

# SENATE BILL No. 271

March 19, 2013, Introduced by Senators SMITH and KOWALL and referred to the Committee on Economic Development.

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending sections 88r, 90a, 90b, 90c, and 90d (MCL 125.2088r, 125.2090a, 125.2090b, 125.2090c, and 125.2090d), section 88r as added by 2011 PA 250 and sections 90a, 90b, 90c, and 90d as amended by 2012 PA 395.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 88r. (1) The fund shall create and operate the Michigan  
2 business development program to provide grants, loans, and other  
3 economic assistance to qualified businesses that make qualified  
4 investments in this state or provide qualified new jobs in this  
5 state.

6           (2) The Michigan business development program shall provide  
7 for all of the following:

1 (a) Grants, loans, and other economic assistance to assist  
2 qualified businesses in making qualified investments and providing  
3 new jobs in this state, with preference given to qualified  
4 businesses that need additional assistance for deal-closing and for  
5 second stage company gap financing.

6 (b) A detailed application, approval, and compliance process  
7 published and available on the fund's website. The detailed  
8 application, approval, and compliance process shall, at a minimum,  
9 contain the following:

10 (i) A qualified business may apply for a grant, loan, or other  
11 economic assistance in a form and manner determined by the fund.

12 (ii) After receipt of an application, the fund may enter into a  
13 written agreement with the qualified business if the qualified  
14 business agrees to make certain qualified investments or create a  
15 certain number of new jobs in this state.

16 (iii) The written agreement shall provide in a clear and concise  
17 manner all of the conditions imposed, including specific time  
18 frames, on the qualified business to receive a grant, loan, or  
19 other economic assistance under this section.

20 (iv) The written agreement shall provide for a repayment  
21 provision of any grants, loans, or other economic assistance if the  
22 qualified business fails to comply with the provisions of the  
23 written agreement.

24 (v) The written agreement shall provide for an audit provision  
25 that requires the fund to verify that established milestones for  
26 the project have been met.

27 (c) In any fiscal year, a qualified business shall not receive

1 more than \$10,000,000.00 for a project funded under this section.

2 (3) The fund shall not enter into a written agreement with a  
3 qualified business unless all of the following are met:

4 (a) The municipality makes a staff, financial, or economic  
5 commitment to the project as determined by the fund.

6 (b) The qualified business provides a business plan or  
7 demonstrates the need for the grant, loan, or other economic  
8 assistance.

9 (c) The qualified business agrees to provide the data  
10 described in the written agreement necessary for the fund to report  
11 to the legislature under this act.

12 (4) The fund shall post on its website or post on the website  
13 of the Michigan economic development corporation the name and  
14 location of each qualified business that received a grant, loan, or  
15 other economic assistance awarded under this section and the amount  
16 of the grant, loan, or other economic assistance.

17 ~~—— (5) The fund, with assistance from the Michigan economic  
18 development corporation and the office of the chief compliance  
19 officer, shall establish policies and procedures to conduct  
20 background checks on each qualified business applying for a grant,  
21 loan, or other economic assistance under this section.~~

22 ~~—— (6) Beginning November 1, 2012 and each year thereafter, the  
23 fund shall report to each house of the legislature on the  
24 activities of the fund under this section that occurred in the  
25 previous fiscal year. The report shall be made available in an  
26 electronic format. The report shall include, but is not limited to,  
27 all of the following:~~

- 1 ~~—— (a) The total proposed amount of qualified investment~~  
2 ~~attracted under this section.~~
- 3 ~~—— (b) The total actual amount of qualified investment attracted~~  
4 ~~under this section as reported to the fund.~~
- 5 ~~—— (c) The total committed number of new jobs created under this~~  
6 ~~section.~~
- 7 ~~—— (d) The total actual number of new jobs created under this~~  
8 ~~section as reported to the fund.~~
- 9 ~~—— (e) The total number of new written agreements.~~
- 10 ~~—— (f) The amount of the grant, loan, or other economic~~  
11 ~~assistance awarded under this section separately for each qualified~~  
12 ~~business.~~
- 13 ~~—— (g) The actual amount of the grant, loan, or other economic~~  
14 ~~assistance made under this section separately for each qualified~~  
15 ~~business verified by the fund.~~
- 16 ~~—— (h) For each qualified business, whether it is a new business,~~  
17 ~~whether it is an expansion of an existing business, or whether it~~  
18 ~~relocated from outside of this state.~~
- 19 ~~—— (i) An evaluation of the aggregate return on investment that~~  
20 ~~this state realizes on the actual qualified new jobs and actual~~  
21 ~~qualified investment made by qualified businesses.~~
- 22 ~~—— (j) A report on the individuals hired by the qualified~~  
23 ~~business that includes the number of individuals hired by the~~  
24 ~~qualified business, their educational attainment, including, but~~  
25 ~~not limited to, high school diploma or equivalent, higher education~~  
26 ~~certificate or degree, or advanced degree or training, and the~~  
27 ~~number of individuals hired by the qualified business who relocated~~

