

Act No. 502  
Public Acts of 2012  
Approved by the Governor  
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**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

Introduced by Senator Kowall

# **ENROLLED SENATE BILL No. 1210**

AN ACT to amend 1996 PA 381, entitled “An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing,” 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:*

Sec. 2. As used in this act:

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

(b) “Authority” means a brownfield redevelopment authority created under this act.

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

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

(e) “Blighted” means property that meets any of the following criteria as determined by the governing body:

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

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

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

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

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

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

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

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

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

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

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

(j) "Combined brownfield plan" means a brownfield plan that also includes the information necessary to submit the plan to the department or Michigan strategic fund under section 15(25).

(k) "Department" means the department of environmental quality.

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

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

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

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

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

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

(i) Baseline environmental assessment activities.

(ii) Due care activities.

(iii) Additional response activities.

(iv) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit, that is owned or under the control of a land bank fast track authority, or that is located in an economic opportunity zone, and is a facility, historic resource, functionally obsolete, or blighted, and except for purposes of section 38d of former 1975 PA 228, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

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

(C) Lead or asbestos abatement.

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

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

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

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

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

(A) Infrastructure improvements that directly benefit eligible property.

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

(C) Lead or asbestos abatement.

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

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

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

(B) Lead or asbestos abatement.

(viii) Reasonable costs of developing and preparing brownfield plans, combined brownfield plans, and work plans.

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

(A) Infrastructure improvements that directly benefit the property.

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

(C) Lead or asbestos abatement.

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

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

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

(B) Lead or asbestos abatement.

(xi) Reasonable costs of environmental insurance.

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

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

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

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

(iv) Is not in a qualified local governmental unit, is a qualified facility, and is a facility, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (n)(vi).

(v) Is not in a qualified local governmental unit and is a facility, historic resource, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (n)(vii).

(vi) Is not in a qualified local governmental unit and is a facility, functionally obsolete, or blighted, if the eligible activities on the property are limited to the eligible activities identified in subdivision (n)(ix).

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

(viii) Is a transit-oriented development.

(ix) Is a transit-oriented facility.

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

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

(q) "Facility" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

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

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

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

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

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

(i) Underground parking.

(ii) Multilevel parking structures.

(iii) Urban storm water management systems.

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

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

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

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

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

(i) A city.

(ii) A village.

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

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

(v) A county.

(bb) "Owned or under the control of" means that a land bank fast track authority has 1 or more of the following:

(i) An ownership interest in the property.

(ii) A tax lien on the property.

(iii) A tax deed to the property.

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

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

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

(cc) “Qualified facility” means a landfill facility area of 140 or more contiguous acres that is located in a city and that contains a landfill, a material recycling facility, and an asphalt plant that are no longer in operation.

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

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

(ff) “Response activity” means either of the following:

(i) Response activity as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(ii) Corrective action as that term is defined in section 21302 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.21302.

(gg) “Specific taxes” means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; the commercial rehabilitation act, 2005 PA 210, MCL 207.841 to 207.856; or that portion of the tax levied under the tax reverted clean title act, 2003 PA 260, MCL 211.1021 to 211.1026, that is not required to be distributed to a land bank fast track authority.

(hh) “State brownfield redevelopment fund” means the state brownfield redevelopment fund created in section 8a.

(ii) “Tax increment revenues” means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property, regardless of whether those taxes began to be levied after the brownfield plan was adopted. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

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

(kk) “Taxes levied for school operating purposes” means all of the following:

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

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

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

(ll) “Transit-oriented development” means infrastructure improvements that are located within 1/2 mile of a transit station or transit-oriented facility that promotes transit ridership or passenger rail use as determined by the board and approved by the municipality in which it is located.

(mm) “Transit-oriented facility” means a facility that houses a transit station in a manner that promotes transit ridership or passenger rail use.

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

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

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

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. The notice of the public hearing shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

(3) Not more than 30 days after the public hearing, if the governing body intends to proceed with the establishment of the authority, the governing body shall adopt, by majority vote of its members elected and serving, a resolution

establishing the authority. The adoption of the resolution is subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption.

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

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

(6) If the board implements or modifies a brownfield plan that contains a qualified facility, the governing body shall mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Not more than 60 days after receipt of that notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality in which the qualified facility is located. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

Sec. 8. (1) An authority may establish a local site remediation revolving fund. A local site remediation revolving fund shall consist of money available under section 13(5) and may also consist of money appropriated or otherwise made available from public or private sources.

