

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 559

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 program shall be operated and administered by**
3 **the authorized employees, officers, and agents of the fund, which**
4 **may include employees of the Michigan economic development**
5 **corporation.** The fund ~~shall use~~ **may expend** money transferred from
6 the ~~strategic outreach and attraction reserve~~ **make it in Michigan**
7 fund created in section 4 of the Michigan trust fund act, 2000 PA



1 489, MCL 12.254, or money appropriated to the program to make
 2 qualified investments ~~to~~ **in** qualified businesses **as described in**
 3 **this section. The fund may retain and expend not more than 3.5% of**
 4 **a qualified investment for a qualified business for additional**
 5 **administrative expenses under this section.**

6 (2) The fund shall expend money **appropriated, transferred, or**
 7 allocated to the ~~Michigan~~ critical industry program only to provide
 8 qualified investments to qualified businesses for deal-closing, gap
 9 financing, or other economic assistance to create or retain
 10 qualified jobs ~~as a result of a technological shift in product or~~
 11 ~~production~~ **that the fund determines are critical to the economic**
 12 **growth and development of this state** or make capital investments,
 13 or both, as determined by the fund. ~~board.~~ ~~The program must provide~~
 14 ~~for~~ **fund must adopt** a detailed application, approval, and
 15 compliance process **for the program** that is ~~also~~ published and
 16 available on the ~~fund's~~ website **of the fund or the Michigan**
 17 **economic development corporation.**

18 (3) The fund ~~shall~~ **must** consider and document ~~at a minimum~~ all
 19 of the following criteria to the extent reasonably applicable ~~as~~
 20 ~~reasonably determined by the fund board to the type of project~~
 21 ~~proposed~~ before entering into a written agreement for a qualified
 22 investment as provided under subsection (4):

23 (a) The ~~importance~~ **potential economic impact** of the project ~~to~~
 24 **for** the community in which it is located **and this state.**

25 (b) ~~If~~ **The degree to which** the project will act as a catalyst
 26 for additional revitalization **and economic growth** of the community
 27 in which it is located and this state.

28 (c) The amount of local community and financial support for
 29 the project.



1 (d) The applicant's financial need for ~~a~~**the** qualified
 2 investment, ~~from the critical industry program.~~**including whether**
 3 **the amount of the qualified investment is necessary and does not**
 4 **exceed the amount required to make the project feasible or secure**
 5 **the project in this state.**

6 ~~(e) The extent of reuse of vacant buildings, public or~~
 7 ~~private, reuse of historic resources, and redevelopment of blighted~~
 8 ~~property.~~

9 ~~(e) (f) Creation~~**The anticipated creation** or retention of
 10 qualified jobs **at, or** as a result of, ~~a technological shift in~~
 11 ~~product or production at the project. location and within this~~
 12 ~~state.~~

13 ~~(g) The level of other public funds including, but not limited~~
 14 ~~to, the appropriation of federal or state funds and any federal or~~
 15 ~~state tax credits.~~

16 **(f) Whether and to what extent the federal government is**
 17 **supporting the project through federal grants, loans, loan**
 18 **guarantees, appropriations, tax credits, or other expenditures.**

19 ~~(g) (h) The level of any private funds, money, investments, or~~
 20 ~~contributions into to the project including, but not limited to,~~
 21 ~~the qualified business's own investments in the project.~~**with the**
 22 **size of the project not creating a disadvantage for a project that**
 23 **otherwise satisfies the criteria in this section, including**
 24 **subdivisions (i) and (k) (ii) .**

25 ~~(i) Whether and how the project is financially and~~
 26 ~~economically sound.~~

27 ~~(j) Whether and how the project promotes sustainable~~
 28 ~~development.~~

29 ~~(k) Whether and how the project involves the rehabilitation of~~



1 ~~a historic resource.~~

2 ~~(l) Whether and how the project addresses areawide~~
 3 ~~redevelopment and the overall economic benefit to the existing~~
 4 ~~supply chain.~~

5 ~~(m) The level and extent of environmental contamination.~~

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

8 ~~(o) Whether and how the project's proximity to rail and~~
 9 ~~utility will impact performance of the project and maximize energy~~
 10 ~~and logistics needs in the community in which it is located and in~~
 11 ~~this state.~~

12 ~~(p) The risk of obsolescence of the project, products, and~~
 13 ~~investments in the future.~~

14 **(h) ~~(q)~~The overall return on investment to this state, taking**
 15 **into account all forms of direct state assistance for the project**
 16 **and the overall economic impact to this state.**

17 ~~(r) Whether and how the project addresses food supply~~
 18 ~~challenges.~~

19 ~~(s) Any other additional criteria approved by the board that~~
 20 ~~are specific to each individual project and are consistent with the~~
 21 ~~purpose of this program.~~

22 **(i) Whether the qualified jobs associated with the project are**
 23 **at or above the median wage of the prosperity region in which the**
 24 **project is or will be located, with priority given to projects**
 25 **anticipated to provide higher wages and more robust employee**
 26 **benefits.**

27 **(j) Whether the project is located in a low-income community**
 28 **as defined in 26 USC 45D(e) or a qualified opportunity zone as**
 29 **defined in 26 USC 1400Z-1.**



1 (k) Whether the project furthers 1 or more of the following
2 strategic goals:

3 (i) Securing long-term commitments to this state from
4 incumbent, strategically critical industries undergoing
5 transformation due to changing technology or market forces.

