

HOUSE BILL NO. 5679

April 25, 2024, Introduced by Reps. Tisdel, Kuhn, Schuette, Hall, Outman, BeGole, Borton, Wozniak, Kunse, DeBoyer, Harris, Markkanen, DeBoer, Zorn, Neyer, Slagh, Alexander, Bezotte, Bierlein, Bruck, VanderWall, Aragona, Meerman, Fox and Martin and referred to the Committee on Government Operations.

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 **the program** money transferred
- 3 from the strategic outreach and attraction reserve fund created in

1 section 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254,
2 or money appropriated to the program to make qualified investments
3 to 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 **The detailed application, approval, and compliance process must, at**
13 **a minimum, provide for both of the following:**

14 (a) Money allocated to the program for a fiscal year must be
15 apportioned as follows:

16 (i) Not less than 1/3 must be reserved for qualified
17 investments to small businesses.

18 (ii) Not less than 1/3 must be reserved for qualified
19 investments to medium businesses.

20 (iii) Except as otherwise provided in subparagraph (iv), not more
21 than 1/3 may be used for qualified investments to large businesses.

22 (iv) Money reserved under subparagraph (i) or (ii) that is not
23 obligated on July 1 of the fiscal year may be used for qualified
24 investments to small businesses, medium businesses, or large
25 businesses. As used in this subdivision:

26 (A) "Large business" means a qualified business with 250 or
27 more employees.

28 (B) "Medium business" means a qualified business with more
29 than 49 employees but fewer than 250 employees.

1 (C) "Small business" means a qualified business with fewer
2 than 50 employees.

3 (b) The fund shall not award more than 50% of the money
4 allocated to the program during a 2-year period to qualified
5 businesses in the same critical industry.

6 (c) The fund shall not award more than 40% of the money
7 allocated to the program for a fiscal year to qualified businesses
8 that do not have a physical presence in this state.

9 (3) The fund shall not approve an application under this
10 section unless all of the following requirements are met:

11 (a) The fund determines the number of jobs provided by the
12 qualified business in this state at the time of application,
13 excluding qualified jobs to be retained or created under the
14 program.

15 (b) In addition to any qualified jobs to be retained or
16 created under the program, the qualified business agrees to
17 maintain a number of jobs that is not less than the number of
18 baseline jobs determined under subdivision (a).

19 (c) The fund determines that land use, utility, environmental,
20 energy, and zoning requirements applicable to the project under
21 state and local law have been met or will be met not later than 1
22 year after the date the written agreement is executed.

23 (d) The fund determines that the project does not qualify for
24 any other economic assistance programs that would meet the
25 project's needs and the project will not be able to move forward
26 without funding under the program.

27 (4) ~~(3) The~~ In addition to the requirements under subsection
28 (3), the fund shall consider and document at a minimum all of the
29 following criteria to the extent reasonably applicable as

1 reasonably determined by the fund board to the type of project
2 proposed before entering into a written agreement for a qualified
3 investment as provided under subsection ~~(4)~~ (5) :

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

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

9 (c) The amount of local community and financial support for
10 the project.

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

13 (e) The extent of reuse of vacant buildings, public or
14 private, reuse of historic resources, and redevelopment of blighted
15 property.

16 (f) Creation or retention of qualified jobs as a result of a
17 technological shift in product or production at the project
18 location and within this state.

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

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

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

15 (r) Whether and how the project addresses food supply
16 challenges.

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

20 (5) ~~(4)~~—If the fund determines, after making the
21 **determinations and** considerations under ~~subsection~~**subsections** (3)
22 **and (4)**, to award a qualified investment to a qualified business
23 under this program, the fund shall enter into a written agreement
24 with the qualified business that includes in a clear and concise
25 manner all of the terms and conditions relating to the qualified
26 investment as determined and documented by the fund board,
27 including, but not limited to, the following:

28 (a) Specific time frames and benchmarks to be met before the
29 qualified business receives a disbursement in installments under

1 the critical industry program pursuant to the approved qualified
2 investment.

