Except as provided in subsection (18), tax
 14 increment revenues captured from taxes levied by this state under
 15 the state education tax act, 1993 PA 331, MCL 211.901 to 211.906,
 16 or taxes levied by a local school district shall not be used for
 17 eligible activities described in section ~~2 (m) (iv) (E)~~. **2 (N) (iv) (E)** .

18 (4) Except as provided in subsection (5), a brownfield plan
 19 shall not authorize the capture of tax increment revenue from
 20 eligible property after the year in which the total amount of tax
 21 increment revenues captured is equal to the sum of the costs
 22 permitted to be funded with tax increment revenues under this act.

23 (5) A brownfield plan may authorize the capture of additional
 24 tax increment revenue from an eligible property in excess of the
 25 amount authorized under subsection (4) during the time of capture
 26 for the purpose of paying the costs permitted under subsection (3),
 27 or for not more than 5 years after the time that capture is

1 required for the purpose of paying the costs permitted under
2 subsection (3), or both. Excess revenues captured under this
3 subsection shall be deposited in the local site remediation
4 revolving fund created under section 8 and used for the purposes
5 authorized in section 8. If tax increment revenues attributable to
6 taxes levied for school operating purposes from eligible property
7 are captured by the authority for purposes authorized under
8 subsection (3), the tax increment revenues captured for deposit in
9 the local site remediation revolving fund also may include tax
10 increment revenues attributable to taxes levied for school
11 operating purposes in an amount not greater than the tax increment
12 revenues levied for school operating purposes captured from the
13 eligible property by the authority for the purposes authorized
14 under subsection (3). Excess tax increment revenues from taxes
15 levied for school operating purposes for eligible activities
16 authorized under subsection (15) by the Michigan ~~economic growth~~
17 ~~authority~~ **STRATEGIC FUND** shall not be captured for deposit in the
18 local site remediation revolving fund.

19 (6) An authority shall not expend tax increment revenues to
20 acquire or prepare eligible property, unless the acquisition or
21 preparation is an eligible activity.

22 (7) Costs of eligible activities attributable to eligible
23 property include all costs that are necessary or related to a
24 release from the eligible property, including eligible activities
25 on properties affected by a release from the eligible property. For
26 purposes of this subsection, "release" means that term as defined
27 in section 20101 of the natural resources and environmental

1 protection act, 1994 PA 451, MCL 324.20101.

2 (8) Costs of a response activity paid with tax increment
3 revenues that are captured pursuant to subsection (3) may be
4 recovered from a person who is liable for the costs of eligible
5 activities at an eligible property. This state or an authority may
6 undertake cost recovery for tax increment revenue captured. Before
7 an authority or this state may institute a cost recovery action, it
8 must provide the other with 120 days' notice. This state or an
9 authority that recovers costs under this subsection shall apply
10 those recovered costs to the following, in the following order of
11 priority:

12 (a) The reasonable attorney fees and costs incurred by this
13 state or an authority in obtaining the cost recovery.

14 (b) One of the following:

15 (i) If an authority undertakes the cost recovery action, the
16 authority shall deposit the remaining recovered funds into the
17 local site remediation fund created pursuant to section 8, if such
18 a fund has been established by the authority. If a local site
19 remediation fund has not been established, the authority shall
20 disburse the remaining recovered funds to the local taxing
21 jurisdictions in the proportion that the local taxing
22 jurisdictions' taxes were captured.

23 (ii) If this state undertakes a cost recovery action, this
24 state shall deposit the remaining recovered funds into the
25 revitalization revolving loan fund established under section 20108a
26 of the natural resources and environmental protection act, 1994 PA
27 451, MCL 324.20108a.

1 (iii) If this state and an authority each undertake a cost
2 recovery action, undertake a cost recovery action jointly, or 1 on
3 behalf of the other, the amount of any remaining recovered funds
4 shall be deposited pursuant to subparagraphs (i) and (ii) in the
5 proportion that the tax increment revenues being recovered
6 represent local taxes and taxes levied for school operating
7 purposes, respectively.

8 (9) Approval of the brownfield plan or an amendment to a
9 brownfield plan shall be in accordance with the notice and approval
10 provisions of this section and section 14.

11 (10) Before approving a brownfield plan for an eligible
12 property, the governing body shall hold a public hearing on the
13 brownfield plan. By resolution, the governing body may delegate the
14 public hearing process to the authority or to a subcommittee of the
15 governing body subject to final approval by the governing body.
16 ~~Notice of the time and place of the hearing shall be given by~~
17 ~~publication twice in a newspaper of general circulation designated~~
18 ~~by the municipality, not less than 10 or more than 40 days before~~
19 ~~the date set for the hearing.~~

20 (11) Notice of the time and place of the hearing on a
21 brownfield plan shall contain all of the following:

22 (a) A description of the property to which the plan applies in
23 relation to existing or proposed highways, streets, streams, or
24 otherwise.

25 (b) A statement that maps, plats, and a description of the
26 brownfield plan are available for public inspection at a place
27 designated in the notice and that all aspects of the brownfield

1 plan are open for discussion at the public hearing required by this
2 section.

3 (c) Any other information that the governing body considers
4 appropriate.

5 (12) At the time set for the hearing on the brownfield plan
6 required under subsection (10), the governing body shall ensure
7 that interested persons have an opportunity to be heard and that
8 written communications with reference to the brownfield plan are
9 received and considered. The governing body shall ensure that a
10 record of the public hearing is made and preserved, including all
11 data presented at the hearing.

12 (13) Not less than 10 days before the hearing on the
13 brownfield plan, the governing body shall provide notice of the
14 hearing to the taxing jurisdictions that levy taxes subject to
15 capture under this act. The authority shall fully inform the taxing
16 jurisdictions about the fiscal and economic implications of the
17 proposed brownfield plan. At that hearing, an official from a
18 taxing jurisdiction with millage that would be subject to capture
19 under this act has the right to be heard in regard to the adoption
20 of the brownfield plan. Not less than 10 days before the hearing on
21 the brownfield plan, the governing body shall provide notice of the
22 hearing to the department if the brownfield plan involves the use
23 of taxes levied for school operating purposes to pay for eligible
24 activities that require the approval of a **COMBINED BROWNFIELD PLAN**
25 **OR A** work plan by the department under section 15(1)(a) and the
26 Michigan ~~economic growth authority,~~ **STRATEGIC FUND**, or its
27 designee, if the brownfield plan involves the use of taxes levied

1 for school operating purposes to pay for eligible activities
2 subject to subsection (15) or (18).

