

SENATE BILL NO. 981

March 24, 2022, Introduced by Senators HORN, HUIZENGA, SCHMIDT, HERTEL and POLEHANKI and referred to the Committee on Economic and Small Business Development.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 88s and 88t (MCL 125.2088s and 125.2088t), section 88s as added by 2021 PA 136 and section 88t as added by 2021 PA 134.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88s. (1) The fund shall create and operate the critical
2 industry program. The fund shall use money transferred from the
3 strategic outreach and attraction reserve fund created in section 4

1 of the Michigan trust fund act, 2000 PA 489, MCL 12.254, or money
2 appropriated to the program to make qualified investments to
3 qualified businesses.

4 (2) The fund shall expend money allocated to the Michigan
5 critical industry program only to provide qualified investments to
6 qualified businesses for deal-closing, gap financing, or other
7 economic assistance to create or retain qualified jobs as a result
8 of a technological shift in product or production or make capital
9 investments, or both, as determined by the fund board. The program
10 must provide for a detailed application, approval, and compliance
11 process that is also published and available on the fund's website.

12 (3) The fund shall consider and document at a minimum all of
13 the following criteria to the extent reasonably applicable as
14 reasonably determined by the fund board to the type of project
15 proposed before entering into a written agreement for a qualified
16 investment as provided under subsection (4):

17 (a) The importance of the project to the community in which it
18 is located.

19 (b) If the project will act as a catalyst for additional
20 revitalization of the community in which it is located and this
21 state.

22 (c) The amount of local community and financial support for
23 the project.

24 (d) The applicant's financial need for a qualified investment
25 from the critical industry program.

26 (e) The extent of reuse of vacant buildings, public or
27 private, reuse of historic resources, and redevelopment of blighted
28 property.

29 (f) Creation or retention of qualified jobs as a result of a

1 technological shift in product or production at the project
2 location and within this state.

3 (g) The level of other public funds including, but not limited
4 to, the appropriation of federal or state funds and any federal or
5 state tax credits.

6 (h) The level of any private funds, investments, or
7 contributions into the project including, but not limited to, the
8 qualified business's own investments in the project.

9 (i) Whether and how the project is financially and
10 economically sound.

11 (j) Whether and how the project promotes sustainable
12 development.

13 (k) Whether and how the project involves the rehabilitation of
14 a historic resource.

15 (l) Whether and how the project addresses areawide
16 redevelopment and the overall economic benefit to the existing
17 supply chain.

18 (m) The level and extent of environmental contamination.

19 (n) Whether and how the project will compete with or affect
20 existing Michigan businesses within the same industry.

21 (o) Whether and how the project's proximity to rail and
22 utility will impact performance of the project and maximize energy
23 and logistics needs in the community in which it is located and in
24 this state.

25 (p) The risk of obsolescence of the project, products, and
26 investments in the future.

27 (q) The overall return on investment to this state.

28 (r) Whether and how the project addresses food supply
29 challenges.

1 (s) Any other additional criteria approved by the board that
2 are specific to each individual project and are consistent with the
3 purpose of this program.

4 (4) If the fund determines, after making the considerations
5 under subsection (3), to award a qualified investment to a
6 qualified business under this program, the fund shall enter into a
7 written agreement with the qualified business that includes in a
8 clear and concise manner all of the terms and conditions relating
9 to the qualified investment as determined and documented by the
10 fund board, including, but not limited to, the following:

11 (a) Specific time frames and benchmarks to be met before the
12 qualified business receives a disbursement in installments under
13 the critical industry program pursuant to the approved qualified
14 investment.

15 (b) Specific terms relating to the required creation or
16 retention of qualified jobs as a result of a technological shift in
17 product or production at the project location and within this
18 state, including measurable outcomes, proration of payments for
19 partial performance, clawback and specific repayment provisions for
20 breach of the agreement, or for failure to meet measurable
21 outcomes.

22 (c) Specific penalties for noncompliance with the written
23 agreement as determined by the fund.

24 (d) A provision that all money that is subject to a clawback
25 or required to be repaid under a specific repayment provision must
26 be paid within 90 days of notification by the fund. Any amounts not
27 paid within that 90-day period are subject to a penalty of 1% per
28 month, prorated on a daily basis.

