

MAKE IT IN MICHIGAN FUND

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 5095 and 5107 as introduced
Sponsor: Rep. Joey Andrews

Analysis available at
<http://www.legislature.mi.gov>

House Bills 5104, 5105, and 5106 as introduced
Sponsor: Rep. Jason Hoskins

Committee: Economic Development and Small Business
Complete to 10-24-23

SUMMARY:

House Bills 5104 and 5106 would amend the Michigan Strategic Fund Act and the Michigan Trust Fund Act, respectively, to replace the Strategic Outreach and Attraction Reserve (SOAR) Fund with the “Make it in Michigan” Fund.¹ House Bills 5095, 5105, and 5107 would make complementary changes to other acts to reflect the transition to the Make it in Michigan Fund.

House Bill 5104 would amend the Michigan Strategic Fund Act to operate the Critical Industry program (CIP), the Michigan Strategic Site Readiness program (SSRP), and the new Michigan 360 program under the Make it in Michigan Fund program. The bill would create the Michigan 360 program, require the programs to be funded through the Make it in Michigan Fund rather than the SOAR Fund, and make other modifications to the existing programs as described below. It would also expand the Michigan Strategic Fund (MSF) board of directors to include four nonvoting members from the Senate and House of Representatives and would modify the requirements for the MSF’s annual report.

Nonvoting MSF board members

The majority chair and minority vice chair of a Senate standing committee, selected by the Senate majority leader, and the majority chair and minority vice chair of a House standing committee, selected by the speaker of the House, would serve as nonvoting members on the MSF board of directors.

Make it in Michigan programs

Under House Bill 5104, the Critical Industry program, the Strategic Site Readiness program, and the Michigan 360 program would be considered the three “Make it in Michigan” programs. In determining whether to provide economic assistance for a project under the CIP, SSRP, or Michigan 360, the MSF would have to determine how the assistance under all of the Make it in Michigan programs can be combined into a singular offer package to best achieve both of the following goals:

- Ensure that traditional economic development tools are packaged with targeted investments in the communities where the investments are located, housing, workforce development, education, and wraparound services.

¹ The Strategic Outreach and Attraction Reserve Fund was created in 2021 to fund Michigan’s economic development incentives through the Critical Industry program and the Michigan Strategic Site Readiness program. See Public Acts 134, 136, 137, and 143 of 2021: <http://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-0769-896200FB.pdf>.

- Ensure that economic assistance provided under the programs will benefit Michigan communities and residents even if a company’s commitment fails to materialize, a business decision changes, or a company falls short of its stated goals.

The MSF would have to identify the site that is the best location for a particular project, both for the success of the business and for the impact to the economy and growth of the community. It would also have to engage with the governing body of the municipality where the site is located to collaboratively build an offer package and identify investments for eligible activities under the Michigan 360 program that align with the project’s needs and directly support the residents of the community.

The MSF could not provide economic assistance under any Make it in Michigan program unless the project, including any connected Michigan 360 investments, will enable progress towards the state’s economic justice and climate goals (see **Background**, below).

Make it in Michigan and MSF reports

The MSF would have to provide a quarterly report on the activities of the Make it in Michigan fund programs to the Senate Economic and Community Development committee and the House Economic Development and Small Business committee that includes a description of each project receiving economic assistance, in addition to all of the following for each project:

- The MSF’s written analysis of the criteria for awarding the assistance under each Make it in Michigan program.
- A written explanation of how the offer package achieves the two goals of the Make it in Michigan program, as described above.
- A progress update that includes:
 - The amount of total project investment and amount of economic assistance provided under each program.
 - A description of any benchmarks or other conditions that must be met.
 - The status of each benchmark or condition.
 - The amount of money disbursed to date for the project and the date of each disbursement. (If a disbursement is related to the satisfaction of a benchmark or other condition, a description of that benchmark or condition would have to be included.)
 - A description of future projected installments, including the projected amount and any benchmarks that must be met to receive the installment.
 - Whether money has been paid to the MSF pursuant to a clawback or repayment provision, including a description of the reason for clawback or repayment and the amount paid.

