

HOUSE BILL NO. 5104

October 05, 2023, Introduced by Reps. Hoskins and Tyrone Carter and referred to the Committee on Economic Development and Small Business.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 5, 9, 88s, and 88t (MCL 125.2005, 125.2009, 125.2088s, and 125.2088t), section 5 as amended by 2023 PA 24, section 9 as amended and section 88s as added by 2021 PA 136, and section 88t as added by 2021 PA 134, and by adding sections 88u and 88v.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) There is created by this act a public body

1 corporate and politic to be known as the Michigan strategic fund.
2 The fund is within the department of labor and economic opportunity
3 and shall exercise its prescribed statutory powers, duties, and
4 functions independently of the director of the department of labor
5 and economic opportunity. The statutory authority, powers, duties,
6 functions, records, personnel, property, unexpended balances of
7 appropriations, allocations, and other funds of the fund, including
8 the functions of budgeting, procurement, personnel, and management-
9 related functions, are retained by the fund, and the fund is an
10 autonomous entity within the department of labor and economic
11 opportunity in the same manner as the Michigan employment security
12 commission was designated an autonomous entity within the
13 department of labor under section 379 of the executive organization
14 act of 1965, 1965 PA 380, MCL 16.479.

15 (2) Except as otherwise provided in this act, the purposes,
16 powers, and duties of the Michigan strategic fund are vested in and
17 shall be exercised by a board of directors.

18 (3) Except as provided in ~~subsection~~**subsections (4) and (5)**,
19 the board shall consist of the following members:

20 (a) The director of the department of labor and economic
21 opportunity or the director's designee from within the department
22 of labor and economic opportunity.

23 (b) The state treasurer or the state treasurer's designee from
24 within the department of treasury.

25 (c) The director of the state transportation department or the
26 director's designee from within the state transportation
27 department.

28 (d) The chief executive officer of the MEDC or the chief
29 executive officer's designee.

1 (e) Seven other members with knowledge, skill, and experience
2 in the academic, business, or financial field, who shall be
3 appointed by the governor with the advice and consent of the
4 senate, subject to all of the following requirements:

5 (i) The 7 members appointed under this subdivision must be
6 residents of this state and must not be employees of this state.

7 (ii) Not less than 6 members appointed under this subdivision
8 must be members of the private sector.

9 (iii) One of the 7 members appointed under this subdivision must
10 be appointed from a list of 3 or more nominees of the speaker of
11 the house of representatives representing persons within the
12 private sector with experience in private equity or venture capital
13 investments, commercial lending, or commercialization of
14 technology.

15 (iv) One of the 7 members appointed under this subdivision must
16 be appointed from a list of 3 or more nominees of the senate
17 majority leader representing persons within the private sector with
18 experience in private equity or venture capital investments,
19 commercial lending, or commercialization of technology.

20 (v) Members appointed under this subdivision must include
21 minority, female, and small business representation.

22 (vi) Of the members appointed under this subdivision, at least
23 2 must have experience in private equity or venture capital
24 investments, at least 1 must have experience in commercial lending,
25 and at least 1 must have experience in commercialization of
26 technology.

27 (vii) Except as otherwise provided in this subparagraph,
28 members appointed under this subdivision must be appointed for a
29 term of 4 years. Members described in this subdivision that were

1 appointed under Executive Reorganization Order No. 2019-3, MCL
2 125.1998, shall serve the terms provided in Executive
3 Reorganization Order No. 2019-3, MCL 125.1998.

4 (4) In addition to the 11 members of the board under
5 subsection (3), not later than December 31, 2023, the governor
6 shall appoint, with the advice and consent of the senate, 2
7 additional members to the board for terms expiring December 31,
8 2027. After the initial appointments under this subsection, members
9 appointed under this subsection must be appointed for a term of 4
10 years. The members appointed under this subsection shall be from
11 the private sector and shall have experience in private equity or
12 venture capital investments, commercial lending, or
13 commercialization of technology. One of the members appointed under
14 this subsection must be appointed from a list of 3 or more nominees
15 of the senate minority leader, and the other member appointed under
16 this subsection must be appointed from a list of 3 or more nominees
17 of the house minority leader.

18 (5) **In addition to the members of the board under subsections**
19 **(3) and (4), the following individuals shall serve as nonvoting**
20 **members of the board:**

21 (a) **The majority chairperson and minority vice-chairperson of**
22 **a standing committee of the senate as selected by the senate**
23 **majority leader.**

24 (b) **The majority chairperson and minority vice-chairperson of**
25 **a standing committee of the house of representatives as selected by**
26 **the speaker of the house of representatives.**

27 (6) ~~(5)~~—A member appointed under subsection (3) or (4) shall
28 serve until a successor is appointed, and a vacancy must be filled
29 for the balance of the unexpired term in the same manner as the

1 original appointment.

2 (7) ~~(6)~~—The governor shall designate 1 member of the board,
3 other than the director of the department of labor and economic
4 opportunity, to serve as president of the fund and may designate 1
5 member to serve as vice-president of the fund. The president and
6 vice-president, if a vice-president is designated, shall serve as
7 those officers at the pleasure of the governor. The member of the
8 board who is designated to serve as president of the fund is the
9 chairperson of the board. The members of the board may elect a
10 vice-chairperson from among their members.

11 (8) ~~(7)~~—Members of the board shall serve without compensation
12 for their membership on the board, except that members of the board
13 may receive reasonable reimbursement for necessary travel and
14 expenses.

15 (9) ~~(8)~~—The board may delegate to its president, vice-
16 president, staff, or others, including the MEDC, those functions
17 and authority that the board considers necessary or appropriate,
18 which may include the oversight and supervision of employees of the
19 fund. However, responsibilities specifically vested in the board
20 under chapter 8A shall be performed by the board and shall not be
21 transferred to the MEDC, except that Michigan business development
22 program incentives under section 88r, and community revitalization
23 incentives under chapter 8C, of \$1,000,000.00 or less may be
24 authorized by the president of the fund.

25 (10) ~~(9)~~—A majority of the members of the board appointed and
26 serving constitutes a quorum for the transaction of business at a
27 meeting, or the exercise of a power or function of the fund,
28 notwithstanding the existence of 1 or more vacancies. The board may
29 act only by resolution approved by a majority of board members

1 appointed and serving. Voting on action taken by the board must be
2 conducted by majority vote of the members appointed and serving.
3 Members of the board may be present in person at a meeting of the
4 board or, if authorized by the bylaws of the board, by use of
5 telecommunications or other electronic equipment. The fund shall
6 meet at the call of the chair and as may be provided in the bylaws
7 of the fund. Meetings of the fund may be held anywhere within this
8 state.