29 (e) A provision that this state shall have a security interest

1 as defined in section ~~1201(2)(ii)~~ **1201(2)(ii)** of the uniform
2 commercial code, 1962 PA 174, MCL 440.1201, to the extent of the
3 qualified investment. This provision does not apply if it conflicts
4 with any contractual obligation of the qualified business or any
5 federal or state bankruptcy or insolvency laws.

6 (f) A provision that the qualified business will provide the
7 data described in the written agreement that are necessary for the
8 fund to report to the legislature as required under this program.

9 (g) A provision that the qualified business may enter into
10 direct agreements with workforce training providers, when
11 appropriate, as determined by the fund to meet the workforce
12 requirements of a qualified investment.

13 **(h) A provision that the qualified business will provide the**
14 **information required under subsection (10) in the manner prescribed**
15 **by the department of treasury.**

16 (5) If the fund receives a request to modify an existing
17 written agreement for a qualified investment under this program,
18 the fund must provide a copy of that requested modification to each
19 member of the legislature, the governor, the clerk of the house of
20 representatives, the secretary of the senate, and the senate and
21 house fiscal agencies within 5 business days of the receipt of the
22 modification request. In addition to the copy of the request for
23 modification, the notice provided under this subsection must also
24 include the specific provisions to be modified and the rationale
25 for considering the modification. Before the fund modifies an
26 existing written agreement for a qualified investment, the fund
27 must give notice of the proposed amendments and publish them on the
28 fund's internet website at least 1 business day prior to a public
29 hearing on the proposed amendments. If the fund approves and

1 modifies an existing written agreement under this subsection, the
2 fund must provide a copy of that amended written agreement to each
3 member of the legislature, the governor, the clerk of the house of
4 representatives, the secretary of the senate, and the senate and
5 house fiscal agencies within 1 business day of the modification.

6 (6) If the fund board seeks to make a determination as to
7 whether a qualified investment approved under this program
8 represents a fair exchange of value for value, the fund may
9 consider the total value to this state of the qualified investment
10 and the best interests of this state, including, but not limited
11 to, any positive economic impact to this state likely to be
12 generated by the qualified business pursuant to the written
13 agreement for a qualified investment, especially economic impact
14 resulting in the location of a high-economic-impact business
15 facility in this state, increased capital investment in this state,
16 and the creation or retention of qualified jobs as a result of a
17 technological shift in product or production in this state.

18 (7) The fund board shall not disburse funds allocated to the
19 program for a qualified investment to a qualified business if that
20 qualified business has not fully repaid all money subject to
21 clawback or required to be repaid under a specific repayment
22 provision as provided in any written agreement under this act or if
23 that qualified business is in default on any grant, loan,
24 investment, or other economic assistance made or guaranteed by this
25 state. All money paid to the fund pursuant to a clawback or
26 specific repayment provision for a qualified investment under this
27 program shall be deposited in the strategic outreach and attraction
28 reserve fund created in section 4 of the Michigan trust fund act,
29 2000 PA 489, MCL 12.254. The fund shall not use money allocated to

1 the program for administrative purposes. Any money that is
2 allocated to the program that remains unexpended, unallocated, or
3 unobligated at the end of a fiscal year shall revert back to the
4 strategic outreach and attraction reserve fund created in section 4
5 of the Michigan trust fund act, 2000 PA 489, MCL 12.254.

6 (8) Not later than March 15 of each year, the fund shall
7 transmit to each member of the legislature, the governor, the clerk
8 of the house of representatives, the secretary of the senate, and
9 the senate and house fiscal agencies a report on the activities of
10 the critical industry program. The report must include the
11 following:

12 (a) A list of qualified businesses that received a qualified
13 investment.

14 (b) The type of project or product approved for a qualified
15 investment.

16 (c) The amount and type of qualified investment.

17 (d) For each separate form of qualified investment, all of the
18 following:

19 (i) The number of qualified jobs committed or projected to be
20 created or retained as a result of a technological shift in product
21 or production when the qualified investment was applied for.

22 (ii) The actual number of qualified jobs created or retained as
23 a result of a technological shift in product or production that are
24 not temporary employees.