6 (ii) Promoting the diversification of this state into high-
7 wage, high-growth economic sectors.

8 (iii) Providing opportunities for the expansion of in-state
9 businesses, if the expansion otherwise advances the criteria and
10 strategic goals in this subdivision.

11 (iv) Creating a balanced portfolio of projects relating to the
12 assisted industry, location of projects, and size of projects.

13 (4) If the fund determines, after ~~making the considerations~~
14 ~~under considering the criteria in~~ subsection (3), to award a
15 qualified investment to a qualified business under this program,
16 the fund shall enter into a written agreement with the qualified
17 business that includes ~~in a clear and concise manner~~ all of the
18 terms and conditions ~~relating~~ **related** to the qualified investment
19 as determined and documented by the fund. ~~board, including, but not~~
20 ~~limited to,~~ **Before the fund enters into a written agreement, the**
21 **fund must provide a copy of the available negotiated terms of the**
22 **agreement and the fund's written analysis of the criteria under**
23 **subsection (3) to the senate majority leader, the speaker of the**
24 **house of representatives, the senate minority leader, the house of**
25 **representatives minority leader, and the chairs of the senate and**
26 **house of representatives appropriations committees. After entering**
27 **into a written agreement, the fund shall post a copy of the fund's**
28 **written analysis of the criteria under subsection (3) on the**
29 **website of the fund or the Michigan economic development**



1 corporation. The written agreement must include all of the
2 following provisions:

3 (a) Specific ~~time frames and benchmarks~~ to be met before the
4 qualified business receives ~~a~~ **the initial** disbursement, ~~in~~
5 ~~installments under the critical industry program pursuant to the~~
6 ~~approved qualified investment.~~ **and each subsequent disbursement, of**
7 **the qualified investment.**

8 (b) Specific terms relating to the required creation or
9 retention of qualified jobs, ~~as a result of a technological shift~~
10 ~~in product or production at the project location and within this~~
11 ~~state, including measurable outcomes,~~ **commitments, and if the**
12 **qualified business fails to meet the commitments, provisions for**
13 **the proration of payments for partial performance, future**
14 **disbursements and clawback and specific repayment provisions for**
15 **breach of past disbursements under the written agreement. , or for**
16 ~~failure to meet measurable outcomes.~~ **In establishing measurable**
17 **commitments for the creation or retention of qualified jobs, the**
18 **fund shall determine a baseline of the existing or anticipated**
19 **employment of the qualified business in this state and measure the**
20 **net creation or retention of qualified jobs compared to that**
21 **baseline.**

22 (c) Specific penalties for noncompliance with the written
23 agreement as determined by the fund, **including, but not limited to**
24 **any clawback of disbursements made under the written agreement.**

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



1 (e) An audit provision that requires the fund to verify that
2 the benchmarks required for the project have been satisfied.

3 (f) ~~(e)~~A provision that this state shall ~~may~~ have a security
4 interest as defined in section ~~1201(2)(ii)~~ **1201** of the uniform
5 commercial code, 1962 PA 174, MCL 440.1201, ~~to the extent of the~~
6 ~~qualified investment.~~ **as determined by the fund.** This provision
7 does not apply if it conflicts with any contractual obligation of
8 the qualified business or any federal or state bankruptcy or
9 insolvency laws.

10 (g) ~~(f)~~A provision that the qualified business will provide
11 the data described in the written agreement that are necessary for
12 the fund to **complete any required audits or** report to the
13 legislature as required under this program.

14 ~~(g)~~ A provision that the qualified business may enter into
15 direct agreements with workforce training providers, when
16 appropriate, ~~as determined by the fund to meet the workforce~~
17 ~~requirements of a qualified investment.~~

18 (h) A provision requiring the qualified business to disclose
19 to the fund whether, to the knowledge of the qualified business,
20 there are any pending legal proceedings that could have a
21 materially adverse effect on the project, the qualified business,
22 or the performance of the obligations of the qualified business
23 under the written agreement.