MSF’s annual report would have to include the status of each CIP, SSRP, and Michigan 360 project and how the project’s progress satisfies the specific criteria for its respective program and the overall Make it in Michigan criteria, as described below. (Currently, the report must include the activities of the CIP and SSRP as a whole.) Reporting on the Michigan 360 program would have to include the status of the eligible activities under the program and a description of how the progress of those activities satisfies the Michigan 360 and Make it in Michigan program criteria.

Michigan 360

House Bill 5104 would create the Michigan 360 program, which would be operated by the MSF.² Money could be spent from the program for *qualified investments* to *eligible applicants* to support *eligible activities* related to projects under either the CIP or SSRP, and Michigan 360 investments would have to be made at the same time as and in connection with an award under either of those programs. An investment under the Michigan 360 program would have to be *at least 20%* of the total amount of economic assistance provided under the Make it in Michigan Fund programs for a project.

With respect to the Michigan 360 program, a *qualified investment* would mean a grant, loan, or other community economic and development assistance for a project subject to a written agreement under the Michigan 360 program. A qualified investment would have to be for eligible activities related to an award under the CIP or the SSRP.

Eligible applicant would mean an applicant that is at least one of the following:

- A political subdivision of Michigan, including a county, city, village, township, charter township, or instrumentality of any of those bodies.
- A college, university, community college, or junior college in Michigan.
- A nonprofit corporation or community advocacy group.
- A *community development financial institution* or coalition of community development financial institutions that has previously provided services in Michigan.
- A local professional or technical service provider.

Community development financial institution would mean that term as defined by 12 USC 470.³ Generally, it means a person other than an individual who has a primary mission of promoting community development; serves an investment area or targeted population; provides development services in conjunction with equity investments or loans (either directly or through an affiliate); maintains accountability to residents of its investment area or targeted population; and is not an agency or instrumentality of the United States, a state, or a political subdivision of a state.

With respect to a proposed project considered under the Michigan 360 program, *eligible activities* would mean at least two of the following:

- Main street and placemaking activities and activities to create walkable communities.
- Support for the growth of small and micro businesses, business hubs, and technology collaborative spaces in the state.
- Workforce-related activities that will improve productivity, competitiveness, and inclusiveness of the workforce to meet the needs of employers or potential employers.
- Expansion or development of community services, including mental or behavioral health services and educational and youth programming at no cost or low cost to the community and employees.

² The bill would state that the legislature finds and declares that the funding provided under the Michigan 360 program is for the public purpose and serves the health, safety, and general welfare of Michigan residents.

³ See: <https://www.govinfo.gov/content/pkg/USCODE-2021-title12/pdf/USCODE-2021-title12-chap47-subchapI-sec4702.pdf>.

- Hard infrastructure improvements, including water infrastructure, transportation, roads, bridges, rail-grade separation, other community and regional connectors, weatherization infrastructure, and electric vehicle charging infrastructure.
- Local housing market analysis to determine current and future housing needs and assistance in addressing identified housing needs as a result of the analysis. (Investments in housing would have to make at least 20% of the resulting housing units low-income housing for individuals whose household income is under 60% of the area median income.)
- Expansion or development of community resources, including broadband access, clean energy, energy efficiency tools, and green space preservation.

The MSF would have to adopt an application, approval, and compliance process for the program and then publish the process on its website or the website of the Michigan Economic Development Corporation (MEDC). The application, approval, and compliance process for the CIP and SSRP, both of which currently must be published on the MSF website, could also instead be published on the MEDC website.