1 ~~to this state as reported to the fund.~~

2 (5) ~~(7)~~ Beginning February 1, 2012 and not less than every 3  
3 months thereafter, the fund shall post on its internet website the  
4 name and location of a qualified business that received approval of  
5 a grant, loan, or other economic assistance under this section in  
6 the immediately preceding 3-month period.

7 (6) ~~(8)~~ The legislature finds and declares that funding  
8 authorized under this section to encourage diversification of the  
9 economy, to encourage capital investment in this state, and to  
10 promote the creation of qualified new jobs in this state is a  
11 public purpose and of paramount concern in the interest of the  
12 health, safety, and general welfare of the citizens of this state.

13 (7) ~~(9)~~ As used in this section:

14 (a) "Other economic assistance" means any other form of  
15 assistance allowed under this act that is not a grant or a loan.

16 (b) "Qualified business" means a business that is located in  
17 or operates in this state or will locate or will operate in this  
18 state as determined by the fund. **A QUALIFIED BUSINESS MAY INCLUDE  
19 MORE THAN 1 BUSINESS AS DETERMINED BY THE FUND BOARD.**

20 (c) "Qualified investment" means investment in this state  
21 related to a project subject to a written agreement under this  
22 section.

23 (d) "Qualified new job" means a job performed by an individual  
24 who is a resident of this state whose Michigan income taxes are  
25 withheld by an employer, or an employee leasing company or  
26 professional employer organization on behalf of the employer, that  
27 is in excess of the number of jobs maintained by the qualified

1 business maintained in this state prior to the expansion or  
2 location, as determined and verified by the fund.

3 Sec. 90a. As used in this chapter:

4 (a) "Community revitalization grant" or "grant" means a grant  
5 that is approved under section 90b and that is subject to  
6 requirements in section 90c.

7 (b) "Community revitalization incentive" means a community  
8 revitalization grant, a community revitalization loan, or other  
9 economic assistance.

10 (c) "Community revitalization loan" or "loan" means a loan  
11 that is approved under section 90b and that is subject to the  
12 requirements in section 90d.

13 (d) "Eligible investment" means 1 or more of the following,  
14 subject to a written agreement under this section, including  
15 investment which occurred prior to the approval of the application,  
16 to the extent that the project has not been completely reimbursed  
17 to or been paid for on behalf of the person requesting a community  
18 revitalization incentive under this chapter:

19 (i) Any demolition, construction, alteration, rehabilitation,  
20 or improvement of buildings.

21 (ii) Site improvements.

22 (iii) The addition of machinery, equipment, or fixtures to the  
23 approved project.

24 (iv) Architectural, engineering, surveying, and similar  
25 professional fees but not certain soft costs of the eligible  
26 investment as determined by the board, including, but not limited  
27 to, developer fees, appraisals, performance bonds, closing costs,

1 bank fees, loan fees, risk contingencies, financing costs,  
2 permanent or construction period interest, legal expenses, leasing  
3 or sales commissions, marketing costs, professional fees, shared  
4 savings, taxes, title insurance, bank inspection fees, insurance,  
5 and project management fees.

6 (e) "Eligible property" means property that meets 1 or more of  
7 the following conditions:

8 (i) Is determined to be a facility. As used in this  
9 subparagraph, "facility" means that term as defined in section 2 of  
10 the brownfield redevelopment financing act, 1996 PA 381, MCL  
11 125.2652.

12 (ii) Is a historic resource. As used in this subparagraph,  
13 "historic resource" means a publicly or privately owned historic  
14 building or structure located within a historic district designated  
15 by the national register of historic places, the state register of  
16 historic sites, or a local unit acting under the local historic  
17 districts act, 1970 PA 169, MCL 399.201 to 399.215.

18 (iii) Is blighted property. As used in this subparagraph,  
19 "blighted property" means property that meets any of the following  
20 criteria:

21 (A) Has been declared a public nuisance in accordance with a  
22 local housing, building, plumbing, fire, or other related code or  
23 ordinance.

24 (B) Is an attractive nuisance to children because of physical  
25 condition, use, or occupancy.