25 (iii) The average annual salary of the qualified jobs created or
26 retained as a result of a technological shift in product or
27 production that are not temporary employees.

28 (e) The duration of the qualified investment.

29 (f) The amount of other financial assistance other than state

1 resources.

2 (g) Money or other revenue or property returned to the
3 strategic outreach and attraction reserve fund, created in section
4 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254,
5 including any clawbacks and repayments due to a breach of the
6 written agreement.

7 (9) If the fund fails to transmit the report as required in
8 subsection (8) on or before March 15, the fund board shall not
9 disburse funds for a qualified investment under this program until
10 it transmits the report as required under subsection (8).

11 (10) The department of treasury shall develop methods and
12 processes that are necessary for each qualified business to report
13 all of the following:

14 (a) Total taxable wages paid to individuals for the
15 construction, renovation, or other improvement of the project
16 location as part of the qualified project.

17 (b) The total taxable income of the qualified business that is
18 attributable to the qualified project.

19 (c) The amount of withholding under part 3 of the income tax
20 act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals
21 employed within qualified jobs.

22 (d) Any other information that is necessary for the department
23 of treasury to calculate the construction period tax capture
24 revenues, the income tax capture revenues, or the withholding tax
25 capture revenues.

26 (11) A qualified business shall report the information
27 required under subsection (10) in the manner prescribed by the
28 department of treasury.

29 (12) The fund shall provide the department of treasury with

1 the information necessary to determine all of the following:

2 (a) Each qualified project for which construction period tax
3 capture revenues, income tax capture revenues, and withholding tax
4 capture revenues must be captured under section 51f(2) of the
5 income tax act of 1967, 1967 PA 281, MCL 206.51f.

6 (b) The tax capture limit for each qualified project described
7 in subdivision (a).

8 (13) ~~(10)~~—The legislature finds and declares that funding
9 provided under this program is for a public purpose and serves the
10 health, safety, and general welfare of the residents of this state.

11 (14) ~~(11)~~—As used in this section:

12 (a) "Construction period tax capture revenues" means the
13 amount of income tax levied and imposed in a calendar year on wages
14 paid to individuals, other than employees of the qualified
15 business, who are physically present and working within the project
16 location for the construction, renovation, or other improvement of
17 the project location as part of the qualified project. The
18 department of treasury shall calculate the amount of construction
19 period tax capture revenues by multiplying the wages reported under
20 subsection (10) (a) by the effective rate at which the income tax is
21 levied on an individual in this state, as determined by the
22 department of treasury after taking into account the effect of any
23 exemptions, additions, subtractions, and credits allowable under
24 part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to
25 206.532.

26 (b) ~~(a)~~—"Critical industry program" or "program" means the
27 critical industry program created in subsection (1).

28 (c) "Income tax" means the tax levied and imposed under part
29 1, 2, or 4 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to

1 206.532, 206.601 to 206.699, and 206.801 to 206.847.

2 (d) "Income tax capture revenues" means, with respect to each
3 qualified project, the amount of income tax levied and imposed in a
4 tax year on the qualified business that is attributable to the
5 qualified project. In calculating income tax capture revenues, the
6 department of treasury shall subtract, from the amount of income
7 tax levied and imposed, credits allowed against that tax under the
8 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.847.

9 (e) "Project location" means the location of a qualified
10 project or proposed qualified project.

11 (f) ~~(b)~~—"Qualified business" means a business that is located
12 in or operates in this state or will locate or will operate in this
13 state as determined by the fund board. A qualified business may
14 include more than 1 business as determined by the fund board.

15 (g) ~~(e)~~—"Qualified investment" means a grant, loan, or other
16 economic assistance for a project subject to a written agreement
17 with a qualified business under this program. Qualified investment
18 includes a grant, loan, or other economic assistance for creation
19 or retention of qualified jobs as a result of a technological shift
20 in product or production, infrastructure improvements, other
21 capital investments, the purchase or acquisition of heavy
22 machinery, or other assistance, including, but not limited to, an
23 agreement providing for assistance via the transportation economic
24 development fund created under section 2 of 1987 PA 231, MCL
25 247.902. Qualified investment also includes a grant, loan, or other
26 economic assistance for job training opportunities or workforce
27 development and education, or both.