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

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

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

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

(a) All amounts deposited into the state brownfield redevelopment fund under section 13(21).

(b) The proceeds from repayment of a loan, including interest on those repayments, under subsection (5)(f).

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

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

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

(a) To pay administrative costs of all of the following:

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

(ii) The department to implement this act.

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

(b) To fund a grant and loan program for the costs of eligible activities described in section 13(15) on eligible property as provided in subsection (5).

(c) To make deposits into the clean Michigan initiative bond fund under section 19606(2)(d) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19606, for use in providing grants and loans under part 196 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19601 to 324.19616.

(4) Not more than 15% of the amounts deposited annually into the state brownfield redevelopment fund may be used for purposes of subsection (3)(a).

(5) The state brownfield redevelopment fund may be used to fund a grant and loan program for the costs of eligible activities described in section 13(15) on eligible property under this subsection. The grant and loan program shall provide for all of the following:

(a) The Michigan strategic fund shall create and operate a grant and loan program to provide grants and loans to fund eligible activities described in section 13(15) on eligible property. The Michigan strategic fund shall develop and use a detailed application, approval, and compliance process adopted by resolution of the board of the Michigan strategic fund. This process shall be published and available on the Michigan strategic fund website. Program standards, guidelines, templates, or any other forms to implement the grant and loan program shall be approved by the board of the Michigan strategic fund. The Michigan strategic fund may delegate its approval authority under this subsection to a designee.

(b) A person may apply to the Michigan strategic fund for approval of a grant or loan to fund eligible activities described in section 13(15) on eligible property.

(c) The Michigan strategic fund shall approve or deny an application not more than 90 days after receipt of an administratively complete application. If the application is neither approved nor denied within 90 days, it shall be considered by the board of the Michigan strategic fund, or its designee if delegated, for action at, or by, the next regularly scheduled board meeting. The Michigan strategic fund may delegate the approval or denial of an application to the chairperson of the Michigan strategic fund or other designees determined by the board.

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

(e) After the Michigan strategic fund and the applicant have entered into a written agreement under subdivision (d), the Michigan strategic fund shall distribute the proceeds to the applicant according to the terms of the written agreement.

(f) Any proceeds from repayment of a loan, including interest on those repayments, under this subsection shall be paid into the state brownfield redevelopment fund.

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

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

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

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from the eligible property. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(ii), or unless the tax levy is excluded from capture under section 15.

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

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

(f) The beginning date and duration of capture of tax increment revenues for each eligible property as determined under subsection (22).

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

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

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

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

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

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

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

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

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

(3) Except as provided in this subsection and subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a brownfield plan, combined brownfield plan, or a work plan for the eligible property. For property owned or under the control of a land bank fast track authority, tax increment revenues related to a brownfield plan may be used for eligible activities attributable to any eligible property owned or under the control of the land bank fast track authority, the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities, the reasonable costs of preparing a combined brownfield plan or work plan. Except as provided in subsection (18), tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used for eligible activities described in section 2(n)(iv)(E).

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

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs permitted under subsection (3), or for not more than 5 years after the time that capture is required for the purpose of paying the costs permitted under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues attributable to taxes levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan strategic fund shall not be captured for deposit in the local site remediation revolving fund.

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

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

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

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

(b) One of the following:

(i) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority.



If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

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

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

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

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body.

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

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

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

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

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

(13) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a combined brownfield plan or a work plan by the department under section 15(1)(a) and the Michigan strategic fund, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (15) or (18).

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

(15) Except as provided by subsection (18), if a brownfield plan includes the capture of taxes levied for school operating purposes approval of a combined brownfield plan or a work plan by the Michigan strategic fund to use taxes levied for school operating purposes and a development agreement or reimbursement agreement between the municipality or authority and an owner or developer of eligible property are required if the taxes levied for school operating purposes will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, relocation of public buildings or operations for economic development purposes, or acquisition of property by a land bank fast track authority if acquisition of the property is for economic development purposes. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan strategic fund. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) The limitations of section 15(1) upon use of tax increment revenues by an authority shall apply except as follows:

(a) The limitations of section 15(1) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

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

(A) Reasonable and actual administrative and operating expenses of the authority.

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

(ii) Reasonable costs of preparing a work plan for which tax increment revenues may be used under section 13(3).

(b) The limitations of section 15(1)(a), (b), and (c) upon the use of taxes levied for school operating purposes by an authority shall not apply to the costs of 1 or more of the following incurred by a person other than the authority:

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

(ii) Completing a baseline environmental assessment report.