Michigan 360 criteria

Before entering into a written agreement for a qualified investment under the Michigan 360 program, the MSF would have to consider and document all of the following criteria:

- The potential economic impact of the project to the community and the state.
- The degree to which the proposed project is a priority for the local unit of government in which the investment will be made.
- Whether the project will act as a catalyst for additional economic growth in the community and in the state.
- Whether the eligible activities as defined for the proposed project will invest in transportation or infrastructure support in the community.
- Whether the proposed eligible activities will support workforce training and development needs in the community.
- The extent to which the proposed project will support the growth of the local downtown, the central business district, small businesses, or local business hubs.
- Whether the eligible activities as defined for the proposed project will support the child care needs of the community required to support the local workforce.
- Whether the proposed project will provide local housing to support growth in the community related to the project.
- Whether the proposed project will reuse vacant buildings or historic resources, or whether the proposed project will redevelop blighted property.
- Whether the proposed eligible activities will support or enable progress toward the following core policy priorities, as defined by guidelines issued under the federal Justice40 initiative:⁴
 - Engaging with local stakeholders, including the governing bodies of communities and labor unions.
 - Investing in the Michigan workforce.

⁴ The initiative, created by Executive Order 14008, is an environmental justice program aiming to ensure that 40% of overall benefits of certain federal investments go to disadvantaged communities. For the White House's initial guidance on the Justice40 initiative, see: <https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>.

- Advancing diversity, equity, inclusion, and accessibility.
- Benefiting disadvantaged communities under the Justice40 initiative.
- The extent to which the proposed project will attempt to coordinate with existing resources and programs in Michigan, including the MichiganWorks! One-Stop Service Center system,⁵ the Michigan High-Speed Internet Office,⁶ the Michigan State Housing Development Authority (MSHDA), state and local land banks, and the Michigan Department of Transportation (MDOT).

Written agreements

If the MSF determines that at least three of the above criteria are met and decides to award a qualified investment to an eligible applicant, it would have to enter into a written agreement with the applicant that includes the following, in addition to any other terms and conditions related to the investment:

- The amount of the total qualified investment to be awarded.
- Specific dates and benchmarks for the applicant to receive the investment, including any conditions for the disbursement of money in installments.
- Specific terms relating to measurable outcomes, proration of payments for partial performance, and clawback and specific repayment provisions for noncompliance.
- An audit provision requiring the MSF to verify that the required benchmarks have been satisfied.
- A provision requiring the applicant to provide the data described in the agreement to the MSF to comply with legislative reporting requirements.

Before entering into the agreement, the MSF would have to submit a copy of the agreement and its written analysis of the criteria to the four legislators who serve as nonvoting members of the MSF board.

The MSF could not provide economic assistance under the CIP or the SSRP unless economic assistance is provided under the Michigan 360 program in an amount that is not less than 20% of the total amount of economic assistance provided for a project under the Make it in Michigan Fund programs.

Limitations on disbursements

The MSF could not disburse money to an eligible applicant for a qualified investment under the Michigan 360 program if any of the following apply:

- The applicant has not fully repaid all money subject to a clawback or that is required to be repaid under any agreement with the MSF or MEDC.
- The eligible applicant is in default on any grant, loan, investment, or other economic assistance made or guaranteed by the MSF or MEDC.
- The eligible applicant has one or more unpaid fees from pollution or environmental contamination in previous or current projects in any state.
- The eligible applicant is currently in bad standing with the state (it owes fines or penalties to the state or is under investigation by a state department or agency).

⁵ <https://www.michiganworks.org/michigan-works-network>.

⁶ <https://www.michigan.gov/leo/bureaus-agencies/mihi>.

Clawbacks

All money paid to the MSF pursuant to a clawback or a specific repayment provision for a qualified investment under the Michigan 360 program would be deposited into the general fund, and any money allocated to the program that remains unexpended, unallocated, or unobligated at the end of a fiscal year would revert to the general fund.

Currently, all money paid to the MSF pursuant to a clawback or repayment provision for a project receiving money from the CIP or the SSRP is deposited in the SOAR Fund, and all money allocated to the programs that remains unexpended, unallocated, or unobligated at the end of a fiscal year would revert back to the SOAR Fund. House Bill 5104 would instead provide that this money would also be deposited or reverted to the general fund.

Modification requests

A request to modify an existing written agreement under the Michigan 360 program would have to include the specific provision of the agreement to be modified and the rationale for the modification. If the MSF receives such a request, it would have to provide a copy to the four legislators who serve as nonvoting members of the MSF board, the governor, the clerk of the House, the secretary of the Senate, and the Senate and House Fiscal Agencies within five business days of receiving it and before amending the agreement. The MSF would also have to provide public notice of the proposed amendments and publish them on its website at least one business day before holding a public hearing on the amendments.