3 (b) Specific terms relating to **the required maintenance of**
4 **baseline jobs and** the required creation or retention of qualified
5 jobs as a result of a technological shift in product or production
6 at the project location and within this state. ~~, including~~
7 ~~measurable outcomes, proration of payments for partial performance,~~
8 ~~clawback and specific repayment provisions for breach of the~~
9 ~~agreement, or for failure to meet measurable outcomes.~~ **The specific**
10 **terms must include, but are not limited to, all of the following:**

11 (i) **The number of baseline jobs that must be maintained.**

12 (ii) **The number of qualified jobs that must be retained.**

13 (iii) **The number of qualified jobs that must be created.**

14 (iv) **The dates by which the qualified jobs described in**
15 **subparagraph (iii) must be created.**

16 (v) **Proration of payment, clawback, and specific repayment**
17 **provisions that comply with subsection (10).**

18 (vi) **An audit provision that permits the fund to determine the**
19 **total number of jobs actually provided by the qualified business in**
20 **accordance with subsection (10).**

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

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

28 (e) A provision that this state shall have a security interest
29 as **that term is** defined in section ~~1201(2)(ii)~~ **1201** of the uniform

1 commercial code, 1962 PA 174, MCL 440.1201, to the extent of the
 2 qualified investment. This provision does not apply if it conflicts
 3 with any contractual obligation of the qualified business or any
 4 federal or state bankruptcy or insolvency laws.

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

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

12 **(h) A provision that the qualified business may not**
 13 **participate in the high-wage incentive for regional employment in**
 14 **(H.I.R.E.) Michigan program created under chapter 8D.**

15 **(i) A provision that the qualified business must meet land**
 16 **use, utility, environmental, energy, and zoning requirements**
 17 **applicable to the project under state and local law not later than**
 18 **1 year after the date the written agreement is executed, including,**
 19 **but not limited to, obtaining all required permits and conducting**
 20 **any required environmental testing.**

21 **(6) ~~(5)~~—**If the fund receives a request to modify an existing
 22 written agreement for a qualified investment under this program,
 23 the fund must provide a copy of that requested modification to each
 24 member of the legislature, the governor, the clerk of the house of
 25 representatives, the secretary of the senate, and the senate and
 26 house fiscal agencies ~~within~~**not later than** 5 business days ~~of~~
 27 **after** the receipt of the modification request. In addition to the
 28 copy of the request for modification, the notice provided under
 29 this subsection must also include the specific provisions to be

1 modified and the rationale for considering the modification. Before
2 the fund modifies an existing written agreement for a qualified
3 investment, the fund must give notice of the proposed amendments
4 and publish them on the fund's internet website at least 1 business
5 day ~~prior to~~ **before** a public hearing on the proposed amendments.
6 **The fund shall not modify a written agreement to reduce the number**
7 **of required baseline jobs. The fund shall not modify an existing**
8 **written agreement to reduce the number of required qualified jobs**
9 **unless the qualified investment is also reduced in an amount equal**
10 **to the original job cost under the existing written agreement**
11 **multiplied by the number of qualified jobs to be eliminated as a**
12 **result of the modification multiplied by the penalty factor.** If the
13 fund approves and modifies an existing written agreement under this
14 subsection, the fund must provide a copy of that amended written
15 agreement to each member of the legislature, the governor, the
16 clerk of the house of representatives, the secretary of the senate,
17 and the senate and house fiscal agencies ~~within~~ **not later than** 1
18 business day ~~of~~ **after** the modification.

19 ~~(7) (6) If the fund board seeks to make a determination as to~~
20 **In determining** whether a qualified investment approved under this
21 program represents a fair exchange of value for value, the fund may
22 consider the total value to this state of the qualified investment
23 and the best interests of this state, including, but not limited
24 to, any positive economic impact to this state likely to be
25 generated by the qualified business pursuant to the written
26 agreement for a qualified investment, especially economic impact
27 resulting in the location of a high-economic-impact business
28 facility in this state, increased capital investment in this state,
29 and the creation or retention of qualified jobs as a result of a

1 technological shift in product or production in this state.