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

(c) The limitations of section 15(1)(b) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

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

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

(iii) For tax increment revenues attributable to taxes levied for school operating purposes, eligible activities described in section 13(15) and conducted on eligible property or prospective eligible properties prior to approval of the brownfield plan, if those costs and the eligible property are subsequently included in a brownfield plan approved by the authority and a combined brownfield plan or work plan approved by the Michigan strategic fund.

(17) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities and interest thereon, the authority may capture local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of baseline environmental assessments, due care, and additional response activities and interest thereon included in a combined brownfield plan or a work plan approved by the department, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest. If an authority reimburses a person or entity under this section for an advance for the payment or reimbursement of the cost of eligible activities that are not baseline environmental assessments, due care, and additional response activities and interest thereon included in a combined brownfield plan or a work plan approved by the Michigan strategic fund, the authority may capture taxes levied for school operating purposes and local taxes for the payment of that interest provided that the Michigan strategic fund grants an approval for the capture of taxes levied for school operating purposes to pay such interest. An authority may enter into agreements related to these reimbursements and payments. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(18) If a brownfield plan includes the capture of taxes levied for school operating purposes, approval of a combined brownfield plan or a work plan by the Michigan strategic fund in the manner required under section 15(14) to (16) or (25) is required in order to use tax increment revenues attributable to taxes levied for school operating purposes for purposes of eligible activities described in section 2(n)(iv)(E) for 1 or more parcels of eligible property. The combined brownfield plan or work plan to be submitted to the Michigan strategic fund under this subsection shall be in a form prescribed by the Michigan strategic fund. The eligible activities to be conducted and described in this subsection shall be consistent with the combined brownfield plan or work plan submitted by the authority to the Michigan strategic fund. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

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

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

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

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

- (d) For authorities that have 16 or more but fewer than 21 active projects, \$175,000.00.
- (e) For authorities that have 21 or more but fewer than 26 active projects, \$200,000.00.
- (f) For authorities that have 26 or more but fewer than 31 active projects, \$300,000.00.
- (g) For authorities that have 31 or more active projects, \$500,000.00.

(20) As used in subsection (19), “active project” means a project in which the authority is currently capturing taxes under this act. The amounts of tax increment revenues attributable to local taxes listed in subsection (19) that an authority can use for the purposes described in subsection (16)(a) may be increased by 2% for each written agreement entered into by an authority in either of the following situations up to a total maximum increase of 10%:

- (a) The authority is an authority established by a county and that authority enters into a written agreement with 1 or more municipalities within that county to serve as the only authority for those other municipalities.
- (b) The authority enters into a written agreement with 1 or more other authorities to administer 1 or more administrative operations of those other authorities.

(21) Notwithstanding anything to the contrary in this act, for a brownfield plan that includes the capture of taxes levied for school operating purposes from eligible property included in a brownfield plan after January 1, 2013, an authority shall pay to the department of treasury at least once annually an amount equal to 3 mills of the taxes levied under the state education tax, 1993 PA 331, MCL 211.901 to 211.906, that are captured under the brownfield plan for up to the first 25 years of the duration of capture of tax increment revenues for each eligible property included in the brownfield plan. The department of treasury shall deposit these amounts into the state brownfield redevelopment fund. If an authority pays an amount equal to 3 mills of the taxes levied under the state education tax, 1993 PA 331, MCL 211.901 to 211.906, on a parcel of eligible property to the department of treasury under this subsection, the percentage of local taxes levied on that parcel and used to reimburse eligible activities for a project under a brownfield plan shall not exceed the percentage of local taxes levied on that parcel that would have been used to reimburse eligible activities for the project under a brownfield plan if the 3 mills of the taxes levied under the state education tax, 1993 PA 331, MCL 211.901 to 211.906, on that parcel were not paid to the department of treasury under this subsection. If, due to an appeal of any tax assessment, an authority is required to reimburse a taxpayer for any portion of the 3 mills that are paid to the department of treasury under this subsection, the department of treasury shall reimburse that amount to the authority within 30 days after receiving a request from the authority for reimbursement.