24 (i) A provision requiring the qualified business to undertake
25 commercially reasonable efforts to do all of the following,
26 including specific accountability measures for noncompliance:

27 (i) Engage with the community in which the project will be
28 located regarding the details and impacts of the project, including
29 opportunities for community members to benefit from the project



1 through employment, contracting opportunities, or enhanced business
2 opportunities.

3 (ii) Work with local skilled workforce agencies to maximize
4 workforce development opportunities related to the construction and
5 ongoing operations of the project.

6 (iii) Use best practices related to sustainable development and
7 environmental mitigation to minimize ecological and environmental
8 impacts of the project for the surrounding community.

9 (iv) Engage with local chambers of commerce, supplier
10 development councils, local economic development organizations, or
11 other similar organizations to identify and promote opportunities
12 for Michigan businesses to participate in the construction of the
13 project or business supply chain.

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



1 ~~to~~**before** a public hearing on the proposed amendments. If the fund
 2 approves and modifies an existing written agreement under this
 3 subsection, the fund must provide a copy of that amended written
 4 agreement to each member of the legislature,**the senate majority**
 5 **leader, the speaker of the house of representatives, the chairs of**
 6 **the senate and house of representatives appropriations committees,**
 7 the governor, the clerk of the house of representatives, the
 8 secretary of the senate, and the senate and house fiscal agencies
 9 within 1 business day of the modification.

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

24 (7) The fund ~~board~~ shall not disburse funds ~~allocated to the~~
 25 ~~program~~ for a qualified investment **under this section** to a
 26 qualified business if that qualified business has not fully repaid
 27 all money subject to clawback or required to be repaid under a
 28 specific repayment provision as provided in any written agreement
 29 under this act, or if that qualified business is in default on any



1 grant, loan, investment, or other economic assistance made or
 2 ~~guaranteed committed~~ by this state. **A qualified business required**
 3 **to repay money under a clawback or other specific repayment**
 4 **provision under a written agreement under this section or section**
 5 **88t that has failed to repay all money required under the provision**
 6 **and that has not timely cured the failure, as determined by the**
 7 **fund, is ineligible to receive a future qualified investment or**
 8 **other economic assistance under this section or section 88t.** All
 9 money paid to the fund pursuant to a clawback or specific repayment
 10 provision for a qualified investment under this ~~program shall~~
 11 **section must** be deposited in the ~~strategic outreach and attraction~~
 12 ~~reserve fund created in section 4 of the Michigan trust fund act,~~
 13 ~~2000 PA 489, MCL 12.254.~~ The fund shall not use money allocated to
 14 ~~the program for administrative purposes.~~ **general fund.** Any money
 15 that is **appropriated, transferred, or** allocated to the program that
 16 ~~remains unexpended, unallocated, or unobligated~~ **is not awarded,**
 17 **committed, allocated, or obligated by the fund under this section**
 18 at the end of a fiscal year ~~shall revert~~ **reverts** back to the
 19 ~~strategic outreach and attraction reserve~~ **make it in Michigan** fund
 20 created in section 4 of the Michigan trust fund act, 2000 PA 489,
 21 MCL 12.254.

22 (8) Not later than March 15 of each year, the fund shall
 23 transmit to each member of the legislature, the governor, the clerk
 24 of the house of representatives, the secretary of the senate, and
 25 the senate and house fiscal agencies a report on the activities of
 26 the critical industry program. The report must include **all of** the
 27 following:

28 (a) A list of qualified businesses that received a qualified
 29 investment.



1 (b) ~~The type of project or product~~ **types of projects or**
 2 **products** approved for a qualified investment **using typologies**
 3 **reasonably determined by the fund.**

4 (c) The amount ~~and type~~ of qualified investment **by project or**
 5 **product type.**

6 (d) For each separate ~~form of~~ qualified investment, all of the
 7 following:

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

11 (ii) The actual number of qualified jobs created or retained.
 12 ~~as a result of a technological shift in product or production that~~
 13 ~~are not temporary employees.~~

14 (iii) The ~~average~~ **median** annual ~~salary~~ **wage** of the qualified
 15 jobs created or retained ~~as a result of a technological shift in~~
 16 ~~product or production that are not temporary employees.~~ **and the**
 17 **comparison to the median annual wage for the prosperity region in**
 18 **which the project is located.**

19 (iv) **The benchmarks for disbursing the qualified investment,**
 20 **whether those benchmarks were achieved, and how much of the**
 21 **qualified investment was disbursed.**

22 (v) ~~(e)~~ **The total and remaining** duration of the qualified
 23 investment.

24 (vi) ~~(f)~~ **The amount of other** ~~local and federal~~ financial
 25 ~~assistance other than state resources.~~ **contributions to the project,**
 26 **as reasonably determined by the fund.**

27 (vii) **The prosperity region in which the qualified investment**
 28 **is located.**

29 (e) ~~(g)~~ Money or other revenue or property returned to the



1 ~~strategic outreach and attraction reserve fund, created in section~~
 2 ~~4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254, **general**~~
 3 **fund**, including any clawbacks and repayments due to a breach of the
 4 written agreement.