2 **(8)** ~~(7)~~—The fund board shall not disburse funds allocated to
3 the program for a qualified investment to a qualified business if
4 that qualified business has not fully repaid all money subject to
5 clawback or required to be repaid under a specific repayment
6 provision as provided in any written agreement under this act or if
7 that qualified business is in default on any grant, loan,
8 investment, or other economic assistance made or guaranteed by this
9 state. All money paid to the fund pursuant to a clawback or
10 specific repayment provision for a qualified investment under this
11 program ~~shall~~**must** be deposited in the strategic outreach and
12 attraction reserve fund created in section 4 of the Michigan trust
13 fund act, 2000 PA 489, MCL 12.254. The fund shall not use money
14 allocated to the program for administrative purposes. Any money
15 that is allocated to the program that remains unexpended,
16 unallocated, or unobligated at the end of a fiscal year ~~shall~~
17 ~~revert~~**reverts** back to the strategic outreach and attraction
18 reserve fund created in section 4 of the Michigan trust fund act,
19 2000 PA 489, MCL 12.254.

20 **(9) The fund shall not award a qualified investment to a**
21 **qualified business that previously received an award under the**
22 **critical industry program or the Michigan strategic site readiness**
23 **program created under section 88t if either of the following**
24 **applies:**

25 **(a) Money received under the previous award was subject to a**
26 **clawback or required to be repaid under a specific repayment**
27 **provision.**

28 **(b) The qualified business was subject to a penalty under the**
29 **written agreement executed in connection with the previous award.**

1 (10) At the end of each year during the term of a written
2 agreement and on expiration of the written agreement, the fund
3 shall determine the total number of jobs actually provided by the
4 qualified business. If that number is less than the adjusted
5 required jobs number, all of the following apply:

6 (a) The qualified business owes the fund the negative jobs
7 penalty amount.

8 (b) The fund shall reduce future disbursements of the
9 qualified investment as necessary to recover the negative jobs
10 penalty amount.

11 (c) If reduction of future disbursements under subdivision (b)
12 is insufficient to fully recover the negative jobs penalty amount,
13 the qualified business shall pay the negative jobs penalty amount
14 to the fund.

15 (11) The fund shall not award a qualified investment under the
16 program after December 31, 2030.

17 (12) ~~(8)~~ Not later than March 15 of each year, the fund shall
18 transmit to each member of the legislature, the governor, the clerk
19 of the house of representatives, the secretary of the senate, and
20 the senate and house fiscal agencies a report on the activities of
21 the critical industry program. The report must include **all of** the
22 following:

23 (a) A list of qualified businesses that received a qualified
24 investment.

25 (b) The type of project or product approved for a qualified
26 investment.

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

28 (d) For each separate form of qualified investment, all of the
29 following:

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

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

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

10 **(e) The number of baseline jobs required to be maintained by**
11 **the qualified business.**

12 **(f) The number of baseline jobs actually maintained by the**
13 **qualified business.**

14 **(g)** ~~(e)~~—The duration of the qualified investment.

15 **(h)** ~~(f)~~—The amount of other financial assistance other than
16 state resources.

17 **(i)** ~~(g)~~—Money or other revenue or property returned to the
18 strategic outreach and attraction reserve fund, created in section
19 4 of the Michigan trust fund act, 2000 PA 489, MCL 12.254,
20 including any clawbacks and repayments due to a breach of the
21 written agreement.

22 **(j) If a nondisclosure agreement was executed in connection**
23 **with the decision to award the qualified investment, the names of**
24 **the individuals who signed the nondisclosure agreement.**

25 **(13)** ~~(9)~~—If the fund fails to transmit the report as required
26 in subsection ~~(8)~~ **(12)** on or before March 15, the fund board shall
27 not disburse funds for a qualified investment under this program
28 until it transmits the report as required under subsection
29 ~~(8)~~ **(12)**.

1 **(14)** ~~(10)~~—The legislature finds and declares that funding
 2 provided under this program is for a public purpose and serves the
 3 health, safety, and general welfare of the residents of this state.

4 **(15)** ~~(11)~~—As used in this section:

5 **(a)** "Adjusted required jobs number" means the sum of the
 6 following minus any previously determined negative jobs numbers:

7 **(i)** The number of baseline jobs.

8 **(ii)** The number of qualified jobs that are required to be
 9 maintained or created on the determination date.

10 **(b)** "Baseline jobs" means the jobs provided by the qualified
 11 business in this state at the time of application, excluding
 12 qualified jobs to be retained or created under the program, as
 13 determined under subsection (3) (a).