If the MSF amends an existing agreement, it would have to notify the officers and entities listed above within one business day of the modification.

Reporting requirements

By March 15 of each year, the MSF would have to send a report to each member of the legislature, the governor, the clerk of the House, the secretary of the Senate, and the Senate and House Fiscal Agencies that describes the activities of the Michigan 360 program. The report would have to include a list of applicants that received a qualified investment, in addition to the following information for each investment:

- A description of the associated project.
- The amount and type of qualified investment.
- A description of any installments that have been paid and a description of projected future installments.
- A description of community engagement in connection with the project.
- The status of the progress of eligible activities.
- A description of all required benchmarks for the eligible activities in accordance with the written agreement, and the status of those benchmarks.

Critical Industry program⁷

The MSF operates the CIP and uses money transferred from the SOAR Fund or other appropriated money to make *qualified investments* to *qualified businesses* for deal-closing, gap financing, or other economic assistance to create or retain *qualified jobs* as a result of a

⁷ For an overview of the Critical Industry Program, see: <https://www.michiganbusiness.org/services/incentives-and-taxes/cip/>.

technological shift in product or production⁸ or make capital investments, or both, as determined by the MSF board.

With respect to the Critical Industry program, a **qualified investment** means a grant, loan, or other economic assistance for a project subject to a written agreement with a qualified business under the CIP. It includes grants, loans, and other economic assistance for the creation or retention of qualified jobs *as a result of a technological shift in product or production*, infrastructure improvements, other capital investments, the purchase or acquisition of heavy machinery, or other assistance.⁹ House Bill 5104 would delete the italicized language and instead provide that a qualified investment includes assistance for the creation or retention of qualified jobs *that the MSF determines are critical to the economic growth and development of the state*.

Qualified business means a business located or operating in Michigan or a business that will locate or operate in Michigan as determined by the MSF board. A qualified business may include more than one business, as determined by the MSF board.

Qualified job means a job performed by a Michigan resident whose state income taxes are withheld by an employer, by an employee leasing company or professional employer organization on behalf of the employer, or by an individual who is not a Michigan resident and is employed by a business at a project location that is in Michigan, as determined and verified by the MSF. (House Bill 5104 would specify that qualified jobs must be permanent and full-time jobs.¹⁰)

CIP criteria

The following would be added to the list of criteria that the MSF must consider and document before entering into a written agreement for a qualified investment under the CIP:¹¹

- Whether the project will catalyze economic growth in Michigan and the community in which it is located.¹²
- The amount of any other economic assistance or support provided by the state for the project.
- The amount of any other economic assistance or support provided by the federal government for the project, including grants, loans, appropriations, or tax credits.
- The amount of any private funds, investments, or contributions for the project, including the qualified business's own investments in the project.
- The extent to which the applicant will leverage the local skilled workforce and Department of Labor and Economic Opportunity (LEO) programs for the development and construction at the project location.

⁸ The bill would delete requirements that an eligible job must be created or retained as a result of a technological shift in product or production. Instead, the MSF would determine whether a job is critical to the economic growth and development of the state.

⁹ The term also includes a grant, loan, or other economic assistance for job training opportunities or workforce development and education.

¹⁰ This provision would also apply to qualified jobs under the SSRP, which requires the consideration of the qualified jobs to be created or retained for an applicant under that program with a specifically identified end user.

¹¹ The current criteria can be found here:

<https://www.michiganbusiness.org/48f6cb/globalassets/documents/reports/fact-sheets/critical-industry-program-guidelines.pdf>.

¹² The MSF must currently consider whether the project will catalyze revitalization.