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

11 (15) Except as provided by subsection (18), if a brownfield
12 plan includes the capture of taxes levied for school operating
13 purposes approval of a **COMBINED BROWNFIELD PLAN OR A** work plan by
14 the Michigan ~~economic growth authority before January 1, 2013~~
15 **STRATEGIC FUND** to use taxes levied for school operating purposes
16 and a development agreement or reimbursement agreement between the
17 municipality or authority and an owner or developer of eligible
18 property are required if the taxes levied for school operating
19 purposes will be used for infrastructure improvements that directly
20 benefit eligible property, demolition of structures that is not
21 response activity under part 201 of the natural resources and
22 environmental protection act, 1994 PA 451, MCL 324.20101 to
23 324.20142, lead or asbestos abatement, site preparation that is not
24 response activity under section 20101 of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.20101,
26 relocation of public buildings or operations for economic
27 development purposes, or acquisition of property by a land bank

1 fast track authority if acquisition of the property is for economic
 2 development purposes. The eligible activities to be conducted
 3 described in this subsection shall be consistent with the work plan
 4 submitted by the authority to the Michigan ~~economic growth~~
 5 ~~authority.~~ **STRATEGIC FUND.** The department's approval is not
 6 required for the capture of taxes levied for school operating
 7 purposes for eligible activities described in this subsection.

8 (16) The limitations of section 15(1) upon use of tax
 9 increment revenues by an authority shall ~~not apply to the following~~
 10 ~~costs and expenses.~~ **EXCEPT AS FOLLOWS:**

11 **(A) THE LIMITATIONS OF SECTION 15(1) UPON USE OF TAX INCREMENT**
 12 **REVENUES BY AN AUTHORITY SHALL NOT APPLY TO THE FOLLOWING COSTS AND**
 13 **EXPENSES:**

14 (i) ~~(a)~~ In each fiscal year of the authority, the amount
 15 described in subsection (19) for the following purposes for tax
 16 increment revenues attributable to local taxes:

17 (A) ~~(i)~~ Reasonable and actual administrative and operating
 18 expenses of the authority.

19 (B) ~~(ii)~~ Baseline environmental assessments, due care
 20 activities, and additional response activities conducted by or on
 21 behalf of the authority related directly to work conducted on
 22 prospective eligible properties prior to approval of the brownfield
 23 plan.

24 (ii) ~~(b)~~ Reasonable costs of preparing a work plan ~~or the cost~~
 25 ~~of the review of a work plan~~ for which tax increment revenues may
 26 be used under section 13(3).

27 **(B) THE LIMITATIONS OF SECTION 15(1) (A), (B), AND (C) UPON THE**

1 USE OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES BY AN AUTHORITY
2 SHALL NOT APPLY TO THE COSTS OF 1 OR MORE OF THE FOLLOWING INCURRED
3 BY A PERSON OTHER THAN THE AUTHORITY:

4 (i) SITE INVESTIGATION ACTIVITIES REQUIRED TO CONDUCT A
5 BASELINE ENVIRONMENTAL ASSESSMENT AND TO EVALUATE COMPLIANCE WITH
6 SECTION 20107A OF THE NATURAL RESOURCES AND ENVIRONMENTAL
7 PROTECTION ACT, 1994 PA 451, MCL 324.20107A.

8 (ii) COMPLETING A BASELINE ENVIRONMENTAL ASSESSMENT REPORT.

9 (iii) PREPARING A PLAN FOR COMPLIANCE WITH SECTION 20107A OF THE
10 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
11 MCL 324.20107A.

12 (c) ~~For tax increment revenues attributable to local taxes,~~
13 ~~reasonable costs of site investigations described in section~~
14 ~~15(1)(a)(i), baseline environmental assessments, and due care~~
15 ~~activities incurred by a person other than the authority related~~
16 ~~directly to work conducted on eligible property or prospective~~
17 ~~eligible properties prior to approval of the brownfield plan, if~~
18 ~~those costs and the eligible property are included in a brownfield~~
19 ~~plan approved by the authority.~~ THE LIMITATIONS OF SECTION 15(1)(B)
20 UPON USE OF TAX INCREMENT REVENUES BY AN AUTHORITY SHALL NOT APPLY
21 TO THE FOLLOWING COSTS AND EXPENSES:

22 (i) FOR TAX INCREMENT REVENUES ATTRIBUTABLE TO TAXES LEVIED FOR
23 SCHOOL OPERATING PURPOSES, ELIGIBLE ACTIVITIES ASSOCIATED WITH
24 UNANTICIPATED RESPONSE ACTIVITIES CONDUCTED ON ELIGIBLE PROPERTY IF
25 THAT ELIGIBLE PROPERTY HAS BEEN INCLUDED IN A BROWNFIELD PLAN, IF
26 THE DEPARTMENT IS CONSULTED ON THE UNANTICIPATED RESPONSE
27 ACTIVITIES BEFORE THEY ARE CONDUCTED AND THE COSTS OF THOSE

1 ACTIVITIES ARE SUBSEQUENTLY INCLUDED IN A BROWNFIELD PLAN APPROVED
2 BY THE AUTHORITY AND A COMBINED BROWNFIELD PLAN OR A WORK PLAN
3 APPROVED BY THE DEPARTMENT.

4 (ii) FOR TAX INCREMENT REVENUES ATTRIBUTABLE TO LOCAL TAXES,
5 ANY ELIGIBLE ACTIVITIES CONDUCTED ON ELIGIBLE PROPERTY OR
6 PROSPECTIVE ELIGIBLE PROPERTIES PRIOR TO APPROVAL OF THE BROWNFIELD
7 PLAN, IF THOSE COSTS AND THE ELIGIBLE PROPERTY ARE SUBSEQUENTLY
8 INCLUDED IN A BROWNFIELD PLAN APPROVED BY THE AUTHORITY.

9 (iii) FOR TAX INCREMENT REVENUES ATTRIBUTABLE TO TAXES LEVIED
10 FOR SCHOOL OPERATING PURPOSES, ELIGIBLE ACTIVITIES DESCRIBED IN
11 SECTION 13(15) AND CONDUCTED ON ELIGIBLE PROPERTY OR PROSPECTIVE
12 ELIGIBLE PROPERTIES PRIOR TO APPROVAL OF THE BROWNFIELD PLAN, IF
13 THOSE COSTS AND THE ELIGIBLE PROPERTY ARE SUBSEQUENTLY INCLUDED IN
14 A BROWNFIELD PLAN APPROVED BY THE AUTHORITY AND A COMBINED
15 BROWNFIELD PLAN OR WORK PLAN APPROVED BY THE MICHIGAN STRATEGIC
16 FUND.