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

9 (10) **With money retained under subsection (1) for**
 10 **administrative expenses of the fund, the fund or the Michigan**
 11 **economic development corporation shall employ 1 or more full-time**
 12 **permit coordinators responsible for providing qualified businesses**
 13 **and other recipients of economic assistance under this chapter with**
 14 **assistance in expeditiously obtaining required permits or approvals**
 15 **from applicable departments of this state.**

16 (11) ~~(10)~~—The legislature finds and declares that funding
 17 provided under this program is for a public purpose and serves the
 18 health, safety, and general welfare of the residents of this state.

19 (12) ~~(11)~~—As used in this section:

20 (a) "Critical industry program" or "program" means the
 21 critical industry program created ~~in~~**under** subsection (1).

22 (b) "Qualified business" means a business that is located in
 23 or operates in this state or will locate or will operate in this
 24 state as determined by the fund. ~~board~~. A qualified business may
 25 include more than 1 business as determined by the fund. ~~board~~.

26 (c) "Qualified investment" means a grant, loan, or other
 27 economic assistance for a project subject to a written agreement
 28 with a qualified business under this program. Qualified investment
 29 includes a grant, loan, or other economic assistance for creation



1 or retention of qualified jobs ~~as a result of a technological shift~~
 2 ~~in product or production,~~ **that the fund determines are critical to**
 3 **the economic growth and development of this state,** infrastructure
 4 improvements, other capital investments, the purchase or
 5 acquisition of heavy machinery, or other assistance, including, but
 6 not limited to, an agreement providing for assistance via the
 7 transportation economic development fund created under section 2 of
 8 1987 PA 231, MCL 247.902. Qualified investment also includes a
 9 grant, loan, or other economic assistance for job training
 10 opportunities or workforce development and education, or both.

11 (d) "Qualified job" means a job performed by an individual who
 12 is a resident of this state whose Michigan income taxes are
 13 withheld by an employer, or an employee leasing company or
 14 professional employer organization on behalf of the employer, or by
 15 an individual who is not a resident of this state and is employed
 16 by a business at a project location that is located in this state,
 17 as determined and verified by the fund.

18 Sec. 88t. (1) The fund shall create ~~and operate~~ the Michigan
 19 strategic site readiness program. **The program shall be operated and**
 20 **administered by the authorized employees, officers, and agents of**
 21 **the fund, which may include employees of the Michigan economic**
 22 **development corporation.** The fund ~~shall use the program~~ **may expend**
 23 money transferred from the ~~strategic outreach and attraction~~
 24 ~~reserve~~ **make it in Michigan** fund created in section 4 of the
 25 Michigan trust fund act, 2000 PA 489, MCL 12.254, or money
 26 appropriated to the program to make grants, loans, or other
 27 economic assistance under this program **as described in this**
 28 **section. The fund may retain and expend not more than 3.5% of a**
 29 **grant, loan, or other economic assistance for an eligible applicant**



1 **for additional administrative expenses under this section.**

2 (2) The fund shall expend money **appropriated, transferred, or**
 3 allocated to the Michigan strategic site readiness program only to
 4 provide grants, loans, and other economic assistance for eligible
 5 applicants ~~to conduct~~ **for** eligible activities for the purpose of
 6 creating investment-ready sites to attract and promote investment.
 7 ~~in this state for eligible activities on, or related to, strategic~~
 8 ~~sites and mega-strategic sites. The program must provide for fund~~
 9 **must adopt** a detailed application, approval, and compliance process
 10 that is ~~also published and available on the fund's website of the~~
 11 **fund or the Michigan economic development corporation.** The detailed
 12 application, approval, and compliance process must, at a minimum,
 13 provide ~~for all of the~~ following:

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

17 (b) The fund ~~shall~~ **must** establish separate application
 18 criteria for mega-strategic sites and for strategic sites that are
 19 not mega-strategic sites. ~~and for sites that have, and that do not~~
 20 ~~have, a specifically identified end user.~~

21 (3) Before approving an application under this section, the
 22 fund ~~shall~~ **must** consider and document ~~, at a minimum,~~ all of the
 23 following criteria to the extent reasonably applicable ~~as~~
 24 ~~reasonably determined by the fund board to the type of project~~
 25 ~~proposed before entering into a written agreement for a grant,~~
 26 loan, or other economic assistance as provided under this program:

27 (a) ~~The importance of the project or eligible activities to~~
 28 ~~the community in which it is located.~~ **The potential economic impact**
 29 **and strategic importance of the project for the community in which**



1 **it is located and this state.**

2 (b) ~~If~~**The degree to which** the project will act as a catalyst
3 for additional revitalization **and economic growth** of the community
4 in which it is located and this state.