14 **(c)** "Critical industry" means an industry that plays a crucial
 15 role in the economic security, public health, or safety of this
 16 state, including, but not limited to, all of the following
 17 industries:

18 **(i)** Utilities.

19 **(ii)** Automotive.

20 **(iii)** Aeronautic.

21 **(iv)** Telecommunications.

22 **(v)** Oil and gas production.

23 **(vi)** Defense production.

24 **(vii)** Pharmaceutical.

25 **(viii)** Computer technology.

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

28 **(e)** "Determination date" means the date a determination under
 29 subsection (10) is made.

1 (f) "Negative jobs number" means the number equal to the
2 difference between the following:

3 (i) The adjusted required jobs number.

4 (ii) The total number of jobs actually provided by the
5 qualified business on the determination date.

6 (g) "Negative jobs penalty amount" means the amount equal to
7 the negative jobs number multiplied by the original job cost
8 multiplied by the penalty factor.

9 (h) "Original job cost" means the amount of the qualified
10 investment divided by the number of required qualified jobs.

11 (i) "Penalty factor" means 1.05.

12 (j) "Prosperity region" means each of the 10 prosperity
13 regions identified by the department of technology, management, and
14 budget on August 25, 2017.

15 (k) "Prosperity region median wage" means the median annual
16 wage for the prosperity region where the facility is located based
17 on the most recent data made available by the Michigan bureau of
18 labor market information and strategic initiatives.

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

24 (m) ~~(e)~~ "Qualified investment" means a grant, loan, or other
25 economic assistance for a project subject to a written agreement
26 with a qualified business under this program. Qualified investment
27 includes a grant, loan, or other economic assistance for creation
28 or retention of qualified jobs as a result of a technological shift
29 in product or production, infrastructure improvements, other

1 capital investments, the purchase or acquisition of heavy
 2 machinery, or other assistance, including, but not limited to, an
 3 agreement providing for assistance via the transportation economic
 4 development fund created under section 2 of 1987 PA 231, MCL
 5 247.902. Qualified investment also includes a grant, loan, or other
 6 economic assistance for job training opportunities or workforce
 7 development and education, or both.

8 **(n) ~~(d)~~—"Qualified job" means a permanent job that meets both**
 9 **of the following requirements:**

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

17 **(ii) Pays not less than 175% of the prosperity region median**
 18 **wage.**

19 **(o) "Required baseline job" means a baseline job required to**
 20 **be maintained under a written agreement.**

21 **(p) "Required qualified job" means a qualified job required to**
 22 **be retained or created under a written agreement.**

23 Sec. 88t. (1) The fund shall create and operate the Michigan
 24 strategic site readiness program. The fund shall use the program
 25 money transferred from the strategic outreach and attraction
 26 reserve fund created in section 4 of the Michigan trust fund act,
 27 2000 PA 489, MCL 12.254, or money appropriated to the program to
 28 make grants, loans, or other economic assistance under this
 29 program.

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

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

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

19 (c) **Money allocated to the program for a fiscal year must be**
20 **apportioned as follows:**

21 (i) **Not less than 1/3 must be reserved for grants, loans, or**
22 **economic assistance for small sites.**

23 (ii) **Not less than 1/3 must be reserved for grants, loans, or**
24 **economic assistance for medium sites.**

25 (iii) **Except as otherwise provided in subparagraph (iv), not more**
26 **than 1/3 may be used for grants, loans, or economic assistance for**
27 **large sites.**

28 (iv) **Money reserved under subparagraph (i) or (ii) that is not**
29 **obligated on July 1 of the fiscal year may be used for grants,**

1 loans, or economic assistance for small sites, medium sites, or
2 large sites. As used in this subdivision:

3 (A) "Large site" means a mega-strategic site or strategic site
4 that is intended for an end user with 250 or more employees.

5 (B) "Medium site" means a mega-strategic site or strategic
6 site that is intended for an end user with more than 49 employees
7 but fewer than 250 employees.

8 (C) "Small site" means a mega-strategic site or strategic site
9 that is intended for an end user with fewer than 50 employees.

10 (d) The fund shall not award more than 15% of the money
11 allocated to the program to a single prosperity region.

12 (e) The fund shall not award more than 40% of the money
13 allocated to the program for a fiscal year to sites for which a
14 specific person has been identified as the end user of the site.