17 (17) A brownfield authority may reimburse advances, with or
18 without interest, made by a municipality under section 7(3), a land
19 bank fast track authority, or any other person or entity for costs
20 of eligible activities with any source of revenue available for use
21 of the brownfield authority under this act. If an authority
22 reimburses a person or entity under this section for an advance for
23 the payment or reimbursement of the cost of eligible activities and
24 interest thereon, the authority may capture local taxes for the
25 payment of that interest. If an authority reimburses a person or
26 entity under this section for an advance for the payment or
27 reimbursement of the cost of baseline environmental assessments,

1 due care, and additional response activities and interest thereon
2 included in a **COMBINED BROWNFIELD PLAN OR A** work plan approved by
3 the department, the authority may capture taxes levied for school
4 operating purposes and local taxes for the payment of that
5 interest. If an authority reimburses a person or entity under this
6 section for an advance for the payment or reimbursement of the cost
7 of eligible activities that are not baseline environmental
8 assessments, due care, and additional response activities and
9 interest thereon included in a **COMBINED BROWNFIELD PLAN OR A** work
10 plan approved by the Michigan ~~economic growth authority~~, **STRATEGIC**
11 **FUND**, the authority may capture taxes levied for school operating
12 purposes and local taxes for the payment of that interest provided
13 that the Michigan ~~economic growth authority~~ **STRATEGIC FUND** grants
14 an approval for the capture of taxes levied for school operating
15 purposes to pay such interest. An authority may enter into
16 agreements related to these reimbursements and payments. 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 (18) If a brownfield plan includes the capture of taxes levied
22 for school operating purposes, approval of a **COMBINED BROWNFIELD**
23 **PLAN OR A** work plan by the Michigan ~~economic growth authority~~
24 **STRATEGIC FUND** in the manner required under section 15(14) to (16)
25 **OR (25)** is required in order to use tax increment revenues
26 attributable to taxes levied for school operating purposes for
27 purposes of eligible activities described in section ~~2(m)(iv)(E)~~

1 **2 (N) (iv) (E)** for 1 or more parcels of eligible property. The **COMBINED**
2 **BROWNFIELD PLAN OR** work plan to be submitted to the Michigan
3 ~~economic growth authority~~**STRATEGIC FUND** under this subsection
4 shall be in a form prescribed by the Michigan ~~economic growth~~
5 ~~authority~~**STRATEGIC FUND**. The eligible activities to be conducted
6 and described in this subsection shall be consistent with the
7 **COMBINED BROWNFIELD PLAN OR** work plan submitted by the authority to
8 the Michigan ~~economic growth authority~~**STRATEGIC FUND**. The
9 department's approval is not required for the capture of taxes
10 levied for school operating purposes for eligible activities
11 described in this section.

12 (19) In each fiscal year of the authority, the amount of tax
13 increment revenues attributable to local taxes that an authority
14 can use for the purposes described in subsection (16)(a) shall be
15 determined as follows:

16 (a) For authorities that have 5 or fewer active projects,
17 \$100,000.00.

18 (b) For authorities that have 6 or more but fewer than 11
19 active projects, \$125,000.00.

20 (c) For authorities that have 11 or more but fewer than 16
21 active projects, \$150,000.00.

22 (d) For authorities that have 16 or more but fewer than 21
23 active projects, \$175,000.00.

24 (e) For authorities that have 21 or more but fewer than 26
25 active projects, \$200,000.00.

26 (f) For authorities that have 26 or more **BUT FEWER THAN 31**
27 active projects, \$300,000.00.

1 (G) FOR AUTHORITIES THAT HAVE 31 OR MORE ACTIVE PROJECTS,
2 \$500,000.00.

3 (20) As used in subsection (19), "active project" means a
4 project in which the authority is currently capturing taxes under
5 this act. THE AMOUNTS OF TAX INCREMENT REVENUES ATTRIBUTABLE TO
6 LOCAL TAXES LISTED IN SUBSECTION (19) THAT AN AUTHORITY CAN USE FOR
7 THE PURPOSES DESCRIBED IN SUBSECTION (16) (A) MAY BE INCREASED BY 2%
8 FOR EACH WRITTEN AGREEMENT ENTERED INTO BY AN AUTHORITY IN EITHER
9 OF THE FOLLOWING SITUATIONS UP TO A TOTAL MAXIMUM INCREASE OF 10%:

10 (A) THE AUTHORITY IS AN AUTHORITY ESTABLISHED BY A COUNTY AND
11 THAT AUTHORITY ENTERS INTO A WRITTEN AGREEMENT WITH 1 OR MORE
12 MUNICIPALITIES WITHIN THAT COUNTY TO SERVE AS THE ONLY AUTHORITY
13 FOR THOSE OTHER MUNICIPALITIES.

14 (B) THE AUTHORITY ENTERS INTO A WRITTEN AGREEMENT WITH 1 OR
15 MORE OTHER AUTHORITIES TO ADMINISTER 1 OR MORE ADMINISTRATIVE
16 OPERATIONS OF THOSE OTHER AUTHORITIES.

17 (21) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ACT, FOR
18 A BROWNFIELD PLAN THAT INCLUDES THE CAPTURE OF TAXES LEVIED FOR
19 SCHOOL OPERATING PURPOSES FROM ELIGIBLE PROPERTY INCLUDED IN A
20 BROWNFIELD PLAN AFTER JANUARY 1, 2013, AN AUTHORITY SHALL PAY TO
21 THE DEPARTMENT OF TREASURY AT LEAST ONCE ANNUALLY AN AMOUNT EQUAL
22 TO 3 MILLS OF THE TAXES LEVIED UNDER THE STATE EDUCATION TAX, 1993
23 PA 331, MCL 211.901 TO 211.906, THAT ARE CAPTURED UNDER THE
24 BROWNFIELD PLAN FOR UP TO THE FIRST 25 YEARS OF THE DURATION OF
25 CAPTURE OF TAX INCREMENT REVENUES FOR EACH ELIGIBLE PROPERTY
26 INCLUDED IN THE BROWNFIELD PLAN. THE DEPARTMENT OF TREASURY SHALL
27 DEPOSIT THESE AMOUNTS INTO THE STATE BROWNFIELD REDEVELOPMENT FUND.

1 IF AN AUTHORITY PAYS AN AMOUNT EQUAL TO 3 MILLS OF THE TAXES LEVIED
2 UNDER THE STATE EDUCATION TAX, 1993 PA 331, MCL 211.901 TO 211.906,
3 ON A PARCEL OF ELIGIBLE PROPERTY TO THE DEPARTMENT OF TREASURY
4 UNDER THIS SUBSECTION, THE PERCENTAGE OF LOCAL TAXES LEVIED ON THAT
5 PARCEL AND USED TO REIMBURSE ELIGIBLE ACTIVITIES FOR A PROJECT
6 UNDER A BROWNFIELD PLAN SHALL NOT EXCEED THE PERCENTAGE OF LOCAL
7 TAXES LEVIED ON THAT PARCEL THAT WOULD HAVE BEEN USED TO REIMBURSE
8 ELIGIBLE ACTIVITIES FOR THE PROJECT UNDER A BROWNFIELD PLAN IF THE
9 3 MILLS OF THE TAXES LEVIED UNDER THE STATE EDUCATION TAX, 1993 PA
10 331, MCL 211.901 TO 211.906, ON THAT PARCEL WERE NOT PAID TO THE
11 DEPARTMENT OF TREASURY UNDER THIS SUBSECTION. IF, DUE TO AN APPEAL
12 OF ANY TAX ASSESSMENT, AN AUTHORITY IS REQUIRED TO REIMBURSE A
13 TAXPAYER FOR ANY PORTION OF THE 3 MILLS THAT ARE PAID TO THE
14 DEPARTMENT OF TREASURY UNDER THIS SUBSECTION, THE DEPARTMENT OF
15 TREASURY SHALL REIMBURSE THAT AMOUNT TO THE AUTHORITY WITHIN 30
16 DAYS AFTER RECEIVING A REQUEST FROM THE AUTHORITY FOR
17 REIMBURSEMENT.