5 (c) The amount of local community and financial support for
6 the project, **including the degree to which the project is a**
7 **priority for the local governmental unit or local economic**
8 **development corporation in the jurisdiction of which the site is**
9 **located.**

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

12 (d) ~~(e) The amount of any other economic assistance or support~~
13 ~~provided by~~**Whether and to what extent** the federal government ~~for~~
14 **is supporting** the project ~~including, but not limited to,~~**through**
15 federal **grants, loans, loan guarantees,** appropriations, ~~or~~ tax
16 credits, **or other expenditures.**

17 (e) ~~(f) The amount~~**level** of any private funds, ~~or~~ investments,
18 ~~for~~**or contributions** to the project. ~~including the applicant's own~~
19 ~~investments in the project.~~

20 (f) ~~(g) The applicant's financial need for a grant, loan, or~~
21 other economic assistance under this program, **including whether the**
22 **amount of the qualified investment is necessary and does not exceed**
23 **the amount required to make the project feasible or secure the**
24 **project in this state.**

25 (g) ~~(h) The extent of reuse of vacant~~ **or obsolete** buildings,
26 public or private, reuse of historic resources, and redevelopment
27 of blighted property.

28 (h) ~~(i) Creation~~**The projected creation** or retention of
29 qualified jobs **at or** as a result of ~~a technological shift in~~



1 ~~product or production at the project location and, within this~~
 2 ~~state. **if the project is for a commercial use, the other projected**~~
 3 ~~**economic activity that will result.**~~

4 ~~(j) Whether and how the project is financially and~~
 5 ~~economically sound.~~

6 ~~(k) Whether and how the project converts abandoned public~~
 7 ~~buildings to private use.~~

8 ~~(l) Whether and how the project promotes sustainable~~
 9 ~~development.~~

10 ~~(m) Whether and how the project involves the rehabilitation of~~
 11 ~~a historic resource.~~

12 ~~(n) Whether and how the project addresses areawide~~
 13 ~~redevelopment.~~

14 ~~(o) Whether and how the project addresses underserved markets~~
 15 ~~of commerce.~~

16 ~~(i) (p) The level and extent of **any** environmental~~
 17 ~~contamination **that may be present and would be remediated.**~~

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

20 ~~(j) (r) Whether and how the project's proximity to rail and~~
 21 ~~utility will impact performance of the project and maximize energy~~
 22 ~~and logistics needs in the community in which it is located and in~~
 23 ~~this state. **location and site characteristics make it a priority for**~~
 24 ~~**development or redevelopment.**~~

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

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

28 ~~(u) Whether the proposed strategic site or mega strategic site~~
 29 ~~is incorporated into a strategic plan of a political subdivision of~~



1 ~~this state.~~

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

5 (k) Whether the project is or will be located in a county,
 6 city, village, or township with an unemployment rate that exceeds
 7 the average unemployment rate in this state.

8 (l) If the strategic site or mega-strategic site is being made
 9 investment-ready in anticipation of a specific end user, the
 10 evidence of the end user's commitment to the site.

11 (m) Whether the project furthers 1 or more of the following
 12 strategic goals:

13 (i) Promoting the diversification of this state into high-wage,
 14 high-growth economic sectors.

15 (ii) Creating a balanced portfolio of strategic sites, taking
 16 into account the size of the site, the location of the site, and
 17 the economic sector for which the site is intended.

18 (4) If the fund determines, after ~~the considerations under~~
 19 **considering the criteria in** subsection (3), to provide a grant,
 20 loan, or other economic assistance to an eligible applicant under
 21 this program, the fund shall enter into a written agreement with
 22 the eligible applicant that includes ~~in a clear and concise manner~~
 23 ~~all of the~~ terms and conditions related to the grant, loan, or
 24 other economic assistance as determined and documented by the fund.
 25 ~~board, including, but not limited to, Before the fund enters into a~~
 26 **written agreement, the fund must provide a copy of the available**
 27 **negotiated terms and the fund's written analysis of the criteria**
 28 **under subsection (3) to the senate majority leader, the speaker of**
 29 **the house of representatives, the senate minority leader, the house**



1 of representatives minority leader, and the chairs of the senate
 2 and house of representatives appropriations committees. After
 3 entering into a written agreement, the fund shall post a copy of
 4 the fund's written analysis of the criteria under subsection (3) on
 5 the website of the fund or the Michigan economic development
 6 corporation. The written agreement must include all of the
 7 following provisions:

8 (a) The amount of the grant, loan, or other economic
 9 assistance to be awarded.