- Whether the proposed project is or will be located in a qualified opportunity zone,¹³ a HUBZone,¹⁴ or a county, city, village, or township with an unemployment rate exceeding the average statewide unemployment rate.
- The business's plan for remediating any environmental contamination that exists for a certain project.¹⁵
- Whether the project will result in equitable job growth based on providing training and advancement opportunities for employees.
- Whether the qualified business provides health care and access to employer-sponsored benefits, including retirement savings, paid family and medical leave, housing credits, and child care.
- The extent to which the qualified business engages or is engaged with the community in which the project is or will be located.
- Whether the qualified business will honor a decision by its workers to form a union and will commit not to interfere in unionization efforts.
- Whether the qualified business has downsized or laid off workers within this state within two years of the potential award and, if downsizing or layoffs occurred, the salary range of the affected employees. The MSF would have to consider the net job loss or gain and the overall impact on net median income when determining whether to award a qualified investment.
- Whether the project involves a potential partnership with a foreign company that may be a safety or security risk to Michigan workers and intellectual property, and whether there are other potential projects with lower risk.
- The extent to which the proposed project will attempt to coordinate with Michigan's existing resources and programs, including the following:
 - The MichiganWorks! One-Stop Service Center system for hiring, employment, workforce development, and other similar needs.
 - The Michigan High-Speed Internet Office for community infrastructure investments to expand access to, increase the affordability of, or otherwise improve high-speed internet services.
 - MSHDA for community housing needs and planning, implementation, and other activities in connection with those needs.
 - The State Land Bank Authority and county and local land banks for land acquisition and other land needs for community investment and planning, implementation, and other activities in connection with these land needs.
 - MDOT for transportation needs and planning, implementation, and other activities in connection with those needs.

Under the bill, the following criteria would no longer have to be considered:

- The level of other public funds, including the appropriation of federal or state funds and any federal or state tax credits.
- The level of any private funds, investments, or contributions into the project, including the qualified business's own investments in the project.
- Any other additional criteria approved by the MSF board that are specific to an individual project and consistent with the purpose of the critical industry program.

¹³ See: <https://michigan.maps.arcgis.com/apps/webappviewer/index.html?id=8b1413d59b8d420faaf5217a5ab52851>.

¹⁴ See: <https://maps.certify.sba.gov/hubzone/map#center=44.722800,-103.249700&zoom=4>.

¹⁵ The MSF must currently consider the level and extent of the contamination.

Additionally, instead of the importance of a project for the community in which it is located, the MSF would have to consider the project's potential economic impact for that community and the state.

A project would have to meet a majority of the criteria to be eligible to receive a qualified investment under the CIP.

Written agreements

If the MSF decides to award a qualified investment to a qualified business, it must enter a written agreement with the business that includes the following, in addition to any other terms and conditions related to the investment:

- Specific dates and benchmarks for the business to receive the investment, including any conditions for the disbursement of money in installments.
- Specific terms relating to the required qualified job creation or the retention of qualified jobs, including measurable outcomes, prorated payments for partial performance, and clawback or specific repayment provisions for noncompliance.
- Specific penalties for noncompliance, as determined by the MSF.
- A provision that all money subject to a clawback or that is required to be repaid under a specific repayment provision must be paid within 90 days after notification from the MSF, and any amounts not paid within that period will be subject to a 1% monthly penalty, prorated daily.
- A provision that the state must have a *security interest* to the extent of the investment, unless doing so conflicts with any contractual obligation of the qualified business or with any applicable bankruptcy or insolvency laws.
- A requirement that the business provide all data necessary for the MSF's annual legislative reports.
- A provision authorizing the business to enter into direct agreements with workforce training providers to meet the qualified investment's workforce requirements, as the MSF determines to be appropriate.

Security interest would mean, as defined in the Uniform Commercial Code, an interest in personal property or fixtures that secures payment or performance of an obligation.

House Bill 5104 would additionally require the written agreement to include the total amount of the qualified investment to be awarded and an audit provision requiring the MSF to verify that the benchmarks required for the project have been satisfied.

Before entering into an agreement, the MSF would have to submit a copy of the agreement and a written analysis of the criteria considered for both the CIP and the Make it in Michigan Fund to the four nonvoting legislators on the MSF board.