26 (C) Is a fire hazard or is otherwise dangerous to the safety  
27 of persons or property.

1 (D) Has had the utilities, plumbing, heating, or sewerage  
2 permanently disconnected, destroyed, removed, or rendered  
3 ineffective so that the property is unfit for its intended use.

4 (E) Is tax reverted property owned by a qualified local  
5 governmental unit, by a county, or by this state.

6 (F) Is property owned or under the control of a land bank fast  
7 track authority under the land bank fast track act, 2003 PA 258,  
8 MCL 124.751 to 124.774.

9 (G) Has substantial subsurface demolition debris buried on  
10 site so that the property is unfit for its intended use.

11 (iv) Is functionally obsolete property. As used in this  
12 subparagraph, "functionally obsolete" means that the property is  
13 unable to be used to adequately perform the function for which it  
14 was intended due to a substantial loss in value resulting from  
15 factors such as overcapacity, changes in technology, deficiencies  
16 or superadequacies in design, or other similar factors that affect  
17 the property itself or the property's relationship with other  
18 surrounding property as determined by a Michigan advanced assessing  
19 officer or a Michigan master assessing officer.

20 (v) Is a parcel that is adjacent or contiguous to property  
21 described in subparagraphs (i) through (iv) if the development of the  
22 adjacent or contiguous parcel is estimated to increase the taxable  
23 value of the property described in subparagraphs (i) through (iv).

24 (vi) **ANY OTHER PROPERTY AS DETERMINED BY THE FUND BOARD.**

25 (f) "Other economic assistance" means any other form of  
26 assistance allowed under this act that is not a community  
27 revitalization loan or community revitalization grant.



1           Sec. 90b. (1) The fund shall create and operate the Michigan  
2 community revitalization program to provide community  
3 revitalization incentives for eligible investments on eligible  
4 property in this state. The fund shall develop and use a detailed  
5 application, approval, and compliance process adopted by a  
6 resolution of the board and published and available on the fund's  
7 website. Program standards, guidelines, templates, or any other  
8 forms used by the fund to implement the Michigan community  
9 revitalization program shall be approved by the board.

10           (2) A person or 2 or more persons may apply to the fund for  
11 approval of community revitalization incentives associated with a  
12 project under this section. Community revitalization incentives  
13 shall not be approved for any property that is not eligible  
14 property.

15           (3) Funds appropriated for programs under this chapter shall  
16 be placed in the 21st century jobs trust fund created in the  
17 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260.

18           (4) Subject to section 88c, the fund shall review all  
19 applications for community revitalization incentives. As part of  
20 the application, the applicant shall include documentation  
21 establishing that the project is located on eligible property and a  
22 project description that includes a project pro-forma. The fund  
23 ~~shall~~ **MAY** consider the following criteria to the extent reasonably  
24 applicable to the type of project proposed when approving a  
25 community revitalization incentive:

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

1 (b) If the project will act as a catalyst for additional  
2 revitalization of the community in which it is located.

3 (c) The amount of local community and financial support for  
4 the project.

5 (d) The applicant's financial need for a community  
6 revitalization incentive.

7 (e) The extent of reuse of vacant buildings, reuse of  
8 historical buildings, and redevelopment of blighted property.

9 (f) Creation of jobs.

10 (g) The level of private sector and other contributions,  
11 including, but not limited to, federal funds and federal tax  
12 credits.

13 (h) Whether the project is financially and economically sound.

14 (i) Whether the project increases the density of the area.

15 (j) Whether the project promotes mixed-use development and  
16 walkable communities.

17 (k) Whether the project converts abandoned public buildings to  
18 private use.

19 (l) Whether the project promotes sustainable development.

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

22 (n) Whether the project addresses areawide redevelopment.

23 (o) Whether the project addresses underserved markets of  
24 commerce.

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

26 (q) If the rehabilitation of the historic resource will meet  
27 the federal secretary of the interior's standards for

1 rehabilitation and guidelines for rehabilitating historic  
2 buildings, 36 CFR 67.

3 (r) Whether the project will compete with or effect existing  
4 Michigan businesses within the same industry.

5 (s) Any other additional criteria approved by the board that  
6 are specific to each individual project and are consistent with the  
7 findings and intent of this chapter.

8 (5) An application shall be approved or denied not more than  
9 90 days after receipt of the application that is considered  
10 administratively complete by the board or its designee. If the  
11 application is neither approved nor denied within 90 days after  
12 being considered administratively complete, it shall be considered  
13 by the fund board, or its president if delegated, for action at, or  
14 by, the next regularly scheduled board meeting. If an application  
15 is approved, the fund shall determine the amount of community  
16 revitalization incentives for the project based on the fund's  
17 review of the application and the criteria specified in subsection  
18 (4).