28 (h) ~~(d)~~—"Qualified job" means a job performed by an individual
29 who is a resident of this state whose Michigan income taxes are

1 withheld by an employer, or an employee leasing company or
2 professional employer organization on behalf of the employer, or by
3 an individual who is not a resident of this state and is employed
4 by a business at a project location that is located in this state,
5 as determined and verified by the fund.

6 (i) "Qualified project" means a project subject to a written
7 agreement with a qualified business for which a qualified
8 investment is made under the program.

9 (j) "Tax capture limit" means, with respect to each qualified
10 project, an amount equal to the qualified investment multiplied by
11 1.05.

12 (k) "Wages" means that term as defined in 26 USC 3401.

13 (l) "Withholding tax capture revenues" means, with respect to
14 each qualified project, the amount of income tax withheld under
15 part 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to
16 206.713, each calendar year that is attributable to individuals
17 employed within qualified jobs. Withholding tax capture revenues do
18 not include construction period tax capture revenues.

19 Sec. 88t. (1) The fund shall create and operate the Michigan
20 strategic site readiness program. The fund shall use the program
21 money transferred from the strategic outreach and attraction
22 reserve fund created in section 4 of the Michigan trust fund act,
23 2000 PA 489, MCL 12.254, or money appropriated to the program to
24 make grants, loans, or other economic assistance under this
25 program.

26 (2) The fund shall expend money allocated to the Michigan
27 strategic site readiness program only to provide grants, loans, and
28 other economic assistance for eligible applicants to conduct
29 eligible activities for the purpose of creating investment-ready

1 sites to attract and promote investment in this state for eligible
2 activities on, or related to, strategic sites and mega-strategic
3 sites. The program must provide for a detailed application,
4 approval, and compliance process that is also published and
5 available on the fund's website. The detailed application,
6 approval, and compliance process must, at a minimum, provide for
7 all of the following:

8 (a) An eligible applicant may apply for a grant, loan, or
9 other economic assistance in a form and manner determined by the
10 fund.

11 (b) The fund shall establish separate application criteria for
12 mega-strategic sites and for strategic sites that are not mega-
13 strategic sites and for sites that have, and that do not have, a
14 specifically identified end user.

15 (3) Before approving an application under this section, the
16 fund shall consider and document, at a minimum, all of the
17 following criteria to the extent reasonably applicable as
18 reasonably determined by the fund board to the type of project
19 proposed before entering into a written agreement for a grant,
20 loan, or other economic assistance as provided under this program:

21 (a) The importance of the project or eligible activities to
22 the community in which it is located.

23 (b) If the project will act as a catalyst for additional
24 revitalization of the community in which it is located and this
25 state.

26 (c) The amount of local community and financial support for
27 the project.

28 (d) The amount of any other economic assistance or support
29 provided by this state for the project.

1 (e) The amount of any other economic assistance or support
2 provided by the federal government for the project including, but
3 not limited to, federal appropriations or tax credits.

4 (f) The amount of any private funds or investments for the
5 project including the applicant's own investments in the project.

6 (g) The applicant's financial need for a grant, loan, or other
7 economic assistance under this program.

8 (h) The extent of reuse of vacant buildings, public or
9 private, reuse of historic resources, and redevelopment of blighted
10 property.

11 (i) Creation or retention of qualified jobs as a result of a
12 technological shift in product or production at the project
13 location and within this state.

14 (j) Whether and how the project is financially and
15 economically sound.

16 (k) Whether and how the project converts abandoned public
17 buildings to private use.

18 (l) Whether and how the project promotes sustainable
19 development.

20 (m) Whether and how the project involves the rehabilitation of
21 a historic resource.

22 (n) Whether and how the project addresses areawide
23 redevelopment.

24 (o) Whether and how the project addresses underserved markets
25 of commerce.

26 (p) The level and extent of environmental contamination.

27 (q) Whether and how the project will compete with or affect
28 existing Michigan businesses within the same industry.

29 (r) Whether and how the project's proximity to rail and

1 utility will impact performance of the project and maximize energy
2 and logistics needs in the community in which it is located and in
3 this state.

4 (s) The risk of obsolescence of the project, products, and
5 investments in the future.

6 (t) The overall return on investment to this state.