Limitations on disbursement

The MSF could not disburse money allocated to the CIP for a qualified investment to a qualified business if either of the following apply:

- The business has any unpaid fees from pollution or environmental contamination from previous or current projects in any state.
- The business currently owes fines or penalties to the state or is under investigation by a state department or agency.

Modification requests

Currently, if the MSF receives a request to modify an existing written agreement for an investment under the CIP, it must provide a copy of the request to each member of the legislature, the governor, the clerk of the House, the secretary of the Senate, and the Senate and House Fiscal Agencies within five business days of receiving the request. House Bill 5104 would instead require the MSF to provide a copy of the request to the four nonvoting legislators on the MSF board, rather than all members of the legislature, and would specify that the copy of the modification would have to be provided before the MSF amends the written agreement. (If the MSF approves a modified agreement, a copy of the new agreement must be provided to the officers and entities listed above within one business day.)

Michigan Strategic Site Readiness program¹⁶

The MSF operates the SSRP and uses money transferred from the SOAR Fund or other appropriated money to provide economic assistance to *eligible applicants* to create investment-ready sites to attract and promote investments for *eligible activities* on or related to strategic sites and mega-strategic sites.

Eligible applicant means an applicant that is one of the following:

- A political subdivision of the state, including a county, city, village, township, or charter township or an instrumentality of any of those political subdivisions.¹⁷
- A local economic development corporation or similar authority.
- An owner of the site for which the improvements are proposed that is not its end user, as long as the end user applies jointly with another applicant.
- An end user, when applicable.

With respect to a site that is the subject of a SSRP application, *eligible activities* mean land acquisition;¹⁸ site preparation and improvement; infrastructure improvements that directly benefit the site; demolition, construction, alteration, rehabilitation, or improvement of buildings on the site; environmental remediation; and architectural, engineering, surveying, and similar professional fees.

SSRP criteria

The following would be added to the list of criteria that the MSF must consider and document before entering into a written agreement for a qualified investment under the SSRP:¹⁹

- The potential economic impact of the project to the state.

¹⁶ For an overview of the Michigan Strategic Site Readiness Program, see:

<https://www.michiganbusiness.org/services/incentives-and-taxes/ssrp/>.

¹⁷ House Bill 5104 would allow a land bank to enter into a written agreement with the MSF, if determined to be necessary.

¹⁸ House Bill 5104 would specify that include land holding costs are a part of land acquisition and assembly. Additionally, subject to MSF approval, local and regional economic development organizations could use money from the program to acquire real property or interests in real property.

¹⁹ The current criteria can be found here:

<https://www.michiganbusiness.org/48fd7b/globalassets/documents/reports/fact-sheets/strategic-site-readiness-program-guidelines.pdf>. Different criteria apply for certain sites and for whether an end user for the site has been identified.

- Whether the project will catalyze economic growth in Michigan and the community in which it is located.²⁰
- The extent to which the applicant will leverage the local skilled workforce and LEO programs for the development and construction at the project location.
- The business's plan for remediating any environmental contamination that exists for a certain project.²¹

Under the bill, the following criteria would no longer have to be considered:

- The importance of the project or eligible activities to the community in which it is located.
- Whether the proposed strategic site or mega-strategic site is incorporated into a strategic plan of a political subdivision of Michigan.
- Any other additional criteria approved by the MSF board that are specific to each individual project and are consistent with the purpose of the program.

A project would have to meet a majority of the criteria to be eligible to receive economic assistance under the SSRP.

Written agreements

If the MSF decides to provide a grant, loan, or other economic assistance to an eligible applicant under the program, it must enter into a written agreement with the applicant that includes the terms and conditions related to the economic assistance.

In addition to the current requirements for the written agreement, House Bill 5104 would require the agreement to include the amount of the grant, loan, or other economic assistance to be awarded and a provision requiring the applicant to provide all necessary data for the MSF to comply with the act's reporting requirements.

Before entering into an agreement, the MSF would have to submit a copy of the agreement and a written analysis of the criteria considered for both the SSRP and the Make it in Michigan Fund to the four nonvoting legislators on the MSF board.