(22) The duration of capture of tax increment revenues under a brownfield plan for a particular eligible property shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years from the beginning date of the capture of tax increment revenues for that eligible property. The beginning date of capture of tax increment revenues for an eligible property shall not be later than 5 years following the date of the resolution including the eligible property in the brownfield plan. The authority may amend the beginning date of capture of tax increment revenues for a particular eligible property to a date not later than 5 years following the date of the resolution including the eligible property in the brownfield plan. The authority may not amend the beginning date of capture of tax increment revenues for a particular eligible property if the authority has begun to reimburse eligible activities from the capture of tax increment revenues from that eligible property. Any tax increment revenues captured from an eligible property before the beginning date of capture of tax increment revenues for that eligible property shall revert proportionately to the respective tax bodies. If an authority amends the beginning date for capture of tax increment revenues that includes the capture of tax increment revenues for school operating purposes, then the authority shall notify the department or the Michigan strategic fund, as applicable, within 30 days after amending the beginning date.

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

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a combined brownfield plan or a work plan approved by the department after July 24, 1996.

(b) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

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

(d) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a combined brownfield plan or a work plan for the eligible property.

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

- (a) A copy of the brownfield plan.

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

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

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

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

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

(a) An unconditional approval.

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

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

(d) A denial if the property is not an eligible property under this act, if the work plan contemplates the use of taxes levied for school operating purposes prohibited by subsection (1)(c), or for any specific activity if the activity is prohibited by subsection (1)(b). The department may also deny any activity in a work plan that does not meet the conditions in subsection (4) only if the department cannot respond under subdivision (b) or (c). The department shall accompany the denial with a letter that states with specificity the reason for the denial. The department shall respond under subdivision (a), (b), or (c) according to this section for any activities in the work plan that are not denied under this subdivision. If the department denies all or a portion of a work plan under this subdivision, the authority may subsequently resubmit the work plan.

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

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

(b) The due care activities and response activities, other than the activities that are exempt from the work plan approval process under subsection (1)(a), are protective of the public health, safety, and welfare and the environment. The department may approve additional response activities that are more protective of the public health, safety, and welfare and the environment than required by section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a, if those activities provide public health or environmental benefit. In review of a work plan that includes activities that are more protective of the public health, safety, and welfare and the environment, the department's considerations may include, but are not limited to, all of the following:

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

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

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

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

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan, the authority may proceed with the activities as outlined in the work plan as submitted for approval. Except as provided in subsection (6), activities conducted pursuant to a work plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1). Within 45 days after receiving additional information requested from the authority under subsection (3)(c), the department shall review the additional information according to subsection (4) and provide 1 of the responses described in subsection (3) to the requesting authority for the specific activity. If the department does not provide a response to the requesting authority within 45 days after receiving the additional information requested under subsection (3)(c), the activity is approved under subsection (1).

(6) The department may issue a written response to a work plan more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan as it

was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan initially submitted under subsection (5). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the activities to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

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

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

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

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

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

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

(11) Through December 31, 2012, the authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year to each member of the legislature as provided in section 16(4).

(13) To seek Michigan strategic fund approval of a work plan under section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

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

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

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

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

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

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

(14) Upon receipt of a request for approval of a work plan, the Michigan strategic fund shall provide 1 of the following written responses to the requesting authority within 65 days:

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

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

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

(15) In its review of a work plan under section 13(15), the Michigan strategic fund shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

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

- (b) Whether each individual activity included in the work plan is required to complete the eligible activity.
- (c) Whether the cost for each individual activity is reasonable.
- (d) The overall benefit to the public.
- (e) The extent of reuse of vacant buildings and redevelopment of blighted property.
- (f) Creation of jobs.
- (g) Whether the eligible property is in an area of high unemployment.
- (h) The level and extent of contamination alleviated by or in connection with the eligible activities.
- (i) The level of private sector contribution.
- (j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan strategic fund.
- (k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.
- (l) Whether the project of the developer, landowner, or corporate entity that is included in the work plan is financially and economically sound.
- (m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.
- (n) Any other criteria that the Michigan strategic fund considers appropriate for the determination of eligibility or for approval of the work plan.
- (16) If the Michigan strategic fund fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.
- (17) The Michigan strategic fund approval of a work plan under section 13(15) is final.
- (18) Through December 31, 2012, the authority shall reimburse the Michigan strategic fund for the actual cost incurred by the Michigan strategic fund or a contractor of the Michigan strategic fund to review a work plan under this section.
- (19) The Michigan strategic fund shall submit a report each year to each member of the legislature as provided in section 16(4).
- (20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a combined brownfield plan or a work plan approved by the department or the Michigan strategic fund or for the payment of interest under section 13 and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.
- (21) An authority shall not use taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility or for eligible activities for property located in an economic opportunity zone.
- (22) The department's approval of a work plan under subsection (3)(a) or (b) does not imply an entitlement to reimbursement of the costs of the eligible activities if the work plan is not implemented as approved.
- (23) The applicant and the department can, by mutual agreement, extend the time period for any review described in this section. An agreement described in this subsection shall be documented in writing.
- (24) If a brownfield plan includes the capture of taxes levied for school operating purposes, the chairperson of the Michigan strategic fund may approve combined brownfield plans and work plans that address eligible activities described in section 13(15) totaling an amount of \$500,000.00 or less according to subsections (13), (14), (15), (16), (17), and (18).
- (25) In lieu of seeking approval of a work plan under section 13(15) or subsection (1)(a), an authority may seek approval of a combined brownfield plan from the department or Michigan strategic fund under this subsection as follows:
  - (a) To seek approval of a combined brownfield plan under this subsection, the authority shall, at least 30 days before the hearing on the combined brownfield plan to allow for consultation between the authority and the department or the Michigan strategic fund, provide notice that the authority will be seeking approval of a combined brownfield plan in lieu of a work plan to 1 or more of the following:
    - (i) The department, if the combined brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require approval by the department under subsection (1)(a).
    - (ii) The Michigan strategic fund, if the combined brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (15).