18 (22) THE DURATION OF CAPTURE OF TAX INCREMENT REVENUES UNDER A
19 BROWNFIELD PLAN FOR A PARTICULAR ELIGIBLE PROPERTY SHALL NOT EXCEED
20 THE LESSER OF THE PERIOD AUTHORIZED UNDER SUBSECTIONS (4) AND (5)
21 OR 30 YEARS FROM THE BEGINNING DATE OF THE CAPTURE OF TAX INCREMENT
22 REVENUES FOR THAT ELIGIBLE PROPERTY. THE BEGINNING DATE OF CAPTURE
23 OF TAX INCREMENT REVENUES FOR AN ELIGIBLE PROPERTY SHALL NOT BE
24 LATER THAN 5 YEARS FOLLOWING THE DATE OF THE RESOLUTION INCLUDING
25 THE ELIGIBLE PROPERTY IN THE BROWNFIELD PLAN. THE AUTHORITY MAY
26 AMEND THE BEGINNING DATE OF CAPTURE OF TAX INCREMENT REVENUES FOR A
27 PARTICULAR ELIGIBLE PROPERTY TO A DATE NOT LATER THAN 5 YEARS

1 FOLLOWING THE DATE OF THE RESOLUTION INCLUDING THE ELIGIBLE
2 PROPERTY IN THE BROWNFIELD PLAN. THE AUTHORITY MAY NOT AMEND THE
3 BEGINNING DATE OF CAPTURE OF TAX INCREMENT REVENUES FOR A
4 PARTICULAR ELIGIBLE PROPERTY IF THE AUTHORITY HAS BEGUN TO
5 REIMBURSE ELIGIBLE ACTIVITIES FROM THE CAPTURE OF TAX INCREMENT
6 REVENUES FROM THAT ELIGIBLE PROPERTY. ANY TAX INCREMENT REVENUES
7 CAPTURED FROM AN ELIGIBLE PROPERTY BEFORE THE BEGINNING DATE OF
8 CAPTURE OF TAX INCREMENT REVENUES FOR THAT ELIGIBLE PROPERTY SHALL
9 REVERT PROPORTIONATELY TO THE RESPECTIVE TAX BODIES. IF AN
10 AUTHORITY AMENDS THE BEGINNING DATE FOR CAPTURE OF TAX INCREMENT
11 REVENUES THAT INCLUDES THE CAPTURE OF TAX INCREMENT REVENUES FOR
12 SCHOOL OPERATING PURPOSES, THEN THE AUTHORITY SHALL NOTIFY THE
13 DEPARTMENT OR THE MICHIGAN STRATEGIC FUND, AS APPLICABLE, WITHIN 30
14 DAYS AFTER AMENDING THE BEGINNING DATE.

15 Sec. 15. (1) An authority shall not do any of the following:

16 (a) For eligible activities not described in section 13(15),
17 use taxes levied for school operating purposes captured from
18 eligible property unless the eligible activities to be conducted on
19 the eligible property are eligible activities under part 201 of the
20 natural resources and environmental protection act, 1994 PA 451,
21 MCL 324.20101 to 324.20142, consistent with a **COMBINED BROWNFIELD**
22 **PLAN OR A** work plan approved by the department after July 24, 1996.
23 ~~and before January 1, 2013. However, except as provided in~~
24 ~~subdivision (c), an authority may use taxes levied for school~~
25 ~~operating purposes captured from eligible property without the~~
26 ~~approval of a work plan by the department for the reasonable costs~~
27 ~~of 1 or more of the following:~~

1 ~~—— (i) Site investigation activities required to conduct a~~
2 ~~baseline environmental assessment and to evaluate compliance with~~
3 ~~section 20107a of the natural resources and environmental~~
4 ~~protection act, 1994 PA 451, MCL 324.20107a.~~

5 ~~—— (ii) Completing a baseline environmental assessment report.~~

6 ~~—— (iii) Preparing a plan for compliance with section 20107a of the~~
7 ~~natural resources and environmental protection act, 1994 PA 451,~~
8 ~~MCL 324.20107a.~~

9 ~~—— (b) For eligible activities not described in section 13(15),~~
10 ~~other than activities that are exempt from the work plan approval~~
11 ~~process under subsection (1)(a), use funds from a local site~~
12 ~~remediation revolving fund that are derived from taxes levied for~~
13 ~~school operating purposes unless the eligible activities to be~~
14 ~~conducted are eligible activities under part 201 of the natural~~
15 ~~resources and environmental protection act, 1994 PA 451, MCL~~
16 ~~324.20101 to 324.20142, consistent with a work plan that has been~~
17 ~~approved by the department after July 24, 1996.~~

18 ~~—— (c) Use funds from a local site remediation revolving fund~~
19 ~~created pursuant to section 8 that are derived from taxes levied~~
20 ~~for school operating purposes for the eligible activities described~~
21 ~~in section 13(15) unless the eligible activities to be conducted~~
22 ~~are consistent with a work plan approved by the Michigan economic~~
23 ~~growth authority.~~

24 ~~(B) (d) Use taxes captured from eligible property to pay for~~
25 ~~eligible activities conducted before approval of the brownfield~~
26 ~~plan except for costs described in section 13(16).~~

27 ~~(C) (e) Use taxes levied for school operating purposes~~

1 captured from eligible property for response activities that
2 benefit a party liable under section 20126 of the natural resources
3 and environmental protection act, 1994 PA 451, MCL 324.20126,
4 except that a municipality that established the authority may use
5 taxes levied for school operating purposes captured from eligible
6 property for response activities associated with a landfill.

7 (D) ~~(F)~~ Use taxes captured from eligible property to pay for
8 administrative and operating activities of the authority or the
9 municipality on behalf of the authority except for costs described
10 in section 13(16) and for the reasonable costs for preparing a
11 **COMBINED BROWNFIELD PLAN OR A** work plan for the eligible property.
12 ~~, including the actual cost of the review of the work plan under~~
13 ~~this section.~~

14 (2) To seek department approval of a work plan under
15 subsection (1)(a), ~~or (b),~~ the authority shall submit all of the
16 following for each eligible property:

17 (a) A copy of the brownfield plan.

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

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

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

1 property.

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

4 ~~(f) A separate work plan, or part of a work plan, for each~~
5 ~~eligible activity to be undertaken.~~

6 (3) Upon receipt of a request for approval of a work plan
7 under subsection (2) or a portion of a work plan that pertains to
8 only baseline environmental assessment activities or due care
9 activities, or both, the department shall review the work plan
10 according to subsection (4) and provide 1 of the following written
11 responses to the requesting authority within 60 days:

12 (a) An unconditional approval.