Limitations on disbursement

The MSF could not disburse money allocated to the SSRP for economic assistance to an eligible applicant if either of the following apply:

- The business has any unpaid fees from pollution or environmental contamination from previous or current projects in any state.
- The business currently owes fines or penalties to the state or is under investigation by a state department or agency.

Modification requests

Currently, if the MSF receives a request to modify an existing written agreement for an investment under the SSRP, it must provide a copy of the request to each member of the legislature, the governor, the clerk of the House, the secretary of the Senate, and the Senate and House Fiscal Agencies within five business days of receiving the request. House Bill 5104 would instead require the MSF to provide a copy of the request to the four nonvoting legislators

²⁰ The MSF must currently consider whether the project will catalyze revitalization.

²¹ The MSF must currently consider the level and extent of the contamination.

on the MSF board, rather than all members of the legislature, and would specify that the copy of the modification would have to be provided before the MSF amends the written agreement. (If the MSF approves a modified agreement, a copy of the new agreement must be provided to the officers and entities listed above within one business day.)

Deleted provisions

The bill would remove a provision that requires the MSF to prepare a mega-strategic site investment strategy and spending plan in collaboration with an eligible applicant when awarding economic assistance under the SSRP for a mega-strategic site with no identified end user.

It would also remove a provision allowing the MSF to make grants and provide technical assistance to local economic development corporations through the SSRP to create an inventory of development-ready sites.

The bill is tie-barred to House Bill 5106, which means that it cannot go into effect unless HB 5106 is also enacted.

MCL 125.2005 et seq.

House Bill 5105 would amend 1921 PA 2, which created the State Administrative Board and enumerates several of its powers and duties. Under the act, the board may inter-transfer funds within the appropriation for a particular department, board, commission, officer, or institution, although it does not have the power to transfer to a state department, board, commission, officer, or institution any sum from the amount appropriated by the legislature for another purpose.

The bill would add that the State Administrative Board may not transfer or inter-transfer any funds that are appropriated to or deposited in the Make it in Michigan Fund, rather than the SOAR Fund, or any funds appropriated or transferred for the Michigan 360 program.

The bill is tie-barred to House Bills 5104 and 5106, which means that it cannot go into effect unless both HBs 5104 and 5106 are enacted.

MCL 17.3

House Bill 5106 would amend the Michigan Trust Fund Act to rename the SOAR Fund as the Make it in Michigan Fund.

The Make it in Michigan Fund would be created and operated under the same provisions as the SOAR Fund, and the same annual reporting requirements would apply. Money in the fund could only be spent pursuant to an appropriation or legislative transfer for the Critical Industry program, the Michigan Strategic Site Readiness program, or the Michigan 360 program.

The state treasurer could invest money in the Make it in Michigan Fund as follows:

- As part of the common cash of the state, if the money is separately accounted for.
- In an investment for surplus funds authorized under 1855 PA 105, an act that addresses how surplus funds in the state treasury can be invested.
- In an obligation issued by any state, political subdivision, or instrumentality of the United States.

- In an obligation issued, assumed, or guaranteed by a solvent entity created or existing under the laws of the United States or of any state, district, or territory of the United States that is not in default as to principal or interest.
- In another investment authorized by law.

The bill is tie-barred to House Bill 5104, which means that it cannot go into effect unless HB 5104 is also enacted.

MCL 12.252 and 12.254

House Bill 5107 would amend the Income Tax Act to update a reference to the SOAR Fund to reflect its renaming as the Make it in Michigan Fund.

(The bill would also remove a provision that would have deposited \$800.0 million into the Michigan Taxpayer Rebate Fund if the law adding that provision had taken effect before April 18, 2023.)

The bill is tie-barred to House Bill 5106, which means that it cannot go into effect unless HB 5106 is also enacted.

MCL 206.695

House Bill 5095 would amend the Economic Development Incentive Evaluation Act to include the Make it in Michigan Fund and the three Make it in Michigan Fund programs in the list of incentives that must be periodically evaluated.²² The act requires the Department of Technology, Management, and Budget (DTMB) to contract with a private entity, nonprofit entity, or academic institution for the evaluation of economic development incentives.