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

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

(d) Upon receipt of a combined brownfield plan under subdivision (b), the department or Michigan strategic fund shall provide 1 of the following written responses to the requesting authority within 65 days:

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

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

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

(e) The department may approve a combined brownfield plan if the authority submits the information identified in subsection (2)(b) to (e) and if the conditions identified in subsection (4) are met.

(f) The Michigan strategic fund shall consider the criteria identified in subsection (15)(a) to (n) to the extent reasonably applicable to the type of activities proposed as part of a combined brownfield plan when approving or denying the combined brownfield plan.

(g) If the department or Michigan strategic fund issues a written response to a requesting authority under subdivision (d)(i) or (ii), the governing body or its designee may administratively approve any modifications to a combined brownfield plan required by the written response without the need to follow the notice and approval process required by section 14(2) unless the modifications add 1 or more parcels of eligible property or increase the maximum amount of tax increment revenues approved for the project.

(h) If the department or Michigan strategic fund fails to provide a written response under subdivision (d) within 65 days after receipt of a combined brownfield plan, the eligible activities shall be considered approved as submitted.

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

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

(2) The authority shall expend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the local site remediation revolving fund of the authority under section 13(5) shall revert proportionately to the respective taxing bodies, except as provided in section 15(20).

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

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

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

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

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

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

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

(g) The amount of tax increment revenues attributable to taxes levied for school operating purposes used for activities described in section 15(1)(a) and section 2(n)(vii).

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

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

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

(k) All additional information that the governing body, the department, or the Michigan strategic fund considers necessary.

(4) The department and the Michigan strategic fund shall collect the financial reports submitted under subsection (3), compile a combined report, which includes the use of local taxes, taxes levied for school operating purposes, and the state brownfield redevelopment fund, based on the information contained in those reports and any additional information considered necessary, and submit annually a report based on that information to each member of the legislature.

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

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

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

(6) In addition to any other requirements under this act, not less than once every 3 years beginning not later than June 30, 2008, the auditor general shall conduct and report a performance postaudit on the effectiveness of the program established under this act. As part of the performance postaudit, the auditor general shall assess the extent to which the implementation of the program by the department and the Michigan strategic fund facilitate and affect the redevelopment or reuse of eligible property and identify any factors that inhibit the program's effectiveness. The performance postaudit shall also assess the extent to which the interpretation of statutory language, the development of guidance or administrative rules, and the implementation of the program by the department and the Michigan strategic fund is consistent with the fundamental objective of facilitating and supporting timely and efficient brownfield redevelopment of eligible properties.

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

(8) A brownfield plan or plan amendment may be abolished or terminated according to this subsection subject to all of the following:

(a) The governing body may abolish a brownfield plan when it finds that the purposes for which the plan was established are accomplished.

(b) The governing body may terminate a brownfield plan or plan amendment for an eligible property if the project for which eligible activities were identified in the brownfield plan or plan amendment fails to occur with respect to the eligible property for at least 5 years following the date of the resolution approving the brownfield plan or plan amendment.

(c) If a brownfield plan or plan amendment is terminated under subdivision (b), the governing body may approve a new brownfield plan or plan amendment for the eligible property under which tax increment revenues may be captured for up to 30 years as provided in section 13(22).

(d) Notwithstanding anything in this subsection to the contrary, a brownfield plan or plan amendment shall not be abolished or terminated until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the payment have been identified or segregated.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved .....

.....  
Governor