13 (b) A conditional approval that delineates specific necessary
14 modifications to the work plan to meet the criteria of subsection
15 (4), including, but not limited to, individual activities to be
16 added or deleted from the work plan and revision of costs.

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

24 (d) A denial if the property is not an eligible property under
25 this act, if the work plan contemplates the use of taxes levied for
26 school operating purposes prohibited by subsection ~~(1)(e)~~, **(1)(C)**,
27 or for any specific activity if the activity is prohibited by

1 subsection ~~(1)(d)~~.—(1)(B). The department may also deny any
2 activity in a work plan that does not meet the conditions in
3 subsection (4) only if the department cannot respond under
4 subdivision (b) or (c). The department shall accompany the denial
5 with a letter that states with specificity the reason for the
6 denial. The department shall respond under subdivision (a), (b), or
7 (c) according to this section for any activities in the work plan
8 that are not denied under this subdivision. If the department
9 denies all or a portion of a work plan under this subdivision, the
10 authority may subsequently resubmit the work plan.

11 (4) The department may approve a work plan if the following
12 conditions have been met:

13 (a) Whether some or all of the activities constitute due care
14 activities or additional response activities other than activities
15 that are exempt from the work plan approval process under
16 subsection (1)(a).

17 (b) The due care activities and response activities, other
18 than the activities that are exempt from the work plan approval
19 process under subsection (1)(a), are protective of the public
20 health, safety, and welfare and the environment. The department may
21 approve additional response activities that are more protective of
22 the public health, safety, and welfare and the environment than
23 required by section 20107a of the natural resources and
24 environmental protection act, 1994 PA 451, MCL 324.20107a, if those
25 activities provide public health or environmental benefit. In
26 review of a work plan that includes activities that are more
27 protective of the public health, safety, and welfare and the

1 environment, the department's considerations may include, but are
2 not limited to, all of the following:

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

5 (ii) Cost of implementation activities minimally necessary to
6 achieve due care compliance, the incremental cost of all additional
7 response activities relative to the cost of all response
8 activities, and the total cost of all response activities.

9 (iii) Long-term obligations associated with leaving
10 contamination in place and the value of reducing or eliminating
11 these obligations.

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

17 (5) If the department fails to provide a written response
18 under subsection (3) within 60 days after receipt of a request for
19 approval of a work plan, the authority may proceed with the
20 activities as outlined in the work plan as submitted for approval.
21 Except as provided in subsection (6), activities conducted pursuant
22 to a work plan that was submitted to the department for approval
23 but for which the department failed to provide a written response
24 under subsection (3) shall be considered approved for the purposes
25 of subsection (1). Within 45 days after receiving additional
26 information requested from the authority under subsection (3)(c),
27 the department shall review the additional information according to

1 subsection (4) and provide 1 of the responses described in
2 subsection (3) to the requesting authority for the specific
3 activity. If the department does not provide a response to the
4 requesting authority within 45 days after receiving the additional
5 information requested under subsection (3)(c), the activity is
6 approved under subsection (1).

7 (6) The department may issue a written response to a work plan
8 more than 60 days but less than 6 months after receipt of a request
9 for approval. If the department issues a written response under
10 this subsection, the authority is not required to conduct
11 individual activities that are in addition to the individual
12 activities included in the work plan as it was submitted for
13 approval and failure to conduct these additional activities shall
14 not affect the authority's ability to capture taxes under
15 subsection (1) for the eligible activities described in the work
16 plan initially submitted under subsection (5). In addition, at the
17 option of the authority, these additional individual activities
18 shall be considered part of the work plan of the authority and
19 approved for purposes of subsection (1). However, any response by
20 the department under this subsection that identifies additional
21 individual activities that must be carried out to satisfy part 201
22 of the natural resources and environmental protection act, 1994 PA
23 451, MCL 324.20101 to 324.20142, must be satisfactorily completed
24 for the activities to be considered acceptable for the purposes of
25 compliance with part 201 of the natural resources and environmental
26 protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

27 (7) If the department issues a written response under

1 subsection (6) to a work plan and if the department's written
2 response modifies an individual activity proposed by the work plan
3 of the authority in a manner that reduces or eliminates a proposed
4 response activity, the authority must complete those individual
5 activities in accordance with the department's response in order
6 for that portion of the work plan to be considered approved for
7 purposes of subsection (1), unless 1 or more of the following
8 conditions apply:

9 (a) Obligations for the individual activity have been issued
10 by the authority, or by a municipality on behalf of the authority,
11 to fund the individual activity prior to issuance of the
12 department's response.

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

16 (8) It shall be in the sole discretion of an authority to
17 propose to undertake additional response activities at an eligible
18 property under a brownfield plan. The department shall not require
19 a work plan to include additional response activities.

20 (9) The department shall review the portion of a work plan
21 that includes additional response activities in accordance with
22 subsection (4).

23 (10) The department's approval or denial of a work plan
24 submitted under this section constitutes a final decision in regard
25 to the use of taxes levied for school operating purposes but does
26 not restrict an authority's use of tax increment revenues
27 attributable to local taxes to pay for eligible activities under a

1 brownfield plan. If a person is aggrieved by the final decision,
 2 the person may appeal under section 631 of the revised judicature
 3 act of 1961, 1961 PA 236, MCL 600.631.

4 (11) ~~The~~ **THROUGH DECEMBER 31, 2012, THE** authority shall
 5 reimburse the department for the actual cost incurred by the
 6 department or a contractor of the department to review a work plan
 7 under subsection (1)(a) ~~or (b)~~ under this section. Funds paid to
 8 the department under this subsection shall be deposited in the cost
 9 recovery subaccount of the cleanup and redevelopment fund created
 10 under section 20108 of the natural resources and environmental
 11 protection act, 1994 PA 451, MCL 324.20108.

12 (12) The department shall submit a report each year ~~on or~~
 13 ~~before March 1~~ to each member of the legislature ~~that contains all~~
 14 ~~of the following~~. **AS PROVIDED IN SECTION 16(4).**

15 ~~— (a) A compilation and summary of all the information submitted~~
 16 ~~under subsection (2).~~

17 ~~— (b) The amount of tax increment revenues approved by the~~
 18 ~~department in the immediately preceding calendar year, including~~
 19 ~~taxes levied for school operating purposes, to conduct eligible~~
 20 ~~activities.~~

21 (13) To seek Michigan ~~economic growth authority~~ **STRATEGIC FUND**
 22 approval of a work plan under ~~subsection (1)(c) or~~ section 13(15),
 23 the authority shall submit all of the following for each eligible
 24 property:

25 (a) A copy of the brownfield plan.

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

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

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

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

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

9 (f) A separate work plan, or part of a work plan, for each
10 eligible activity described in section 13(15) to be undertaken.