9 **(11)** ~~(10)~~—The business of the board must be conducted at a
10 public meeting of the board held in compliance with the open
11 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
12 the time, date, and place of the meeting must be given in the
13 manner required by the open meetings act, 1976 PA 267, MCL 15.261
14 to 15.275, and must also be provided on an internet website
15 operated by the fund. A record or portion of a record, material, or
16 other data received, prepared, used, or retained by the fund or any
17 of its centers in connection with an application to or with a
18 project or product assisted by the fund or any of its centers or
19 with an award, grant, loan, or investment that relates to financial
20 or proprietary information submitted by the applicant that is
21 considered by the applicant and acknowledged by the board or a
22 designee of the board as confidential is not subject to the
23 disclosure requirements of the freedom of information act, 1976 PA
24 442, MCL 15.231 to 15.246. The disclosure of a record concerning
25 investment information described in section 88c under the freedom
26 of information act, 1976 PA 442, MCL 15.231 to 15.246, is subject
27 to the limitations provided in section 88c. The board may also meet
28 in closed session pursuant to the open meetings act, 1976 PA 267,
29 MCL 15.261 to 15.275, to determine whether it acknowledges as

1 confidential any financial or proprietary information submitted by
2 the applicant and considered by the applicant as confidential.
3 Unless considered proprietary information, the board shall not
4 acknowledge routine financial information as confidential. If the
5 board determines that information submitted to the fund is
6 financial or proprietary information and is confidential, the board
7 shall release a written statement, subject to disclosure under the
8 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, that
9 states all of the following:

10 (a) The name and business location of the person requesting
11 that the information submitted be confidential as financial or
12 proprietary information.

13 (b) That the information submitted was determined by the board
14 to be confidential as financial or proprietary information.

15 (c) A broad nonspecific overview of the financial or
16 proprietary information determined to be confidential.

17 **(12)** ~~(11)~~—The fund shall not disclose financial or proprietary
18 information not subject to disclosure pursuant to subsection ~~(10)~~
19 **(11)** without consent of the applicant submitting the information.

20 **(13)** ~~(12)~~—Any document to which the fund is a party evidencing
21 a loan, insurance, mortgage, lease, venture, or other type of
22 agreement the fund is authorized to enter into is not considered
23 financial or proprietary information that may be exempt from
24 disclosure under subsection ~~(10)~~ **(11)**.

25 **(14)** ~~(13)~~—For purposes of subsections ~~(10)~~, ~~(11)~~, ~~and~~ ~~(12)~~,
26 **and (13)**, "financial or proprietary information" means information
27 that has not been publicly disseminated or that is unavailable from
28 other sources, the release of which might cause the applicant
29 significant competitive harm.

1 Sec. 9. (1) The fund shall transmit to each member of the
2 legislature, the governor, the clerk of the house of
3 representatives, the secretary of the senate, and the senate and
4 house fiscal agencies annually a report of its activities. The
5 report ~~shall~~**must** be transmitted not later than April 10 of each
6 year for activities in the immediately preceding state fiscal year.
7 The report ~~shall~~**must** not include information exempt from
8 disclosure under section 5. The report ~~shall~~**must** include, but is
9 not limited to, all of the following for each program operated
10 under this act:

11 (a) A list of entities that received financial assistance.

12 (b) The type of project or product being financed.

13 (c) The amount and type of financial assistance.

14 (d) For each separate form of financial assistance, all of the
15 following:

16 (i) The number of new jobs committed or projected when the
17 financial assistance was applied for.

18 (ii) The number of retained jobs committed or projected when
19 the financial assistance was applied for.

20 (iii) The actual number of new jobs created that are not
21 temporary employees.

22 (iv) The actual number of retained jobs that are not temporary
23 employees.

24 (v) The average annual salary of the new jobs created that are
25 not temporary employees.

26 (vi) The average annual salary of the retained jobs that are
27 not temporary employees.

28 (e) The duration of the financial assistance.

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

1 resources.

2 (g) Money or other revenue or property returned to the fund,
3 including any repayments through a clawback provision in the
4 agreement.

5 (h) The status of all loans of the fund.

6 (i) A list of all entities that are in bankruptcy, that the
7 fund has received actual notice of, filed by a direct recipient of
8 an active single incentive of at least \$500,000.00. In addition,
9 the fund shall, within 120 days after the fund receives notice,
10 provide a report of the notice of bankruptcy on its website and
11 shall forward the report to each of the following:

12 (i) The senate majority leader and the senate minority leader.

13 (ii) The speaker of the house and the house minority leader.

14 (iii) The members of the house ~~commerce and tourism~~ **economic**
15 **development and small business** committee.

16 (iv) The members of the house appropriations subcommittee on
17 general government.

18 (v) The members of the senate economic and ~~small business~~
19 **community** development committee.

20 (vi) The members of the senate appropriations subcommittee on
21 general government.

22 (j) A summary of the approximate administrative costs used to
23 administer the programs and activities authorized under this act.

24 (k) Any other information as required in this section.

25 (2) The auditor general or a certified public accountant
26 appointed by the auditor general annually shall conduct and remit
27 to the legislature an audit of the fund and, in the conduct of the
28 audit, shall have access to all records of the fund at any time,
29 whether or not confidential. Each audit required by this section

1 shall include a determination of whether the fund is likely to be
2 able to continue to meet its obligations, including a report on the
3 status of outstanding loans and agreements made by the fund.

4 (3) The fund shall also transmit the audit described in
5 subsection (2) to the chairperson and minority vice-chairperson of
6 the senate appropriations subcommittee on general government and
7 the house of representatives appropriations subcommittee on general
8 government. The fund shall make the report and audit available to
9 the public on the fund's website.

10 (4) The report described in subsection (1) must also contain
11 all of the following that are related to a 21st century investment
12 made by the fund board under chapter 8A:

13 (a) The amount of qualified venture capital fund investments,
14 qualified mezzanine fund investments, and qualified private equity
15 fund investments under management in this state, including year-to-
16 year growth.

17 (b) The value of loan enhancement program investments,
18 qualified private equity fund investments, qualified mezzanine fund
19 investments, and qualified venture capital investments in qualified
20 businesses, including year-to-year growth.

21 (c) A statement of the amount of money in each loan reserve
22 fund established under the small business capital access program
23 required under chapter 8A.

24 (5) The report described in subsection (1) must also include,
25 but is not limited to, all of the following for all actions under
26 section 88r:

27 (a) The total actual amount of qualified investment attracted
28 under section 88r as reported to the fund.

29 (b) The total actual number of new jobs created under section

1 88r as reported to the fund.

2 (c) The actual amount of the grant, loan, or other economic
3 assistance made under section 88r separately for each qualified
4 business verified by the fund.

5 (d) For each qualified business, whether it is a new business,
6 whether it is an expansion of an existing business, or whether it
7 relocated from outside of this state.

8 (e) An evaluation of the aggregate return on investment that
9 this state realizes on the actual qualified new jobs and actual
10 qualified investment made by qualified businesses.

11 (6) The report described in subsection (1) must also include,
12 but is not limited to, all of the following for all actions under
13 chapter 8B:

14 (a) For tourism promotion efforts, all of the following:

15 (i) An itemized list, by market, of how much was spent, types
16 of media purchased, and target of the tourism promotion campaign.

17 (ii) The return on investment analysis that utilizes existing
18 baseline data and compares results with prior outcome evaluations
19 funded by Travel Michigan.

20 (b) For business development efforts, all of the following:

21 (i) An itemized list, by market, of how much was spent, types
22 of media purchased, and target of the business promotion campaign.

23 (ii) A performance analysis that compares the program or
24 campaign objectives and outcome of the campaign or program.

25 (7) The report described in subsection (1) must also include,
26 but is not limited to, all of the following for all actions under
27 section 90d:

28 (a) The total actual amount of private investment attracted
29 under section 90d as reported to the fund.

1 (b) The actual amount of the community revitalization
2 incentives made under chapter 8C separately for each project.