15 (3) The fund shall not approve an application under this
16 section unless both of the following requirements are met:

17 (a) The fund determines that land use, utility, environmental,
18 energy, and zoning requirements applicable to the project under
19 state and local law have been met or will be met not later than 1
20 year after the date the written agreement is executed.

21 (b) The fund determines that the project does not qualify for
22 any other economic assistance programs that would meet the
23 project's needs and the project will not be able to move forward
24 without funding under the program.

25 (4) ~~(3)~~ Before approving an application under this section, in
26 addition to the requirements under subsection (3), the fund shall
27 consider and document, at a minimum, all of the following criteria
28 to the extent reasonably applicable as reasonably determined by the
29 fund board to the type of project proposed before entering into a

1 written agreement for a grant, loan, or other economic assistance
2 as provided under this program:

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

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

8 (c) The amount of local community and financial support for
9 the project.

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

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

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

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

19 (h) The extent of reuse of vacant buildings, public or
20 private, reuse of historic resources, and redevelopment of blighted
21 property.

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

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

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

29 (l) Whether and how the project promotes sustainable

1 development.

2 (m) Whether and how the project involves the rehabilitation of
3 a historic resource.

4 (n) Whether and how the project addresses areawide
5 redevelopment.

6 (o) Whether and how the project addresses underserved markets
7 of commerce.

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

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

11 (r) Whether and how the project's proximity to rail and
12 utility will impact performance of the project and maximize energy
13 and logistics needs in the community in which it is located and in
14 this state.

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

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

18 (u) Whether the proposed strategic site or mega-strategic site
19 is incorporated into a strategic plan of a political subdivision of
20 this state.

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

24 (5) ~~(4)~~—If the fund determines, after the **determinations and**
25 considerations under ~~subsection~~ **subsections** (3) **and (4)**, to provide
26 a grant, loan, or other economic assistance to an eligible
27 applicant under this program, the fund shall enter into a written
28 agreement with the eligible applicant that includes in a clear and
29 concise manner all of the terms and conditions related to the

1 grant, loan, or other economic assistance as determined and
 2 documented by the fund board, including, but not limited to, the
 3 following:

4 (a) Specific dates and benchmarks for the eligible applicant
 5 to receive a grant, loan, or other economic assistance under this
 6 program, including conditions for the disbursement of funds in
 7 installments.

8 (b) For a grant, loan, or other economic assistance provided
 9 to a person identified as the end user of the site, ~~a-both of the~~
 10 **following:**

11 (i) **A provision that the end user may not participate in the**
 12 **high-wage incentive for regional employment in (H.I.R.E.) Michigan**
 13 **program created under chapter 8D.**

14 (ii) **A** clawback and specific repayment provision if the person
 15 fails to comply with the provisions of the written agreement.

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

21 (d) A provision that this state shall have a security interest
 22 as **that term is** defined in section ~~1201(2)(ii)~~**1201** of the uniform
 23 commercial code, 1962 PA 174, MCL 440.1201, to the extent of the
 24 grant, loan, or other economic assistance provided under this
 25 program. This provision does not apply if it conflicts with any
 26 contractual obligation of the eligible applicant or any federal or
 27 state bankruptcy or insolvency laws.

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

1 (f) A provision that the eligible applicant must meet land
 2 use, utility, environmental, energy, and zoning requirements
 3 applicable to the project under state and local law not later than
 4 1 year after the date the written agreement is executed, including,
 5 but not limited to, obtaining all required permits and conducting
 6 any required environmental testing.

7 (6) ~~(5)~~—In addition to the considerations under subsection
 8 (3), in determining whether to approve a grant, loan, or other
 9 economic assistance for a strategic site for which an end user has
 10 not been specifically identified, the fund shall consider and
 11 document, as reasonably determined by the fund board, at a minimum
 12 all of the following:

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

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

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

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

23 (b) Whether the proposed investment will result in the
 24 elimination of blight and the remediation of environmental
 25 contamination.

26 (c) The degree of local matching contributions.

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

29 (e) Whether the eligible applicant has pursued all available

1 cost-containment measures.