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

17 (14) Upon receipt of a request for approval of a work plan,
18 the Michigan ~~economic growth authority~~ **STRATEGIC FUND** shall provide
19 1 of the following written responses to the requesting authority
20 within 65 days:

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

23 (b) A conditional approval that delineates specific necessary
24 modifications to the work plan, including, but not limited to,
25 individual activities to be added or deleted from the work plan and
26 revision of costs.

27 (c) A denial and a letter stating with specificity the reason

1 for the denial. If a work plan is denied under this subsection, the
2 work plan may be subsequently resubmitted.

3 (15) In its review of a work plan under ~~subsection (1)(c) or~~
4 section 13(15), the Michigan ~~economic growth authority~~ **STRATEGIC**
5 **FUND** shall consider the following criteria to the extent reasonably
6 applicable to the type of activities proposed as part of that work
7 plan when approving or denying a work plan:

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

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

12 (c) Whether the cost for each individual activity is
13 reasonable.

14 (d) The overall benefit to the public.

15 (e) The extent of reuse of vacant buildings and redevelopment
16 of blighted property.

17 (f) Creation of jobs.

18 (g) Whether the eligible property is in an area of high
19 unemployment.

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

22 (i) The level of private sector contribution.

23 (j) The cost gap that exists between the site and a similar
24 greenfield site as determined by the Michigan ~~economic growth~~
25 ~~authority~~ **STRATEGIC FUND**.

26 (k) If the developer or projected occupant of the new
27 development is moving from another location in this state, whether

1 the move will create a brownfield.

2 (l) Whether the project of the developer, landowner, or
3 corporate entity that is included in the work plan is financially
4 and economically sound.

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

9 (n) Any other criteria that the Michigan ~~economic growth~~
10 ~~authority~~ **STRATEGIC FUND** considers appropriate for the
11 determination of eligibility or for approval of the work plan.

12 (16) If the Michigan ~~economic growth authority~~ **STRATEGIC FUND**
13 fails to provide a written response under subsection (14) within 65
14 days after receipt of a request for approval of a work plan, the
15 eligible activities shall be considered approved and the authority
16 may proceed with the eligible activities described in section
17 13(15) as outlined in the work plan as submitted for approval.

18 (17) The Michigan ~~economic growth authority's~~ **STRATEGIC FUND**
19 approval of a work plan under section 13(15) is final.

20 (18) ~~The~~ **THROUGH DECEMBER 31, 2012, THE** authority shall
21 reimburse the Michigan ~~economic growth authority~~ **STRATEGIC FUND** for
22 the actual cost incurred by the Michigan ~~economic growth authority~~
23 **STRATEGIC FUND** or a contractor of the Michigan ~~economic growth~~
24 ~~authority~~ **STRATEGIC FUND** to review a work plan under this section.

25 (19) The Michigan ~~economic growth authority~~ **STRATEGIC FUND**
26 shall submit a report each year ~~on or before March 1~~ to each member
27 of the legislature ~~that contains all of the following:~~ **AS PROVIDED**

1 **IN SECTION 16(4).**

2 ~~—— (a) A compilation and summary of all the information submitted~~
3 ~~under subsection (13).~~

4 ~~—— (b) The amount of tax increment revenues approved by the~~
5 ~~Michigan economic growth authority in the immediately preceding~~
6 ~~calendar year, including taxes levied for school operating~~
7 ~~purposes, to conduct eligible activities.~~

8 (20) All taxes levied for school operating purposes that are
9 not used for eligible activities consistent with a **COMBINED**
10 **BROWNFIELD PLAN OR A** work plan approved by the department or the
11 Michigan economic growth authority **STRATEGIC FUND** or for the
12 payment of interest under section 13 and that are not deposited in
13 a local site remediation revolving fund shall be distributed
14 proportionately between the local school district and the school
15 aid fund.

16 (21) An authority shall not use taxes levied for school
17 operating purposes captured from eligible property for eligible
18 activities for a qualified facility or for eligible activities for
19 property located in an economic opportunity zone.

20 (22) The department's approval of a work plan under subsection
21 (3)(a) or (b) does not imply an entitlement to reimbursement of the
22 costs of the eligible activities if the work plan is not
23 implemented as approved.

24 (23) The applicant and the department can, by mutual
25 agreement, extend the time period for any review described in this
26 section. An agreement described in this subsection shall be
27 documented in writing.

1 (24) IF A BROWNFIELD PLAN INCLUDES THE CAPTURE OF TAXES LEVIED
2 FOR SCHOOL OPERATING PURPOSES, THE CHAIRPERSON OF THE MICHIGAN
3 STRATEGIC FUND MAY APPROVE COMBINED BROWNFIELD PLANS AND WORK PLANS
4 THAT ADDRESS ELIGIBLE ACTIVITIES DESCRIBED IN SECTION 13(15)
5 TOTALING AN AMOUNT OF \$500,000.00 OR LESS ACCORDING TO SUBSECTIONS
6 (13), (14), (15), (16), (17), AND (18).

7 (25) IN LIEU OF SEEKING APPROVAL OF A WORK PLAN UNDER SECTION
8 13(15) OR SUBSECTION (1)(A), AN AUTHORITY MAY SEEK APPROVAL OF A
9 COMBINED BROWNFIELD PLAN FROM THE DEPARTMENT OR MICHIGAN STRATEGIC
10 FUND UNDER THIS SUBSECTION AS FOLLOWS:

11 (A) TO SEEK APPROVAL OF A COMBINED BROWNFIELD PLAN UNDER THIS
12 SUBSECTION, THE AUTHORITY SHALL, AT LEAST 30 DAYS BEFORE THE
13 HEARING ON THE COMBINED BROWNFIELD PLAN TO ALLOW FOR CONSULTATION
14 BETWEEN THE AUTHORITY AND THE DEPARTMENT OR THE MICHIGAN STRATEGIC
15 FUND, PROVIDE NOTICE THAT THE AUTHORITY WILL BE SEEKING APPROVAL OF
16 A COMBINED BROWNFIELD PLAN IN LIEU OF A WORK PLAN TO 1 OR MORE OF
17 THE FOLLOWING:

18 (i) THE DEPARTMENT, IF THE COMBINED BROWNFIELD PLAN INVOLVES
19 THE USE OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES TO PAY FOR
20 ELIGIBLE ACTIVITIES THAT REQUIRE APPROVAL BY THE DEPARTMENT UNDER
21 SUBSECTION (1)(A).

22 (ii) THE MICHIGAN STRATEGIC FUND, IF THE COMBINED BROWNFIELD
23 PLAN INVOLVES THE USE OF TAXES LEVIED FOR SCHOOL OPERATING PURPOSES
24 TO PAY FOR ELIGIBLE ACTIVITIES SUBJECT TO SUBSECTION (15).

