

**SUBSTITUTE FOR
HOUSE BILL NO. 5603**

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending section 9 (MCL 125.2009), as amended by 2017 PA 109,
and by adding section 88t.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 be transmitted not later than April 10 of each year
6 for activities in the immediately preceding state fiscal year. The
7 report shall not include information exempt from disclosure under
8 section 5. The report shall include, but is not limited to, all of

1 the following for each program operated under this act:

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

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

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

5 (d) For each separate form of financial assistance, all of the
6 following:

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

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

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

13 (iv) The actual number of retained jobs that are not temporary
14 employees.

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

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

19 (e) The duration of the financial assistance.

20 (f) The amount of financial support other than state
21 resources.

22 (g) Money or other revenue or property returned to the fund,
23 including any repayments through a clawback provision in the
24 agreement.

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

26 (i) A list of all entities that are in bankruptcy, that the
27 fund has received actual notice of, filed by a direct recipient of
28 an active single incentive of at least \$500,000.00. In addition,
29 the fund shall, within 120 days after the fund receives notice,

1 provide a report of the notice of bankruptcy on its website and
2 shall forward the report to each of the following:

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

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

5 (iii) The members of the house commerce **and tourism** committee.

6 (iv) The members of the house appropriations subcommittee on
7 general government.

8 (v) The members of the senate economic **and small business**
9 development committee.

10 (vi) The members of the senate appropriations subcommittee on
11 general government.

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

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

15 (2) The auditor general or a certified public accountant
16 appointed by the auditor general annually shall conduct and remit
17 to the legislature an audit of the fund and, in the conduct of the
18 audit, shall have access to all records of the fund at any time,
19 whether or not confidential. Each audit required by this section
20 shall include a determination of whether the fund is likely to be
21 able to continue to meet its obligations, including a report on the
22 status of outstanding loans and agreements made by the fund.

23 (3) The fund shall also transmit the audit described in
24 subsection (2) to the chairperson and minority vice-chairperson of
25 the senate appropriations subcommittee on general government and
26 the house of representatives appropriations subcommittee on general
27 government. The fund shall make the report and audit available to
28 the public on the fund's website.

29 (4) The report described in subsection (1) ~~shall~~**must** also

1 contain all of the following that are related to a 21st century
2 investment made by the fund board under chapter 8A:

3 (a) The amount of qualified venture capital fund investments,
4 qualified mezzanine fund investments, and qualified private equity
5 fund investments under management in this state, including year-to-
6 year growth.

7 (b) The value of loan enhancement program investments,
8 qualified private equity fund investments, qualified mezzanine fund
9 investments, and qualified venture capital investments in qualified
10 businesses, including year-to-year growth.

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

14 (5) The report described in subsection (1) ~~shall~~**must** also
15 include, but is not limited to, all of the following for all
16 actions under section 88r:

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

19 (b) The total actual number of new jobs created under section
20 88r as reported to the fund.

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

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

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

1 (6) The report described in subsection (1) ~~shall~~**must** also
2 include, but is not limited to, all of the following for all
3 actions under chapter 8B:

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

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

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

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

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

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

15 (7) The report described in subsection (1) ~~shall~~**must** also
16 include, but is not limited to, all of the following for all
17 actions under section 90d:

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

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

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

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

1 the fund.

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

5 (f) Each project that received a community revitalization
6 incentive outside the fund program standards and guidelines and why
7 the variance was given.

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

14 (a) The chairperson and minority vice-chairperson of the house
15 commerce **and tourism** committee.

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

18 (c) The chairperson and minority vice-chairperson of the
19 senate economic **and small business** development committee.

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

22 (9) The report described in subsection (1) ~~shall~~**must** also
23 include a summary of the approximate administrative costs used to
24 administer the programs and activities authorized in the following
25 sections:

26 (a) Section 88b.

27 (b) Section 88h.

28 (c) Section 90b.

29 (10) The report described in subsection (1) ~~shall~~**must** also

1 include, but is not limited to, all of the following for all
2 actions for business incubators approved by the fund after January
3 14, 2015:

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

6 (b) Amounts of other funds leveraged by current clients of the
7 business incubator.

8 (c) Increases in revenue for current clients of the business
9 incubator.