2 (7) ~~(6)~~—In determining whether to approve a grant, loan, or
3 other economic assistance for a mega-strategic site for which an
4 end user has not been specifically identified, the fund shall
5 consider and document, in addition to the criteria in subsections
6 ~~(3)~~ **(4)** and ~~(5)(a)~~, **(6) (a)**, at a minimum all of the following
7 criteria related to the strategic basis for the investment and
8 feasibility of the investment:

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

11 (b) The feasibility of proposed land acquisition.

12 (c) Utility and transportation availability, and the
13 feasibility of necessary utility and transportation improvements.

14 (d) Workforce availability and training capability.

15 (e) Environmental and topographical conditions, and the
16 feasibility of necessary site improvements to address environmental
17 and topographical conditions.

18 (8) ~~(7)~~—In addition to the considerations under subsection
19 ~~(3)~~, **(4)**, in determining whether to approve a grant, loan, or other
20 economic assistance for a project for which an end user has been
21 specifically identified, the fund shall consider and document, as
22 reasonably determined by the fund board, all of the following:

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

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

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

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

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

6 (f) The level of capital investment.

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

8 **(9)** ~~(8)~~—If the fund receives a request to modify an existing
9 written agreement for a grant, loan, or other economic assistance
10 under this program, the fund must provide a copy of that requested
11 modification to each member of the legislature, the governor, the
12 clerk of the house of representatives, the secretary of the senate,
13 and the senate and house fiscal agencies ~~within~~**not later than** 5
14 business days ~~of~~**after** the receipt of the modification request. In
15 addition to the copy of the request for modification, the notice
16 provided under this subsection must also include the specific
17 provisions to be modified and the rationale for considering the
18 modification. Before the fund modifies an existing written
19 agreement for a grant, loan, or other economic assistance under
20 this program, the fund must give notice of the proposed amendments
21 and publish them on the fund's internet website at least 1 business
22 day ~~prior to~~**before** a public hearing on the proposed amendments. If
23 the fund approves and modifies an existing written agreement under
24 this subsection, the fund must provide a copy of that amended
25 written agreement to each member of the legislature, the governor,
26 the clerk of the house of representatives, the secretary of the
27 senate, and the senate and house fiscal agencies ~~within~~**not later**
28 **than** 1 business day ~~of~~**after** the modification.

29 **(10)** ~~(9)~~—In making an award for a mega-strategic site under

1 this program that does not have a specifically identified end user,
 2 the fund, working in collaboration with the eligible applicant,
 3 shall prepare a mega-strategic site investment strategy and
 4 spending plan that details the sequence and cost of anticipated
 5 investments in the selected mega-strategic site, the benchmarks for
 6 bringing the mega-strategic site to a marketable condition, and the
 7 marketing strategy for the mega-site. Each plan must have the
 8 objective of establishing a certified mega-strategic site under a
 9 nationally recognized third-party certification program.

10 (11) ~~(10)~~—The fund shall post on its website or post on the
 11 website of the Michigan economic development corporation, not less
 12 than every 3 months, the name of the eligible applicant or
 13 applicants, the location of each site that received a grant, loan,
 14 or other economic assistance under this program in that period, and
 15 the amount of the grant, loan, or other economic assistance.

16 (12) ~~(11)~~—Notwithstanding anything to the contrary in this
 17 section, the program may make grants and provide technical
 18 assistance to local economic development corporations for the
 19 purpose of creating an inventory of development-ready sites,
 20 ~~provided that~~ **if** the inventory ~~shall utilize~~ **utilizes** nationally
 21 recognized criteria to identify the readiness of those sites for
 22 investment, and ~~provided further that~~ **if** the fund ~~shall maintain~~
 23 **maintains** a comprehensive inventory of those sites on its website.
 24 The inventory maintained on the website ~~shall~~ **must** include in an
 25 interactive and user-friendly manner a listing of all local and
 26 state development-ready sites and any pictures, maps, and other
 27 documentation related to those sites.