10 (b) ~~(a)~~ Specific dates and benchmarks for the eligible
 11 applicant to receive a grant, loan, or other economic assistance
 12 **funding** under this program, including conditions for the
 13 disbursement of ~~funds~~ **money** in installments.

14 (c) ~~(b)~~ For a grant, a loan, or other economic assistance
 15 provided to a ~~person identified~~ **an eligible applicant** as the end
 16 user of the site, a clawback and specific repayment provision ~~if~~
 17 ~~the person fails to comply with the provisions of~~ **for noncompliance**
 18 **with** the written agreement.

19 (d) ~~(e)~~ A provision that all money that is subject to clawback
 20 or required to be repaid under a specific repayment provision must
 21 be paid ~~within~~ **not later than** 90 days ~~of~~ **after** notification by the
 22 fund. Any ~~amounts~~ **money** not paid within that 90-day period ~~are~~ **is**
 23 subject to a penalty of 1% per month, prorated on a daily basis.

24 (e) ~~(d)~~ A provision that this state ~~shall~~ **may** have a security
 25 interest as defined in section ~~1201(2)(ii)~~ **1201** of the uniform
 26 commercial code, 1962 PA 174, MCL 440.1201, ~~to the extent of the~~
 27 ~~grant, loan, or other economic assistance provided under this~~
 28 ~~program.~~ **as determined by the fund.** This provision does not apply
 29 if it conflicts with any contractual obligation of the eligible



1 applicant or any federal or state bankruptcy or insolvency laws.

2 **(f)** ~~(e)~~ An audit provision that requires the fund to verify
3 that the ~~established~~ benchmarks **required** for the project have been
4 ~~met~~. **satisfied**.

5 **(g)** A provision requiring the eligible applicant to provide
6 the data described in the written agreement that are necessary for
7 the fund to complete any required audits and report to the
8 legislature as required under this program.

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

15 ~~(a) The degree to which the proposed site demonstrates a high~~
16 ~~level of competitiveness for future development, considering and~~
17 ~~documenting all of the following:~~

18 ~~(i) Whether the proposed site is currently assembled.~~

19 ~~(ii) Whether the proposed site is under site control.~~

20 ~~(iii) Whether the proposed site is of a size, configuration,~~
21 ~~location, and condition that makes the site substantially ready for~~
22 ~~marketing and competitive for development upon completion of the~~
23 ~~grant, loan, or other economic assistance proposed to be offered~~
24 ~~under this program and demonstrated matching contributions.~~

25 ~~(b) Whether the proposed investment will result in the~~
26 ~~elimination of blight and the remediation of environmental~~
27 ~~contamination.~~

28 ~~(c) The degree of local matching contributions.~~

29 ~~(d) Whether the award will promote geographic equity in the~~



1 ~~distribution of funds between different areas of this state.~~

2 ~~(e) Whether the eligible applicant has pursued all available~~
3 ~~cost-containment measures.~~

4 ~~(6) In determining whether to approve a grant, loan, or other~~
5 ~~economic assistance for a mega-strategic site for which an end user~~
6 ~~has not been specifically identified, the fund shall consider and~~
7 ~~document, in addition to the criteria in subsections (3) and~~
8 ~~(5)(a), at a minimum all of the following criteria related to the~~
9 ~~strategic basis for the investment and feasibility of the~~
10 ~~investment:~~

11 ~~(a) Whether the proposed mega-strategic site is supported by a~~
12 ~~strategic analysis that supports the demand for that site.~~

13 ~~(b) The feasibility of proposed land acquisition.~~

14 ~~(c) Utility and transportation availability, and the~~
15 ~~feasibility of necessary utility and transportation improvements.~~

16 ~~(d) Workforce availability and training capability.~~

17 ~~(e) Environmental and topographical conditions, and the~~
18 ~~feasibility of necessary site improvements to address environmental~~
19 ~~and topographical conditions.~~

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

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

27 ~~(b) Whether the financial assistance is needed to secure the~~
28 ~~project in this state.~~

29 ~~(c) The degree to which the project is a priority for the~~



1 ~~local governmental unit or local economic development corporation~~
 2 ~~in the jurisdiction of which the site is located.~~

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

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

8 ~~(f) The level of capital investment.~~

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

10 **(5) (8)** If the fund receives a request to modify an existing
 11 written agreement for a grant, loan, or other economic assistance
 12 under this program, the fund must provide a copy of that requested
 13 modification to ~~each member of the legislature,~~ **the senate majority**
 14 **leader, the speaker of the house of representatives, the chairs of**
 15 **the senate and house of representatives appropriations committees,**
 16 the governor, the clerk of the house of representatives, the
 17 secretary of the senate, and the senate and house fiscal agencies
 18 within 5 business days of the receipt of the modification request
 19 **and before entering into an amended written agreement.** In addition
 20 to the copy of the request for modification, the notice provided
 21 under this subsection must also include the specific provisions to
 22 be modified and the rationale for considering the modification.
 23 Before the fund modifies an existing written agreement for a grant,
 24 loan, or other economic assistance under this program, the fund
 25 must give notice of the proposed amendments and publish them on the
 26 fund's internet website at least 1 business day ~~prior to~~ **before** a
 27 public hearing on the proposed amendments. If the fund approves and
 28 modifies an existing written agreement under this subsection, the
 29 fund must provide a copy of that amended written agreement to ~~each~~