The bill would provide that an economic development incentive under the Make it in Michigan Fund or any of its programs would include any economic assistance provided for a project partially or wholly funded by money from the Make it in Michigan Fund or for a project partially funded, wholly funded, or otherwise incentivized under any of the Make it in Michigan programs.

The bill is tie-barred to House Bills 5104 and 5106, which means that it cannot go into effect unless both HBs 5104 and 5106 are enacted.

MCL 18.1753

BACKGROUND:

As described in House Bill 5104, Michigan's economic justice and climate goals include the following:

- Lifting families out of working poverty.
- Having 60% of Michigan residents who are at least 25 years of age hold a postsecondary degree or certificate by 2030.
- Securing low- or no-cost child care for 150,000 families.

²² For a summary of the act, see: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6052-6E8F4E1D.pdf>.

- Becoming a top ten state for small business growth, revenue growth, and venture capital funding.
- Building 75,000 new or rehabilitated housing units.
- Raising the median household income for Michigan residents.
- Increasing the state's population and workforce.
- Prioritizing brownfield sites and disadvantaged communities under the Justice 40 initiative.
- Building energy-efficient sites and utilizing clean energy.
- Building and increasing electric vehicle infrastructure.
- Building and increasing public transit.
- Reducing carbon emissions and increasing recycling.
- Protecting the state's land and water.

Note that a fund named the Make it in Michigan Competitiveness Fund was created in boilerplate under section 891 of Article 5 of 2023 PA 119, and appropriated \$286.8 million GF/GP to the Department of Technology, Management, and Budget for FY 2023-24. The Make it in Michigan Competitiveness Fund was created to leverage federal funding opportunities. The bills would not affect the provisions and restrictions related to the Make it in Michigan Competitiveness Fund, which include authorization for the State Administrative Board to inter-transfer money from the fund to existing line items upon notification to and approval from the House and Senate appropriations committees.

FISCAL IMPACT:

The bills would increase costs to the Department of Labor and Economic Opportunity (LEO) by an indeterminate amount. The amount of any increased costs would be related to the various additional administrative and new programming costs required under the bills' provisions.

House Bill 5104 would increase costs for LEO for additional administrative responsibilities, including requiring additional reporting requirements concerning the Critical Industry program, the Michigan Strategic Site Readiness program, and the new Michigan 360 program, as well as requiring the MSF board to consider and document a variety of additional criteria before entering into written agreements for a qualified investments. The bill also requires LEO to create and operate the new Michigan 360 program.

The amount of additional state expenditures by the new Michigan 360 program would be determined by the amount of funding appropriated by the legislature for the program.

Under the provisions of the bill, the state may see an increase in general fund revenues. Current law requires that all money paid to the MSF for a clawback or specific repayment provision for a grant, loan, or other economic assistance under the CIP or the SSRP must be deposited into the SOAR Fund as well as any unexpended, unallocated, or unobliged funding remaining in the fund at the end of the fiscal year. The bill changes this language to require that this funding must be deposited in the state general fund, instead of the SOAR Fund.

The bill also requires that four additional members be added to the MSF board of directors. Because the Michigan Strategic Fund Act requires that members of the MSF board of directors serve without compensation, but allows reimbursement for members' travel and

expenses, the amount of any increased costs to LEO for these new four members would be limited to the amount of any reimbursement for travel and expenses they receive.

House Bill 5106 would create the Make It In Michigan Fund within LEO. The Department of Treasury would direct the fund's investments, but LEO would be the administrator of the fund. The bill would create an indeterminate amount of additional administrative costs for LEO related to the administration of the new fund.

While the Make it in Michigan Fund would generally replace the Strategic Outreach and Attraction Reserve Fund and adopt most of the same provisions, the bill would specify certain investment options for money in the fund. It is unclear whether this would authorize investments that were not otherwise allowed under the SOAR Fund. To the extent that it does, it could change the availability of funds and/or the return on investments.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.