28 (13) ~~(12)~~—The fund board shall not disburse money from the
 29 program for a grant, loan, or other economic assistance to an

1 eligible applicant if that eligible applicant has not fully repaid
 2 all money subject to clawback or required to be repaid under a
 3 specific repayment provision as provided in any written agreement
 4 under this act or if that eligible applicant is in default on any
 5 grant, loan, or other economic assistance made or guaranteed by
 6 this state. All money paid to the fund pursuant to a clawback or
 7 specific repayment provision for a grant, loan, or other economic
 8 assistance under this program shall be deposited in the ~~strategie~~
 9 ~~outreach and attraction reserve fund created in section 4 of the~~
 10 ~~Michigan trust fund act, 2000 PA 489, MCL 12.254.~~ **general fund.** The
 11 fund shall not use money allocated to the program for
 12 administrative purposes. Any money that is allocated to the program
 13 that remains unexpended, unallocated, or unobligated at the end of
 14 the fiscal year ~~shall revert~~ **reverts** back to the ~~strategie outreach~~
 15 ~~and attraction reserve fund created in section 4 of the Michigan~~
 16 ~~trust fund act, 2000 PA 489, MCL 12.254.~~ **general fund.**

17 **(14) The fund shall not award a grant, loan, or other economic**
 18 **assistance under the Michigan strategic site readiness program for**
 19 **a strategic site or mega-strategic site if the eligible applicant**
 20 **or the owner or end user of the site previously received an award**
 21 **under the Michigan strategic site readiness program or the critical**
 22 **industry program created under section 88s and either of the**
 23 **following applies:**

24 **(a) Money received under the previous award was subject to a**
 25 **clawback or required to be repaid under a specific repayment**
 26 **provision.**

27 **(b) The applicant, owner, or end user was subject to a penalty**
 28 **under the written agreement executed in connection with the**
 29 **previous award.**

1 **(15) The fund shall not award a grant, loan, or other economic**
 2 **assistance under the program after December 31, 2030.**

3 **(16)** ~~(13)~~—Not later than March 15 of each year, the fund shall
 4 transmit to each member of the legislature, the governor, the clerk
 5 of the house of representatives, the secretary of the senate, and
 6 the senate and house fiscal agencies a report on the activities of
 7 the Michigan strategic site readiness fund. The report must include
 8 **all of** the following:

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

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

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

14 (d) The duration of the grant, loan, or other economic
 15 assistance.

16 (e) The amount of other financial assistance other than state
 17 resources.

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

21 **(g) If a nondisclosure agreement was executed in connection**
 22 **with the decision to award the grant, loan, or other economic**
 23 **assistance, the names of the individuals who signed the**
 24 **nondisclosure agreement.**

25 **(17)** ~~(14)~~—If the fund fails to transmit the report as required
 26 in subsection ~~(13)~~ **(16)** on or before March 15, the fund board shall
 27 not disburse money for a grant, loan, or other economic assistance
 28 under this program until it transmits the report as required under
 29 subsection ~~(13)~~ **(16)**.

1 (18) ~~(15)~~—The legislature finds and declares that funding
2 provided under this program is for a public purpose and serves the
3 health, safety, and general welfare of the residents of this state.

4 (19) ~~(16)~~—As used in this section:

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

8 (i) Land acquisition and assembly.

9 (ii) Site preparation and improvement.

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

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

16 (v) Environmental remediation.

17 (vi) Architectural, engineering, surveying, and similar
18 professional fees.

19 (b) "Eligible applicant" means an applicant that is 1 or more
20 of the following:

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

25 (ii) A local economic development corporation or similar
26 entity.

27 (iii) A person who is the owner of the site for which the
28 improvements are proposed, but who is not the end user of that
29 site, ~~provided that if~~ that person ~~must apply~~ **applies** jointly with

1 an applicant under subparagraph (i) or (ii).

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

5 (c) "End user" means the person, either directly or through an
6 affiliate, that will establish and operate the manufacturing or
7 other commercial enterprise that constitutes the end use of the
8 improved site.

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

11 (e) "Michigan strategic site readiness program" or "program"
12 means the Michigan strategic site readiness program created ~~in~~
13 **under** subsection (1).

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

21 (g) "Strategic site" means a site, whether publicly or
22 privately owned, that is, or subsequent to a proposed acquisition
23 will be, used for manufacturing or other commercial use.

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

27 (a) House Bill No. 5136.

28 (b) House Bill No. 5138.

29 (c) House Bill No. 5413.

1 (d) Senate Bill No. _____ or House Bill No. 5680 (request no.
2 05692'24 *).

3 (e) Senate Bill No. _____ or House Bill No. 5681 (request no.
4 05693'24 *).