3 (c) The total actual amount of square footage revitalized or
4 added for each project approved under section 90d as reported to
5 the fund. When reporting square footage, the person must report the
6 square footage by category, including, but not limited to,
7 commercial, residential, or retail.

8 (d) The aggregate increase in taxable value of all property
9 subject to a written agreement under chapter 8C when established
10 and recorded by the local units of government and as reported to
11 the fund.

12 (e) The total actual number of residential units revitalized
13 or added for each project approved under section 90d as reported to
14 the fund.

15 (f) Each project that received a community revitalization
16 incentive outside the fund program standards and guidelines and why
17 the variance was given.

18 (8) Beginning on and after January 1, 2012, on a monthly basis
19 the fund shall provide exact copies of all information regarding
20 all actions under chapter 8C that is provided to board members of
21 the fund for the purpose of monthly board meetings, subject to
22 confidentiality under section 5, to each of the following and post
23 that information on the fund's website:

24 (a) The chairperson and minority vice-chairperson of the house
25 ~~commerce and tourism~~ **economic development and small business**
26 committee.

27 (b) The chairperson and minority vice-chairperson of the house
28 appropriations subcommittee on general government.

29 (c) The chairperson and minority vice-chairperson of the

1 senate economic and ~~small business~~ **community** development committee.

2 (d) The chairperson and minority vice-chairperson of the
3 senate appropriations subcommittee on general government.

4 (9) The report described in subsection (1) must also include a
5 summary of the approximate administrative costs used to administer
6 the programs and activities authorized in the following sections:

7 (a) Section 88b.

8 (b) Section 88h.

9 (c) Section 90b.

10 (10) The report described in subsection (1) must also include,
11 but is not limited to, all of the following for all actions for
12 business incubators approved by the fund after January 14, 2015:

13 (a) The number of new jobs created and projected new job
14 growth by current clients of the business incubator.

15 (b) Amounts of other funds leveraged by current clients of the
16 business incubator.

17 (c) Increases in revenue for current clients of the business
18 incubator.

19 (11) The report described in subsection (1) must also include
20 the actual repayments received by the fund for failure to comply
21 with clawback provisions of the written agreement under all of the
22 following:

23 (a) Section 78.

24 (b) Section 88d.

25 (c) Section 88k.

26 (d) Section 88q.

27 (e) Section 88r.

28 (f) Section 90b.

29 (12) Beginning on July 1, 2015, the fund shall post on the

1 fund's website a list of each contract, agreement, or other written
2 loan or grant documentation for financial assistance under sections
3 88r and 90b that the fund entered into or modified in the
4 immediately preceding fiscal year.

5 (13) Beginning on July 1, 2015, the fund shall post and update
6 periodically all of the following on its website for all loans made
7 under sections 88r and 90b:

8 (a) A description of the project for which the loan was made.

9 (b) The total amount of the loan.

10 (c) Whether payments on the loan balance are current or
11 delinquent.

12 (d) The interest rate of the loan.

13 (14) Beginning July 1, 2015, the report described in
14 subsection (1) ~~shall~~**must** also contain all of the following for
15 each program that provides financial assistance under this act that
16 requires a site visit:

17 (a) A copy of the site visit guidelines for that program.

18 (b) The number of site visits conducted under that program.

19 (c) The chief compliance officer shall review and evaluate
20 compliance with the site visit guidelines.

21 (15) The fund shall post on its website and update
22 periodically all of the information described in subsection (14).

23 (16) The report described in subsection (1) must also include,
24 but is not limited to, all of the following for all written
25 agreements related to the good jobs for Michigan program created
26 under chapter 8D:

27 (a) The name of the authorized business.

28 (b) The number of certified new jobs required to be
29 maintained.

1 (c) The amount and duration of the withholding tax capture
2 revenues.

3 (17) The report described in subsection (1) must also include
4 the activities of the critical industry program described in
5 section 88s, **including, but not limited to, the status of each**
6 **project under the critical industry program and how the progress of**
7 **that project satisfies the criteria identified in sections 88s and**
8 **88v.**

9 (18) The report described in subsection (1) must also include
10 the activities of the Michigan strategic site readiness program
11 described in section 88t, **including, but not limited to, the status**
12 **of each project under the Michigan strategic site readiness program**
13 **and how the progress of that project satisfies the criteria**
14 **identified in sections 88t and 88v.**

15 (19) The report described in subsection (1) must also include
16 the activities of the Michigan 360 program described in section
17 88u, **including, but not limited to, the status of the eligible**
18 **activities under the Michigan 360 program and how the progress of**
19 **those eligible activities satisfies the criteria identified in**
20 **sections 88u and 88v.**

21 (20) ~~(19)~~ As used in this section, "financial assistance"
22 means grants, loans, other economic assistance, and any other
23 incentives or assistance under this act.

24 Sec. 88s. (1) The fund shall create and operate the critical
25 industry program. The fund ~~shall use~~ **may expend** money transferred
26 from the ~~strategic outreach and attraction reserve~~ **make it in**
27 **Michigan** fund created in section 4 of the Michigan trust fund act,
28 2000 PA 489, MCL 12.254, or money appropriated to the program to
29 make qualified investments **in or provide other economic assistance**

1 to qualified businesses **as described in this section and section**
 2 **88v.**

3 (2) ~~The~~ **Subject to section 88v, the** fund shall expend money
 4 allocated to the ~~Michigan~~-critical industry program only to provide
 5 qualified investments to qualified businesses for deal-closing, gap
 6 financing, or other economic assistance to create or retain
 7 qualified jobs ~~as a result of a technological shift in product or~~
 8 ~~production~~ **that the fund determines are critical to the economic**
 9 **growth and development of this state** or make capital investments,
 10 or both, as determined by the fund board. ~~The program must provide~~
 11 ~~for a detailed~~ **fund shall adopt an** application, approval, and
 12 compliance process **for the program** that is ~~also~~-published and
 13 available on the ~~fund's~~-website **of the fund or the Michigan**
 14 **economic development corporation.**

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

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

22 (b) ~~If~~ **Whether** the project will act as a catalyst for
 23 additional revitalization of **and economic growth in** the community
 24 in which it is located and this state.

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

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

29 (e) **The amount of any other economic assistance or support**

1 provided by the federal government for the project, including, but
2 not limited to, federal grants, loans, appropriations, or tax
3 credits.

4 (f) The amount of any private funds, investments, or
5 contributions for the project, including, but not limited to, the
6 qualified business's own investments in the project.

7 (g) ~~(d)~~—The applicant's financial need for a qualified
8 investment from the critical industry program.

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

12 (i) ~~(f)~~—~~Creation~~ **The projected creation** or retention of
13 qualified jobs **at or** as a result of a ~~technological shift in~~
14 ~~product or production at~~ the project location and within this
15 state.

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

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

22 (j) **The extent to which the applicant will leverage the local**
23 **skilled workforce and department of labor and economic opportunity**
24 **programs for the development and construction at the project**
25 **location.**

26 (k) ~~(i)~~—Whether and how the project is financially and
27 economically sound.

28 (l) ~~(j)~~—Whether and how the project promotes sustainable
29 development.

1 **(m)** ~~(k)~~—Whether and how the project involves the
2 rehabilitation of a historic resource.

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

6 **(o)** ~~(m)~~—The level and extent of environmental contamination
7 **that may be present and would be remediated and the plan for**
8 **remediating the environmental contamination.**

9 **(p)** ~~(n)~~—Whether and how the project will compete with or
10 affect **support** existing Michigan businesses within the same
11 industry.