10 (11) The report described in subsection (1) ~~shall~~**must** also
11 include the actual repayments received by the fund for failure to
12 comply with clawback provisions of the written agreement under all
13 of the following:

14 (a) Section 78.

15 (b) Section 88d.

16 (c) Section 88k.

17 (d) Section 88q.

18 (e) Section 88r.

19 (f) Section 90b.

20 (12) Beginning on July 1, 2015, the fund shall post on the
21 fund's website a list of each contract, agreement, or other written
22 loan or grant documentation for financial assistance under sections
23 88r and 90b that the fund entered into or modified in the
24 immediately preceding fiscal year.

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

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

29 (b) The total amount of the loan.

1 (c) Whether payments on the loan balance are current or
2 delinquent.

3 (d) The interest rate of the loan.

4 (14) Beginning July 1, 2015, the report described in
5 subsection (1) shall also contain all of the following for each
6 program that provides financial assistance under this act that
7 requires a site visit:

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

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

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

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

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

18 (a) The name of the authorized business.

19 (b) The number of certified new jobs required to be
20 maintained.

21 (c) The amount and duration of the withholding tax capture
22 revenues.

23 **(17) The report described in subsection (1) must also include**
24 **the activities of the critical industry fund described in section**
25 **88s.**

26 **(18) The report described in subsection (1) must also include**
27 **the activities of the Michigan strategic site readiness fund**
28 **described in section 88t.**

29 **(19) ~~(17)~~As used in this section, "financial assistance"**

1 means grants, loans, other economic assistance, and any other
2 incentives or assistance under this act.

3 Sec. 88t. (1) The Michigan strategic site readiness fund is
4 created as a separate account within the investment fund. The
5 Michigan strategic site readiness fund includes money appropriated
6 to, transferred to, or deposited in the Michigan strategic site
7 readiness fund from the strategic outreach and attraction reserve
8 fund created in section 4 of the Michigan trust fund act, 2000 PA
9 489, MCL 12.254, as provided by law. The fund board shall not
10 disburse funds from the Michigan strategic site readiness fund for
11 a grant, loan, investment, or other economic assistance under this
12 section to an eligible applicant if that eligible applicant has not
13 fully repaid all money subject to clawback or required to be repaid
14 under a specific repayment provision as provided in any written
15 agreement under this act or if that eligible applicant is in
16 default on any grant, loan, investment, or other economic
17 assistance made or guaranteed by this state. All money paid to the
18 fund pursuant to a clawback or specific repayment provision for a
19 grant, loan, investment, or other economic assistance under this
20 section shall be deposited in the strategic outreach and attraction
21 reserve fund created in section 4 of the Michigan trust fund act,
22 2000 PA 489, MCL 12.254. Money within the Michigan strategic site
23 readiness fund must not be used for administrative purposes. Money
24 in the Michigan strategic site readiness fund at the close of the
25 fiscal year that is not allocated or otherwise committed under this
26 section shall revert back to the strategic outreach and attraction
27 reserve fund created in section 4 of the Michigan trust fund act,
28 2000 PA 489, MCL 12.254.

29 (2) The fund shall expend money from the Michigan strategic

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

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

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

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

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

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

1 (c) The amount of local community and financial support for
2 the project.

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

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

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

10 (g) The applicant's financial need for a grant, loan,
11 investment, or other economic assistance under this section.

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

15 (i) Creation of new jobs at the project location and within
16 this state.

17 (j) Whether and how the project is financially and
18 economically sound.

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

21 (l) Whether and how the project promotes sustainable
22 development.

23 (m) Whether and how the project involves the rehabilitation of
24 a historic resource.

25 (n) Whether and how the project addresses areawide
26 redevelopment.

27 (o) Whether and how the project addresses underserved markets
28 of commerce.

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

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

3 (r) Whether and how the project's proximity to rail and
4 utility will impact performance of the project and maximize energy
5 and logistics needs in the community in which it is located and in
6 this state.

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

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

10 (u) Whether the proposed strategic site or mega-strategic site
11 is incorporated into a strategic plan of a political subdivision of
12 this state.

13 (v) Any other additional criteria approved by the fund board
14 that are specific to each individual project and are consistent
15 with the findings and intent of this section.