7 (u) Whether the proposed strategic site or mega-strategic site
8 is incorporated into a strategic plan of a political subdivision of
9 this state.

10 (v) Any other additional criteria approved by the fund board
11 that are specific to each individual project and are consistent
12 with the purpose of this program.

13 (4) If the fund determines, after the considerations under
14 subsection (3), to provide a grant, loan, or other economic
15 assistance to an eligible applicant under this program, the fund
16 shall enter into a written agreement with the eligible applicant
17 that includes in a clear and concise manner all of the terms and
18 conditions related to the grant, loan, or other economic assistance
19 as determined and documented by the fund board, including, but not
20 limited to, the following:

21 (a) Specific dates and benchmarks for the eligible applicant
22 to receive a grant, loan, or other economic assistance under this
23 program, including conditions for the disbursement of funds in
24 installments.

25 (b) For a grant, loan, or other economic assistance provided
26 to a person identified as the end user of the site, a clawback and
27 specific repayment provision if the person fails to comply with the
28 provisions of the written agreement.

29 (c) A provision that all money that is subject to clawback or

1 required to be repaid under a specific repayment provision must be
2 paid within 90 days of notification by the fund. Any amounts not
3 paid within that 90-day period are subject to a penalty of 1% per
4 month, prorated on a daily basis.

5 (d) A provision that this state shall have a security interest
6 as defined in section ~~1201(2)(ii)~~ **1201(2)(ii)** of the uniform
7 commercial code, 1962 PA 174, MCL 440.1201, to the extent of the
8 grant, loan, or other economic assistance provided under this
9 program. This provision does not apply if it conflicts with any
10 contractual obligation of the eligible applicant or any federal or
11 state bankruptcy or insolvency laws.

12 (e) An audit provision that requires the fund to verify that
13 the established benchmarks for the project have been met.

14 **(f) A provision that the eligible applicant will provide all**
15 **of the following in the manner prescribed by the department of**
16 **treasury:**

17 **(i) The information required under subsection (15), including,**
18 **if the applicant is the end user or owner of the strategic site or**
19 **mega-strategic site, any information required to be provided by an**
20 **end user or owner under subsection (15).**

21 **(ii) If the eligible applicant is the owner of the strategic**
22 **site or mega-strategic site, the notice required under subsection**
23 **(17).**

24 **(g) A provision that the eligible applicant shall require each**
25 **end user and each owner of the strategic site or mega-strategic**
26 **site that is not an eligible applicant to comply with the**
27 **applicable reporting and notice requirements under subsections (15)**
28 **to (17) through a contract requirement, lease requirement, or other**
29 **similar means.**

1 (5) In addition to the considerations under subsection (3), in
2 determining whether to approve a grant, loan, or other economic
3 assistance for a strategic site for which an end user has not been
4 specifically identified, the fund shall consider and document, as
5 reasonably determined by the fund board, at a minimum all of the
6 following:

7 (a) The degree to which the proposed site demonstrates a high
8 level of competitiveness for future development, considering and
9 documenting all of the following:

10 (i) Whether the proposed site is currently assembled.

11 (ii) Whether the proposed site is under site control.

12 (iii) Whether the proposed site is of a size, configuration,
13 location, and condition that makes the site substantially ready for
14 marketing and competitive for development upon completion of the
15 grant, loan, or other economic assistance proposed to be offered
16 under this program and demonstrated matching contributions.

17 (b) Whether the proposed investment will result in the
18 elimination of blight and the remediation of environmental
19 contamination.

20 (c) The degree of local matching contributions.

21 (d) Whether the award will promote geographic equity in the
22 distribution of funds between different areas of this state.

23 (e) Whether the eligible applicant has pursued all available
24 cost-containment measures.

25 (6) In determining whether to approve a grant, loan, or other
26 economic assistance for a mega-strategic site for which an end user
27 has not been specifically identified, the fund shall consider and
28 document, in addition to the criteria in subsections (3) and
29 (5) (a), at a minimum all of the following criteria related to the

1 strategic basis for the investment and feasibility of the
2 investment:

3 (a) Whether the proposed mega-strategic site is supported by a
4 strategic analysis that supports the demand for that site.

5 (b) The feasibility of proposed land acquisition.