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

16 **(r)** ~~(p)~~—The risk of obsolescence of the project, products, and
17 investments in the future.

18 **(s)** ~~(q)~~—The overall return on investment to this state.

19 **(t)** ~~(r)~~—Whether and how the project addresses food supply
20 challenges.

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

24 **(u)** **Whether the proposed project is or will be located in a**
25 **qualified opportunity zone, a HUBZone, or a county, city, village,**
26 **or township with an unemployment rate that exceeds the average**
27 **unemployment rate in this state.**

28 **(v)** **Whether the project will result in equitable job growth**
29 **based on providing training and advancement opportunities for**

1 employees.

2 (w) Whether the qualified business provides health care and
3 access to employer-sponsored benefits, including, but not limited
4 to, retirement savings, paid family and medical leave, housing
5 credits, and child care.

6 (x) The extent to which the qualified business engages or is
7 engaged with the community in which the project is or will be
8 located.

9 (y) Whether the qualified business will honor a decision by
10 its workers to form a union and will commit not to interfere in
11 unionization efforts.

12 (z) Whether the qualified business has downsized or laid off
13 workers within this state within 2 years of the potential award
14 and, if downsizing or layoffs occurred, the salary range of the
15 affected employees. The fund must consider the net job loss or gain
16 and the overall impact on net median income when determining
17 whether to award a qualified investment.

18 (aa) Whether the project involves a potential partnership with
19 a foreign company that may be a safety or security risk to Michigan
20 workers and intellectual property, and whether there are other
21 potential projects with lower risk. As used in this subdivision,
22 "foreign company" means a business entity that is not formed under
23 the laws of the United States or a political subdivision of the
24 United States.

25 (bb) The extent that the proposed project will attempt to
26 coordinate with already existing resources and programs within this
27 state, including, but not limited to, all of the following:

28 (i) For hiring, employment, workforce development, and other
29 similar needs, the Michigan works one-stop service center system

1 created under the Michigan works one-stop service center system
2 act, 2006 PA 491, MCL 408.111 to 408.135.

3 (ii) For community infrastructure investments to expand access
4 to, increase the affordability of, or otherwise improve high-speed
5 internet services, the Michigan high-speed internet office created
6 by Executive Directive No. 2021-2.

7 (iii) For community housing needs and planning, implementation,
8 and other activities in connection with those needs, the Michigan
9 state housing development authority created in section 21 of the
10 state housing development authority act of 1966, 1966 PA 346, MCL
11 125.1421.

12 (iv) For land acquisition and other land needs for community
13 investment and planning, implementation, and other activities in
14 connection with these land needs, the state land bank authority and
15 local land bank authorities. As used in this subparagraph:

16 (A) "Local land bank authorities" means local authorities and
17 county authorities as those terms are defined in section 3 of the
18 land bank fast track act, 2003 PA 258, MCL 124.753.

19 (B) "State land bank authority" means the state authority as
20 that term is defined in section 3 of the land bank fast track act,
21 2003 PA 258, MCL 124.753.

22 (v) For transportation needs and planning, implementation, and
23 other activities in connection with those needs, the state
24 transportation department.

25 (4) If the fund determines, after ~~making the considerations~~
26 ~~under considering the criteria in~~ subsection (3) **and determining**
27 **that the project meets the majority of the criteria**, to award a
28 qualified investment to a qualified business under this program,
29 the fund shall enter into a written agreement with the qualified

1 business that includes ~~in a clear and concise manner all of the~~
 2 terms and conditions ~~relating~~ **related** to the qualified investment
 3 as determined and documented by the fund. ~~board, including, but not~~
 4 ~~limited to,~~ **Before entering into the written agreement, the fund**
 5 **must submit a copy of the proposed written agreement to the 4**
 6 **members of the legislature who serve as nonvoting members of the**
 7 **board under section 5(5) along with the fund's written analysis of**
 8 **the criteria under subsection (3) and section 88v. The written**
 9 **agreement must include all of the following provisions:**

10 (a) **The amount of the total qualified investment to be**
 11 **awarded.**

12 (b) ~~(a) Specific time frames~~ **dates** and benchmarks ~~to be met~~
 13 ~~before~~ **for** the qualified business ~~receives a~~ **to receive the**
 14 **qualified investment, including conditions for the** disbursement of
 15 **money** in installments. ~~under the critical industry program pursuant~~
 16 ~~to the approved qualified investment.~~

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

24 (d) ~~(e) Specific penalties for noncompliance with the written~~
 25 agreement as determined by the fund.

26 (e) ~~(d) A provision that all money that is subject to a~~
 27 clawback or required to be repaid under a specific repayment
 28 provision must be paid ~~within~~ **not later than** 90 days ~~of~~ **after**
 29 notification by the fund. Any amounts not paid within that 90-day

1 period are subject to a penalty of 1% per month, prorated on a
2 daily basis.

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

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

11 **(h)** ~~(f)~~—A provision that the qualified business will provide
12 the data described in the written agreement ~~that are necessary~~ for
13 the fund to report to the legislature as required under this
14 program.

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

19 (5) If the fund receives a request to modify an existing
20 written agreement, for a qualified investment under this program,
21 the fund must provide a copy of that requested modification to ~~each~~
22 ~~member of the legislature,~~ **the 4 members of the legislature who**
23 **serve as nonvoting members of the board under section 5(5),** the
24 governor, the clerk of the house of representatives, the secretary
25 of the senate, and the senate and house fiscal agencies within 5
26 business days of the receipt of the modification request **and before**
27 **entering into an amended written agreement.** In addition to the copy
28 of the request for modification, the notice provided under this
29 subsection must also include the specific provisions to be modified

1 and the rationale for considering the modification. Before the fund
 2 modifies an existing written agreement for a qualified investment,
 3 the fund must give notice of the proposed amendments and publish
 4 them on the fund's internet website at least 1 business day ~~prior~~
 5 ~~to~~**before** a public hearing on the proposed amendments. If the fund
 6 approves and modifies an existing written agreement under this
 7 subsection, the fund must provide a copy of that amended written
 8 agreement to each member of the legislature, the governor, the
 9 clerk of the house of representatives, the secretary of the senate,
 10 and the senate and house fiscal agencies within 1 business day of
 11 the modification.

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

26 (7) The fund ~~board~~ shall not disburse funds allocated to the
 27 program for a qualified investment **under this section** to a
 28 qualified business if that qualified business has not fully repaid
 29 all money subject to clawback or required to be repaid under a

1 specific repayment provision as provided in any written agreement
 2 under this act, ~~or~~ if that qualified business is in default on any
 3 grant, loan, investment, or other economic assistance made or
 4 guaranteed by this state, **if that qualified business has 1 or more**
 5 **unpaid fees from pollution or environmental contamination in**
 6 **previous or current projects in this state or any other state, or**
 7 **if that qualified business is currently in bad standing with this**
 8 **state.** All money paid to the fund pursuant to a clawback or
 9 specific repayment provision for a qualified investment under this
 10 ~~program shall~~ **section must** be deposited in the ~~strategic outreach~~
 11 ~~and attraction reserve fund created in section 4 of the Michigan~~
 12 ~~trust fund act, 2000 PA 489, MCL 12.254.~~ **general fund.** The fund
 13 shall not use money allocated to the program for administrative
 14 purposes. Any money that is allocated to the program that remains
 15 unexpended, unallocated, or unobligated at the end of a fiscal year
 16 ~~shall revert~~ **reverts** back to the ~~strategic outreach and attraction~~
 17 ~~reserve fund created in section 4 of the Michigan trust fund act,~~
 18 ~~2000 PA 489, MCL 12.254.~~ **general fund. As used in this subsection,**
 19 **"bad standing" means that a qualified business owes fines or**
 20 **penalties to this state or is under investigation by a state**
 21 **department or agency.**

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 approved for a qualified
2 investment.