16 (4) If the fund determines, after the considerations under
17 subsection (3), to provide a grant, loan, investment, or other
18 financial assistance from the Michigan strategic site readiness
19 fund to an eligible applicant, the fund shall enter into a written
20 agreement with the eligible applicant that includes in a clear and
21 concise manner all of the terms and conditions related to the
22 grant, loan, investment, or other financial assistance as
23 determined and documented by the fund board, including, but not
24 limited to, the following:

25 (a) Specific dates and benchmarks for the eligible applicant
26 to receive a grant, loan, investment, or other economic assistance
27 under this section, including conditions for the disbursement of
28 funds in installments.

29 (b) For a grant, loan, investment, or other financial

1 assistance provided to a person identified as the end user of the
2 site, a clawback and specific repayment provision if the person
3 fails to comply with the provisions of the written agreement.

4 (c) A provision that all money that is subject to clawback or
5 required to be repaid under a specific repayment provision must be
6 paid within 30 days of notification by the fund. Any amounts not
7 paid within that 30-day period are subject to a penalty of 1% per
8 month, prorated on a daily basis.

9 (d) A provision that in the event the applicant files for
10 bankruptcy, this state is a secured creditor and shall have first
11 priority over other creditors if the eligible applicant is in
12 default under the written agreement to the extent permitted by law.

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

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

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

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

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

26 (iii) Whether the proposed site is of a size, configuration,
27 location, and condition that makes the site substantially ready for
28 marketing and competitive for development upon completion of the
29 grant, loan, investment, or other economic assistance proposed to

1 be funded through this section and demonstrated matching
2 contributions.

3 (b) Whether the proposed investment will result in the
4 elimination of blight and the remediation of environmental
5 contamination.

6 (c) The degree of local matching contributions.

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

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

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

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

20 (b) The feasibility of proposed land acquisition.

21 (c) Utility and transportation availability, and the
22 feasibility of necessary utility and transportation improvements.

23 (d) Workforce availability and training capability.

24 (e) Environmental and topographical conditions, and the
25 feasibility of necessary site improvements to address environmental
26 and topographical conditions.

27 (7) In addition to the considerations under subsection (3), in
28 determining whether to approve a grant, loan, investment, or other
29 economic assistance for a project for which an end user has been

1 specifically identified, the fund shall consider and document, as
2 reasonably determined by the fund board, all of the following:

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

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

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

10 (d) The level of new job creation.

11 (e) Whether the jobs being created equal or exceed the average
12 wage for the county in which the project is located.

13 (f) The level of capital investment.

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

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

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

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

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

24 (11) Notwithstanding anything to the contrary in this section,
25 the fund may make grants and provide technical assistance from the
26 Michigan strategic site readiness fund to local economic
27 development corporations for the purpose of creating an inventory
28 of development-ready sites, provided that the inventory shall
29 utilize nationally recognized criteria to identify the readiness of

1 those sites for investment, and provided further that the fund
2 shall maintain a comprehensive inventory of those sites on its
3 website. The inventory maintained on the website shall include in
4 an interactive and user-friendly manner a listing of all local and
5 state development-ready sites and any pictures, maps, and other
6 documentation related to those sites.

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

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

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

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

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

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

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

25 (13) If the fund fails to transmit the report as required in
26 subsection (12) on or before March 15, the fund board shall not
27 disburse funds from the Michigan strategic site readiness fund for
28 a grant, loan, investment, or other economic assistance under this
29 section until it transmits the report as required under subsection

1 (12) .

2 (14) The legislature finds and declares that funding provided
3 under this section is for a public purpose and serves the health,
4 safety, and general welfare of the residents of this state.

5 (15) As used in this section:

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

9 (i) Land acquisition and assembly.

10 (ii) Site preparation and improvement.

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

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

17 (v) Environmental remediation.

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

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

22 (i) A political subdivision of this state, including, but not
23 limited to, a county, city, village, township, charter township, or
24 instrumentality of a county, city, village, township, or charter
25 township; single or multipurpose special district; or single or
26 multipurpose public authority.

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

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

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

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

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

11 (d) "Mega-strategic site" means a strategic site that is at
12 least 500 acres in size.

13 (e) "Strategic site" means a site, whether publicly or
14 privately owned, that is, or subsequent to a proposed acquisition
15 will be, used for manufacturing or other commercial use.

16 Enacting section 1. This amendatory act does not take effect
17 unless House Bill No. 4082 of the 101st Legislature is enacted into
18 law.