6 (c) Utility and transportation availability, and the
7 feasibility of necessary utility and transportation improvements.

8 (d) Workforce availability and training capability.

9 (e) Environmental and topographical conditions, and the
10 feasibility of necessary site improvements to address environmental
11 and topographical conditions.

12 (7) In addition to the considerations under subsection (3), in
13 determining whether to approve a grant, loan, or other economic
14 assistance for a project for which an end user has been
15 specifically identified, the fund shall consider and document, as
16 reasonably determined by the fund board, all of the following:

17 (a) The strategic economic importance of the project to the
18 community in which it is located and to this state.

19 (b) Whether the financial assistance is needed to secure the
20 project in this state.

21 (c) The degree to which the project is a priority for the
22 local governmental unit or local economic development corporation
23 in the jurisdiction of which the site is located.

24 (d) The level of creation or retention of qualified jobs as a
25 result of a technological shift in product or production.

26 (e) Whether the qualified jobs created or retained as a result
27 of a technological shift in product or production equal or exceed
28 the average wage for the county in which the project is located.

29 (f) The level of capital investment.

1 (g) The evidence of the end user's commitment to the site.

2 (8) If the fund receives a request to modify an existing
3 written agreement for a grant, loan, or other economic assistance
4 under this program, the fund must provide a copy of that requested
5 modification to each member of the legislature, the governor, the
6 clerk of the house of representatives, the secretary of the senate,
7 and the senate and house fiscal agencies within 5 business days of
8 the receipt of the modification request. In addition to the copy of
9 the request for modification, the notice provided under this
10 subsection must also include the specific provisions to be modified
11 and the rationale for considering the modification. Before the fund
12 modifies an existing written agreement for a grant, loan, or other
13 economic assistance under this program, the fund must give notice
14 of the proposed amendments and publish them on the fund's internet
15 website at least 1 business day prior to a public hearing on the
16 proposed amendments. If the fund approves and modifies an existing
17 written agreement under this subsection, the fund must provide a
18 copy of that amended written agreement to each member of the
19 legislature, the governor, the clerk of the house of
20 representatives, the secretary of the senate, and the senate and
21 house fiscal agencies within 1 business day of the modification.

22 (9) In making an award for a mega-strategic site under this
23 program that does not have a specifically identified end user, the
24 fund, working in collaboration with the eligible applicant, shall
25 prepare a mega-strategic site investment strategy and spending plan
26 that details the sequence and cost of anticipated investments in
27 the selected mega-strategic site, the benchmarks for bringing the
28 mega-strategic site to a marketable condition, and the marketing
29 strategy for the mega-site. Each plan must have the objective of

1 establishing a certified mega-strategic site under a nationally
2 recognized third-party certification program.

3 (10) The fund shall post on its website or post on the website
4 of the Michigan economic development corporation, not less than
5 every 3 months, the name of the eligible applicant or applicants,
6 the location of each site that received a grant, loan, or other
7 economic assistance under this program in that period, and the
8 amount of the grant, loan, or other economic assistance.

9 (11) Notwithstanding anything to the contrary in this section,
10 the program may make grants and provide technical assistance to
11 local economic development corporations for the purpose of creating
12 an inventory of development-ready sites, provided that the
13 inventory shall utilize nationally recognized criteria to identify
14 the readiness of those sites for investment, and provided further
15 that the fund shall maintain a comprehensive inventory of those
16 sites on its website. The inventory maintained on the website shall
17 include in an interactive and user-friendly manner a listing of all
18 local and state development-ready sites and any pictures, maps, and
19 other documentation related to those sites.

20 (12) The fund board shall not disburse money from the program
21 for a grant, loan, or other economic assistance to an eligible
22 applicant if that eligible applicant has not fully repaid all money
23 subject to clawback or required to be repaid under a specific
24 repayment provision as provided in any written agreement under this
25 act or if that eligible applicant is in default on any grant, loan,
26 or other economic assistance made or guaranteed by this state. All
27 money paid to the fund pursuant to a clawback or specific repayment
28 provision for a grant, loan, or other economic assistance under
29 this program shall be deposited in the strategic outreach and

1 attraction reserve fund created in section 4 of the Michigan trust
2 fund act, 2000 PA 489, MCL 12.254. The fund shall not use money
3 allocated to the program for administrative purposes. Any money
4 that is allocated to the program that remains unexpended,
5 unallocated, or unobligated at the end of the fiscal year shall
6 revert back to the strategic outreach and attraction reserve fund
7 created in section 4 of the Michigan trust fund act, 2000 PA 489,
8 MCL 12.254.