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

4 (d) For each separate form of qualified investment, all of the
5 following:

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

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

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

15 (e) The duration of the qualified investment.

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

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

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

27 (10) The legislature finds and declares that funding provided
28 under this program is for a public purpose and serves the health,
29 safety, and general welfare of the residents of this state.

1 (11) As used in this section:

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

4 (b) **"HUBZone" means that term as defined in 13 CFR part 126.**

5 (c) ~~(b)~~ "Qualified business" means a business that is located
6 in or operates in this state or will locate or will operate in this
7 state as determined by the fund board. A qualified business may
8 include more than 1 business as determined by the fund board.

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

23 (e) ~~(d)~~ "Qualified job" means a **permanent, full-time** job
24 performed by an individual who is a resident of this state whose
25 Michigan income taxes are withheld by an employer, or an employee
26 leasing company or professional employer organization on behalf of
27 the employer, or by an individual who is not a resident of this
28 state and is employed by a business at a project location that is
29 located in this state, as determined and verified by the fund.

1 (f) "Qualified opportunity zone" means that term as defined in
 2 section 1400Z-1 of the internal revenue code of 1986, 26 USC 1400Z-
 3 1.

4 Sec. 88t. (1) The fund shall create and operate the Michigan
 5 strategic site readiness program. The fund ~~shall use the program~~
 6 **may expend** money transferred from the ~~strategic outreach and~~
 7 ~~attraction reserve~~ **make it in Michigan** fund created in section 4 of
 8 the Michigan trust fund act, 2000 PA 489, MCL 12.254, or money
 9 appropriated to the program to make grants, loans, or other
 10 economic assistance under this program **as described in this section**
 11 **and section 88v.**

12 (2) ~~The~~ **Subject to section 88v, the** fund shall expend money
 13 allocated to the Michigan strategic site readiness program only to
 14 provide grants, loans, and other economic assistance for eligible
 15 applicants ~~to conduct~~ **for** eligible activities for the purpose of
 16 creating investment-ready sites to attract and promote investment
 17 in this state for eligible activities on, or related to, strategic
 18 sites and mega-strategic sites. The ~~program must provide for a~~
 19 ~~detailed~~ **fund shall adopt an** application, approval, and compliance
 20 process that is ~~also~~ published and available on the ~~fund's~~ website
 21 **of the fund or the Michigan economic development corporation.** The
 22 ~~detailed~~ application, approval, and compliance process must, at a
 23 minimum, provide ~~for all of~~ the following:

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

27 (b) The fund ~~shall~~ **must** establish separate application
 28 criteria for mega-strategic sites and for strategic sites that are
 29 not mega-strategic sites and for sites that have, and that do not

1 have, a specifically identified end user.

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

8 (a) ~~The importance of the project or eligible activities to~~
 9 ~~the community in which it is located.~~**The potential economic impact**
 10 **of the project to this state.**

11 (b) ~~If~~**Whether** the project will act as a catalyst for
 12 additional ~~revitalization of the community in which it is located~~
 13 ~~and~~**economic growth in** this state.

14 (c) The amount of local community and financial support for
 15 the project.

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

18 (e) The amount of any other economic assistance or support
 19 provided by the federal government for the project, including, but
 20 not limited to, federal **grants, loans,** appropriations, or tax
 21 credits.

22 (f) The amount of any private funds, ~~or~~ investments, **or**
 23 **contributions** for the project, including, **but not limited to,** the
 24 applicant's own investments in the project.

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

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

1 (i) ~~Creation~~**The projected creation** or retention of qualified
2 jobs **at or** as a result of a ~~technological shift in product or~~
3 ~~production at~~ the project location ~~and~~ within this state.

4 (j) **The extent to which the applicant will leverage the local**
5 **skilled workforce and department of labor and economic opportunity**
6 **programs for the development and construction at the project**
7 **location.**

8 (k) ~~(j)~~ Whether and how the project is financially and
9 economically sound.

10 (l) ~~(k)~~ Whether and how the project converts abandoned public
11 buildings to private use.

12 (m) ~~(l)~~ Whether and how the project promotes sustainable
13 development.

14 (n) ~~(m)~~ Whether and how the project involves the
15 rehabilitation of a historic resource.

16 (o) ~~(n)~~ Whether and how the project addresses areawide
17 redevelopment.

18 (p) ~~(o)~~ Whether and how the project addresses underserved
19 markets of commerce.

20 (q) ~~(p)~~ The level and extent of **any** environmental
21 contamination **that may be present and would be remediated and the**
22 **plan for remediating the environmental contamination.**

23 (r) ~~(q)~~ Whether and how the project will compete with or
24 ~~affect~~**support** existing Michigan businesses within the same
25 industry.

26 (s) ~~(r)~~ Whether and how the project's proximity to rail and
27 utility will impact performance of the project and maximize energy
28 and logistics needs in the community in which it is located and in
29 this state.

1 (t) ~~(s)~~—The risk of obsolescence of the project, products, and
2 investments in the future.

3 (u) ~~(t)~~—The overall return on investment to this state.

4 ~~(u) Whether the proposed strategic site or mega-strategic site
5 is incorporated into a strategic plan of a political subdivision of
6 this state.~~

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

10 (4) If the fund determines, after ~~the considerations under~~
11 **considering the criteria in** subsection (3) **and determining that the**
12 **project meets the majority of the criteria**, to provide a grant,
13 loan, or other economic assistance to an eligible applicant under
14 this program, the fund shall enter into a written agreement with
15 the eligible applicant that includes ~~in a clear and concise manner~~
16 ~~all of the~~ terms and conditions related to the grant, loan, or
17 other economic assistance as determined and documented by the fund.
18 ~~board, including, but not limited to,~~ **Before entering into the**
19 **written agreement, the fund must submit a copy of the proposed**
20 **written agreement to the 4 members of the legislature who serve as**
21 **nonvoting members of the board under section 5(5) along with the**
22 **fund's written analysis of the criteria under subsections (3), (5),**
23 **(6), and (7), as applicable, and section 88v. The written agreement**
24 **must include all of the following provisions:**

25 (a) **The amount of the grant, loan, or other economic**
26 **assistance to be awarded.**

27 (b) ~~(a)~~—Specific dates and benchmarks for the eligible
28 applicant to receive ~~a grant, loan, or other economic assistance~~
29 **funding** under this program, including conditions for the

1 disbursement of ~~funds~~**money** in installments.