25 (B) AFTER THE GOVERNING BODY APPROVES A COMBINED BROWNFIELD
26 PLAN, THE AUTHORITY SHALL SUBMIT THE COMBINED BROWNFIELD PLAN TO
27 THE DEPARTMENT UNDER THE CIRCUMSTANCES DESCRIBED IN SUBDIVISION

1 (A) (i) OR MICHIGAN STRATEGIC FUND UNDER THE CIRCUMSTANCES DESCRIBED
2 IN SUBDIVISION (A) (ii) .

3 (C) THE DEPARTMENT SHALL REVIEW A COMBINED BROWNFIELD PLAN
4 ACCORDING TO SUBDIVISION (E) . THE MICHIGAN STRATEGIC FUND SHALL
5 REVIEW A COMBINED BROWNFIELD PLAN ACCORDING TO SUBDIVISION (F) .

6 (D) UPON RECEIPT OF A COMBINED BROWNFIELD PLAN UNDER
7 SUBDIVISION (B) , THE DEPARTMENT OR MICHIGAN STRATEGIC FUND SHALL
8 PROVIDE 1 OF THE FOLLOWING WRITTEN RESPONSES TO THE REQUESTING
9 AUTHORITY WITHIN 65 DAYS:

10 (i) AN UNCONDITIONAL APPROVAL THAT INCLUDES AN ENUMERATION OF
11 ELIGIBLE ACTIVITIES AND A MAXIMUM ALLOWABLE CAPTURE AMOUNT.

12 (ii) A CONDITIONAL APPROVAL THAT DELINEATES SPECIFIC NECESSARY
13 MODIFICATIONS TO THE COMBINED BROWNFIELD PLAN, INCLUDING, BUT NOT
14 LIMITED TO, INDIVIDUAL ACTIVITIES TO BE ADDED TO OR DELETED FROM
15 THE COMBINED BROWNFIELD PLAN AND REVISION OF COSTS.

16 (iii) A DENIAL AND A LETTER STATING WITH SPECIFICITY THE REASON
17 FOR THE DENIAL. IF A COMBINED BROWNFIELD PLAN IS DENIED UNDER THIS
18 SUBDIVISION, THE COMBINED BROWNFIELD PLAN MAY BE SUBSEQUENTLY
19 RESUBMITTED.

20 (E) THE DEPARTMENT MAY APPROVE A COMBINED BROWNFIELD PLAN IF
21 THE AUTHORITY SUBMITS THE INFORMATION IDENTIFIED IN SUBSECTION
22 (2) (B) TO (E) AND IF THE CONDITIONS IDENTIFIED IN SUBSECTION (4)
23 ARE MET.

24 (F) THE MICHIGAN STRATEGIC FUND SHALL CONSIDER THE CRITERIA
25 IDENTIFIED IN SUBSECTION (15) (A) TO (N) TO THE EXTENT REASONABLY
26 APPLICABLE TO THE TYPE OF ACTIVITIES PROPOSED AS PART OF A COMBINED
27 BROWNFIELD PLAN WHEN APPROVING OR DENYING THE COMBINED BROWNFIELD

1 PLAN.

2 (G) IF THE DEPARTMENT OR MICHIGAN STRATEGIC FUND ISSUES A
3 WRITTEN RESPONSE TO A REQUESTING AUTHORITY UNDER SUBDIVISION (D) (i)
4 OR (ii), THE GOVERNING BODY OR ITS DESIGNEE MAY ADMINISTRATIVELY
5 APPROVE ANY MODIFICATIONS TO A COMBINED BROWNFIELD PLAN REQUIRED BY
6 THE WRITTEN RESPONSE WITHOUT THE NEED TO FOLLOW THE NOTICE AND
7 APPROVAL PROCESS REQUIRED BY SECTION 14(2) UNLESS THE MODIFICATIONS
8 ADD 1 OR MORE PARCELS OF ELIGIBLE PROPERTY OR INCREASE THE MAXIMUM
9 AMOUNT OF TAX INCREMENT REVENUES APPROVED FOR THE PROJECT.

10 (H) IF THE DEPARTMENT OR MICHIGAN STRATEGIC FUND FAILS TO
11 PROVIDE A WRITTEN RESPONSE UNDER SUBDIVISION (D) WITHIN 65 DAYS
12 AFTER RECEIPT OF A COMBINED BROWNFIELD PLAN, THE ELIGIBLE
13 ACTIVITIES SHALL BE CONSIDERED APPROVED AS SUBMITTED.

14 (I) THE APPROVAL OF A COMBINED BROWNFIELD PLAN BY THE
15 DEPARTMENT OR MICHIGAN STRATEGIC FUND UNDER THIS SUBSECTION IS
16 FINAL.

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

20 (2) The authority shall expend the tax increment revenues
21 received only in accordance with the brownfield plan. All surplus
22 funds not deposited in the local site remediation revolving fund of
23 the authority under section 13(5) shall revert proportionately to
24 the respective taxing bodies, except as provided in section 15(20).
25 ~~The governing body may abolish the plan when it finds that the~~
26 ~~purposes for which the plan was established are accomplished.~~
27 ~~However, the plan shall not be abolished until the principal and~~

1 ~~interest on bonds issued under section 17 and all other obligations~~
 2 ~~to which the tax increment revenues are pledged have been paid or~~
 3 ~~funds sufficient to make the payment have been segregated.~~

4 (3) The authority shall submit annually to the governing body,
 5 ~~and the state tax commission~~ **THE DEPARTMENT, AND THE MICHIGAN**
 6 **STRATEGIC FUND** a financial report on the status of the activities
 7 of the authority **FOR EACH CALENDAR YEAR**. The report shall include
 8 all of the following:

9 (a) The amount and source of tax increment revenues received.

10 (b) The amount and purpose of expenditures of tax increment
 11 revenues.

12 (c) The amount of principal and interest on all outstanding
 13 indebtedness.

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

16 (e) The captured taxable value realized by the authority **FOR**
 17 **EACH ELIGIBLE PROPERTY SUBJECT TO THE BROWNFIELD PLAN**.

18 ~~Information concerning any transfer of ownership of or~~
 19 ~~interest in each eligible property.~~ **THE AMOUNT OF ACTUAL CAPITAL**
 20 **INVESTMENT MADE FOR EACH PROJECT.**

21 (g) The amount of tax increment revenues attributable to taxes
 22 levied for school operating purposes used for activities described
 23 in section 15(1) (a) and section 2 ~~(m) (vii)~~ **2 (N) (vii)** .

24 **(H) THE NUMBER OF RESIDENTIAL UNITS CONSTRUCTED OR**
 25 **REHABILITATED FOR EACH PROJECT.**

26 **(I) THE AMOUNT, BY SQUARE FOOT, OF NEW OR REHABILITATED**
 27 **RESIDENTIAL, RETAIL, COMMERCIAL, OR INDUSTRIAL SPACE FOR EACH**

1 PROJECT.

2 (J) THE NUMBER OF NEW JOBS CREATED AT THE PROJECT.