9 (13) Not later than March 15 of each year, the fund shall
10 transmit to each member of the legislature, the governor, the clerk
11 of the house of representatives, the secretary of the senate, and
12 the senate and house fiscal agencies a report on the activities of
13 the Michigan strategic site readiness fund. The report must include
14 the following:

15 (a) A list of eligible applicants that received a grant, loan,
16 or other economic assistance.

17 (b) The type of project or eligible activities approved for an
18 award under this program.

19 (c) The amount and type of each award.

20 (d) The duration of the grant, loan, or other economic
21 assistance.

22 (e) The amount of other financial assistance other than state
23 resources.

24 (f) Money or other revenue or property returned to the
25 strategic outreach and attraction reserve fund, including any
26 clawbacks and repayments due to a breach of the written agreement.

27 (14) If the fund fails to transmit the report as required in
28 subsection (13) on or before March 15, the fund board shall not
29 disburse money for a grant, loan, or other economic assistance

1 under this program until it transmits the report as required under
2 subsection (13).

3 (15) The department of treasury shall develop methods and
4 processes that are necessary for all of the following:

5 (a) For each eligible applicant to report the total taxable
6 wages paid to individuals for the construction, renovation, or
7 other improvement of a strategic site or mega-strategic site that
8 is an eligible activity.

9 (b) For each end user of a strategic site or mega-strategic
10 site to report both of the following:

11 (i) The total taxable income of the end user that is
12 attributable to the strategic site or mega-strategic site.

13 (ii) The amount of withholding under part 3 of the income tax
14 act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals
15 employed within qualified jobs by the end user.

16 (c) For each owner of a strategic site or mega-strategic site
17 to report both of the following:

18 (i) The total taxable income of the owner that is attributable
19 to the strategic site or mega-strategic site.

20 (ii) The amount of withholding under part 3 of the income tax
21 act of 1967, 1967 PA 281, MCL 206.701 to 206.713, from individuals
22 employed within qualified jobs by the owner.

23 (d) For each eligible applicant, end user, or owner of a
24 strategic site or mega-strategic site to report any other
25 information that is necessary for the department of treasury to
26 calculate the construction period tax capture revenues, the income
27 tax capture revenues, or the withholding tax capture revenues.

28 (16) An eligible applicant, end user, or owner, as applicable,
29 shall report the information required under subsection (15) in the

1 manner prescribed by the department of treasury.

2 (17) An owner of the strategic site or mega-strategic site
3 shall notify the department of treasury in the manner prescribed by
4 the department of treasury if any of the following occur not than
5 10 days after the occurrence:

6 (a) Ownership of the strategic site or mega-strategic site is
7 transferred or otherwise changes.

8 (b) An end user commences or terminates occupancy within the
9 strategic site or mega-strategic site.

10 (18) The fund shall provide the department of treasury with
11 the information necessary to determine all of the following:

12 (a) Each eligible project for which construction period tax
13 capture revenues, income tax capture revenues, and withholding tax
14 capture revenues must be captured under section 51f(2) of the
15 income tax act of 1967, 1967 PA 281, MCL 206.51f.

16 (b) The tax capture limit for each eligible project described
17 in subdivision (a).

18 (19) ~~(15)~~—The legislature finds and declares that funding
19 provided under this program is for a public purpose and serves the
20 health, safety, and general welfare of the residents of this state.

21 (20) ~~(16)~~—As used in this section:

22 (a) "Construction period tax capture revenues" means the
23 amount of income tax levied and imposed in a calendar year on wages
24 paid to individuals, other than employees of the owner or end user,
25 who are physically present and working within the strategic site or
26 mega-strategic site for the construction, renovation, or other
27 improvement of the strategic site or mega-strategic site that is an
28 eligible activity. The department of treasury shall calculate the
29 amount of construction period tax capture revenues by multiplying

1 the wages reported under subsection (15) (a) by the effective rate
 2 at which the income tax is levied on an individual in this state,
 3 as determined by the department of treasury after taking into
 4 account the effect of any exemptions, additions, subtractions, and
 5 credits allowable under part 1 of the income tax act of 1967, 1967
 6 PA 281, MCL 206.1 to 206.532.