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

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

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

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

22 **(g)** **A provision that the eligible applicant will provide the**
23 **data described in the written agreement necessary for the fund to**
24 **report to the legislature as required under this program.**

25 (5) In addition to the considerations under subsection (3), in
26 determining whether to approve a grant, loan, or other economic
27 assistance for a strategic site for which an end user has not been
28 specifically identified, the fund ~~shall~~ **must** consider and document
29 ~~, as reasonably determined by the fund board, at a minimum all of~~

1 the following:

2 (a) ~~The degree to which~~ **Whether** the proposed site demonstrates
 3 a high level of competitiveness for future development, ~~considering~~
 4 ~~and documenting~~ **including consideration and documentation of** all of
 5 the following:

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

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

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

13 (b) Whether the proposed investment will result in the
 14 elimination of blight and the remediation of environmental
 15 contamination.

16 (c) The degree of local matching contributions.

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

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

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

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

1 (b) The feasibility of proposed land acquisition.

2 (c) Utility and transportation availability, and the
3 feasibility of necessary utility and transportation improvements.

4 (d) Workforce availability and training ~~capability~~. **capacity**.

5 (e) Environmental and topographical conditions, and the
6 feasibility of necessary site improvements to address environmental
7 and topographical conditions.

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

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

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

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

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

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

25 (f) The level of capital investment.

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

27 (8) If the fund receives a request to modify an existing
28 written agreement for a grant, loan, or other economic assistance
29 under this program, the fund must provide a copy of that requested

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

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

1 ~~recognized third-party certification program.~~

2 **(9)** ~~(10)~~ The fund shall post on its website or post on the
3 website of the Michigan economic development corporation, not less
4 than every 3 months, the name of the eligible applicant or
5 applicants, the location of each site that received a grant, loan,
6 or other economic assistance under this program in that period, and
7 the amount of the grant, loan, or other economic assistance.

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

19 **(10) Subject to the approval of the fund, local and regional**
20 **economic development organizations may use funds for the**
21 **acquisition of real property or interests in real property.**

22 **(11) Notwithstanding anything contrary in this section, the**
23 **fund may enter into a written agreement with a land bank fast track**
24 **authority created under the land bank fast track act, 2003 PA 258,**
25 **MCL 124.751 to 124.774, as the fund determines necessary for the**
26 **purposes of implementing this section.**

27 (12) The fund ~~board~~ shall not disburse money from the program
28 for a grant, loan, or other economic assistance to an eligible
29 applicant if that eligible applicant has not fully repaid all money

1 subject to clawback or required to be repaid under a specific
 2 repayment provision as provided in any written agreement under this
 3 act, ~~or~~ if that eligible applicant is in default on any grant,
 4 loan, or other economic assistance made or guaranteed by this
 5 state, **if that eligible applicant has 1 or more unpaid fees from**
 6 **pollution or environmental contamination in previous or current**
 7 **projects in this state or any other state, or if that eligible**
 8 **applicant is currently in bad standing with this state.** All money
 9 paid to the fund pursuant to a clawback or specific repayment
 10 provision for a grant, loan, or other economic assistance under
 11 this 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.~~ **general fund.** The fund shall not
 14 use money allocated to the program for administrative purposes. Any
 15 money that is allocated to the program that remains unexpended,
 16 unallocated, or unobligated at the end of the 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.~~ **general fund. As used in this subsection,**
 20 **"bad standing" means that an eligible applicant owes fines or**
 21 **penalties to this state or is under investigation by a state**
 22 **department or agency.**

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

29 (a) A list of eligible applicants that received a grant, loan,

1 or other economic assistance.

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

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

5 (d) The duration of the grant, loan, or other economic
6 assistance.

7 (e) The amount of other financial assistance other than state
8 resources.

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

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

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

21 (16) As used in this section:

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

25 (i) Land acquisition and assembly, **including land holding**
26 **costs.**

27 (ii) Site preparation and improvement.

28 (iii) Infrastructure improvements that directly benefit the
29 site, including, but not limited to, transportation infrastructure,

1 water and wastewater infrastructure, and utilities necessary to
2 service the site.

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

5 (v) Environmental remediation.

6 (vi) Architectural, engineering, surveying, and similar
7 professional fees.

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

10 (i) A political subdivision of this state, including, but not
11 limited to, a county, city, village, township, charter township, or
12 instrumentality of a county, city, village, township, or charter
13 township.

14 (ii) A local economic development corporation or similar
15 entity.

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

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

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

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

29 (e) "Michigan strategic site readiness program" or "program"

1 means the Michigan strategic site readiness program created ~~in~~
2 **under** subsection (1).

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

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

13 **Sec. 88u. (1) The fund shall create and operate the Michigan**
14 **360 program. The fund may expend money transferred from the make it**
15 **in Michigan fund created in section 4 of the Michigan trust fund**
16 **act, 2000 PA 489, MCL 12.254, or other money appropriated to the**
17 **program to make qualified investments under the program as**
18 **described in this section and section 88v.**

19 (2) Subject to section 88v, the fund shall expend money
20 allocated to the Michigan 360 program only to provide qualified
21 investments to eligible applicants to support eligible activities
22 under this section related to projects under the strategic site
23 readiness program or the critical industry program. A qualified
24 investment under the Michigan 360 program must be made at the same
25 time as and in connection with an award under the strategic site
26 readiness program or the critical industry program. The amount of a
27 qualified investment under the Michigan 360 program must not be
28 less than 20% of the total project investment as that term is
29 defined in section 88v. The fund shall adopt an application,

1 approval, and compliance process for the program that is published
2 and available on the website of the fund or the Michigan economic
3 development corporation.

4 (3) The fund must consider and document all of the following
5 criteria before entering into a written agreement for a qualified
6 investment as provided under subsection (4):

7 (a) The potential economic impact of the project to the
8 community and to this state.

9 (b) The degree to which the proposed project is a priority for
10 the local unit of government in which the qualified investment will
11 be made.

12 (c) Whether the project will act as a catalyst for additional
13 economic growth in the community and in this state.

14 (d) Whether the eligible activities as defined for the
15 proposed project will invest in transportation or infrastructure
16 supports in the community.

17 (e) Whether the eligible activities as defined for the
18 proposed project will support workforce training and development
19 needs in the community.

20 (f) The extent to which the proposed project will support the
21 growth of 1 or more of the following in the community:

22 (i) The local downtown.

23 (ii) The central business district.

24 (iii) Small businesses.

25 (iv) Local business hubs.

26 (g) Whether the eligible activities as defined for the
27 proposed project will support the childcare needs of the community
28 required to support the local workforce.

29 (h) Whether the proposed project will provide local housing to

1 support growth in the community related to the project.

2 (i) Whether the proposed project will reuse vacant buildings
3 or historic resources, or redevelop blighted property.

4 (j) Whether the eligible activities as defined for the
5 proposed project will support or enable progress toward the
6 following 4 core policy priorities for community benefit plans as
7 defined by guidelines issued under the Justice40 initiative:

8 (i) Engaging with local stakeholders, including, but not
9 limited to, the governing bodies of communities and labor unions.

10 (ii) Investing in this state's workforce.

11 (iii) Advancing diversity, equity, inclusion, and accessibility.

12 (iv) Benefiting disadvantaged communities under the Justice40
13 initiative.

14 (k) The extent that the proposed project will attempt to
15 coordinate with already existing resources and programs within this
16 state, including, but not limited to, all of the following:

17 (i) For hiring, employment, workforce development, and other
18 similar needs, the Michigan works one-stop service center system
19 created under the Michigan works one-stop service center system
20 act, 2006 PA 491, MCL 408.111 to 408.135.

21 (ii) For community infrastructure investments to expand access
22 to, increase the affordability of, or otherwise improve high-speed
23 internet services, the Michigan high-speed internet office created
24 by Executive Directive No. 2021-2.