1 ~~member of the legislature, the senate majority leader, the speaker~~
 2 ~~of the house of representatives, the chairs of the senate and house~~
 3 ~~of representatives appropriations committees,~~ the governor, the
 4 clerk of the house of representatives, the secretary of the senate,
 5 and the senate and house fiscal agencies within 1 business day of
 6 the modification.

7 ~~(9) In making an award for a mega-strategic site under this~~
 8 ~~program that does not have a specifically identified end user, the~~
 9 ~~fund, working in collaboration with the eligible applicant, shall~~
 10 ~~prepare a mega-strategic site investment strategy and spending plan~~
 11 ~~that details the sequence and cost of anticipated investments in~~
 12 ~~the selected mega-strategic site, the benchmarks for bringing the~~
 13 ~~mega-strategic site to a marketable condition, and the marketing~~
 14 ~~strategy for the mega-site. Each plan must have the objective of~~
 15 ~~establishing a certified mega-strategic site under a nationally~~
 16 ~~recognized third-party certification program.~~

17 ~~(6) (10)~~ The fund shall post on its website or post on the
 18 website of the Michigan economic development corporation, not less
 19 than every 3 months, the name of the eligible applicant or
 20 applicants, the location of each site that received a grant, loan,
 21 or other economic assistance under this program in that period, and
 22 the amount of the grant, loan, or other economic assistance.

23 ~~(11) Notwithstanding anything to the contrary in this section,~~
 24 ~~the program may make grants and provide technical assistance to~~
 25 ~~local economic development corporations for the purpose of creating~~
 26 ~~an inventory of development-ready sites, provided that the~~
 27 ~~inventory shall utilize nationally recognized criteria to identify~~
 28 ~~the readiness of those sites for investment, and provided further~~
 29 ~~that the fund shall maintain a comprehensive inventory of those~~



1 ~~sites on its website. The inventory maintained on the website shall~~
 2 ~~include in an interactive and user-friendly manner a listing of all~~
 3 ~~local and state development-ready sites and any pictures, maps, and~~
 4 ~~other documentation related to those sites.~~

5 **(7) Notwithstanding anything to the contrary in this section,**
 6 **the fund may expend money retained for additional administrative**
 7 **expenses under subsection (1) to procure or provide technical**
 8 **assistance for the development of a prospective site. Subject to**
 9 **the approval of the fund, local and regional economic development**
 10 **organizations may use funds for the acquisition of real property or**
 11 **interests in real property.**

12 **(8) Notwithstanding anything contrary in this section, the**
 13 **fund may enter into a written agreement with a land bank fast track**
 14 **authority created under the land bank fast track act, 2003 PA 258,**
 15 **MCL 124.751 to 124.774, as the fund determines necessary for the**
 16 **purposes of implementing this section.**

17 **(9) ~~(12)~~The fund board shall not disburse money from the**
 18 **program for a grant, loan, or other economic assistance to an**
 19 **eligible applicant if that eligible applicant has not fully repaid**
 20 **all money subject to clawback or required to be repaid under a**
 21 **specific repayment provision as provided in any written agreement**
 22 **under this act, or if that eligible applicant is in default on any**
 23 **grant, loan, or other economic assistance made or guaranteed by**
 24 **this state. All money paid to the fund pursuant to a clawback or**
 25 **specific repayment provision for a grant, loan, or other economic**
 26 **assistance under this program shall ~~shall~~ **must** be deposited in the**
 27 **~~strategic outreach and attraction reserve fund created in section 4~~**
 28 **~~of the Michigan trust fund act, 2000 PA 489, MCL 12.254. The fund~~**
 29 **shall not use money allocated to the program for administrative**



1 ~~purposes.~~ **general fund.** Any money that is **appropriated,**
 2 **transferred, or** allocated to the program that ~~remains unexpended,~~
 3 ~~unallocated, or unobligated~~ **is not awarded, committed, allocated,**
 4 **or obligated by the fund under this section** at the end of the
 5 fiscal year ~~shall revert~~ **reverts** back to the ~~strategic outreach and~~
 6 ~~attraction reserve~~ **make it in Michigan** fund created in section 4 of
 7 the Michigan trust fund act, 2000 PA 489, MCL 12.254.