19 (6) The amount of community revitalization incentives that the  
20 board may approve for a single project shall not exceed 25% of a  
21 project's eligible investment up to \$10,000,000.00. A community  
22 revitalization loan shall not exceed \$10,000,000.00 and a community  
23 revitalization grant shall not exceed ~~\$1,000,000.00~~ **\$2,500,000.00**.  
24 However, a combination of loans, grants, and other economic  
25 assistance under this chapter shall not exceed \$10,000,000.00 per  
26 project. The board may not approve \$10,000,000.00 per project in  
27 community revitalization incentives to more than 3 projects per

1 fiscal year. The board shall approve not less than 5 projects of  
2 \$1,000,000.00 or less per project per fiscal year. If, after  
3 reviewing all applications in a fiscal year, the fund determines  
4 that less than 5 projects warranted an award of \$1,000,000.00 or  
5 less, this subsection shall not apply. **NOTWITHSTANDING ANY OTHER**  
6 **LIMITATION IN THIS SUBSECTION, EACH YEAR THE BOARD MAY APPROVE UP**  
7 **TO 4 SINGLE PROJECTS FOR COMMUNITY REVITALIZATION LOANS OF UP TO**  
8 **\$20,000,000.00, WITH NOT MORE THAN 2 OF THE PROJECTS LOCATED IN A**  
9 **CITY WITH A POPULATION OF MORE THAN 600,000.**

10 (7) When the board approves an application and determines the  
11 amount of community revitalization incentives, the board shall  
12 enter into a written agreement with the applicant. The written  
13 agreement shall provide in a clear and concise manner all of the  
14 conditions imposed, including specific time frames, on the  
15 applicant to receive the community revitalization incentive under  
16 this chapter. The written agreement shall provide for the secured  
17 status of any loan, repayment, and penalties if the applicant fails  
18 to comply with the provisions of the written agreement as  
19 determined by the board. The applicant shall agree to provide the  
20 data described in the written agreement that is necessary for the  
21 fund to report to the legislature under this chapter.

22 (8) Not more than 4% of the annual appropriation as provided  
23 by law from the 21st century jobs trust fund established in the  
24 Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be  
25 used for the purposes of administering the programs and activities  
26 authorized under this chapter. However, the fund and the fund board  
27 shall not use more than 3% of the annual appropriation for

1 administering the programs and activities authorized under this  
2 chapter unless the fund board by a 2/3 vote authorizes the  
3 additional 1% for administration. The MEDC may charge actual and  
4 reasonable fees for costs associated with the community  
5 revitalization incentive authorized under this chapter. These fees  
6 are in addition to an amount of the appropriation used for  
7 administering the programs and activities authorized under this  
8 chapter.

9       Sec. 90c. Upon satisfying a milestone established in a written  
10 agreement for which the board has approved a community  
11 revitalization grant under section 90b, the applicant may apply to  
12 the fund for a grant disbursement as specified in the written  
13 agreement. All or a portion of the rights or obligations of the  
14 applicant under the written grant agreement may be assigned by the  
15 applicant to 1 or more assignees with prior written approval of,  
16 and on terms and conditions acceptable to, the fund. The board  
17 shall develop and implement the use of an application form and  
18 assignment form to be used under this section. Within 90 days of  
19 receipt of an application for disbursement, the fund or its  
20 designee shall then determine whether the project ~~has complied~~ **IS**  
21 **IN COMPLIANCE** with the terms of the written agreement and, if  
22 applicable, **IS IN COMPLIANCE, OR WHEN COMPLETED WILL BE IN**  
23 **COMPLIANCE, WITH** the federal secretary of the interior's standards  
24 for rehabilitation and guidelines for rehabilitating historic  
25 buildings, 36 CFR 67. If the fund or its designee determines that  
26 the project has complied with the written agreement and, if  
27 applicable, the federal secretary of the interior's standards for

1 rehabilitation and guidelines for rehabilitating historic  
2 buildings, 36 CFR 67, the fund shall issue the grant proceeds to  
3 the applicant or, if the grant has been assigned, to the assignee.