25 (iii) For community housing needs and planning, implementation,
26 and other activities in connection with those needs, the Michigan
27 state housing development authority created in section 21 of the
28 state housing development authority act of 1966, 1966 PA 346, MCL
29 125.1421.

1 (iv) For land acquisition and other land needs for community
 2 investment and planning, implementation, and other activities in
 3 connection with these land needs, the state land bank authority and
 4 local land bank authorities. As used in this subparagraph:

5 (A) "Local land bank authorities" means local authorities and
 6 county authorities as those terms are defined in section 3 of the
 7 land bank fast track act, 2003 PA 258, MCL 124.753.

8 (B) "State land bank authority" means the state authority as
 9 that term is defined in section 3 of the land bank fast track act,
 10 2003 PA 258, MCL 124.753.

11 (v) For transportation needs and planning, implementation, and
 12 other activities in connection with those needs, the state
 13 transportation department.

14 (4) If the fund determines, after considering the criteria in
 15 subsection (3) and determining that not fewer than 3 of the
 16 criteria are met, to award a qualified investment to an eligible
 17 applicant under this program, the fund shall enter into a written
 18 agreement with the eligible applicant that includes the terms and
 19 conditions related to the qualified investment as determined and
 20 documented by the fund. Before entering into the written agreement,
 21 the fund must submit a copy of the proposed written agreement to
 22 the 4 members of the legislature who serve as nonvoting members of
 23 the board under section 5(5) along with the fund's written analysis
 24 of the criteria under subsection (3) and section 88v. The written
 25 agreement must include all of the following provisions:

26 (a) The amount of the total qualified investment to be
 27 awarded.

28 (b) Specific dates and benchmarks for the eligible applicant
 29 to receive the qualified investment, including conditions for the

1 disbursement of money in installments.

2 (c) Specific terms relating to measurable outcomes, proration
3 of payments for partial performance, and clawback and specific
4 repayment provisions for noncompliance with the agreement.

5 (d) An audit provision that requires the fund to verify that
6 the benchmarks required for the project have been satisfied.

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

10 (5) If the fund receives a request to modify an existing
11 written agreement for a qualified investment under this program,
12 the fund must provide a copy of that requested modification to the
13 4 members of the legislature who serve as nonvoting members of the
14 board under section 5(5), the governor, the clerk of the house of
15 representatives, the secretary of the senate, and the senate and
16 house fiscal agencies within 5 business days of the receipt of the
17 modification request and before entering into an amended written
18 agreement. In addition to the copy of the request for modification,
19 the notice provided under this subsection must also include the
20 specific provisions to be modified and the rationale for
21 considering the modification. Before the fund modifies an existing
22 written agreement for a qualified investment, the fund must give
23 notice of the proposed amendments and publish them on the fund's
24 internet website at least 1 business day before a public hearing on
25 the proposed amendments. If the fund approves and modifies an
26 existing written agreement under this subsection, the fund must
27 provide a copy of that amended written agreement to the 4 members
28 of the legislature who serve as nonvoting members of the board
29 under section 5(5), the governor, the clerk of the house of

1 representatives, the secretary of the senate, and the senate and
2 house fiscal agencies within 1 business day of the modification.

3 (6) The fund shall not disburse money for a qualified
4 investment under this section to an eligible applicant if that
5 eligible applicant has not fully repaid all money subject to
6 clawback or required to be repaid under any agreement with the fund
7 or the Michigan economic development corporation, if that eligible
8 applicant is in default on any grant, loan, investment, or other
9 economic assistance made or guaranteed by the fund or the Michigan
10 economic development corporation, if that eligible applicant has 1
11 or more unpaid fees from pollution or environmental contamination
12 in previous or current projects in this state or any other state,
13 or if that eligible applicant is currently in bad standing with
14 this state. All money paid to the fund pursuant to a clawback or
15 specific provision for a qualified investment under this section
16 must be deposited in the general fund. Any money that is allocated
17 to the program that remains unexpended, unallocated, or unobligated
18 at the end of the fiscal year reverts back to the general fund. As
19 used in this subsection, "bad standing" means that an eligible
20 applicant owes fines or penalties to this state or is under
21 investigation by a state department or agency.

22 (7) The legislature finds and declares that funding provided
23 under this program is for the public purpose and serves the health,
24 safety, and general welfare of the residents of this state.

25 (8) Not later than March 15 of each year, the fund shall
26 transmit to each member of the legislature, the governor, the clerk
27 of the house of representatives, the secretary of the senate, and
28 the senate and house fiscal agencies a report on the activities of
29 the Michigan 360 program. The report must include all of the

1 following:

2 (a) A list of eligible applicants that received a qualified
3 investment.

4 (b) For each eligible investment listed under subdivision (a),
5 all of the following information:

6 (i) A description of the associated project.

7 (ii) The amount and type of qualified investment, including a
8 description of installments that have been paid and a description
9 of future projected installments.

10 (iii) A description of community engagement in connection with
11 the project.

12 (iv) The status of the progress of eligible activities.

13 (v) A description of all benchmarks that the eligible
14 activities must meet under the written agreement and the status of
15 those benchmarks.

16 (9) As used in this section:

17 (a) "Community" means the community in which the project is
18 located.

19 (b) "Community development financial institution" means that
20 term as defined in 12 USC 4702.

21 (c) "Critical industry program" means the critical industry
22 program created under section 88s.

23 (d) "Eligible activities" means, with respect to a proposed
24 project that is considered under this program, 2 or more of the
25 following:

26 (i) Main street and placemaking activities and activities to
27 create walkable communities.

28 (ii) Support for the growth of small and micro businesses,
29 business hubs, and technology collaborative spaces in this state.

1 (iii) Workforce-related activities that will improve
2 productivity, competitiveness, and inclusiveness of the workforce
3 to meet the needs of employers or potential employers, including,
4 but not limited to, tailored educational, career advancement, and
5 workforce retraining programming, curriculum development, and
6 access to training, at no cost or low cost to the community and
7 employers.

8 (iv) Expansion or development of child care facilities and
9 personnel needed to support identified child care-related barriers
10 to workforce participation at no cost or low cost to the community
11 and employees.

12 (v) Expansion or development of community services, including
13 mental or behavioral health services and educational and youth
14 programming at no cost or low cost to the community and employees.

15 (vi) Hard infrastructure improvements, including, but not
16 limited to, all of the following:

17 (A) Water infrastructure.

18 (B) Transportation.

19 (C) Roads, bridges, rail-grade separation, and other community
20 and regional connectors.

21 (D) Weatherization infrastructure.

22 (E) Electric vehicle charging infrastructure.

23 (vii) Local housing market analysis to determine current and
24 future housing needs and assistance in addressing identified
25 housing needs as a result of the analysis. Investments in housing
26 under this subparagraph must make 20% or more of the resulting
27 housing units low-income housing. As used in this subparagraph,
28 "low income" means a household income that is less than 60% of the
29 regional area median household income.

1 (viii) Expansion or development of community resources,
2 including, but not limited to, broadband access, clean energy,
3 energy efficiency tools, and green space preservation.

4 (e) "Eligible applicant" means an applicant that is 1 more of
5 the following:

6 (i) A political subdivision of this state, including, but not
7 limited to, a county, city, village, township, charter township, or
8 instrumentality of a county, city, village, township, or charter
9 township.