8 **(10)** ~~(13)~~ Not later than March 15 of each year, the fund shall
 9 transmit to each member of the legislature, the governor, the clerk
 10 of the house of representatives, the secretary of the senate, and
 11 the senate and house fiscal agencies a report on the activities of
 12 the Michigan strategic site readiness fund. The report must include
 13 **all of** the following:

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

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

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

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

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

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

27 **(11)** ~~(14)~~ If the fund fails to transmit the report as required
 28 in subsection ~~(13)~~ **(10)** on or before March 15, the fund ~~board~~ shall
 29 not 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)~~. **(10)**.

3 **(12)** ~~(15)~~—The legislature finds and declares that funding
4 provided under this program is for a public purpose and serves the
5 health, safety, and general welfare of the residents of this state.

6 **(13)** ~~(16)~~—As used in this section:

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

10 (i) Land acquisition and assembly, **including land holding**
11 **costs.**

12 (ii) Site preparation and improvement.

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

17 (iv) Any demolition, construction, alteration, rehabilitation,
18 or improvement of buildings on the site, **including interior**
19 **demolition.**

20 (v) Environmental remediation.

21 (vi) Architectural, engineering, surveying, and similar
22 professional fees, **including professional fees for site assessment.**

23 **(vii) Administrative fees for administrative costs incurred by**
24 **the eligible applicant, and any applicable subrecipients of an**
25 **eligible applicant, relating to administering the funding provided**
26 **under this program, but not to exceed 5% of the amount of the**
27 **grant, loan, or other economic assistance awarded to the eligible**
28 **applicant under this program.**

29 (b) "Eligible applicant" means an applicant that is 1 or more



1 of the following:

2 (i) A political subdivision of this state, including, but not
3 limited to, a county, city, village, township, charter township, or
4 instrumentality of a county, city, village, township, or charter
5 township.

6 (ii) A local economic development corporation or similar
7 entity.

8 (iii) A person who is the owner of the site for which the
9 improvements are proposed, but who is not the end user of that
10 site, ~~provided that~~ **if** that person ~~must apply~~ **applies** jointly with
11 an applicant under subparagraph (i) or (ii).

12 (iv) ~~In the case of an application for a site for which a~~
13 ~~specific person has been identified as the end user, the person~~ **The**
14 **entity** that is or will be the end user of that site.

15 (c) "End user" means the ~~person,~~ **entity**, either directly or
16 through an affiliate, that will establish and operate the
17 manufacturing or other commercial enterprise that constitutes the
18 end use of the improved site.

19 (d) "Mega-strategic site" means a strategic site that is or
20 will be used for a large industrial project.

21 (e) "Michigan strategic site readiness program" or "program"
22 means the Michigan strategic site readiness program created ~~in~~
23 **under** subsection (1).

24 (f) "Qualified job" means a job performed by an individual who
25 is a resident of this state whose Michigan income taxes are
26 withheld by an employer, or an employee leasing company or
27 professional employer organization on behalf of the employer, or by
28 an individual who is not a resident of this state and is employed
29 by a business at a project location that is located in this state,



1 as determined and verified by the fund.

2 (g) "Site" means land or land improvements classified by law
3 for general ad valorem tax purposes as real property, including
4 existing industrial or commercial structures that are obsolete or
5 otherwise require eligible activities to be undertaken to create
6 investment-ready conditions.

7 (h) ~~(g)~~—"Strategic site" means a site, whether publicly or
8 privately owned, that is, or subsequent to a proposed acquisition
9 will be, used for manufacturing or other commercial use **and that**
10 **may be either of the following:**

11 (i) A site for which an end user has been specifically
12 identified.

13 (ii) A site for which an end user has not been specifically
14 identified.

15 Enacting section 1. This amendatory act does not take effect
16 unless all of the following bills of the 102nd Legislature are
17 enacted into law:

18 (a) Senate Bill No. 562.

19 (b) House Bill No. 5768.

20 (c) House Bill No. 5769.

21 (d) House Bill No. 5770.

22 Enacting section 2. This amendatory act does not alter the
23 effectiveness of a critical industry program incentive offer for a
24 qualified investment in a qualified business under section 88s of
25 the Michigan strategic fund act, 1984 PA 270, MCL 125.2088s, that
26 is signed by the fund and the qualified business if the offer was
27 signed before and remains in effect on the effective date of this
28 amendatory act.

29 Enacting section 3. This amendatory act does not alter the



1 effectiveness of a Michigan strategic site readiness program
2 incentive offer for a grant, loan, or other economic assistance for
3 an eligible applicant under section 88t of the Michigan strategic
4 fund act, 1984 PA 270, MCL 125.2088t, that is signed by the fund
5 and the eligible applicant if the offer was signed before and
6 remains in effect on the effective date of this amendatory act.