3 (K) ~~(h)~~All additional information that the governing body, ~~or~~
4 ~~the state tax commission~~THE DEPARTMENT, OR THE MICHIGAN STRATEGIC
5 FUND considers necessary.

6 (4) The ~~state tax commission~~DEPARTMENT AND THE MICHIGAN
7 STRATEGIC FUND shall collect the financial reports submitted under
8 subsection (3), compile ~~and analyze~~A COMBINED REPORT, WHICH
9 INCLUDES THE USE OF LOCAL TAXES, TAXES LEVIED FOR SCHOOL OPERATING
10 PURPOSES, AND THE STATE BROWNFIELD REDEVELOPMENT FUND, BASED ON the
11 information contained in those reports AND ANY ADDITIONAL
12 INFORMATION CONSIDERED NECESSARY, and submit annually a report
13 based on that information to ~~all of the following standing~~
14 ~~committees~~EACH MEMBER of the legislature. +

15 ~~— (a) In the house of representatives, the committees~~
16 ~~responsible for natural resource management, conservation,~~
17 ~~environmental protection, commerce, economic development, and~~
18 ~~taxation.~~

19 ~~— (b) In the senate, the committees responsible for natural~~
20 ~~resource management, conservation, environmental protection,~~
21 ~~economic development, and taxation.~~

22 (5) BEGINNING ON JANUARY 1, 2013, ALL OF THE FOLLOWING
23 REPORTING OBLIGATIONS APPLY:

24 (A) THE DEPARTMENT SHALL ON A QUARTERLY BASIS POST ON ITS
25 WEBSITE THE NAME, LOCATION, AND AMOUNT OF TAX INCREMENT REVENUES,
26 INCLUDING TAXES LEVIED FOR SCHOOL OPERATING PURPOSES, FOR EACH
27 PROJECT APPROVED BY THE DEPARTMENT UNDER THIS ACT DURING THE

1 IMMEDIATELY PRECEDING QUARTER.

2 (B) THE MICHIGAN STRATEGIC FUND SHALL ON A QUARTERLY BASIS
3 POST ON ITS WEBSITE THE NAME, LOCATION, AND AMOUNT OF TAX INCREMENT
4 REVENUES, INCLUDING TAXES LEVIED FOR SCHOOL OPERATING PURPOSES, FOR
5 EACH PROJECT APPROVED BY THE MICHIGAN STRATEGIC FUND UNDER THIS ACT
6 DURING THE IMMEDIATELY PRECEDING QUARTER.

7 (6) ~~(5)~~—In addition to any other requirements under this act,
8 not less than once every 3 years beginning not later than June 30,
9 2008, the auditor general shall conduct and report a performance
10 postaudit on the effectiveness ~~, efficiency, and economy~~ of the
11 program established under this act. As part of the performance
12 postaudit, the auditor general shall assess the extent to which the
13 implementation of the program by the department and the Michigan
14 ~~economic growth authority~~ **STRATEGIC FUND** facilitate and affect the
15 redevelopment or reuse of eligible property and identify any
16 factors that inhibit the program's effectiveness. The performance
17 postaudit shall also assess the extent to which the interpretation
18 of statutory language, the development of guidance or
19 administrative rules, and the implementation of the program by the
20 department and the Michigan ~~economic growth authority~~ **STRATEGIC**
21 **FUND** is consistent with the fundamental objective of facilitating
22 and supporting timely and efficient brownfield redevelopment of
23 eligible properties. ~~Copies of the performance postaudits shall be~~
24 ~~provided to the governor, the clerk of the house of~~
25 ~~representatives, the secretary of the senate, and the chairpersons~~
26 ~~of the senate and house of representatives standing committees on~~
27 ~~commerce and economic development.~~

1 (7) THE OWNER OR DEVELOPER FOR AN ACTIVE PROJECT INCLUDED
2 WITHIN A BROWNFIELD PLAN MUST ANNUALLY SUBMIT TO THE AUTHORITY A
3 REPORT ON THE STATUS OF THE PROJECT. THE REPORT SHALL BE IN A FORM
4 DEVELOPED BY THE AUTHORITY AND MUST CONTAIN INFORMATION NECESSARY
5 FOR THE AUTHORITY TO REPORT UNDER SUBSECTION (3) (F), (H), (I), (J),
6 AND (K). THE AUTHORITY MAY WAIVE THE REQUIREMENT TO SUBMIT A REPORT
7 UNDER THIS SUBSECTION. AS USED IN THIS SUBSECTION, "ACTIVE PROJECT"
8 MEANS A PROJECT FOR WHICH THE AUTHORITY IS CURRENTLY CAPTURING
9 TAXES UNDER THIS ACT.

10 (8) A BROWNFIELD PLAN OR PLAN AMENDMENT MAY BE ABOLISHED OR
11 TERMINATED ACCORDING TO THIS SUBSECTION SUBJECT TO ALL OF THE
12 FOLLOWING:

13 (A) THE GOVERNING BODY MAY ABOLISH A BROWNFIELD PLAN WHEN IT
14 FINDS THAT THE PURPOSES FOR WHICH THE PLAN WAS ESTABLISHED ARE
15 ACCOMPLISHED.

16 (B) THE GOVERNING BODY MAY TERMINATE A BROWNFIELD PLAN OR PLAN
17 AMENDMENT FOR AN ELIGIBLE PROPERTY IF THE PROJECT FOR WHICH
18 ELIGIBLE ACTIVITIES WERE IDENTIFIED IN THE BROWNFIELD PLAN OR PLAN
19 AMENDMENT FAILS TO OCCUR WITH RESPECT TO THE ELIGIBLE PROPERTY FOR
20 AT LEAST 5 YEARS FOLLOWING THE DATE OF THE RESOLUTION APPROVING THE
21 BROWNFIELD PLAN OR PLAN AMENDMENT.

22 (C) IF A BROWNFIELD PLAN OR PLAN AMENDMENT IS TERMINATED UNDER
23 SUBDIVISION (B), THE GOVERNING BODY MAY APPROVE A NEW BROWNFIELD
24 PLAN OR PLAN AMENDMENT FOR THE ELIGIBLE PROPERTY UNDER WHICH TAX
25 INCREMENT REVENUES MAY BE CAPTURED FOR UP TO 30 YEARS AS PROVIDED
26 IN SECTION 13(22).

27 (D) NOTWITHSTANDING ANYTHING IN THIS SUBSECTION TO THE

1 CONTRARY, A BROWNFIELD PLAN OR PLAN AMENDMENT SHALL NOT BE
2 ABOLISHED OR TERMINATED UNTIL THE PRINCIPAL AND INTEREST ON BONDS
3 ISSUED UNDER SECTION 17 AND ALL OTHER OBLIGATIONS TO WHICH THE TAX
4 INCREMENT REVENUES ARE PLEDGED HAVE BEEN PAID OR FUNDS SUFFICIENT
5 TO MAKE THE PAYMENT HAVE BEEN IDENTIFIED OR SEGREGATED.