4       Sec. 90d. (1) Upon satisfying a milestone established in a  
5 written agreement for which the board has approved a community  
6 revitalization loan under section 90b, the applicant may apply to  
7 the fund for a loan disbursement as specified in the written  
8 agreement. All or a portion of the rights or obligations of the  
9 applicant under the written loan agreement may be assigned by the  
10 applicant to 1 or more assignees with prior written approval of,  
11 and on terms and conditions acceptable to, the fund. The board  
12 shall develop and implement the use of an application for  
13 disbursement form and assignment form to be used under this  
14 subsection. Within 90 days of receipt or disbursement of an  
15 application for disbursement, the fund or its designee shall  
16 determine whether the project ~~has complied~~ **IS IN COMPLIANCE** with  
17 the written agreement and, if applicable, **IS IN COMPLIANCE, OR WHEN**  
18 **COMPLETED WILL BE IN COMPLIANCE, WITH** the federal secretary of the  
19 interior's standards for rehabilitation and guidelines for  
20 rehabilitating historic buildings, 36 CFR 67. If the fund or its  
21 designee determines that the project has complied with the written  
22 agreement and, if applicable, the federal secretary of the  
23 interior's standards for rehabilitation and guidelines for  
24 rehabilitating historic buildings, 36 CFR 67, the fund shall  
25 distribute the loan proceeds to the applicant or, if the loan  
26 proceeds have been assigned, to the assignee.

27       (2) The board shall develop criteria for repayment of the

1 community revitalization loan.

2 (3) The proceeds from repayment of community revitalization  
3 loans under subsection (2) shall be paid into the investment fund  
4 described in section 88h and expended exclusively for community  
5 revitalization incentives under this chapter.

6 ~~—— (4) Beginning November 1, 2012 and each year thereafter, the  
7 fund shall report to each house of the legislature on the  
8 activities of the fund under this chapter that occurred in the  
9 previous fiscal year. The report shall be made available in an  
10 electronic format. Except as otherwise provided in this subsection  
11 or in this act, the fund shall not divulge sensitive or private  
12 financial information associated with a community revitalization  
13 incentive. The report shall include, but is not limited to, all of  
14 the following:~~

15 ~~—— (a) The total proposed amount of private investment attracted  
16 under this section.~~

17 ~~—— (b) The total actual amount of private investment attracted  
18 under this section as reported to the fund.~~

19 ~~—— (c) The total number of new written agreements.~~

20 ~~—— (d) The amount of the community revitalization incentives  
21 awarded under this chapter separately for each project.~~

22 ~~—— (e) The actual amount of the community revitalization  
23 incentives made under this chapter separately for each project.~~

24 ~~—— (f) The total actual amount of square footage revitalized or  
25 added for each project approved under this section as reported to  
26 the fund. When reporting square footage, the person must report the  
27 square footage by category, including, but not limited to,~~

1 ~~commercial, residential, or retail.~~

2 ~~—— (g) The aggregate increase in taxable value of all property~~  
3 ~~subject to a written agreement under this chapter when established~~  
4 ~~and recorded by the local units of government and as reported to~~  
5 ~~the fund.~~

6 ~~—— (h) A summary of all written agreements for community~~  
7 ~~revitalization loans.~~

8 ~~—— (i) The total actual number of residential units revitalized~~  
9 ~~or added for each project approved under this section as reported~~  
10 ~~to the fund.~~

11 ~~—— (j) The identity of persons who received a community~~  
12 ~~revitalization incentive outside the program standards and~~  
13 ~~guidelines and why the variance was given.~~

14 ~~—— (k) The amount of administrative costs used to administer the~~  
15 ~~programs and activities authorized under this chapter.~~

16 ~~—— (l) A summary of the projected and actual aggregated taxpayer~~  
17 ~~return on investment for each eligible investment that received a~~  
18 ~~distribution in the reporting period.~~

19 (4) ~~(5)~~ Beginning February 1, 2012 and not less than every 3  
20 months thereafter, the fund shall post on its internet website the  
21 name and location of a person who received approval of community  
22 revitalization investment under this chapter in the immediately  
23 preceding 3-month period.

24 ~~—— (6) Beginning on and after January 1, 2012, on a monthly basis~~  
25 ~~the fund shall provide exact copies of all information that is~~  
26 ~~provided to board members of the fund for the purpose of monthly~~  
27 ~~board meetings, subject to confidentiality under section 5, to each~~



1 ~~of the following:~~

2 ~~—— (a) The chairperson and minority vice chairperson of the house~~  
3 ~~commerce committee.~~

4 ~~—— (b) The chairperson and minority vice chairperson of the house~~  
5 ~~appropriations subcommittee on general government.~~

6 ~~—— (c) The chairperson and minority vice chairperson of the~~  
7 ~~senate economic development committee.~~

8 ~~—— (d) The chairperson and minority vice chairperson of the~~  
9 ~~senate appropriations subcommittee on general government.~~