7 (b) ~~(a)~~—"Eligible activities" means, with respect to a site
 8 that is the subject of an application under this program, 1 or more
 9 of the following:

10 (i) Land acquisition and assembly.

11 (ii) Site preparation and improvement.

12 (iii) Infrastructure improvements that directly benefit the
 13 site, including, but not limited to, transportation infrastructure,
 14 water and wastewater infrastructure, and utilities necessary to
 15 service the site.

16 (iv) Any demolition, construction, alteration, rehabilitation,
 17 or improvement of buildings on the site.

18 (v) Environmental remediation.

19 (vi) Architectural, engineering, surveying, and similar
 20 professional fees.

21 (c) ~~(b)~~—"Eligible applicant" means an applicant that is 1 or
 22 more of the following:

23 (i) A political subdivision of this state, including, but not
 24 limited to, a county, city, village, township, charter township, or
 25 instrumentality of a county, city, village, township, or charter
 26 township.

27 (ii) A local economic development corporation or similar
 28 entity.

29 (iii) A person who is the owner of the site for which the

1 improvements are proposed, but who is not the end user of that
2 site, provided that that person must apply jointly with an
3 applicant under subparagraph (i) or (ii).

4 (iv) In the case of an application for a site for which a
5 specific person has been identified as the end user, the person
6 that is or will be the end user of that site.

7 (d) **"Eligible project" means a project for which a grant,
8 loan, or other economic assistance is awarded under the program.**

9 (e) ~~(e)~~—"End user" means the person, either directly or
10 through an affiliate, that will establish and operate the
11 manufacturing or other commercial enterprise that constitutes the
12 end use of the improved site.

13 (f) **"Income tax" means the tax levied and imposed under part
14 1, 2, or 4 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to
15 206.532, 206.601 to 206.699, and 206.801 to 206.847.**

16 (g) **"Income tax capture revenues" means, with respect to each
17 eligible project, the amount of income tax levied and imposed in a
18 tax year on the end user and, if other than the end user, the owner
19 of the strategic site or mega-strategic site that is attributable
20 to the eligible project. In calculating income tax capture
21 revenues, the department of treasury shall subtract, from the
22 amount of income tax levied and imposed, credits allowed against
23 that tax under the income tax act of 1967, 1967 PA 281, MCL 206.1
24 to 206.847.**

25 (h) ~~(d)~~—"Mega-strategic site" means a strategic site that is
26 or will be used for a large industrial project.

27 (i) ~~(e)~~—"Michigan strategic site readiness program" or
28 "program" means the Michigan strategic site readiness program
29 created in subsection (1).

1 (j) ~~(f)~~—"Qualified job" means a job performed by an individual
2 who is a resident of this state whose Michigan income taxes are
3 withheld by an employer, or an employee leasing company or
4 professional employer organization on behalf of the employer, or by
5 an individual who is not a resident of this state and is employed
6 by a business at a project location that is located in this state,
7 as determined and verified by the fund.

8 (k) ~~(g)~~—"Strategic site" means a site, whether publicly or
9 privately owned, that is, or subsequent to a proposed acquisition
10 will be, used for manufacturing or other commercial use.

11 (l) "Tax capture limit" means, with respect to each eligible
12 project, an amount equal to the grant, loan, or other economic
13 assistance awarded under the program multiplied by 1.05.

14 (m) "Wages" means that term as defined in 26 USC 3401.

15 (n) "Withholding tax capture revenues" means, with respect to
16 each eligible project, the amount of income tax withheld under part
17 3 of the income tax act of 1967, 1967 PA 281, MCL 206.701 to
18 206.713, each calendar year that is attributable to individuals
19 employed within qualified jobs. Withholding tax capture revenues do
20 not include construction period tax capture revenues.

21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 101st Legislature are
23 enacted into law:

24 (a) Senate Bill No. 982.

25

26 (b) Senate Bill No. 983.