10 (ii) An educational institution within this state. As used in
11 this subparagraph, "educational institution" means a college,
12 university, community college, or junior college described in
13 section 4, 5, or 6 of article VIII of the state constitution of
14 1963 or established under section 7 of article VIII of the state
15 constitution of 1963.

16 (iii) A nonprofit corporation or community advocacy group.

17 (iv) A community development financial institution or a
18 coalition of community development financial institutions that has
19 previously provided services within this state.

20 (v) A local professional or technical service provider.

21 (f) "Justice40 initiative" means the Justice40 initiative
22 described in federal Executive Order No. 14008, 86 Fed Reg 7619
23 (January 27, 2021).

24 (g) "Michigan strategic site readiness program" means the
25 Michigan strategic site readiness program created under section
26 88t.

27 (h) "Michigan 360 program" or "program" means the Michigan 360
28 program created under subsection (1).

29 (i) "Project" means the project that received an award under

1 the critical industry program or the Michigan strategic site
2 readiness program, or both, to which the qualified investment or
3 proposed qualified investment relates.

4 (j) "Qualified investment" means a grant, loan, or other
5 community economic and development assistance for a project subject
6 to a written agreement with an eligible applicant to support
7 eligible activities under this program. A qualified investment must
8 be for eligible activities related to an award under the critical
9 industry program or the Michigan strategic site readiness program.

10 Sec. 88v. (1) In determining whether to provide economic
11 assistance for a project under the critical industry program, the
12 Michigan strategic site readiness program, or the Michigan 360
13 program, the fund must determine how economic assistance under all
14 of the make it in Michigan fund programs may be combined into an
15 offer package to best achieve both of the following goals:

16 (a) Ensure that traditional economic development tools are
17 packaged with targeted investments in communities, housing,
18 workforce development, education, and wraparound services.

19 (b) Ensure that economic assistance provided under the make it
20 in Michigan fund programs will benefit communities and residents in
21 this state even if a company's commitment fails to materialize, a
22 business decision changes, or a company falls short of its stated
23 goals.

24 (2) In making the determination under subsection (1), the fund
25 shall do both of the following:

26 (a) Identify the site in this state that is the best location
27 for the project both for the success of the business and the impact
28 to the economy and growth of the community.

29 (b) Engage with the governing body of the municipality where

1 the site identified in subdivision (a) is located to
2 collaboratively build an offer package, including, but not limited
3 to, identifying Michigan 360 program investments that align with
4 the project's needs and directly support the residents of the
5 community.

6 (3) The fund shall not provide economic assistance under any
7 make it in Michigan fund program unless both of the following
8 criteria are met:

9 (a) The project, including any eligible activities under the
10 Michigan 360 program in connection with the project, will enable
11 progress toward this state's economic justice goals, including, but
12 not limited to, all of the following goals:

13 (i) Lifting families out of working poverty.

14 (ii) Having 60% of the residents of this state who are not less
15 than 25 years of age hold a postsecondary degree or certificate by
16 2030, either through direct or indirect workforce development or by
17 attracting new residents who hold postsecondary degrees or
18 certificates.

19 (iii) Securing low- or no-cost child care for 150,000 families,
20 through employer-provided benefits or enrollment in a program such
21 as Michigan Tri-Share.

22 (iv) Becoming a top 10 state for small business growth, revenue
23 growth, and venture capital funding.

24 (v) Building 75,000 new or rehabilitated housing units,
25 through direct developer investment as a result of the project,
26 direct investment from the qualified business, or direct investment
27 from this state through the Michigan 360 program.

28 (vi) Raising the median household income for residents of this
29 state.

1 (vii) Increasing this state's population and workforce.

2 (b) The project, including any eligible activities under the
3 Michigan 360 program in connection with the project, will enable
4 progress toward this state's climate goals, including, but not
5 limited to, all of the following goals:

6 (i) Prioritizing disadvantaged communities under the Justice40
7 initiative described in federal Executive Order No. 14008, 86 Fed
8 Reg 7619 (January 27, 2021), and brownfield sites.

9 (ii) Building energy-efficient sites and utilizing clean
10 energy. A determination of whether the project will assist this
11 state in meeting the goal under this subparagraph must include an
12 analysis of the project's energy usage, building, land use, and
13 waste plans.

14 (iii) Building and increasing electric vehicle infrastructure or
15 public transit, or both.

16 (iv) Reducing carbon emissions and increasing recycling. A
17 determination of whether the project will assist this state in
18 meeting the goal under this subparagraph must include a thorough
19 analysis of the project's decarbonization and recycling strategies.

20 (v) Protecting this state's land and water. A determination of
21 whether the project will assist this state in meeting the goal
22 under this subparagraph must include a thorough analysis of the
23 environmental history of the applicant and, if different from the
24 applicant, the end user of the project.

25 (4) The fund shall not provide economic assistance under the
26 critical industry program or the Michigan strategic site readiness
27 program unless economic assistance is also provided under the
28 Michigan 360 program in an amount that is not less than 20% of the
29 total project investment.

1 (5) The fund must provide a quarterly report on the activities
2 of the make it in Michigan fund programs to the senate economic and
3 community development committee and the house of representatives
4 economic development and small business committee. The quarterly
5 report must include all of the following:

6 (a) A description of each project for which economic
7 assistance is provided under the make it in Michigan fund programs.

8 (b) For each project identified under subdivision (a), all of
9 the following:

10 (i) The fund's written analysis of the criteria under
11 subsection (3) and sections 88s, 88t, and 88u, as applicable.

12 (ii) A written explanation of how the offer package achieves
13 the goals described in subsection (1).

14 (iii) A progress update that includes all of the following:

15 (A) The amount of total project investment and the amount of
16 economic assistance provided under each make it in Michigan fund
17 program.

18 (B) A description of any benchmarks or other conditions that
19 must be met and the status of each benchmark or other condition.

20 (C) The amount of money disbursed to date for the project and
21 the date of each disbursement. If the disbursement is related to
22 the satisfaction of a benchmark or other condition, a description
23 of the benchmark or other condition.

24 (D) A description of future projected installments, including
25 the projected amount and any benchmarks that must be met to receive
26 the installment.

27 (E) Whether money has been paid to the fund pursuant to a
28 clawback or repayment provision, including a description of the
29 reason for clawback or repayment and the amount paid.

1 (6) As used in this section:

2 (a) "Community" means that term as defined in section 88u.

3 (b) "Critical industry program" means the critical industry
4 program created under section 88s.

5 (c) "Economic assistance" includes a qualified investment
6 under section 88s, a grant, loan, or other economic assistance
7 under section 88t, and a qualified investment under section 88u.

8 (d) "Make it in Michigan fund programs" means all of the
9 following programs:

10 (i) The critical industry program.

11 (ii) The Michigan strategic site readiness program.

12 (iii) The Michigan 360 program.

13 (e) "Michigan strategic site readiness program" means the
14 Michigan strategic site readiness program created under section
15 88t.

16 (f) "Michigan 360 program" means the Michigan 360 program
17 created under section 88u.

18 (g) "Municipality" means a city, village, or township.

19 (h) "Total project investment" means the total amount of
20 economic assistance provided under the make it in Michigan fund
21 programs for a project.

22 Enacting section 1. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 5106 (request no.
24 04389'23 *) of the 102nd Legislature is enacted into law.